LEGISLATIVE COUNCIL

Tuesday, April 6, 1971

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

QUESTIONS

PROPERTY ACQUISITION

The Hon. C. M. HILL: I seek leave to make a short statement before asking a question of the Minister of Lands.

Leave granted.

The Hon. C. M. HILL: People in the Bedford Park area are gravely concerned because they believe their houses are to be acquired for work in regard to the proposed hospital in that area. The following is portion of an article concerning this matter that appeared in the press on February 2:

Thirty-one homes at Bedford Park may be demolished to make way for the proposed $30,000,000 south-west teaching hospital and medical school complex . . . Letters from the Public Buildings Department have been sent to the owners advising them of the Government's interest in acquiring their properties.

However, the Lands Minister, Mr. Corcoran, stressed today that nobody would be forced to sell a home.

"If any people want to see their days out there, then I guess they can," he said.

The following is portion of an article from the local paper of February 10 that circulates in the area:

One home-owner affected stated that he had "got no satisfaction" from his visit—

I believe that the person's visit was to the valuer acting on behalf of the Public Buildings Department, a member of the staff of the Land Board, under the Minister of Lands. The article continues:

—claiming that the Government was attempting to "blackmail" residents into selling their homes.

"There is such a discrepancy between Mr. Corcoran's statement and what I was told by the Public Buildings Department that it makes you wonder just what is going on," he said.

"On the one hand the Minister says that we can stay there for the rest of our lives if we want to, while the department told me that, if I tried to sit it out, it would use its powers to obtain my land," said the home owner.

I wish to determine whether the Government intends to resort to its compulsory acquisition powers instead of the continuing negotiations on the basis of purchasing the properties by private treaty. So that home owners in this area will know exactly where they stand, can the Minister say whether the Government has decided to issue notices of intent in accordance with the Land Acquisition Act?

The Hon. A. F. KNEEBONE: I think some of the statements made in the articles quoted by the honourable member are a little strong in regard to the attitude of people who conduct negotiations on behalf of the Government. I would be surprised if the statements reported to have been made were actually made. I know there is some feeling with regard to what is happening in this area and I have discussed this matter with the Minister of Works, under whose jurisdiction the Public Buildings Department comes. No decision has been made on the question of notice of intent. My colleague and I are discussing the most appropriate way of dealing with this matter.

The Hon. C. M. HILL: I seek leave to make another statement prior to asking a further question of the Minister of Lands.

Leave granted.

The Hon. C. M. HILL: The newspaper article of February 2 also states:

The Government's interest in the other properties would not preclude their owners from trying to sell on the open market.

This statement was reputed to have been made by the Hon. Mr. Corcoran. The article continues:

We cannot stop them from selling. If they indicate that they want to sell, the Government would probably issue a notice of intent, which would enable the Government to enter negotiations. If we did not reach a settlement within, say, two months, the matter could be referred to the courts.

This indicates that the Government had considered (indeed, I think it is fair to say had seriously considered) the question of proceeding to a notice of intent. The article continues:

Mr. Corcoran said that the hospital, once established, would probably detract from the values of the homes themselves—a problem I think the owners should look at.

Together with other honourable members, I have interviewed some of the people who are gravely concerned about this matter. One lady has been to hospital as a result of her worrying. In view of the Government's indecision, as reflected in the Minister's reply—

The Hon. A. F. Kneebone: It's not indecision.

The Hon. C. M. HILL: I think it is indecision, because the Hon. Mr. Corcoran said that the Government would probably issue these notices.

The Hon. A. F. Kneebone: In certain circumstances.

The Hon. C. M. HILL: In view of the Hon. Mr. Corcoran's statement, which could be interpreted as a warning to people that if they are negotiating privately they must bear in mind the fact that there will be a detraction in value, does the Minister not agree that it is extremely unfair to place these people in a situation of uncertainty, and will he make every endeavour to put the matter on a proper legal plane and endeavour to see that the Government reaches a decision to issue the notices of intent?

The Hon. A. F. KNEEBONE: I was speaking generally when I said that no decision had been made. However, in certain circumstances, a notice of intent is being served, because this is the fairest way to deal with the people in those circumstances. The Hon. Mr. Corcoran's statement was issued to put people at ease, not to disturb them. I know that the honourable member is not the only Opposition member who has been working in the district in regard to this matter. I wonder why at least three Opposition honourable members are working in the district. I know there is a little feeling in regard to this matter. It is my intention and my colleague's intention to do our best to clear up the situation so that this feeling will be removed from the area. We do not intend to stir it up.

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

Leave granted.

The Hon. R. C. DeGARIS: I am somewhat concerned at the Minister's replies, and perhaps I can re-explain the situation. At present these people in this area have only one purchaser, that is, the Government. There can be no other, because no-one would be interested in buying a house in that area, as the Government has said that at some time in the future it intends to acquire these properties. I can quote a case where a price of $16,000 was offered about three months ago by a private buyer, but the Government has offered about $14,000. One can imagine the situation of people in this area in which they have no recourse to the protection of the Act. Indeed, they are left to the will of the Government in this regard. Will the Minister consider this factor when dealing with this matter and will he give urgent consideration once again to issuing notices of intent in order to give people the protection of the Act to which they are entitled?

The Hon. A. F. KNEEBONE: Yes. I appreciate the Leader's restrained attitude in asking this question, rather than getting heated about it. I say to the Leader that I intend to further consider this matter in consultation with my colleague, and I assure him that we will do everything in our power to ensure that a reasonable solution to this problem is achieved.

DISCOUNT FIRMS

The Hon. D. H. L. BANFIELD: I seek leave to make a short statement before asking a question of the Chief Secretary, representing the Attorney-General.

Leave granted.

The Hon. D. H. L. BANFIELD: Recently, canvassers in the Elizabeth area have been trying to entice people to become agents of "Save More". To become such an agent costs them $27, and for that money it is suggested that they may be able to obtain 33 per cent discount on goods purchased from various unnamed firms. In view of what has been going on with some of these fly-by-night firms, where people hand over cash and are left in the lurch, will the Chief Secretary ask the Attorney-General to investigate this firm to enable the people's money to be protected?

The Hon. A. J. SHARD: I shall be pleased to refer the question to the Attorney-General.

VIRGINIA RACE TRACK

The Hon. L. R. HART: I seek leave to make a short statement before asking a question of the Minister of Agriculture, representing the Minister of Works.

Leave granted.

The Hon. L. R. HART: Twice previously the Minister has been good enough to reply to my questions about an indirect water service to a proposed racing track at Virginia. I have today been contacted by several constituents in this area who claim that the contractors building the track are obtaining a water supply direct from the main at Virginia by way of tankers, and using the water to suppress a dust nuisance that has been created while the track is being built. These people are annoyed that they themselves have been refused the water service, yet this contractor can obtain water direct from the main. Will the Minister ask his colleague to look into this matter closely and see whether he can bring back an answer justifying the contractor being able to obtain water by this means?

The Hon. T. M. CASEY: I shall be happy to comply with the honourable member's wishes.

ROSEWORTHY AGRICULTURAL COLLEGE

The Hon. M. B. DAWKINS: Has the Minister of Agriculture a reply to a question I asked last week about extensions to the Roseworthy Agricultural College?

The Hon. T. M. CASEY: All working arrangements covering dormitory and kitchen accommodation at present under construction at Roseworthy have been made or are being made on the basis that the buildings will be ready for occupation by the beginning of March, 1972. Plans have been prepared on the basis of a maximum of 190 students.

LOTTERY AND GAMING ACT REGULATIONS

The Hon. F. J. POTTER (Central No. 2) brought up the Thirtieth Report of the Joint Committee on Subordinate Legislation, and the minutes of evidence, and moved:

That the report be read.

The Hon. R. C. DeGARIS (Leader of the Opposition): I second the motion and seek leave to make a brief statement on this matter.

Leave granted.

The Hon. R. C. DeGARIS: It is difficult, in most Parliamentary situations, for the public to understand the processes of Parliament and the reason why in respect of these regulations under the Lottery and Gaming Act I have a notice for disallowance on the Notice Paper. I accept the fact that the Government, under that Act, has the power to make regulations and the right to implement its policy. These regulations that the report deals with implement the Government's thinking on raffles, small lotteries and art unions in South Australia. Certain parts of the regulations met with the approval of neither myself nor many honourable members in this Chamber. I think people realize that, when such a disagreement occurs, the only way in which it can be handled is by a motion for disallowance.

I want to comment, briefly, on the fact that the Joint Committee on Subordinate Legislation has brought down a report recommending certain alterations in the regulations. I will touch briefly on those recommendations. My first objection to the regulations was in regard to the smaller lotteries under regulation 6, where an annual licence costing $5 could be issued to a range of organizations covered by regulation 5, which provides for:

. . . organizations such as charitable, patriotic, religious, educational, cultural, political, industrial, social, or sporting purposes.

Those people could apply for an annual licence costing $5 and could run any number of lotteries during the year, with a total of $1,000 in each lottery. This regulation worried other members, too, because it was quite obvious that smaller organizations in the community could find it almost impossible to compete with well-organized bodies on this basis. An example would be the Country Womens Association which might have a small branch in a small country town, running one raffle a year and being required to pay an annual licence fee of $5, whereas a large and well-organized sporting body could run, say, 300 raffles a year, each with a total intake of $1,000, under no control and without supervision, paying the same licence fee of $5 a year.

I am very pleased that the Joint Committee, in co-operation with the Government, has seen fit to alter the regulation and reduce the prize money from $200 to $50; also restricting to 26 the number of lotteries which may be run without advising the Chief Secretary, and that is a very great improvement.

The other matter is the question of political activity. The Government has agreed that some further restriction should be made in the regulations. I know it is the view of many honourable members that political Parties should be excluded from the area of larger lotteries and art unions. I take the view, and I know others do, that a political Party can hardly be looked upon as a charitable organization, and I think most people would agree. Although I am much happier now, I believe it will not be long before the Government may have to look again at this whole question, because I feel there will still be an area of over-exploitation without control. However, when that occurs, I am sure the Government will be prepared to consider the situation. I express my pleasure that the Government has seen fit to amend the regulations, bringing them to what I consider a far more practical level. I still have a motion for disallowance on the Notice Paper, but that will be discharged tomorrow.

Motion carried.

FISHERIES BILL

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

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

That this Bill be now read a second time.

In response to representations from commercial fishermen for more effective fisheries legislation and the department's long recognition of and strong support for this obvious need, the House of Assembly appointed a Select Committee to inquire into and report on:

(*a*) All aspects of the survey and equipment of fishing vessels and regulations therefor; and

(*b*) The need for any amendments to the Fisheries Act, 1917-1962, considered necessary to ensure the proper management of fisheries resources, including amendments to provide for licences for master fishermen, part-time commercial fishermen, employee fishermen, amateur fishermen and fish dealers.

The Select Committee on the Fishing Industry was appointed on October 6, 1966, and, following a reorganization of membership on November 17, 1966, the committee submitted its report to Parliament on September 14, 1967. In the course of its inquiry the committee held 36 meetings and examined 137 witnesses, 64 of whom appeared before the committee as private individuals. Twenty-two associations were represented in evidence given to the committee at sittings held from Ceduna to Port MacDonnell.

Under the terms of reference, the first part (*a*) referred to matters within the jurisdiction of the Marine Act, 1936-1966, whereas part (*b*) concerned the need for amending the Fisheries Act, 1917-1962, to provide legislation for the proper management of fisheries resources and to overcome the inadequacies of the existing licensing provisions. The Select Committee expressed the opinion that the Fisheries Act, 1917-1962, should be redrafted to produce legislation which would be more precise and more appropriate for current conditions. Sir Edgar Bean, former Parliamentary Draftsman, was retained by the then Government to consult with the newly appointed Director of Fisheries and Fauna Conservation (Mr. A. M. Olsen) and to prepare draft amendments to the Fisheries Act, 1917-1962, so as to up-date the legislation to bring it into line with modern fisheries management practices. However, it was soon realized that the whole Act needed redrafting, and the present Bill was prepared to replace the outmoded Fisheries Act.

An amendment to the Fisheries Act, 1917-1962, which provided that a fisherman who had not engaged in crayfishing prior to September, 1967, could not be granted a permit to catch crayfish, that is, take control as master of an authorized crayfishing vessel, has been deleted. Introduced as an interim measure to aid the introduction of management practices in cray fishery, the amendment has now been found to be too restrictive and has not been carried forward in the present Bill. The licensing provisions incorporated in the Bill follow the recommendations of the Select Committee. New provisions in this Bill also provide for setting up aquatic reserves and the establishment of a Fisheries Research and Development Fund to aid fisheries research, for so long neglected in this State.

The present restrictive legislation whereby anglers may use only a single rod and line or one handline has been liberalized in this Bill so that they may at any time use two rods or two handlines at the one time. In considering the individual clauses of the Bill I will indicate as far as possible the changes they effect to the existing law. Clauses 1 to 3 are formal. Clause 4 repeals the Fisheries Act, 1917-1969, and makes appropriate transitional provisions. Clause 5 sets out the definitions for the Bill, and I would draw honourable members' attention to the following: the definition of "boat" has been extended so as to include marine hovercraft and submersibles; the definition of "fish" has been extended to include aquatic animals; definitions of "rod and line", "hand line" and "dab net" are included, in view of new provisions entitling people to fish with these devices without a licence, and a definition of "honorary warden" is included. There are new provisions for the appointment of these persons as wardens.

Clause 6 sets out some general provisions relating to proclamations under the Bill. It provides that any proclamation may be varied or revoked by another proclamation. Clauses 7 to 15, which constitute Division I of Part II of the Bill, make appropriate provision for its general administration. Clause 7 provides for a power of delegation that may be exercised by the Minister or Director in relation to their respective powers. Clause 8 provides for appointments as inspectors of fisheries and also provides that members of the Police Force will be *ex officio* such inspectors. Clause 9 provides for the appointment of honorary wardens and clause 10 provides for identity cards for inspectors and honorary wardens. Clause 11 prohibits persons having a financial interest in fishing being appointed as inspectors and clause 12 sets out in some detail the powers of inspectors. Clause 13 enlarges on

these powers and clauses 14 and 15 set out certain offences relating to inspectors and honorary wardens.

Clauses 16 to 20 deal with the registration of boats intended to be used for commercial fishing and are generally self-explanatory. Clause 21 enables the Minister to construct artificial reefs and to remove certain obstructions which interfere with the free passage of fish. The exercise of the Minister's powers in this regard are expressed to be subject to the approval of the Minister of Marine. Clause 22 authorizes the Minister of Marine to construct certain facilities for use by fishermen and subclause (2) of that provision provides for the prescription of charges for the use of those facilities.

Clause 23 is a new clause empowering the Minister and the Director to conduct research, exploration and experiments relating to fishing and marketing of fish, and also to establish biological stations and other establishments for such research. Clause 24 provides for the setting aside of aquatic reserves for research and development purposes and for regulating entry into and conduct of persons on such reserves. Clause 25 provides for the preservation of certain waters from undue disturbance for the same purpose. Clause 26 reproduces the provisions of the present Act relating to the marking of fish boxes. No alteration of substance is proposed.

Clause 27 is a new provision. Its effect is to require the person or company which first handles or processes fish after they are caught to take out a licence. The clause is not aimed at general control of the dealers, but is merely for the purpose of enabling the department to know who they are, where they carry on business, and what fish they are handling. With the aid of this information, the tasks of preventing illegal fishing and enforcing the licensing requirements of the Bill will be considerably simplified. Similar provisions have been found necessary in the other States. Clauses 28 and 29 specify the types of fishing licence that will be required in future, and set out the penalties for fishing without a licence in cases where one is required. They also specify the circumstances in which fish may be taken without a licence. They are based generally on recommendations of the Parliamentary Select Committee and in substance embody the principles recommended by the committee, although some of the terminology is different.

The present Act provides for only one class of fishing licence for which the fee is $4. Such a licence entitled the holder to take and sell fish of all kinds, except species such as crayfish, prawns and abalone, for which a special permit is required in addition to a licence. There is no distinction at present between the licence granted to a professional full-time fisherman and the licence granted to a person who fishes periodically and desires to sell his catch. No fishing licence, however, will be required if the fish are not taken for sale and are not sold and the holder of the licence fishes only with certain gear mentioned in the Bill, namely, (*a*) a rod and line or hand line; (*b*) a hoop net for taking crabs; and (*c*) a dab net for taking garfish.

Clause 30 is an important clause which sets out the qualifications for obtaining a commercial fishing licence. To be granted a class A fishing licence an applicant must satisfy the Director (subject to a right of review) that he intends to carry on the business of fishing as his principal business. To be granted a class B licence he must satisfy the Director that he will carry on business as a seasonal or part-time business, and in either case that he has equipment, experience and resources to enable him to fish efficiently and profitably. Clause 31 reproduces in part a provision in the existing Act relating to companies holding fishing licences. The previous restriction on aliens holding fishing licences has not been carried forward into this Bill. Clause 32 requires the holder of a fishing licence who employs other persons in fishing to take out a licence authorizing him to employ such persons. The existing law provides that a licensed fisherman must take out a separate employee's licence for each person employed. The Bill simplifies this scheme by allowing a licensed fisherman to take out a licence to employ any number of persons up to a limit specified in the licence. If an employee of a licensed fisherman is himself the holder of a fishing licence no licence to employ will be required in respect of him.

Clauses 33 and 34 set out the procedure and requirements for obtaining licences. The Director will decide the applications, and the fees will be fixed by regulation. Commercial fishermen of long standing over 65 years of age and in necessitous circumstances may obtain licences without paying fees. Exservicemen and Australian seamen will receive this concession at age 60. If licences are held for less than six months, half the fee paid will be refunded, and reduced fees may be charged for licences granted for three months or less. Licences properly applied for cannot

be refused except on grounds set out in the Bill. One ground for refusal is that the applicant does not comply with a requirement of the Act, for example, as to qualifications, experience or resources. The other is that a licence can be refused for the purpose of giving effect to an approved administrative policy for conservation of fish or proper management of any fishery. Research has shown that fish resources are not limitless, and from time to time restrictions on the number of licences may be necessary. A person whose application for a licence is refused may obtain a review of the decision on request to the Minister. On receiving such a request, the Minister is required by the Bill to have the matters in issue investigated and decided by a competent authority. This decision must be given effect to by the Director. These provisions for ensuring that applications for licences are not arbitrarily refused are new.

Clause 35 retains the principle of annual licences, but will enable the department to have different expiry days for licences, instead of one fixed day for all licences. This will enable the work of issuing licences to be spread over the year. Regarding clause 36, in recent years it has been found necessary to introduce special codes of regulations for certain important fisheries such as crayfish, prawns and abalone. Regulations about crayfish were specially authorized by an amending Act in 1967 and other regulations by some general provisions of the Act of 1917. In view of the need for further management and for improving the existing schemes, it is now desirable that the Governor should have an explicit authority to make codes of regulations for the management of any specified fisheries. For this reason clause 36 has been drafted. Codes of regulations under this clause may require special permits for taking specified fish in addition to the ordinary commercial licence, and may require authorization certificates for boats used in specified fisheries, and prescribe rules to be observed for carrying out schemes of management of such fisheries.

Subclause (1) of clause 37 enables the holder of a licence or permit to surrender it. There is no similar provision in the present law. Subclause (2) enables the Minister to revoke licences or permits. Clause 38 is similar in principle to a provision of the existing Act which makes it an offence to lend or hire a licence or obtain one unlawfully or falsely pretend to be the holder of a licence. It is wider than the present provision in that it applies to permits as well as licences.

Clause 39 makes it clear that licences and permits do not confer rights over private land or over water on private land, unless the owner of the land consents to the exercise of such rights. A similar provision is in section 46 of the present Act. Regarding clause 40, the present Act contains a provision penalizing a person who refuses to produce a fishing licence on demand made by an inspector. The new clause alters the present law in a number of ways:

(*a*) It extends the law to permits as well as licences.

(*b*) It empowers honorary wardens as well as inspectors to demand production of licences.

(*c*) It requires the inspector or warden making the demand to identify himself by production of his identity card or, if the inspector is a plain-clothes policeman, by production of his certificate of authority issued under the police regulations.

(*d*) It gives the person who is required to produce a licence or permit the option of producing it at a police station or public office within 48 hours, and not necessarily immediately on demand.

Clause 41 makes it an offence for the holder of a licence or permit to take fish contrary to the terms of the licence or permit or to contravene those terms in any other way, and also at subclause (2) it is made an offence for a non-licensed fisherman to sell fish caught by him. Clause 42 confers on the Minister a power to grant a special permit to any person to take fish in any circumstances. It is contemplated that such permits may be required to facilitate research or for stocking waters. A similar but more limited power is in section 7 (1) (*d*) of the present Act.

Clause 43, which is similar in principle to section 15a of the present Act, enables the Minister to grant an exclusive right to any person to take specified fish from any waters. An example of the purpose for which such a franchise may be granted is the taking of eels. An eel fishery would be difficult to develop in a particular area if eels could be taken without restriction. Clauses 44 and 45 enable the Governor to grant leases of or licences to occupy Crown land with or without adjacent waters for fish culture. Such rights are at present available only for the culture of oysters. The new clauses, however,

are in general terms and enable leases and licences to be granted for the culture of oysters or fish of any kind. No grant of a lease or licence under these clauses can be made unless any Crown land affected has first been dedicated under the Crown Lands Act for the purpose of fish culture. The maximum term of any lease or licence is 10 years, but renewals may be granted subject to the same limitation. Provisions are included in clause 45 to restrict entry by unauthorized persons into any fish culture area.

Clauses 46 to 55 contain all the general restrictions on taking fish which apply whether or not the person taking them is a licensed fisherman. They are based on principles such as the protection of undersize fish, the prevention of the use of devices that are harmful to fisheries, and the closing of waters where that is necessary to conserve or build up stocks of fish. To achieve these objects the Bill gives the Governor power to make, revoke and vary proclamations that may be made to operate for short terms or long terms. Such controls have been found essential by every Government that has undertaken the task of conserving and building up its fisheries. In drafting the Bill, care has been taken to provide only for those forms of control for which there is a clear justification. Put shortly, clause 46 enables the Governor to restrict the taking of fish of all species or of any prescribed species. The restriction may be temporary or permanent, and either general or limited as to area. Proclamations of the kind authorized by this clause have been in force for many years.

Clause 47 enables the Governor by proclamation to declare that fish not complying with a minimum dimension or weight are not to be taken. It is somewhat wider than the present power to prohibit the taking of undersize fish in that it enables the Governor to prescribe the minimum permissible size for any part of a fish for example, the length of the carapace of a crayfish or lobster. No exemptions allowing the taking of undersize fish are specified in the Bill, but the Governor is given power to proclaim such exemptions, with or without bag limits on the number of undersize fish which may be taken.

Clause 48 declares that if fish of species subject to size limits are caught from a boat they must be brought ashore without being cut up or otherwise mutilated, except by scaling and gutting. At present, people who have caught undersize fish from a boat often fillet or otherwise cut up the fish before coming ashore so that (as they hope) the fact that the fish are undersize cannot be proved. These offences sometimes occur on a big scale and their prevalence justifies the restriction in the clause. The clause will not apply to fish used on the boat as food for persons therein or to fish used as bait in commercial fishing operations.

Clause 49 brings together all the powers that are contained in the present law to regulate and control the use of devices for taking fish. The regulation of such devices is an essential factor in conserving and improving fisheries, and a variety of restrictions are now in force as a result of many years of experience and are generally accepted as being necessary. Clause 49 has been drafted so as to authorize the types of control now in force as well as others that may be found necessary as a result of the development of new fisheries.

Clause 50: as previously mentioned, no licence is required for fishing by hand lines, rods and lines, crab nets and dab nets for garfish. However, by the use of numerous lines at once an unlicensed person would in some waters be able to take substantial quantities of fish and in this respect be almost as well off as the holder of a licence. This would be an anomalous situation and would tend to cause illegal sales. For this reason, it is proposed to limit the number of fishing devices which may be used at one time by an unlicensed person. The limit proposed is two. Clause 51 empowers the Governor to proclaim what are commonly called "bag limits"; that is, maximum limits on the number of fish, or fish of a specified kind, that may be taken by a person in one day. It is not likely that bag limits will be imposed on professional fishermen except in special cases; but if, as may happen, unlicensed persons are to be allowed to take undersize fish, it may be necessary to put a bag limit on the number of such fish that may be taken.

Clause 52 makes it an offence to place obstructions in positions where they may hinder the lawful use of fishing devices or damage devices being lawfully used. Its main purpose is the protection of nets. It also penalizes persons who unlawfully hinder lawful fishing or interfere with or take fish from devices set by other persons or who interfere with fish in receptacles. Conduct of this kind has been reported from time to time and is not adequately dealt with in the present law. Clause 53 prohibits the taking of fish by the use of explosives or poisons. It is substantially similar to provisions contained

in section 53 of the present Act. Clause 54 lays down that pipelines through which water is pumped from the sea or a river must be fitted with sieves of a pattern approved by the Director. This rule has been in the law since 1938.

Clause 55 prohibits the breeding, keeping and releasing into waters of noxious fish. The Director is empowered to grant exemptions from the prohibitions. Clause 56 sets out the matters on which regulations may be made. In general, the regulations which may be made are ancillary to the other provisions of the Bill. However, paragraph (*b*) of clause 56 is designed to enable provisions additional to those in the other parts of the Bill to be made for research and for the conservation, improvement, and protection of fisheries, and the regulation of trade in and processing of fish. In addition, wider powers to prevent pollution of waters are conferred by paragraph (*c*). It should also be noted that paragraph (*f*) provides for the registration of devices more commonly known as fishing gear.

Clause 57, which is of a kind usually found in Fisheries Acts, is designed to facilitate the proof (in legal proceedings) of various matters. Most matters dealt with are matters of departmental record, and the clause provides that *prima facie* evidence of these may clause also facilitates the proof of proclamabe given by a departmental certificate. The tions and of the fact that a place referred to in evidence was within waters specified in a proclamation. Other provisions lay it down that the onus of providing that fish taken were not for sale shall be on the defendant, and that distances, depths, and heights may be proved by evidence of measurements taken by electronic, sonic, or mechanical devices.

Clause 58 makes it an offence to make a false or misleading statement in any application or statistical return furnished under the Bill. It is a defence to a charge for any such offence that the defendant believed on reasonable grounds that the statement was true. Clause 59 provides that offences under the Bill must be dealt with in courts of summary jurisdiction. It also provides that complaints for an offence may be laid within 12 months after the commission of the offence. The usual period of six months is extended, because various types of offences under the Bill, for example, failure to lodge returns or renew registrations, may not be discovered until more than six months has expired.

Clause 60: throughout the Bill the normal maximum penalties for offences are stated in the clauses creating the offences. The most usual maximum penalty is $100. Some less severe offences carry $20 or $50, and some more serious up to $200. These are, on the whole, somewhat higher than those in the present Act in which the standard maximum is $100. Apart from these standard penalties, however, the Bill continues the system of additional penalties for offences involving the illegal taking of fish. This system has been in force for many years and it is a most effective means of deterring offenders. The core of it is that the court is required to impose an additional penalty (above the basic penalty) for each fish illegally taken. At present the rate of the additional penalty is expressed as "not less than $1" with no maximum. The Bill provides that the additional penalty a fish will be not less than $1 and not more than $2.

Clause 61 enables the court, when convicting a person of a second or subsequent offence against the Bill, to cancel or suspend any fishing licence or permit held by him, or disqualify him, for a fixed period not exceeding three years, from obtaining a licence or permit. Section 57 of the present Act is to the same effect. Such a provision is justified by the difficulty inherent in policing fishing legislation. Clause 62 enables the court to order the forfeiture of a fishing device where a person has been convicted of using it to commit an offence against the Bill. The justification for a power of this kind lies in the fact that some devices, for example, nets of certain kinds, are such that it is not legal to use them for fishing in any circumstances.

Clause 63 declares that fish illegally taken are the property of the Crown, and that an inspector may seize them and dispose of them in accordance with Ministerial directions. It also reproduces a long-standing rule that if one-tenth of the fish in a receptacle are undersize all the fish may be seized and disposed of as directed by the Minister. This has been found to be a most useful deterrent and beneficial to public institutions which have received the fish. Clause 64 requires any person having in his possession fish belonging to the Crown, or ordered to be forfeited to the Crown, to deliver the fish to an inspector on request. A provision to the like effect is in section 53 of the present Act.

Clause 65 makes the master of a vessel liable for offences committed on the vessel unless he can make out the defence provided for in that clause. Clause 66 enables the Director, under his official title, to institute

legal proceedings to recover money due to the Crown under the Bill. Clause 67: by this clause a Fisheries Research and Development Fund is established in the Treasury. It will consist of one-half of all licence fees and registration fees paid under the Bill, other than fees paid for the use of facilities provided by the Minister of Marine under clause 22 and money appropriated for the fund by Parliament. It is contemplated that money will also be made available by the Commonwealth. Subclause (3) sets out the purposes for which the fund may be used: that is, fishing research in South Australian waters, conservation and development of fisheries, and other purposes beneficial to the fishing industry.

Clauses 68 and 69 are the usual financial provisions stating that money received under the Bill (except money for the Fisheries Research and Development Fund) must go into general revenue, and moneys required for the administration of the Bill (other than money from the fund) must be appropriated by Parliament.

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

AGE OF MAJORITY (REDUCTION) BILL

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

PLANNING AND DEVELOPMENT ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

On June 30, 1971, the four-year terms of office of the members of both the State Planning Authority and the Planning Appeal Board expire. The Government believes that this is, therefore, the appropriate time for the amendment of those parts of the principal Act under and by virtue of which those bodies are constituted. These first years since the inception of the Act in 1967 have brought to light various shortcomings, not only in those provisions which constitute the two bodies but also in the provisions which deal with procedures and machinery matters.

Much thought has been given to those shortcomings and to the aims and purposes for which the authority and the board were set up. The matters dealt with by both bodies have increased enormously since 1967, and the ensuing problems of efficiency and the expeditious dispatch of business will be remedied to a large extent by the amendments proposed by this Bill. The principal object of the Bill concerning the State Planning Authority is to reconstitute that body with a better and wider representation of experts in the fields of local government, conservation and aesthetics.

With the rapid increase of interest in environmental matters, the Government has decided that one member of the authority should be an expert in that field. Under the principal Act as it now stands, one member of the authority is to be selected from a panel submitted by the Municipal Association of South Australia, a body which is now defunct. The Local Government Association gives sufficient representation on the authority of persons actually involved in the practical workings of local government. The Bill proposes that one member shall be a person who has knowledge of and experience in matters relating to or affecting local government, which will broaden the field from which a member may be chosen. It is self-evident that the hand of the Government should not be unduly fettered in the selection of persons who, as members of an authority such as this, so vital to the welfare of the community, should have as broad and diverse a knowledge and experience as possible.

At present, the Chamber of Manufactures submits a panel of names from which one member is selected, and the Bill now provides that the Chamber of Commerce shall join the Chamber of Manufactures in submitting that panel, thus not only giving one more body a voice but also widening the field from which the panel may be selected. The Bill further provides that the present provision for one member of the authority to be chosen from a panel submitted by the Real Estate Institute of South Australia should be deleted. As honourable members are aware, this Government has always been opposed to having any person who is involved in the business of buying and selling land as a member of the authority.

In the past four years much criticism (by such bodies as the Town and Country Planning Association) has been levelled at the constitution of the authority which, while in no way levelled at any of the individual members themselves, must have to some extent destroyed the confidence of the public in the work being done. If the authority is to be entirely above reproach and completely beyond the risk of bias, then the proposed disqualification of any person who has or acquires

an interest in the business of buying and selling land is an absolute necessity.

The Bill provides for the composition of the authority to be 11 members, as at present, with an expert in local government matters and an expert in conservation and aesthetics replacing the representatives of the Municipal Association and the Real Estate Institute. The disqualification will apply to those seven members who are appointed by the Governor. As far as the Planning Appeal Board is concerned, the principal object of the Bill is to create a board that has no limit to the number of members who may be appointed thereto. The Chairman of the board has now had ample experience in the day-to-day workings of the board, and all proposed amendments have been recommended by him. The disqualification relating to the holding of any interest in the business of buying and selling land is not to apply to members of the board, as it cannot be said that board decisions could benefit a member to the extent that the fundamental policies of the authority could possibly benefit a member of that authority.

The members of the board, apart from the Chairman, are to be such number of associate chairmen and commissioners as the Governor may appoint. The associate chairmen are to be local court judges and, as the detailed report on the relevant clauses will reveal, such associate chairmen will be able to relieve the burden of work now resting heavily on the present Chairman. Of the commissioners, at least two shall be persons having practical knowledge of local government matters, at least two shall be persons who either are members of the Royal Australian Planning Institute or have appropriate qualifications and experience in town planning, and at least two shall have practical knowledge in public administration, commerce or industry. The minimum number of members of the board will be eight, consisting of the Chairman, an associate chairman and six commissioners. The Government believes that the present considerable delay of up to about 10 months for the hearing of appeals will be greatly reduced. As the Act now stands, the board consists of only four members: the Chairman, one member chosen from a panel submitted by the Municipal Association and the Local Government Association, one member chosen from a panel submitted by the Adelaide Division of the Australian Planning Institute, and one member being a person who has practical knowledge in public administration, commerce or industry.

Once again, the Bill thus provides that the members do not have to be selected from the comparatively narrow limits provided for in the principal Act as it now stands. The Bill also ensures that the membership of the board can be increased over the years as the amount of business dictates. The improvements to the procedural and machinery provisions will be discussed in more detail when I deal with the clauses of the Bill. In order to ensure that any appeals not disposed of by July 1 are not in any way prejudiced by the proposed reconstitution of the board, the Bill provides that the board, as presently constituted, may continue to function for the purposes only of completing all such unfinished business. I commend this Bill to honourable members, as it represents the continual effort to keep statutory bodies efficient, progressive and abreast of the times.

I shall now deal with the clauses of the Bill. Clause 1 is formal. Clause 2 amends the arrangement of the principal Act. Clause 3 inserts into section 3 of the principal Act several new definitions of the various members of the Planning Appeal Board, which are self-explanatory. "The appointed day" is defined as July 1, 1971, which is the operative day for the newly constituted bodies, keeping in mind that this amending Act will itself come into operation on assent. Clause 4 amends section 6 of the principal Act by up-dating the reference to the Australian Planning Institute.

Clause 5 amends section 8 of the principal Act, which deals with the constitution of the State Planning Authority. Paragraph (*a*) of the clause keeps the present constitution of the authority alive until the appointed day. Paragraph (*b*) is a statute law revision amendment. Paragraph (*c*) deletes the provision regarding the member selected from the Municipal Association and inserts a new provision for the selection of a member who has knowledge of and experience in matters relating to or affecting local government. Paragraph (*d*) deletes the existing provision regarding the member chosen from the Chamber of Manufactures and inserts a new subparagraph, which provides that a member shall be selected from a panel submitted jointly by the Chamber of Manufactures and the Chamber of Commerce. Paragraph (*e*) deletes the provision regarding the member selected from the Real Estate Institute and inserts a new provision for the selection of a member who has knowledge of and experience in matters

relating to or affecting conservation or aesthetics. Paragraphs (*f*), (*g*) and (*h*) effect consequential amendments to the section.

Clause 6 enacts new section 8a of the principal Act. This new section provides that no person who has any financial interest in the business of buying, selling or developing land as a proprietor, broker, agent or director of a company shall be eligible to be appointed by the Governor as a member. "Director of a company" is defined to include a person who has a virtual controlling interest in a company—that is, 15 per cent of the ordinary shares in the issued capital. It should be made clear at this point that such disqualification does not apply to the four *ex officio* members of the authority—the Director of Planning, the Director and Engineer-in-Chief of the Engineering and Water Supply Department, the Commissioner of Highways, and the Surveyor-General. Clause 7 effects a consequential amendment to section 9 of the principal Act. Clause 8 amends section 10 of the principal Act, which deals with casual vacancies in the offices of members appointed by the Governor, by inserting a provision that, where such a member acquires any financial interest in the business of buying, selling, or developing land, his office shall become vacant. Clause 9 enacts new section 18 of the principal Act. This transitional provision provides that any application to the authority not disposed of before the appointed day shall continue to be disposed of by the authority as constituted after that day.

Clause 10 repeals all those sections comprising Division 3 of Part II of the principal Act, which deal specifically with the Planning Appeal Board, and inserts new sections 19 to 27a inclusive. New section 19 provides that the board as established under the principal Act shall continue, subject to the new provisions. New section 20 provides that the board, as now constituted, shall continue until the appointed day and shall so continue after that day for the purposes of disposing of unfinished hearings. A person who is a member before the appointed day but not after that day may continue to function as, and is deemed to be, a member for the purposes of this section but, if he dies or is unwilling or unable to so function after the appointed day, the Chairman can either fill the vacancy with a member of the newly constituted board or have the appeal or matter reheard by the newly constituted board. Members appointed to the newly constituted board are not precluded from functioning as members completing such unfinished business. As the repealed sections of the Act are virtually kept alive for the limited purposes of this new section, certain Statute law revision amendments are, in effect only, made to section 19 of the principal Act, in order to cover the rather remote chance that an appointment may have to be made to the board in the interval between the commencement of this amending Act and the appointed day.

New section 21 provides that after the appointed day the board shall consist of the Chairman and so many associate chairmen and commissioners as the Governor may appoint. The Chairman and associate chairmen must be local court judges, can perform their duties as members of the board at the same time as their duties as judges, are appointed by the Governor for such term or otherwise as is published in the *Gazette*, and are eligible at the expiration of their terms of office to be reappointed. At least two commissioners must have practical knowledge of and experience in local government, at least two must be either members of the Royal Australian Planning Institute or have appropriate qualifications and experience in town planning and at least two must have practical knowledge of and experience in public administration, commerce or industry. A commissioner's term of office shall not exceed five years and he shall be eligible for reappointment by the Governor. The Public Service Act does not touch members in their capacity as members. New section 21a provides that nothing contained in any other Act shall disqualify a member from being a member of the board at the same time as holding any other office.

New section 21b provides for the members to be remunerated at rates fixed by the Governor and to be paid such travelling and other expenses as the Minister approves. New section 21c provides that a member may be removed from office on grounds of misconduct or incapacity. New section 21d provides that the office of a member (other than the Chairman and associate chairmen) becomes vacant on death, resignation, removal from office, bankruptcy, conviction of indictable offence or conviction of any other offence in respect of which the Minister discharges him. The office of Chairman or associate chairman becomes vacant on death, resignation (if accepted by the Governor) or ceasing to hold qualifications for appointment. New section 21e provides that the Chairman shall convene

and preside at the hearing of appeals and other matters. During the Chairman's incapacity, absence or when he considers it improper for him to do so, an associate chairman shall convene and preside at the hearing of appeals and other matters, and for that purpose shall have all the powers and authorities of the Chairman. New section 21f provides that during the Chairman's absence or incapacity the Governor shall nominate an associate chairman to be responsible for administrative affairs which are otherwise the responsibility of the Chairman. New section 21g provides that the places and times for the sittings of the board shall be fixed by the Chairman or, during his absence or incapacity, by an associate chairman. New section 21h provides that notwithstanding any other Act, the powers and functions of the board shall be as provided in this Act. Procedures may vary as expressly provided for in any other Act.

New section 22 provides that the Chairman or, during his absence or incapacity, an associate chairman shall arrange the constitution of the board with respect to individual hearings. An appeal is to be heard by the Chairman, or an associate chairman, and at least two commissioners. The Chairman or an associate chairman sitting alone may hear those aspects of an appeal being matters of adjournment or practice and procedure, either before an appeal (for example, an application for extension of time within which to lodge a notice of appeal) or during the hearing. Appeals and any questions shall be decided by a majority decision and in the event of equal division, the presiding Chairman or associate chairman shall make the final decision. When an appeal or matter is being heard by particular members and one of them ceases to be a member, then that appeal may, on the direction of the Chairman, either continue to be heard by the remaining members or be reheard by a freshly constituted set of members. The parties to an appeal may request that the Chairman or an associate chairman sitting alone hear the appeal and this shall be done unless the Chairman directs otherwise.

New section 22a provides that all members of the board other than the Chairman and associate chairmen shall take an oath or affirmation on or after the appointed day, before performing any duties as a member. This applies to all existing members of the board who may take up office or function as a member after the appointed day. The forms of the oath and affirmation are set out in this section. New section 22b ensures that the board may effectively be split up into separate entities for the hearing of more than one appeal or matter at a time. New section 22c provides the general rule that hearings shall be in public except where the board directs otherwise. The board may have regard to the interests of justice, the confidential nature of the evidence, the expedition of procedures or any other matter it thinks sufficient, when directing that a hearing or part thereof shall take place in chambers. In these circumstances the board may give directions as to the persons to be present, the prohibition or restriction of publication of evidence and the exclusion of certain witnesses at certain times. A person who does not comply with such a direction may be fined $500.

New section 23 provides for the procedures with respect to hearings. New section 23a gives the board power to correct accidental or clerical mistakes in its determinations. New sections 23b and 23c provide for the giving of evidence on oath or affirmation or by written statement verified by oath or affirmation. New section 23d provides that any party to any hearing may appear personally or by counsel, solicitor or other agent. New sections 23e, 23f and 23g give immunity to the board and its individual members in respect of acts done in good faith and such protection to persons appearing on behalf of parties and to witnesses as they would have in a local court. New section 23h provides a penalty of $500 for a witness who fails, without lawful excuse, to take an oath or affirmation, to produce books or documents or to answer questions other than incriminating questions. New section 23i provides the usual grounds which may constitute contempt, the penalty for which is $500. New section 24 provides that a certified copy of a determination of the board shall be evidence of such determination. New section 24a gives the secretary or a registrar of the board power, when acting under the direction of the Chairman or an associate chairman, to subpoena witnesses and to request the production of books and documents relating to any appeal or matter. The board may inspect and copy such books and documents. New section 24b gives the Chairman or associate chairman presiding at a hearing power to direct that any member sitting at that hearing who has any interest in the subject matter of the appeal shall not continue to so sit, and such appeal may, at the direction of the Chairman, either continue to be heard by the remaining members so sitting

or be reheard by a freshly constituted set of members.

New section 24c provides that the secretary shall notify the authority and all parties to any appeal or matter of the determination of the board or of the Land and Valuation Court, as the case may be. New section 25 provides for the appointment of a secretary and such one or more registrars as the Governor thinks fit. If there is a secretary in existence on the appointed day he shall continue in office. The secretary shall automatically be a registrar. The secretary and registrars may at the same time hold any other office in any branch of the public service other than the State Planning Office. These appointments are subject to the Public Service Act. A registrar shall attend at every hearing unless the presiding Chairman or associate chairman otherwise directs. New section 26 provides for appeals to the board and to the Land and Valuation Court and for references by the board of questions of law to the latter court. This section is virtually identical to the existing provision in the principal Act and so needs no further explanation. New section 27 provides the procedure for appeals. A person appealing need only state such matters in his notice of appeal as he is able, as in practice many decisions appealed against are not even set out in writing and at the best of times are bare of reasons. The board does not wish notices of appeal to be grounds for lengthy argument by opposing parties. The notice must be lodged within two months of the notice of the decision appealed against being given or being deemed to have been given. As many councils do not ever actually give any such notice, ample provision is made for a prospective appellant to apply for extension of time.

As in the existing section, the board, on determining an appeal, must have regard to any relevant authorized development plan, the law applicable to the particular locality, the health, safety and convenience of the community and the amenities of the particular locality. In urgent cases the board may give its determination orally and announce that the reasons for its determination will be given in writing later and in such a case the time for appealing to the Land and Valuation Court is extended to 30 days from the time those reasons are given in writing. Existing regulations regarding appeals are preserved, with power to make further regulations. The board is given complete discretion with respect to publication of its determinations. New section 27a gives the board special powers to ascertain whether all rightful parties, who ought to be bound by its determination, have been joined in any appeal or matter, and if not, to so join them, and it may allow the amendment of any appeal or matter. A person so joined is bound by the board's determination and must comply with any direction given. This provision ensures that the board is not forced to hear and determine identical appeals, when one decision could effectively dispose of a particular area of dispute. The board has found that in such cases as an appeal by a person direct to the board against the decision of a council, the authority is not technically a party, but ought to be so joined and bound.

Clause 11 amends section 78 of the principal Act, which deals with the power of both the authority and the board to inspect land and premises. A passage is inserted which permits the board to authorize certain persons involved in an appeal to come within the ambit of such power. In the past the board has found that some counsel appearing for parties feel that they are not empowered under the principal Act as it now stands to enter any property or premises when the board carries out an inspection. The extension of this power to any person authorized in writing by the Chairman or an associate chairman will remove this difficulty.

The Hon. C. M. HILL secured the adjournment of the debate.

WATERWORKS ACT AMENDMENT BILL (POLLUTION)

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

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

That this Bill be now read a second time.

In recent years, both in Australia and abroad, rapid advances in technology and associated higher standards of living have placed a great strain on the earth's water resources and focused attention on problems of water management. Honourable members will realize that the implementation of a total plan for State-wide water resources management represents a considerable task as well as one which should only be proceeded with on a staged basis planned to ensure that necessary priorities are met and that unnecessary measures are not introduced. At present the most difficult water pollution problem facing the Engineering and Water Supply Department exists on the watersheds of the

metropolitan reservoirs which provide about half of our reticulated water supplies.

These watersheds are unique in that they are particularly vulnerable compared with those in other States. Unlike the situation in other States our watersheds are largely inhabited, they come within less than 10 miles of the inner city (comparative figures for the other States are: Sydney 40 miles, Melbourne 45 miles, Perth 20 miles and Brisbane 80 miles), and are extremely accessible. They are also particularly attractive for rural living. Another factor which must be realized is that, because of our less favourable rainfall, the watersheds are relatively larger in comparison to their effective yield, and this accentuates any potential pollutional effect.

Until a few years ago the population of the Adelaide Hills was almost entirely rural with only a few small relatively stable villages scattered throughout the area. However, the pattern of development has changed markedly. This has to a large extent followed the infinitely greater access afforded by the Hills Freeway and by the provision of excellent secondary roads which together bring the metropolitan catchments closer to the city, in terms of travelling time, than many of the outer plains suburbs. This accessibility has not only given rise to increased urbanization but, together with increased demands for primary products by the expanding metropolitan area, has stimulated animal husbandry and horticultural activities such as pig and poultry raising, dairying, sheep and cattle grazing, market gardening and fruitgrowing. Comprehensive surveys have been instituted to determine the degree of pollution, and there is evidence already that the waters of the metropolitan reservoirs are affected. For example, since the war copper sulphate usage for control of excessive algae growths, which give rise to colour, turbidity, odour and taste problems, has increased from virtually nothing to 90 tons in 1969-70. This year the department has already used 140 tons of copper sulphate, costing approximately $100,000. Furthermore, over the last seven years the chlorine dosage rate has risen by over 50 per cent. This lowered bacteriological quality of the water is a measure of increasing pollution.

These and other symptoms of impending pollution are similar to those observed, and ignored, in the United States and Europe 15 to 20 years ago, and the extent and nature of the problem has been widely documented. They must cause alarm in South Australia and action is necessary now. For these reasons the Government has initiated investigations so that proper measures can be devised and implemented to ensure that our water supply, this vital natural resource, is adequately managed so that the development of our State and our living standards can continue and advance.

This Bill has therefore been prepared following extensive investigations by qualified technical officers, including engineers and scientists. The Engineering and Water Supply Department has been assisted by the State Advisory Committee on Water Supplies Examinations as well as the Public Health Department and other authorities. This Bill is part of a carefully planned comprehensive strategy for total State-wide environmental protection and enhancement. However, as stated, such a plan must be proceeded with on a staged basis. The overall plan provides for the present short-term holding measures based on the overall policy. These measures will safeguard the position whilst further and necessary investigations continue. These include, for example, those already referred to as well as those being conducted by the Committee on Environment in South Australia, which was appointed by the former Government.

For the long term, the extreme reliance of this State on its water will demand the highest level of total management of our State water resources to preserve them for safe and healthy public water supply; for industry, agriculture and community use; for fish and wild life conservation; and for the maintenance of an aesthetically desirable environment. This will call for State-wide water resources legislation providing for centralized planning and control of water resources development, including all aspects of "water quality" (that is, pollution control and quality management) and "water quantity". This will avoid the almost insoluble problems of fragmentation of water resource control which currently face the U.S.A. and other oversea countries and enable the rational exploitation of our waters to proceed in the best interests of the people of South Australia as a whole.

The investigations already made have shown the need for short-term holding measures designed to prevent undesirable development in the meantime. As pollution is caused by the uncontrolled activities of man, both measures necessarily have been designed to prevent this. The first measure was taken last year when a regulation was made under the Planning and Development Act giving the Director of Planning power to refuse approval

to plans of subdivision or resubdivision in respect of land within watersheds if, in the opinion of the Director and Engineer-in-Chief of the Engineering and Water Supply Department, the approval of the plan could lead to pollution of a public water supply. This was a very necessary measure which provided power to control undesirable types of occupation in critical areas. It will permit urban-type development to be confined to existing township centres where the wastes can be collected and properly treated. Elsewhere it will be possible to maintain the rural character of the watersheds.

The present Bill is designed to ensure that human activities in watersheds are such as can be safely pursued without danger of pollution. The amendments are being brought forward as an urgent short-term holding measure to provide much needed control over undesirable pollution from rural and extractive industry on the watersheds. In essence, they will clarify existing provisions; give the Minister power to enter private properties to implement water quality improvement; and, most importantly, give the Minister power to make by-laws concerning water pollution control. The proposed by-laws will deal with such matters as disposal of animal carcasses, the zoning of watersheds to control more adequately the siting and operation of piggeries, poultry farms, dairies, stockyards, etc., and when necessary the control of quarrying and sandwashing to limit physical water quality impairment.

The proposals are aimed, inasmuch as is possible, at minimum interference with existing activities while still preventing undesirable new activities. It is pointed out that the principal Act gives the Minister of Works general powers to restrain persons on watersheds or rivers from polluting the supply. The legislation is remedial rather than preventative and, today, is inadequate to stand the pressures of development. The enforcement of remedial legislation inevitably means hardship for the individual owner or occupier of land on which a source of water pollution has been established and the co-operation and goodwill of the community (so essential to water pollution control) is seriously impaired.

I will now deal with the Bill in some detail. Clause 1 is formal. Clause 2 amends section 4 of the principal Act by inserting certain definitions necessary or desirable for the purposes of this Bill. The definition of "stream" has been recast and definitions of "watercourse" and "waterworks" have been added. Clause 3 inserts a new section 9a in the principal Act. This section provides for the delineation and naming of watersheds and the division of watersheds into zones. Although the term "watershed" was already in use in the present Act (at section 58), the effect of this provision will be that watersheds will be capable of precise determination. Provision is also made in proposed new section 9a for the division of a watershed into zones.

Clause 4 amends section 10 of the principal Act (which confers power on the Minister to make by-laws) by adding five new by-law making powers. Generally the powers are related to the need for the prevention of the impairment of the water supply in watersheds. I have already adverted to the kind of by-laws that are proposed to be made and would remind honourable members that such by-laws are of course subject to Parliamentary scrutiny in the same manner as regulations. The power proposed to be conferred will enable different degrees of control to be imposed in relation to different watershed zones.

Clause 5 amends section 12 of the principal Act, which sets out the powers of the Minister. The proposed new power provides for entry upon lands in a watershed with a view to reducing or removing sources of pollution. The exercise of this power is, in common with the exercise of all the present powers referred to in section 12, subject to the limitations contained in subsections (2), (3) and (4) of that section. Clause 6 restates section 56 of the principal Act with some modifications. It is extended to cover all sources of water in a watershed zone. The blanket prohibition on the entry of animals into streams has not been carried over into the new provision. The maximum penalty for an offence against the provision has been lifted from $10 to $200.

Clause 7 restates section 57 of the principal Act, which deals with pollution of streams, etc., and again extends the scope of the section to cover all streams, etc., within a watershed. Again the maximum penalties have been increased to reflect the growing seriousness of the problem of water pollution. Clause 8 restates section 58 of the principal Act, which dealt with pollution within a watershed within the ordinary meaning of the expression. The emphasis of the restated provisions is now on the preventive aspects of pollution control rather than merely remedying situations of pollution after they occur. Only after an owner refuses to take appropriate steps can

the Minister enter and carry out the appropriate preventive action. Penalties for breaches of this section have also been increased.

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

SUCCESSION DUTIES ACT AMENDMENT BILL (CONSEQUENTIAL)

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.

As honourable members will remember, the amendments to the Succession Duties Act, which finally was passed in the closing hours of the sittings of Parliament in December last year, were prepared under great pressure, with the result that a number of consequential amendments were inadvertently overlooked. This Bill seeks to remedy them and, indeed, it is surprising that only four such amendments have become necessary when one has regard to the complexities of the Act. I shall deal with the purpose of each amendment as I explain the clauses of the Bill.

Clause 1 is formal. Clause 2 amends section 55e of the principal Act which contains definitions under that Part of the Act dealing with rebate of duty on property passing to widows, etc. The definition of "dwelling-house" as it now exists contains no reference to a daughter housekeeper and therefore is defective in view of the hastily added rebate for a daughter housekeeper under section 55i. Furthermore, the existing definition does not make it clear that a dwellinghouse may be part only of land or of a building. The new definition of dwellinghouse remedies both these defects but is in no other way changed. The definition of "rural property" is defective in that it refers to land used for primary production at the time of death, whereas the phrase "land used for primary production" is separately defined as meaning land used during the whole period of three years prior to death. This inconsistency is remedied by rephrasing the definition, excluding reference to use at date of death as regards the land. Clause 3 amends section 55k of the principal Act, which deals with the application for rebates, by inserting a reference to the paragraph designation relating to daughter housekeeper rebates. Clause 4 amends section 55n of the principal Act by inserting the correct reference to rebates in respect of "rural property" instead of "land used for primary production". Similar consequential amendments were effected by the 1970 amending Act, but this section was inadvertently overlooked.

Later:

The Hon. R. C. DeGARIS (Leader of the Opposition): The Minister's second reading explanation states:

As members will remember, the amendments to the Succession Duties Act which finally passed in the closing hours of the sittings of Parliament in December last year were prepared under great pressure, with the result that a number of consequential amendments were inadvertently overlooked. This Bill seeks to remedy them and, indeed, it is surprising that only four such amendments have become necessary when one has regard to the complexities of the Act.

I could echo similar sentiments, but once again I point out to the Government that I hope we do not see the situation develop where, through absolute pressure of demanding that a Bill be passed quickly, honourable members are not given sufficient time to understand a complex piece of legislation. I think some of the amendments before us have resulted from the action I took in drawing the Government's attention to the anomalies that occurred. I agree that it is remarkable that only four amendments were necessary to correct the work of the conference, when we consider the time available and scope of the work that was done at the conference. I believe other anomalies exist that the Government will have to consider later. The first amendment deals with the definition of dwellinghouse, and also with the fact that a daughter who had acted as housekeeper to a deceased person could not receive both the rural rebate and the daughter-housekeeper rebate. Also, other minor amendments are concerned with the redefinition of rural property.

When the new definition of rural property was inserted it was taken directly from the Commonwealth Act, but it did not quite fit the previous definition, used in the principal Act, of land used for primary production, and this small anomaly occurred. I think most members who spoke about the Succession Duties Bill around the country realized that there was an anomaly in the new definition of rural property. As we know, land held in joint tenancy and land held under a tenancy in common does not comply with the Act in relation to a rural rebate. This matter was actively canvassed in this Council during the previous debate, and I do not wish to go over the arguments again. I do not accept the Government's contention in this regard that a joint tenancy holding of land should place

any person in a position where no rural rebate applies.

The Government may well argue that the original Act (the Act introduced by a Liberal Government) excluded tenancy in common, and that is true. However, I have always argued that this was an anomalous position. In the Act there was a concession in regard to joint tenancy, but this has been removed. Now we have a new definition of rural property that states:

> "rural property", in relation to a deceased person, means land used for primary production in relation to that deceased person, and includes animals, farm produce and plant and machinery used by that person or by the wife or husband or any descendant or ancestor of that person at the time of that person's death exclusively for the business of primary production in connection with that land, but does not include any motor vehicle designed primarily for the conveyance of persons, household furniture, furnishings and applicances.

I think the conference agreed that that was the situation. One point still worries me: at present practically every farming enterprise in South Australia works under a partnership arrangement. That statement may be a slight exaggeration but it could well be over 75 per cent. In those cases, a father and son or a husband and wife work as partners on the farm. It is possible, as it stands, that a rural property (although the land may be held separately), because it is worked in partnership, does not make itself eligible for a rural rebate. I do not think that was ever the intention of the conference in considering the matter. I foreshadow an amendment to insert after "person" the passage "or by any two or more of them". This will leave the position clear that the share of a partner will come in for full rural rebate. I think that was the intention of the conference.

I believe that the Government will make other amendments, for I think there are other anomalies not associated with the conference that were overlooked previously by both Houses. That may or may not be so, but I believe that there are still anomalies that will have to be corrected. If the Government wants to talk to me about those matters, I shall be only too pleased to give it some information. I support the second reading.

The Hon. G. J. GILFILLAN (Northern): I support the remarks of the Hon. Mr. DeGaris about rural properties. The amendments he has foreshadowed will more clearly give effect to what the conference agreed to. Since the previous Succession Duties Act Amendment Bill was passed last December, many honourable members have met groups at meetings and discussed the matter with them. It is becoming increasingly obvious to many people that they have underestimated the amount of duty that their successors will be forced to pay on their death. There is very real concern at present, particularly in the rural community, and I think that the clarification of the definition of "rural property" will assist in this respect.

Two other Bills were introduced this evening, one dealing with the dairying industry and the other with rural reconstruction, with particular reference to wheat and wool properties. That legislation has been introduced as a result of a further deterioration in the financial position of people engaged in those forms of production. When the Government is discussing with the Commonwealth Government the terms of rehabilitation and reconstruction, the matter of succession duties should receive a high priority.

Undoubtedly, any form of reconstruction or rehabilitation will not work while we have such a high impost of succession duties and Commonwealth estate duties. Of those who contribute to Commonwealth estate duties, only 6 per cent are primary producers, but they contribute 36 per cent of all the duties paid. Corresponding figures are not available for South Australia. If Western Australia is any parallel, I point out that, although primary producers there comprise only 9 per cent of those who contribute succession duties, they contribute 50 per cent of all duties collected. So, this is a very real burden on the primary-producing community.

The Hon. R. C. DeGaris: That section of the community probably earns less than the living wage.

The Hon. G. J. GILFILLAN: It certainly earns less than the average wage. The State Government that first makes a positive move to either abolish or substantially reduce succession duties will contribute very much to that State's improvement. At present we are reading of efforts to promote industry in this State. I believe the Premier is to take an extensive (and probably expensive) world tour shortly to assist in promoting industry in this State, but I suggest that, if there was a very substantial reduction in succession duties or perhaps a complete removal of them in this State, we would have no trouble in attracting industry or people here. People would come here of

their own free will and bring their capital with them.

The Hon. D. H. L. Banfield: You would find that if you reduced other taxes, too.

The Hon. G. J. GILFILLAN: Yes, but a tax on capital concerns every person who has initiative and thrift and who has made something of his life. Arguments have been advanced that succession duties are necessary to stop the accumulation of large estates and to redistribute wealth, but there are no facts to prove those arguments. The scheme of succession duties tends to favour large estates, not the smaller ones and medium ones, which suffer. The Minister this evening foreshadowed further talks between the Commonwealth Government and the States about the rehabilitation of our rural industries. On that conference depends the future of this State and the employment of many who depend on secondary industry as well. I support the Bill.

The Hon. H. K. KEMP (Southern): I do not think anyone can do otherwise than expect me again to voice a protest against this iniquitous form of taxation. Its impact on the rural sector is very serious at present, because a farmer cannot earn enough money to accumulate the necessary liquid assets to pay succession duties. Because the whole of a farmer's assets are normally tied up in one form (the farm itself), the farm necessarily often has to be sold on the farmer's death. So, we have reached the stage where no farm can remain in the ownership of a family for more than two generations; that is the opinion of a qualified economist.

In many ways succession duties are a cruel form of tax exacted at a time when people are in distressed circumstances. Furthermore, the tax is administered heartlessly and without any consideration for the lives of the people involved. Just think of this one instance that has arisen in Adelaide where a man died after investing a comparatively small sum of money in Poseidon shares. He died when the shares were selling at $83, and when the estate was finally wound up they had fallen to $50 or $60. That family was deprived of every material asset it had.

The Hon. R. C. DeGaris: The Ministers are not very interested.

The Hon. H. K. KEMP: No. I know that Ministers of the present Government have said that there shall be no inheritance and I know the Labor Party's attitude is that nothing shall be passed on to one's children. While the Government has its hands deep in the pocket of every widow and child and every deceased estate, it will not face up to the injustice being done. I am not blaming the Labor Party entirely, because my Party has erred in this matter. This position has arisen over some years, partly as a result of inflation and partly because people in prosperous times did not realize what was going on. Because people are reticent to discuss their private affairs when a death occurs, they find that they cannot live as they did previously.

Every widow and succeeding child is being heavily taxed today. If a person is frugal and his savings are put aside, what happens when he dies? Along comes the Treasury and takes another one-third. It does not matter how people are being left, whatever the person was worth three years ago that sum of money is exacted. Today, families are being left completely without assets, but when the father died he thought that the children would be provided for in their minor years. Succession duty is becoming a discriminatory tax more and more each year, and this cannot be justified.

The Hon. R. C. DeGaris: It's becoming an anachronism.

The Hon. H. K. KEMP: Yes. In 1925, when succession duties legislation first appeared on the Statute Book, the rates at which they were imposed applied only to a fairly large estate, but, as the rates are transferred in figures from year to year, what is a comparatively small estate becomes heavily taxed. Succession duty taxation is out of date, is unjust and is damaging to the industries of the State, both primary and secondary, because it taxes the State's working capital.

Succession duties have affected the development and the takeover of many businesses by foreign firms, because they do not allow us to keep our capital at work in our own community. If we wanted to attract industry to this State, the greatest attraction would be to get rid of this completely unjust taxation that is imposed on people who have been frugal. As the Bill stands, because it allows some slight amelioration of an unjust tax, I support it.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Interpretation."

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

After "person" to insert "or by any two or more of them".

The reason for the amendment is to ensure that the rural rebate will apply to the partner's share of the partnership as well as to individual ownership.

Amendment carried; clause as amended passed.

Remaining clauses (3 and 4) and title passed.

Bill read a third time and passed.

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

PUBLIC SERVICE ACT AMENDMENT BILL (RETIREMENT)

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.

This short Bill, the need for which arises from the current shortage of teachers, is intended to raise the compulsory retiring age of temporary female teachers from 65 years to 70 years. Clause 2 amends section 128 of the principal Act which deals with the temporary employment of over-age persons by the South Australian Railways Commissioner and the Education Department. At present, this temporary employment cannot extend beyond age 70 in the case of males or beyond age 65 in the case of females. The amendment set out in paragraph (*b*) of this clause extends the limit from 65 years to 70 years in the case of female teachers. Opportunity also has been taken to effect two formal drafting amendments to section 128 by paragraphs (*a*) and (*c*) of this clause.

The appropriate protection for permanent officers of the organizations concerned provided by subsection (3) of this section remains unaffected. In conclusion, I might add that the substance of the proposed amendment has been considered by the executive of the South Austrailan Institute of Teachers, and I understand that it has its full support since it is one step towards the realization of the policy of the institute relating to equality of treatment and opportunity for men and women teachers.

Later:

The Hon. F. J. POTTER (Central No. 2): I support the second reading of this brief Bill, designed to increase the age limit for the temporary employment of people in the State Public Service, and particularly in the case of females employed by the South Australian Railways Commissioner (who may be employed up to the age of 65 years) and in the case of females employed as teachers by the Education Department (who may be employed up to the age of 70). That does not mean that they must be employed to those ages: it merely allows the Government to employ them temporarily up to those age limits. The Minister fully explained the provisions of the Bill, which has my support.

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

BUILDERS LICENSING ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

It implements the amendments to the Builders Licensing Act that have been previously foreshadowed by the Government. The Bill, in association with amended regulations, is designed to remove any possible remaining ground of legitimate objection to the licensing legislation. The amendments are not opposed by the various building organizations, although some associations would like to go further. Certain amendments are designed merely to tidy up the present legislation. Clause 4 (*a*) extends, from one month to two months, the period in which applications for renewals of licences can be lodged and will facilitate the processing of applications.

A new subsection (3*a*) is inserted by clause 4 (*b*) of the amending Bill. The new subsection will allow the board more time to complete any investigations or make a decision in regard to renewal applications which may be regarded as doubtful. Under the existing Act, if the board does not make a decision before the current licence expires, the applicant becomes unlicensed until such time as his renewal application is decided. This penalizes him in that he cannot recover in court moneys due for building work carried out without a necessary licence. It is possible that serious complaints against licensees could be under investigation at the time of renewal, and subsection (3*a*) therefore removes pressure on the board to make a hasty decision on a renewal application before a current licence expires.

The new subsection (4*a*) in section 15 of the principal Act removes a serious disability; section 15 (4) of the principal Act allows a period of 21 days during which it will be permissible for a licensed body corporate or partnership not to have one of its directors or partners suitably licensed. In the event

of the death or resignation of the suitably licensed director or partner, the remaining directors or partners would have to move swiftly to obtain a suitable licence for one of their number. Although an extension of the period of 21 days may be sought, it is possible that in some cases none of the remaining directors or partners will be qualified to obtain a licence. The sole remaining directors or partners may, for example, be the widows of the firm's founders and, although a competent works supervisor may be employed, it may be inconvenient to make him a director or partner immediately. Subsection (4*a*) provides the board with an alternative in such cases, namely, to approve of the business being continued under the supervision of the holder of an appropriate licence until such time as permanent arrangements are made.

Clause 6 (*a*) corrects a drafting error in section 16 of the principal Act. Paragraph (*b*) provides, in regard to restricted builder's licences, the same alternative as was provided in regard to general builder's licences, namely, arrangements whereby a business may be carried on, in the event of the death or resignation of the licensed director or partner, under the supervision of a licensed employee. New subsection (6) implements the provisions of new section 16A in regard to retricted builder's licences.

I now come to the most important amendment to the Builders Licensing Act. There have been three main objections to the legislation of which two relate to the regulations, namely, the question on the application form relating to the place of birth and the regulation requiring applicants to supply any information requested by the board. These will be remedied by regulation. The third objection is in regard to the requirement for the provision of personal information by directors of limited companies. This will be overcome by the option provided by new section 16A. Under the present Act, one of the directors of a body corporate must be the holder of a suitable builder's licence. This means that a proprietary company engaged in general building work must hold a general builder's licence and at least one of the directors must hold a general builder's licence also. It is no use licensing a well-financed company to carry out building work unless it is under the personal direction of a technically qualified person: a company is only as good as its management.

A body corporate engaged in painting work and not holding a general builder's licence must hold a restricted builder's licence for the classified trade of painting and decorating, and one director must hold either a general builder's licence or a restricted builder's licence for the trade of painting and decorating. The difficulty the board experienced in dealing with applications by directors for these associated general and restricted licences was that, although the person concerned might not intend using his personal licence independently of the body corporate, there was no way of imposing such a requirement. In such cases, therefore, a technically competent but financially unsound director of a stable company could use his personal licence to undertake building work independently of the company or, alternatively, he could sever his connection with the company on obtaining his licence and venture into business in his own name.

In consequence, the board had to treat applications by directors in exactly the same manner as applications from sole traders, and this of necessity involved the provision of financial information. Some opposition was made by directors who genuinely did not intend to use their licence as a director independently from the body corporate. They claimed with some justification that their personal assets would not be available to their company's creditors in the event of insolvency and that their personal details should not therefore be required. New section 16A overcomes this difficulty by enabling the board to endorse a general or restricted builder's licence with the word "(manager)". A licence thus endorsed will signify that the holder is technically qualified to control the building operations of the licensed body corporate. He will not be able to use the licence independently as a sole trader or partner. In return, he will not be required to furnish financial information to the board.

This provision has been made optional, as there are instances where directors will in fact want to operate independently as well as in the corporate business. The option is extended also to the South Australian manager of a body corporate registered outside this State. Partners who hold individual licences in conjunction with a licensed partnership will not qualify for this option for the following reasons: first, their personal assets are available to creditors of the partnership and, secondly, a significant number of partnerships, particularly in the restricted trades, do not last very long, and the partners then need their licences individually at short notice.

Section 8 of the amending Act adds "any person acting in the affairs of the board" to the persons liable to a fine of up to $200 for divulging confidential information. I hope that this Bill will be dealt with expeditiously, as it will not be possible to promulgate the amended regulations until the amendments to the Act become law. It seems unlikely that licensing can now commence on April 1, 1971, but the commencement date should not be delayed longer than necessary.

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

SUPPLY BILL (No. 3)

Adjourned debate on second reading.

(Continued from April 1. Page 4609.)

The Hon. F. J. POTTER (Central No. 2): I support the second reading of this Bill, which is a measure familiar to honourable members as it appears regularly before us every year. Normally, this is the first Bill to be introduced in a new session of Parliament, so it is obvious from its being introduced now that the Government intends not to call Parliament together in June, because we are covered by the existing Estimates under the provisions of the previous Supply Bill, which operates until June 30.

This Bill follows the usual form. It provides for a further appropriation of, in this case, $60,000,000 for the carrying on of the Public Service into the next financial year, until such time as the new Estimates of Revenue and Expenditure are placed before Parliament in the usual way, generally in August or September, as honourable members know. This Bill does not differ from the Bill usually placed before us. It is essential for the Government to have a sufficient supply of money to carry on into the new financial year, until it prepares its Estimates. There is nothing unusual here, except perhaps the early presentation of the Bill to this Council.

The Hon. H. K. KEMP (Southern): I take the unusual step of speaking against this Bill because at present in Southern District so many things are going wrong, and this applies in other districts as well. They are mostly matters of administration, but they are being felt deeply because of the difficulties facing the rural sector of our economy at present. For instance, land valuation has put the whole of our rural community in an uproar, because the valuations with which it is being presented are completely unrealistic in present circumstances. In fact, unless something is done rapidly, large sections of Southern District will have to be abandoned completely. I say that after due thought and mature consideration. In some areas today, people are walking off their farms, leaving them as they are. At the same time, they are receiving assessments of land values that indicate the valuable assets they are supposed to have but can no longer sustain. That is only one thing.

Land valuation is hitting heavily in many cases. Today, we have the pitiful position of people being completely denuded of their assets because of land valuations made on deaths three years ago and estates being settled (not because of any delay of their own) and sold at sacrificial prices, their owners obtaining nothing like the value at which the properties had been valued. It is literally and truly the case that families are being deprived of all their assets through this delay. To twist the dagger a little more deeply, although the delay is not their fault, they are charged 6 per cent interest on the taxation exacted six months after the occurrence of the death.

Those are bitter grievances. We have the two matters which were debated as matters of urgency and which are purely and simply administrative in their impact. One is the terrible position of the zone 5 people in the South-East of the State, and the other is the disgusting situation that has arisen in the Virginia area, where land developers are able to obtain a water supply while the genuine farmers in the district cannot do so.

I have raised in this Chamber also the position into which people are being forced by the present administration of the Weeds Act, under which they are charged for weed eradication that is completely ineffective. They are charged year after year for this, and the equity in their asset, the land, is gradually wasting away at the rate of not a few dollars but hundreds of dollars a year. This is on small properties. In fact, if some of the things happening in the country districts today were permitted in the city area, there would be a yell to high heaven, for widows and children are being deprived of their assets through the lack of consideration of the Administration. The way in which some of these rules are administered and imposed is cruel. People cannot tell me that the purpose of the Succession Duties Act is to deprive farmers of their livelihood. They cannot carry on while being subject to the burden that that Act imposes.

Further, we are told that drought relief is available. It is supposedly available, but is so difficult and costly to obtain that most farmers cannot think of undergoing the rigmarole it involves. Drought relief as it is at present provided is of no material assistance. In fact, the experience of those people who used it in similar circumstances in the 1967 drought was that it greatly increased the burdens they carried over and above those caused by the season itself. These things are chiefly administrative. To let a Supply Bill proceed in order to sustain the Administration without raising any protest is, I am sure, wrong.

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

APPROPRIATION BILL (No. 3)

Adjourned debate on second reading.

(Continued from April 1. Page 4613.)

The Hon. C. M. HILL (Central No. 2): This is an Appropriation Bill similar to those that come before the Council at about this time each year when it is found necessary to appropriate further funds for the purposes of the expenditure of the State, some departments, for one reason or another, having fallen short of their Estimates that have been approved, and therefore it is necessary for Parliament to grant, if it so wishes, a further appropriation for work until June 30 of the current year.

The Minister, in his explanation, gave some information and a summary of the general financial position of South Australia at present. It is very pleasing to see that, due to the co-operation of the Commonwealth Government, the picture as he painted it has changed considerably for the better, because it would now appear that, whereas the Minister said that the deficit this year would be probably in the order of $10,000,000, as a result of the agreements between the Prime Minister and the Commonwealth Government with the States in the last few days South Australia's deficit will be about $5,000,000 or, in very broad terms, half of that forecast by the Minister when he spoke in this Chamber last week.

I emphasize that we will finish with a $5,000,000 deficit, in contrast to statements attributed to the Premier in the press yesterday or today that the Government expects to balance its Budget. The Government did not ever expect to balance its Budget; it did not expect that when the Budget was introduced last year. It has been planning all the time for a $5,000,000 deficit, and this is what the Treasurer expects to achieve. Publicity has been promoted in the press and by other means to the effect that the State is balancing its Budget (and, therefore, it is fair to say that the Treasurer and the Government expect to claim some credit for the achievement), but that information is just not true. The original forecast by the Government, the original plan, was for a deficit of $5,000,000 for the current year, and this will be approximately the final result. This is an important point.

It is in contrast, too, to the final results achieved in years past. The Auditor-General's Report shows that payments and receipts in the Consolidated Revenue Account for the year ended June 30, 1970, came out with a surplus of $2,900,000. In effect, it was not only a surplus in cash of $2,900,000: it was an actual improvement of $5,160,000, because a planned deficit of $2,200,000 existed in the year. In the financial year 1968-69 the State finished with a small surplus of $460,091, as shown in the Auditor-General's Report.

I do not intend to pursue the matter, but it highlights the fact that some Governments not only balance their budgets but also finish with a surplus, and that is a very creditable method of financial control. The Minister of Agriculture can giggle and laugh if he wishes, but it is a hard fact of business that, if we watch our financial affairs, our operation is usually successful. The converse applies also in that when a person does not finish his financial operations either balanced or in credit he gets into trouble. That is exactly the position in which the Government finds itself now, and it is asking for a further appropriation of $2,800,000.

The various departments affected are set out in the Minister's explanation and in the Supplementary Estimates of Expenditure, with which every member has been provided. I have a query regarding two of the departments mentioned in the Estimates. The first deals with the Public Buildings Department, under the control of the Minister of Works, for which a further sum of $800,000 is required for maintenance, minor additions, alterations, furniture, furnishings, equipment, services and other expenses of accommodation and land tenure. This department has always concerned me because I believe it could be administered more efficiently that it is at present. I am not casting any reflection upon the officers within the department; I am referring to Government policy which the heads of departments and senior officers have to carry out. I am concerned with the need for more work to

be done by private contract in departments such as this. If more work were done by private contract than by day labour, departments would carry out more work with the money available.

I can recall a policy in the Public Buildings Department being implemented, and indeed the percentage of private contract work was increasing over the years from 1968 to 1970. I do not know the present position, but I strongly suspect that not much encouragement is being given to officers in the Public Buildings Department to pursue this policy and to build up momentum so that more and more of the work of the department is done under private contract. It can even reach the stage of maintenance of Government buildings throughout the State being done under private contract. In America much maintenance work paid for by the Government is done by private contract, and it is found to be a most efficient form of work.

It is a matter of serious concern when one sees buildings being renovated and altered. When one sees work proceeding year in year out on a building such as that of the Police Department at the corner of King William Street and Angas Street, without the work ever seeming to end, one can only ponder and fear the wastage of money that may well be occurring in connection with such work. I urge the Government, despite its general attitude that day labour is preferable to contract work, to consider this question seriously, because this State cannot afford to have wasted the revenue it takes from the people. Every cent must be spent wisely, and full value must be obtained from it.

To get maximum value from Government expenditure, emphasis should be placed on private contract work in the Public Buildings Department. If that policy is pursued in the future, there will be less need to announce deficits such as the proposed $800,000 deficit in connection with this department, which is the cause of the Government's asking Parliament to approve a further appropriation.

The Government is calling for a further appropriation of $670,000 so that the Railways Department can complete its programme for the current financial year. It is timely to ask the Government just what its plans are in regard to its approach to Railways Department finances. I am not being at all political in connection with this matter. Honourable members on both sides of the Council are greatly concerned about it, and I know that the Railways Commissioner and his senior officers are greatly concerned at the deficits recorded by the department year after year. The Auditor-General's Report states that the total deficit last year, including debt charges, was $12,773,959; for 1968-69 it was $12,316,723; and for 1967-68 it was $12,734,294. This money must be found somewhere. In the main, it has been made up by contributions from Consolidated Revenue. This means that money that has been paid by way of taxation and other collections is being channelled, of necessity, into the Railways Department.

Some definite programme must be implemented to improve the situation gradually. I know that the Railways Commissioner and his senior officers are constantly looking for ways and means within the department of improving the position. During 1968-69, the salaried and daily paid staff of the department was somewhat reduced, without there being any retrenchments whatsoever, and other economies were effected in several ways. A programme of closing down uneconomic lines was implemented, with the aim of improving the financial situation by about $1,300,000. Emphasis was placed on improving and upgrading the long haul freight department of the railways, this being a profitable and highly successful section of the whole operation.

Since the Government asks this Council today to allocate a further $670,000 to the Railways Department, I want to know whether the Government can give me any plan or idea of a general approach that is being implemented to improve the financial situation of the Railways Department. I have heard reports that some lines, such as the Moonta line, which had been closed, may be reopened. I do not know whether that will happen, but I most certainly hope that it will not. I certainly hope that the Government will look at some lines which I believe should be closed but which at present are not closed; one such line is the Victor Harbour line, which is not a paying proposition and is not required.

The Hon. T. M. Casey: Why don't you think the Moonta line should be reopened?

The Hon. C. M. HILL: It was losing much money, and at the time an alternative bus service operated by private enterprise was providing cheaper fares, more convenient services, and more comfortable travel. Furthermore, I hope the private enterprise operator was making a profit out of it. If that bus

service was not a better alternative for the people than a railway line—

The Hon. T. M. Casey: As long as he provided a good service.

The Hon. C. M. HILL: Yes. The Transport Control Board is the watch-dog that must see that that happens. A further look should be taken at some lines to see whether the whole position can be further improved. It seems to me that the Government's general approach to the problems of the Railways Department is to go right over the department's head, for it plans to appoint a director-general of transport. Such an appointment was one of the recommendations in the Breuning report that was accepted by the Government. That report, of course, was a revision, which took four weeks, of some aspects of the M.A.T.S. plan. The Breuning report recommended that a director-general of transport be appointed to override and overrule completely all transport agencies in this State. The Government has already inserted advertisements in the press calling for applications for the position.

The Hon. M. B. Dawkins: He would need a small empire to help him, too, I imagine.

The Hon. C. M. HILL: The Breuning report estimates that the cost of implementing this recommendation will be $1,000,000 a year. The Government has seen to it that money will be at hand by increasing motor registration fees by up to 33⅓ per cent. I would like the Government to say whether any complete feasibility study has been carried out in this State as to whether there is any need for such an appointment and for such a departmental empire that must follow the appointment of a senior public servant on a salary of $17,000 a year.

The Hon. M. B. Dawkins: I gather that $17,000 a year is the minimum salary.

The Hon. C. M. HILL: Yes; the actual salary has to be negotiated. It was admitted in the advertisement that the full duties of the director-general of transport had not been worked out and that the Minister would interview applicants in London.

The Hon. L. R. Hart: Will any Australians be qualified to take the job?

The Hon. C. M. HILL: I hope they will be. I have been assured in reply to a question that Australians, particularly those highly qualified transportation engineers in this State, will be considered for the appointment because not only are they highly qualified and have had experience elsewhere in the world, but they have the whole background knowledge of the problems here. So I can only presume, because the whole question of the Breuning report was not considered in this Chamber, that this new appointee will take charge of all transportation departments, including the Railways Department.

I can only presume, too, that this will be the Government's major attack on this large continuing financial problem presented by the railways. Frankly, I do not know where the problem will end, because I do not know what power or control will be given to an officer of this kind. I do not know how the co-ordination of the various transportation departments and authorities in the State will be worked out under his control, nor do I know whether we will see a marriage of some of these utilities such as the Municipal Tramways Trust and suburban railways under such an official. Therefore, there is a great deal of uncertainty about this whole question.

It is a pity that more public statements have not been made about this whole plan. Personally, I do not believe there is a need for such an appointment at present. However, somewhere about the turn of the century there will no doubt be a need for this kind of officer; but to rush into it now and to tax the motorist and public to the extent that they are being taxed under the increase in motor registration fees for something that is not needed is something for which the Government must answer. Whether ultimately such an appointment will assist in reducing the railways' deficit is a completely unknown factor. It is just a huge general plan without detail, feasibility study or any depth of inquiry that the Government is pursuing.

While that is occurring, the railway losses continue, and a further $670,000 is required to assist it to complete its programme for the current year. I know that some of the questions I have posed cannot be answered today because time is short and the Minister in this Chamber will want to make further inquiries. However, I hope that later I may be satisfied as to what the Government's plans are regarding its endeavours to reduce the Railways Department deficit.

The Hon. T. M. Casey: If we had the East-West line and the Far North line we would not have such a large deficit.

The Hon. C. M. HILL: I take it that, by the Far North line, the Minister means the proposed standard gauge link between Adelaide and the Indian-Pacific railway.

The Hon. T. M. Casey: No, the Commonwealth lines. If we had jurisdiction over the

Far North line and the East-West line we would be better off.

The Hon. C. M. HILL: I agree. I did not understand the first interjection, which was a sensible one for a change.

The Hon. T. M. Casey: It caught you unawares!

The Hon. C. M. HILL: It is a pity that the long-haul railway freights and the long railway lines in this State under the control of the Commonwealth Railways are not under the control of the South Australian Railways. In fact, when the Commonwealth system was first mooted and agreement was reached many years ago, it was a pity that the agreement did not provide that within 50 or 70 years the system would revert to us.

The Hon. M. B. Dawkins: It would be better if all the railways belonged to the Commonwealth.

The Hon. C. M. HILL: I do not know about the interstate and national lines. If the Commonwealth wants to take over the metropolitan services it could have them with the blessing of every State Government in Australia.

The Hon. R. A. Geddes: So long as it pays the bill.

The Hon. C. M. HILL: Yes, and the Commonwealth would then have to pay the Bill. I protest on behalf of the people of the State who are being heavily taxed, whose taxation is being increased all the time, and whose money is pumped into the railways to keep the operation afloat. Although this must be done to a certain degree, it is a clear duty of every Government to make every endeavour all the time to reduce its railway deficits, particularly the working deficits. I am proud of the fact that the working deficits in the years 1968-70 were reduced in those two years from the figure for the previous year in each case. That should be the Government's aim, and I hope that it will give top priority to this matter. I support the Bill.

The Hon. L. R. HART (Midland): Each year about this time we have a similar Bill before us asking Parliament to grant the Government certain moneys to cover the over-spending in various Government departments. I do not suggest that the over-spending can always be avoided, but some departments apply for supplementary grants every year. The departments that usually apply are the Chief Secretary's Department, on behalf of the Health Department and the Social Welfare Department, and the Education Department.

The Hon. A. J. Shard: And the Engineering and Water Supply Department.

The Hon. L. R. HART: That department has applied only twice in the last five years. It is interesting to note that the occasions when the supplementary grants are the highest are during the terms of Labor Governments. The amount required now is $2,800,000, which is more than twice any previous amount in the last five years. The previous highest amount was in 1966, during the term of the previous Labor Government. Many of the items for which further grants are required are merely office expenses. I realize that the Education Department incurs expenses for which it is unable to budget. The same probably applies to the Health Department in relation to hospital expenses and, no doubt, the Social Welfare Department requires further moneys to supplement its budget.

But on the question of maintenance and alterations, furniture and furnishings, and equipment, surely these expenses could be provided for in the original Budget, so that the Government should not have to come back to Parliament again to ask for increased allocations for such items. I agree with the Hon. Mr. Hill, who said that possibly some of the work carried out by the Public Buildings Department, in particular, could better be done by private enterprise.

It is staggering to realize the time and cost involved in making minor alterations in Parliament House. In many cases if private enterprise had done these jobs they would be done in half the time and probably at half the cost, even if union labour was required to be used. I was interested to note the increase of $670,000 required by the Railways Department. The only previous time this department asked for an increase in its grant was in 1967, when it required $380,000. In that year there was a severe drought and the revenue of this department was reduced considerably, so that one would expect that it would require further money to balance its budget. However, this year, with record harvests and other production, another $670,000 is required, but the Minister covered this amount with a mere seven lines of explanation. In the future we must expect the costs of many departments to be considerably greater. We have heard much in this Chamber about compulsory unionism, although that is denied by the Government, which will not accept that such a thing exists. The Government calls it preference to unionists.

The Hon. A. F. Kneebone: We said that that is our policy.

The Hon. L. R. HART: But this preference to unionists can be unionism by intimidation and unionism on demand. If the Minister does not agree let him consider some of the Government's policies. We have considered the work that can be done by private enterprise, which does much work for the Government. However, it seems that private enterprise cannot decide on its own whether to use union labour or otherwise.

The Hon. A. F. Kneebone: Why not?

The Hon. L. R. HART: Yes, why not?

The Hon. T. M. Casey: It's a good question.

The Hon. L. R. HART: I received a letter several days ago, and if the Minister of Agriculture would like to hear it I shall be pleased to read it.

The Hon. T. M. Casey: I shall be delighted.

The Hon. L. R. HART: This letter, written to a private contractor by the Secretary of the Railways Department, states:

The Manager,
R. Cox Constructions Pty. Ltd.,
34 O.G. Road,
KLEMZIG, S.A. 5087
Dear Sir,

I refer to the tender submitted by you for the demolition of the existing freight office and construction of a new outwards freight office—stage 3—at Mile End, and have to advise that I am in receipt of a governmental direction that a clause be inserted under the general conditions of contract providing for preference of employment being given to financial members of an appropriate union, in the following terms.

> In engaging labour preference of employment shall be given to financial members of a union appropriate to the position of employment—

then there is a let-out provision—

> provided that the contractor shall not be compelled to give preference to any member of such a union who may have been discharged for dishonesty, misconduct or neglect. In the event of no financial members of any union appropriate to the position of employment being adequately experienced in and competent to perform the position of employment, employment may be given to an unfinancial member or person being a non-member of a union and it is expressly agreed that in the event of the contractor subletting any part of this contract the contractor shall include this condition as a term of such subletting.

It is proposed to include such a provision in all contracts, and in the circumstances, I would appreciate an intimation from you as to whether you still desire your tender to be considered.

Yours faithfully,
(Sgd.) S. E. Hewitt, Secretary.

The situation is that, if unionists are available (and I have no doubt they would be available for this type of work), that construction firm is compelled to employ them if it wants the contract.

The Hon. A. F. Kneebone: Compelled to give preference to them.

The Hon. L. R. HART: No, it is compelled to employ them if it wants the contract. If it does not employ unionists that are available to it, it does not get the contract.

The Hon. A. F. Kneebone: It is asked to give preference, if you would read the letter properly.

The Hon. L. R. HART: The Minister can talk about this preference business, but it is here in black and white.

The Hon. T. M. Casey: Read it again!

The Hon. L. R. HART: No: other members have been able to understand it even if the Minister of Agriculture is unable to understand it. The language is plain enough: either the firm employs unionists or it does not get the contract.

The Hon. A. J. Shard: If they are available.

The Hon. L. R. HART: No doubt they would be available.

The Hon. A. F. Kneebone: Then you give preference to them.

The Hon. L. R. HART: Yes, preference is given to unionists, but no preference would be given to a firm if it did not employ unionists, even if its contract price was lower than other contract prices, and this is the anomaly I draw to the attention of members. With most large firms there is some subcontracting and subletting. The subcontractor is required to give preference to unionists. Many contractors sublet part of their work, although the number of people competent to do the subcontracting may be limited. There may be only three firms able to do that subcontracting: two of them employ unionists and non-unionists and, to use a hypothetical figure, their contract price may be $75 for a particular job.

The PRESIDENT: Order! I think the honourable member should relate his comments to the Bill.

The Hon. L. R. HART: I appreciate that point, Sir. We are dealing with the costs of the Railways Department, and I think this letter deals specifically with that question. However, I will not labour the point. The third firm employs 100 per cent unionists and has a contract price of $100. There is no option: the work must be given to the firm that employs unionists, although it may cost

extra to do so. Many contractors erect buildings for the Government, and the same clause will be written into the agreements with these firms.

The Hon. A. F. Kneebone: You are saying that if a firm employs unionists the job will cost more?

The Hon. L. R. HART: I am suggesting that this could well be the situation.

The Hon. A. F. Kneebone: I can understand the honourable member's attitude now.

The Hon. L. R. HART: Firms will take advantage of the position and increase the contract price because they employ 100 per cent unionists.

The Hon. T. M. Casey: You mean that a firm could do a job more cheaply if it did not pay award rates?

The Hon. L. R. HART: I am not suggesting that anyone is paying below award rates.

The Hon. A. F. Kneebone: Yes, you are.

The Hon. T. M. Casey: How will he get it done more cheaply?

The Hon. L. R. HART: The firm could pay award rates, and many pay above award rates to non-unionists. This has happened on many occasions. A situation is arising where a firm will set out to employ trade unionists and will jack up the contract price because of that fact; and it will know that it will have an advantage over any other firm that is not employing only trade unionists. It is all right for the Minister to laugh, but this is a serious matter, because the State's finances can be involved here. There is no question that this will happen. However, I realize it is necessary for the Government to obtain more money to enable it to carry on until the next Budget is introduced. I do not wish to delay the Government in this respect, but I wanted to make those points clear for the public of South Australia.

The Hon. A. J. SHARD (Chief Secretary): I thank honourable members for their attention to the Bill. I do not mind anyone's personal views as long as they are consistent. Let me tell the Hon. Mr. Hart that he cannot be consistent in what he has said, because there is an association of builders that insists on all its members being in an association.

The Hon. L. R. Hart: I do not deny that.

The Hon. A. J. SHARD: The honourable member is criticizing one section but not the other. Does he believe that people who manufacture goods should be compelled to sell them to retailers who want to give a discount on them? Let him be consistent about this. The honourable member's speech contained more political dynamite than any I have heard for a long time.

The Hon. L. R. Hart: I did not suggest anything of the sort.

The Hon. A. J. SHARD: I am telling the honourable member what he said.

The Hon. T. M. Casey: It was completely irresponsible.

The Hon. A. J. SHARD: My colleagues and I do not apologize for our policy on preference to trade unionists. If honourable members want the public to know about this, we will say it loudly and clearly. We make no apology for it. To suppose that a contractor would have any hope of putting up his price because he employed trade unionists is too ridiculous to warrant a reply.

I am not in a position to reply off the cuff to the points made by the Hon. Mr. Hill about the railways. In the next session of Parliament there will be the usual debate on the Address in Reply, which will afford honourable members plenty of opportunity to talk about those things. I assure the honourable member that we shall do our best to reply to whatever questions he has asked. The Hospitals Department has been mentioned as needing a large sum of money. In my second reading explanation I said:

> The amount provided originally for the Hospitals Department was $34,313,000 but since the Budget was first framed there have been increases in the prices of many of the items essential to the operation and maintenance of Government hospitals.

Honourable members can see a little further on in that paragraph that an appropriation of an additional $100,000 for the Royal Adelaide Hospital is required. That is not a great deal of money when we realize that two extra wards have been opened in this financial year, which was not anticipated. They are the one to which the Hon. Mr. DeGaris agreed prior to the last election and one since then. They both have to be serviced. Some honourable members wonder why $250,000 is required for the Queen Elizabeth Hospital. That is because the alterations and extensions to that hospital are nearing completion. Extra staff is needed there, and is already being employed. We do not need to employ too many people of that type to require an extra $250,000. That is the real core of the problem in the Hospitals Department. It is reasonable.

I was surprised to hear that the Public Buildings Department had needed extra money on only two or three occasions; I thought it was included every year. The general increase in wages in this financial year is

almost a record. There have been two increases in nurses' wages, in addition to the general 6 per cent national wage increase. These increases have been the main cause of the increased amount of money asked for now. I do not mind being blamed for helping to stir things up in respect of the increase in nurses' wages. In the main, the State Government is not responsible for these increases that are being sought.

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

WORKMEN'S COMPENSATION BILL

Adjourned debate on second reading.

(Continued from April 1. Page 4610.)

The Hon. F. J. POTTER (Central No. 2): When I last spoke in this debate, I sought leave to continue my remarks after speaking for a short while. Last week, I made the point that it was necessary to look at the fairness of the measure to all parties concerned. I mentioned the three main parties concerned—the employee, the employer and the insurer, who is, after all, the person who foots the bill. It is obvious that the Bill is very much slanted in favour of the employee—and rightly so. I do not think anyone in this Chamber objects to workmen's compensation, which had its origins in England at the turn of the century and has been with us in South Australia for many years.

The Bill gives to the employee new scales of compensation, a wider cover than previously, a new court in which to bring his claims and his applications. As a consequence, it gives him (so it is claimed) better and swifter procedural methods. But in considering all these things it must be borne in mind that the philosophy of this Act is founded on the basis of compensating workmen for loss of earning capacity. We see some departure from that fundamental principle in that the Bill (and this has been in the legislation for a long time) provides for money compensation for a workman for actual bodily injury, but that compensation, although it is somewhat arbitrary and is set out in a table contained in the legislation, is tied to the idea that injuries mentioned in the table are such as will involve potential loss of earning capacity, if not immediately, then at some time in the future. Therefore, the existence in the Bill of that table of payments for visible specific injuries is based on the fundamental philosophy of compensation for loss of earning capacity. I can quote two instances where we move away from this concept. Clause 70 provides for a monetary sum for all injuries, whether or not the workman suffers an injury that will incapacitate him for work. This provision will need careful consideration in the Committee stage.

The employer is compelled to insure, and this raises the question of the impact on industry generally of the extended benefits and additional payments mentioned in this Bill. From the best information available, I understand that premiums for workmen's compensation in South Australia will rise by at least 60 per cent as a result of this measure. The latest statistics I have are for the year 1967-68 and certainly the figure would not be less now, and they show that premiums paid for workmen's compensation in that year totalled about $10,000,000. If that is accurate, an increase of 60 per cent will add $6,000,000 to the costs of industry in South Australia. I suspect that the figures for the latest financial year would be much higher than those I have just quoted.

The Bill provides that weekly compensation will rise to $65 as a maximum, or 85 per cent of the average weekly earnings, plus dependants' allowances, for workmen. That rate would be the highest rate of compensation available in Australia, notwithstanding that South Australia is not a highly industrialized State when compared with Victoria and New South Wales. It seems strange that we are moving in this direction. Of course, this Government has not hesitated to be a pioneer Government, and in a way this is pioneering legislation. I do not doubt that a good case could be made out for individual workmen who may be earning somewhere near the average weekly earnings in South Australia, which I understand to be about $79 a week—

The Hon. D. H. L. Banfield: That was before the 6 per cent increase. It is $84 now.

The Hon. F. J. POTTER: If that is so, it could be $84 now. An excellent case may be made out for individual workmen who will suffer loss of earnings as a result of an accident, A reduction to $65 a week in those cases seems to be quite a hardship and, consequently, some justification for the figure to be maintained at $65.

I cannot speak for other honourable members, but I am not disposed to interfere with the proposed rate of $65 a week. The average weekly earnings in South Australia are rising and no-one wants to see a worker suffer hardship as the result of an accident. I know, too, that workmen's compensation payments are inclined to lag behind increases in wages

and in costs of living, and although this may be the highest rate in Australia now, with our present inflationary slide (a phrase that the Hon. Sir Arthur Rymill seems to use quite regularly) this figure will not be too high in a year or so. I foresee further increases in average weekly earnings and increases in minimum award rates.

At the same time, the employer will be anxious about the increase in premiums for workmen's compensation. The sum of $6,000,000 a year is not a small one, and although it is true (and this is an argument that the Labor Party puts up) that the employer can claim the extra premium paid as a tax deduction, that is not much consolation when it has to be found. This aspect of the Bill will no doubt occupy the attention of honourable members and cause them some worry when they consider the corresponding benefits payable in the more highly industrialized States. This Bill increases the weekly payment from 75 per cent of the average weekly earnings to 85 per cent, plus certain dependants' allowances—$5 for each dependent child (previously $3.50) and $13 for a dependent wife (previously $9). The maximum rate will be $65 or the average weekly earnings, whichever is the lesser, for a workman with a dependant (previously $40). The Bill proposes a maximum rate of $43 for a workman without dependants (previously $27). So, all honourable members can see that these increases are very steep indeed.

By contrast, in Victoria, which introduced its legislation only last December, the weekly payment for total incapacity is the aggregate of $26 for a workman, $8 in respect of a dependent wife, and $3 in respect of each dependent child. That aggregate is not to exceed $41 or the worker's average weekly earnings, whichever is the lesser amount. That is a very big contrast with what is proposed in South Australia. In New South Wales, workmen's compensation payments were reviewed only last November. The weekly payment there for total incapacity is 80 per cent of average weekly earnings (5 per cent less than what is proposed in this Bill), with a maximum of $32.50, plus $9 in respect of a dependent wife and $4 in respect of each dependent child. So, again one can see that there is a considerable difference in the rates proposed in New South Wales, which is probably the most highly industrialized State in Australia.

For the purposes of comparison, let us take the case of a totally incapacitated workman with total weekly earnings of $60 and a wife and three children who are totally or mainly dependent on his earnings. Let us compare that worker's benefits under the provisions of this Bill with the benefits available in Victoria and New South Wales. I have a small table showing the comparison between South Australia, Victoria and New South Wales; it shows the present position and what is proposed in this Bill and compares it with the latest position in Victoria and New South Wales. As honourable members will not be able to follow it if I merely read it, I ask leave to have it incorporated in *Hansard* without my reading it.

Leave granted.

COMPARISON OF WORKER'S BENEFITS

	South Australia (old Act)	South Australia (new Act)	Victoria (since 22/12/70)	New South Wales (since 24/11/70)
Workman . . .	$45.00 (¾ of $60)	$51.00 (85% of $60)	$26.00	$48.00 (80% of $60) reduce back to maximum of $32.50
Wife	$9.00	$13.00	$8.00	$9.00
Three children	$10.50	$15.00	$9.00	$12.00
	$64.50	$79.00	$43.00	$53.50
Entitlement . .	$40.00 (maximum)	$60.00	$41.00 (maximum)	$53.50

The Hon. F. J. POTTER: A few moments ago I dealt with what is proposed for the increases in weekly compensation. Clause 49 provides for increases in payments in the case of death. In this Bill the maximum for total and partial dependants is increased from $12,000 to $15,000, plus $300 for each dependent child (previously $220). I have no objection at all to the increase in the benefit to dependants in the case of death, but again the pattern follows that which I mentioned in the case of weekly payments; namely, a higher payment is available than under the corresponding Acts in Victoria and New South Wales.

In Victoria, the maximum for total and partial dependants in the case of death is $11,834, with an additional $263 for each dependent child. In New South Wales, the compensation for dependants of deceased workmen, regardless of earnings, is $12,500, plus $6.25 a week for each dependent child until that child reaches the age of 16 years or, in the case of a student child, 21 years.

A third benefit available under the legislation is a table sum. The provision of a sum for specific injuries has long been in the Act in South Australia and in the Acts of other States. In South Australia, the maximum under this Bill is increased from $9,000 to $12,000. In Victoria, the sum has been increased to $11,834; so, in this case we are not so far ahead of the Victorian legislation. In New South Wales, the maximum payment payable for scheduled injuries has been increased to $6,600, but that is not such a valid comparison as the Victorian figures because in New South Wales a worker is entitled to a table sum in addition to other compensation prescribed by the Act. In this State, the Bill provides that the worker is entitled to weekly payments up to the point where his table sum is assessed. At any time prior to the assessment he can elect to take his compensation by further weekly payments instead of a total sum. If he does that, the potential maximum is increased to $15,000. So, that sums up pretty succinctly the benefit provided under this Bill, but, in addition, other payments have to be made by the employer to cover medical and nursing expenses and various other out-of-pocket expenses.

I shall now briefly turn to one or two of the important matters in the Bill. The first such matter is the fact that the Bill transfers the workmen's compensation jurisdiction to the Industrial Court. I personally have no objection to this move. It is said that this will provide an easier and faster method, and I hope that that will eventuate. I think certain procedural matters in the Bill could be improved so that speedier results would accrue to the workman. There are one or two instances, particularly in the concept of having a summary list for hearing, where I think speedier results could be obtained if the jurisdiction in the summary list were allowed to be exercised by the Industrial Magistrate. I think this would expedite hearings to a great extent, particularly as many items in the summary list could be dealt with expeditiously by the Industrial Magistrate. He could, as I envisage, be in charge of the summary list and could sort out very rapidly the wheat from the chaff. There is no reason why some of the smaller procedural decisions and some of the initial decisions, particularly as a result of amendments inserted in another place, could not be dealt with entirely by the Industrial Magistrate. In Committee, I shall move amendments in the hope of speeding up this procedure.

Regarding the formal procedures (the really disputed matters), I doubt whether we will get any speedier resolution of these difficult matters than we can get in any other court. There are difficult matters embodied in the legislation about which, regardless of the court or judge dealing with them, careful decisions have to be made, and some of them will not be easy ones to reach. Later I shall refer to some of the difficulties that I see presenting themselves to the court in clause 70. From the point of view of the workman, and no doubt from the point of view of the trade unions, which will always provide a certain service to an injured workman (to a point, anyway, when he must receive legal assistance), there will be a distinct psychological advantage in going to the Industrial Court.

The procedures of the Industrial Court are less formal, and under the Bill the laws of evidence will not have to be applied in certain circumstances. I can see that this change of jurisdiction will be a distinct psychological advantage to the injured workman. I do not take any point about the Industrial Court not being the appropriate tribunal. The judges of the court, who are all fully qualified, will be able to handle the jurisdiction just as well as any other judge in any other court. The Act will be administered by the court, and from the point of view of the resolution of disputes no great change will occur.

It has been suggested that the present jurisdiction exercised by the Local Court has been satisfactory. I think it is true to say that a remarkable change has come over the administration of workmen's compensation since the new local court judges were appointed. They have, I believe, almost eliminated a long list of pending cases. However, I feel sure that it will not be long before the local court judges will be fully occupied with additional work within the local court jurisdiction. After all, those judges were appointed only about six months ago. There was a certain backlog of cases in the Supreme Court which, at the time the judges were appointed, would normally have been expected to go into the Local Court jurisdiction. It has come to my attention that an increasing burden of criminal cases is being dealt with by the Local Court

judges. I foresee that in perhaps six months or at the most 12 months time the Local Court judges will be fully occupied with their normal jurisdictions and might very well welcome the fact that they no longer have to deal with workmen's compensation. I support this change of jurisdiction.

As this is largely a Committee Bill, several important matters in it will no doubt receive honourable members' attention in Committee. It is not easy in the second reading debate to examine all the matters in the Bill, because they are not necessarily completely connected. Clause 7 deals with retrospective operation. I submit that it is important to employers and consistent with ordinary principles of statutory construction that the new Act should operate only prospectively, not retrospectively, so that it will not affect the existing rights of workmen and the liabilities of employers. I believe that clause 7, as originally drawn, was designed to achieve that result, but the introductory words "Except as expressly provided in this Act" are rather vague and likely to create difficulty in some instances.

Regarding clause 59, it may well be contended that all workmen with injuries that occurred before the commencement of the new Act are nonetheless entitled to recover the new benefits provided by the clause, such as constant attendance services and rehabilitation services. The argument could well be that clause 59 attaches not to the occurrence of an injury but to the case where a workman is entitled to compensation under the provisions of the Act. A workman in receipt of weekly payments under the present Act is entitled to weekly payments at the new rate, and I have no quarrel with that provision. Does this mean that such a workman would qualify as a workman entitled to compensation under the provisions of the new Act? In other words, does clause 59 fall within the ambit of the expression "Except as expressly provided in this Act" so that the result would be that the workman who suffered an injury before the commencement of the new Act would nonetheless be entitled to increased benefits under clause 59? One can apply the same line of reasoning to clause 28, clause 32 (reports of medical examinations), clause 52 (prohibition on ceasing weekly payments), clause 53 (payment of first weekly payment) and various other clauses in the Bill. If we can accept, as I am sure the Government does, the principle that what has arisen under the present Act is to be dealt with under the new Act except for the increase in benefits mentioned, that only what is new and what injuries occur after the new Act is proclaimed are injuries to be covered by this legislation, we should consider some redrafting of clause 7. I have prepared an amendment to give effect to this which, if it is not already on honourable members' files, will be circulated.

Turning to clause 8, I have prepared an amendment that will, I think, be an improvement in eliminating possible ambiguities. It is most important that, for the sake of the people who are entitled to be dealt with fairly under this legislation (as I said in my opening remarks), we should eliminate wherever possible any ambiguities. They not only cause difficulties for the employer, and the insurer in particular in budgeting for his liabilities under this legislation, but also may give rise to litigation. In the interests of the workmen, litigation should be avoided as much as possible. There will be enough in this new Act to worry the courts about the determination of rights to compensation and about assessing how much a worker should receive as a result of his incapacity, without their having to hear arguments about the meanings of words.

Clause 8 fixes the date of injury where the injury is a disease. It states that:

. . . that injury shall be deemed to have occurred on the day upon which the workman became totally or partially physically or mentally incapacitated by reason of that injury . . .

The word "incapacitated" is intended to be used, and probably is used, in the physical rather than the economic sense. This means that an injury that is a disease can occur without any associated loss of wages. Under the present South Australian Act and in Victoria and New South Wales, except where the disease is one of the disabilities set forth in the table, a disease is compensable only if it results in loss of wages; but under this new measure, the compensation for diseases where there is no loss of time at work will be a table sum under the provisions of clause 70. As I shall mention when I come to deal with clause 70 in a moment, this represents virtually a complete departure from the whole scheme of workmen's compensation legislation as we have known it in the past.

The application of clause 8 (4) may be such as notionally to advance the date of injury so that a workman suffering from a long-standing disease can obtain the advantage of the increased benefits under the new Act. That would be undesirable, and I do not really think it was intended that that should arise.

Let me take, for instance, the case of a workman who has suffered for many years from dermatitis, a disease to which the nature of his employment was a contributing factor. If he happens to become "totally or partially physically or mentally incapacitated" after the commencement of the new Act, he suffers an injury after the commencement of the new Act and so is entitled to weekly payments up to the new maximum of $15,000 and a table sum up to the new maximum of $12,000. The date of injury will be unnecessarily arbitrary in many cases, the concluding words of clause 8 (4) being:

or when that day cannot be ascertained the day on which a legally qualified medical practitioner has certified that the workman was so incapacitated by reason of that injury.

We get the position that any medical practitioner can issue a certificate. There is no right of appeal. It is not clear whether the certificate is conclusive or whether an employer can obtain his own certificate. If the certificates vary, there is no way prescribed in which the differences can be resolved. This was not a problem under the present Act because, under that Act, only a special panel of experts could deal with occupational diseases. They were the only medical practitioners permitted to issue such certificates. That certificate issued by the specialist was conclusive evidence, subject to the right of appeal.

I submit that the date of the occurrence of an injury that is a disease will be vital in some cases. In order to deal with this problem, I shall propose an amendment to strike out some words in clause 8 (4) and insert a simple amendment stating the time from which a workman could not earn full wages by reason of an injury. When we get to the Committee stage, we shall look at that problem. I turn now to clause 10, which deals with breaches of regulations. This is a new clause, modelled upon section 8 (1) of the Victorian Act. It reads:

For the purposes of section 9—

it should be "9", not "8"—

of this Act, a workman shall be deemed to be acting in the course of his employment notwithstanding the fact that (*a*) he was acting in contravention of any statutory or other regulation applicable to the employment; or (*b*) he was acting without instructions from his employer.

This seems, in some respects, to cut across all the apparatus of industrial safety set up by regulations and by employers' directions and orders. I should like to see more done to prevent industrial accidents, as I am sure all honourable members would. I commend the Government's idea of setting up a Select Committee to investigate ways and means by which industrial safety can be improved. As the clause now stands the primary responsibility to reduce industrial accidents rests on the employer, and I say it unnecessarily takes away from the workman any share of that responsibility. The New South Wales Act provides that acting contrary to regulations or instructions is excused only in the case of death or serious or permanent disablement, and indeed this is provided in clause 9 (5):

Notwithstanding anything in this Act, no compensation under this Act shall be payable in respect of any injury that is consequent upon or attributable to the serious and wilful misconduct of the workman unless that injury results in the death or permanent total incapacity of the workman.

That is the same as the existing provision in the New South Wales Act. It seems strange that, moving to clause 10, we have a somewhat contradictory provision there. Clause 10 should be tied in with clause 9 so that no ambiguity arises.

Clause 67 deals with partial incapacity being treated as total incapacity. This is a very important clause—a short one, but not very clear. As it reads, I suggest it effects a very important modification to the existing section 24a of the Act and substantially increases the liability of the employer in a large number of cases. Hitherto a partially incapacitated workman who made no attempt to find suitable work had been entitled only to weekly payments at the partially incapacitated rate. Now the same workman, under the provisions of this Bill, will receive weekly payments at the totally incapacitated rate if his employer is unable to make available or cause to be made available employment for which the workman is fitted. It is no longer necessary for the workman to make any effort to find suitable employment. Most small employers, and indeed many large ones, will find it difficult and many may be unable to supply suitable employment.

A partially incapacitated workman in employment, retrenched due to economic conditions, is entitled to go on to the totally incapacitated rate. A large-scale retrenchment, which sometimes must happen for economic reasons, could have very drastic consequences for the insurer under the provisions of this clause, which, as it now stands, does not make it clear whether it applies only to a workman who suffers injury after the commencement of the Act. The clause is modelled upon a

similar clause in the New South Wales Act, and the Victorian provision is also broadly equivalent to section 24 of the existing South Australian legislation. This clause should be amended to overcome some of the difficulties I have mentioned, none of which need be resolved in a way unfair to the workman. I do not suggest that any amendment be passed that will work unfavourably to the workman, but in the interests of the other parties concerned we must do our best to clarify the situation and to see that they receive fair treatment.

Clause 70 is a substantial departure from the provisions of previous legislation. The whole purport of this clause is to provide for workmen with non-table injuries. I suppose one of the most common injuries and one which causes more trouble than any other is an injury to the back. Although subclause (3) extends the provisions to further specific injuries, nevertheless the non-table injuries are of the non-visible kind in many cases. They are not like the table injuries, where payment is prescribed for loss of a thumb, a finger, a toe, an eye, a leg or a portion of a limb. All those injuries are visible, compensable; the workman has lost a member or part of a member, and there is some distinct possibility that at the same time his earning capacity may be impaired as a result. He gets that payment irrespective of whether or not he does lose wages. It may well be that one may lose a finger and return to exactly the same work, earning exactly the same wages. I have heard the Hon. Mr. Springett say that in some cases the loss of a finger can improve one's capacity to perform certain tasks. Be that as it may, one could lose a finger and return to the same job, not losing in any way the capacity to earn, and returning to what was earned previously. The Bill imports the concept that one should get something for that loss—and fair enough.

We turn to the non-specific and non-visible thing—a bad back, the loss of the power of speech, the loss of taste or smell, or indeed the loss of the genital organs. These injuries do not necessarily mean any loss of earning power. The whole clause was designed to give workers with these kinds of injury a right already enjoyed by workmen with table injuries, such as the loss of a thumb. Unfortunately the clause, as it is drafted at present, goes much farther than that.

Under the existing Act a workman who suffered an injury arising out of or in the course of his employment (other than one of the injuries set out in the table) or who suffered from an occupational disease was entitled to weekly compensation payments during his absence from work, but he was not entitled to any other compensation. Certainly his medical and hospital expenses were paid, but his compensation was limited to his weekly payments. When he was able to resume work in full capacity those payments stopped. Upon any subsequent breakdown resulting in further absence from work and arising from a recurrence of the injury, the weekly payments would resume. Now, under this Bill, the same workman will be entitled to weekly payments prior to his return to work as before but, in addition, he will be entitled to a lump sum assessed by the court under clause 70. This position does not obtain under the existing Act and it does not obtain under the Victorian and New South Wales legislation.

I submit that the philosophy of workmen's compensation legislation has always been to compensate for loss of earning capacity. Although the table section may be regarded as perhaps a slight departure from that scheme, it does take into account the idea of some potential loss. The assessment of compensation for those injuries by reference to a percentage loss of function is, I suppose, reasonable. Clause 70 represents a departure, in that it provides for a table sum to be awarded for all injuries. I remind honourable members that the definition of "injury" includes not only the injury itself but aggravation, acceleration, exacerbation, deterioration, or recurrence (a pretty wide scope). The table sum I have referred to is to be awarded whether or not the workman is likely to suffer incapacity for work. In that respect a very big departure is being made.

Three results will accrue: first, there will be a substantial increase in compensation payments made (perhaps that is inevitable). However, other difficulties arise, too. How is a doctor able to assess confidently a percentage loss in the case of a disease such as occupational dermatitis or a back injury? The guide lines laid down in clause 70 are vague and in some ways almost meaningless. One doctor may assess the disability of a certain man at 25 per cent, while another doctor may assess that disability at 50 per cent. How can it be established that one assessment is right and the other wrong? The tendency will be for a party to a dispute to match the number of specialist opinions on one side with an equal number of specialist opinions on

the other side. I am afraid the new jurisdiction in the new court will not save expensive legal procedures. In some cases it will encourage conscious exaggeration and even simulation of disabilities.

I do not think it can be said that too many workmen deliberately malinger and try to mislead everyone from the doctor to the judge about their condition, but a few workmen try to do that. If that were not so, there would not be the difficulties and disputes concerning workmen's compensation that there are. It is a human weakness that some people exaggerate their injuries, and it is remarkable how they recover once they have received their compensation or their general damages! I wish to mention, too, the difficulty of ascertaining what the particular loss of function is.

The court is being asked to perform a very difficult task: first, it has to determine where the injury fits in the table. It has to determine what proportion of $12,000 a back injury should bear. It must then deal with the individual case and decide what percentage of that proportion a particular workman should receive. Consequently, we should look very carefully at the clause. I intend to move amendments during the Committee stage that will go a considerable way toward bringing the philosophy back to what I believe should be the true philosophy of the Bill, without being unfair to the genuine workman.

I now turn to clause 72, which deals with redemption of weekly payments. I have no objection to the deletion of the six months' weekly payments requirement, the redemption section in the existing Act, as I think this benefits both employers and employees alike. In the case of a workman suffering from compensation neurosis where early final settlement is desirable, it is clearly in the interests of the employer as well as the employee to seek redemption at the first available opportunity. However, the most important change in the Bill is the right not only to redeem future weekly payments as before but also to redeem other compensation under the Act; this is importing something new into the Act. I submit that this could only refer to the medical, hospital, constant attendance and rehabilitation expenses referred to in clause 59.

This will mean that the employer's liability will be substantially increased by the change in the section. There is no upper limit on the employer's liability under clause 59, which is quite different from the position in New South Wales. I could instance, say, a paraplegic who may perhaps be only 25 years of age and who may require medical, hospital and other services indefinitely. This would mean that the redemption of his liability under this section could involve the capitalization of a large sum of money over a long period of time. Indeed, I could visualize that we might get capitalization of these benefits amounting in all to about $30,000 or $40,000, because the words "other compensation under this Act may be capitalized" are included. I suggest that this clause will need careful scrutiny in Committee. I think those words should be deleted. At present, I cannot think of any way in which we could put some limit on the additional liability.

Clause 82 deals with a notice of common law action, which is required under the existing Statute. It has been abolished by the Bill and, although I would not want to see the giving of a notice within the prescribed period of six months after receiving first compensation prove to be a barrier to the workman in his claim, I think it would serve a very useful purpose, if no more than alerting the employer and his insurance company to the fact that in a certain case there was a common law claim possible or even pending. It is important from their point of view, and it is only fair to them that they should be able to mark their files in some way to show that it is a potential common law claim and that some allowance must be made for it.

I imagine that the employees and the unions would be opposed to any form of notice being given, but it seems to me that if we allow sufficient escape to the employee so that he would never find the giving of a notice a real bar to his action, no great harm would be done. This is not just like a motor vehicle accident, in which there is some check-up as to the circumstances by the police who are called to the scene of the accident. In an industrial accident, which of course happens with perhaps no real thought of negligence on anyone's part, the gathering of appropriate information and evidence is most necessary. If the insurer or the employer has no idea whether it is likely that a claim for common law damages will be made within a period of three years, he has no opportunity to collect information and evidence as to the circumstances surrounding the accident in the first place.

True, there is no such requirement in Victoria or New South Wales, but it seems to me that no real harm will be done if we retain the present situation and require that the workman should give notice of his intention to bring a common law action, provided that the failure to give notice is in no way a bar to his proceedings. I should not like to see this happen. Indeed, at present the failure to give a notice as required under the present Act is rarely a bar to proceedings. The courts always adopt a sympathetic attitude, and I do not know of any case where a workman has been debarred from bringing a common law action in those circumstances.

Regarding the industrial diseases, as that Part of the Act is complete in itself, it seems to be unnecessary to have in Part VIII of the Act clause 96, which states:

This Part shall not be construed as limiting or restricting the right of a workman to receive compensation under this Act otherwise than under this Part.

I think the inclusion of that clause can only cast doubt as to its meaning and, as Part VIII is complete in itself, I think the final clause in the Part should be deleted. I have dealt with the important matters in the Bill that I feel will need to be considered carefully in Committee. I hope that in Committee all honourable members will give close attention to the amendments I have placed on file. I have also noticed that the Minister has had several drafting amendments prepared. I have had a chance to look at them, and they seem to be satisfactory and necessary amendments. I support the Bill and the whole principle of workmen's compensation. I do not want to take an attitude that is unfair either to the workman or to any other parties concerned in the legislation. In Committee, I hope that honourable members will consider sympathetically the amendments that I shall move.

The Hon. V. G. SPRINGETT (Southern): I support the Bill. I was interested to notice, when reading the Bill, that the first Workmen's Compensation Act in this State goes back to 1932, whereas the legislation in the United Kingdom, which has a much longer industrial history, only dates back to 1925. Of course, England had Factory Acts, which included some compensation law, going back to the beginning of the last century. All workmen's compensation legislation is based upon the fact that injury and disease can occur because of a person's working environment. It is axiomatic, therefore, that medicine in its broadest scope enters into this field.

Over the years there has been a tendency for medicine to enter this field not just as an interest but as a necessity. Again, that has been happening only in the last few years, so that occupational medicine is a relatively new specialty in medicine in Australia. There is a course at Sydney University where people who wish to obtain this specialized knowledge and training in industrial health and occupational matters can do so. Much of this Bill has a medical component and, as the Hon. Mr. Potter said more than once in his speech, it is essentially a Committee Bill. I agree with him. I remind honourable members that the need for research in occupational medicine is emphasized when we realize that, in the year 1966-67, $93,300,000 was paid out in Australia in workmen's compensation—and that did not include the coal-mining industry in New South Wales and its pay-out. When I say that, I realize that not all occupational hazards and not all this expense and cost are due entirely to occupational hazards, but the largest proportion of the total disability is incurred as the direct result of the occupational risk run by the workman.

Accidents in industry must pose a very serious problem to society. These include accidents in the home, the most dangerous place that any of us can be in from the point of view of accidents in the working environment. I suppose the kitchen is the working environment for many women. In industry, accidents pose a serious problem. They range from serious accidents down to very minor ones.

For the year ended June 30, 1966, in New South Wales there were 87,000 new compensation cases of injury by accident at work involving three days' or more than three days' incapacity. As the Minister said in introducing this Bill, in South Australia every year there are 10 killed and 10,000 claims for one week or more. Over 50,000 claims a year are made under the Workmen's Compensation Act in this State. Add to this number the large number of people who are injured and are not covered by workmen's compensation, for various reasons, and the number of people involved becomes astronomical compared with the size of our community. That is why I say increasing research is required on the part of occupational medicine to pinpoint the causes of injury. Many workmen are safeguarded by law. For instance, they are provided with protective clothing, boots that are strengthened in the toes, and glasses

and helmets. Their machines are given safety-guards; yet, somehow, despite all these safety precautions, accidents occur, at times unnecessarily it would seem. Therefore not only is medicine in the sense of surgical treatment and medical care necessary but also industrial psychology and sociology are needed to be introduced to the field of study.

Much more understanding of the health hazards is required. We need to study the physical, mental and social wellbeing of the workmen themselves. Private employers fully realize that it is in their own interests, just as much as the Government should realize that it is in its own interests and in the interests of society as a whole, to reduce the causes of injuries and accidents. It may be said that this Bill, if and when it becomes an Act, will so compound the cost of treating an injury that no employer will be able to afford to take any short-cuts and run any risks even if the Bill allows for short cuts.

The Hon. A. F. Kneebone: That would be a good thing.

The Hon. V. G. SPRINGETT: Yes, it would be a good thing not to take short cuts. Sometimes one uses a silver spoon when a wooden one would be as good. Collaboration between employers, the Government and the research workers will be increasingly needed, as society expands. One of the important things recognized as fundamental to good modern industry is job satisfaction as well as ability. We must give increasing attention, as a society, to the design and safety of machinery, aiming to give the best to and require the best from employees. This must be persistently pursued.

I now mention something that I myself have studied more than once—the importance of observing safety precautions. I once saw a presser working a machine to press clothes. He had a button in front of the press, which was pressed by a finger: the top came down and pressed the clothes. On one occasion, a presser's hand was caught in this frame, so it was decided to have two buttons that had to be pressed at the same time so that a hand could not be put into the machine. However, the presser, being conscientious and wanting to press the clothes carefully, put a piece of wood into one of the switches, put his knee against it, and moved the other switch with his finger!

I remind honourable members that good seating prevents bad posture, discomfort and fatigue. It reduces hazards compared with bad seating. Bad posture and discomfort cause fatigue and, therefore, danger at work. Effective work lay-outs avoid waste of time and waste of movement, and the design of tools and machinery controls these things. These things are given attention today as never before; yet we have this large number of accidents, to which I referred earlier. Environmental conditions, temperature, humidity and lighting all affect industrial safety. Aids should be used wherever possible. The hazard of noise not only leads to deafness but also affects efficiency, performance and safety. It is worth remembering that deafness is not only a social problem, for it also affects efficiency, performance and safety at work. Nowadays, one faces the consequences of toxicology and industrial poisons as increasing hazards in some industries. We are also faced with dangers from pesticides, weedicides and insecticides, and we need protection from all those. Acts to compensate those who have been injured as a result of their industrial employment are, therefore, an ever-increasingly necessary part of modern society. I emphasize that it is most important to have a uniform effort to limit and prevent the need for weekly sick pay or a lump sum for permanent disability or to help support a bereft family after a fatal industrial accident occurs. There is urgent need for an ever-increasing force of well equipped and well informed medical officers devoted to the study of occupational medicine. When we have these, coupled with the health engineers and appropriate workers in all branches of industry, the heavy cost to the community of the results of industrial accidents will be lessened.

I refer briefly at this stage to the Bill itself, which is, as the Hon. Mr. Potter has said, essentially a Committee Bill, and many of the things that need be said about it can be said during the Committee stage. I was struck by the reference to the Bill's application of workmen's compensation after the damage is done; in other words, the injury or disease has to be acquired first before compensation is even thought of. Therefore, I stress that honourable members, in reading this Bill, dealing with it, and thinking of it should keep in mind what has been lost by the worker, the family, the employer and the community as a whole—the one word: health. Health has been defined, as I have said before, by the International Labour Organization and the World Health Organization as being physical and mental well-being with full adjustment to the environment.

Bearing in mind the time and the amount of work to be gone through in this and other Bills, and that in order to get them through

we are going to work under conditions and for a number of hours for which we would condemn industry for subjecting employees to in a factory, I draw attention to the term "constant medical services" in clause 59. I presume the Government has in mind the problem of people like the working wife who has to go to work so that someone else can stay at home and care for the sick person when that one is of necessity kept in the house.

Workmen's Compensation Act medical services provided by doctors as individuals and in clinics are, as in the case of other accidents, very costly and often long delayed in their treatment and certainly, in many cases, in their payment. These injuries and diseases cover pretty well every branch of medical science, although some are more common than others. For injuries we need surgeons and their ancillary services and, for the various types of diseases, physicians and their investigating services. They all require rehabilitation and nursing.

Clause 61 emphasizes the return to some employment, and I stress that that is not only good for the morale but also for the return of strength to muscles and stability of mind. Problems under workmen's compensation legislation are increasing. It is difficult to assess the degree of disability and the reasonable worth of what has been lost to the worker. The table regarding losses of fingers, limbs, and members of the body makes this easy, but speaking as a doctor I know it is terribly difficult at times to be fair to the patient, who is the worker, and at the same time to be fair to the employer who must foot the bill.

One must also be fair to the community as a whole, because the total living capacity is always affected when workers are off work. I have never decided how one can assess pain, mental injury, and trauma, or the loss of emotional fibre. As the Hon. Mr. Potter said, doctors will differ in their diagnoses and their assessments of worth and value. It is very difficult to say who is in pain and who is not, and whether the pain is of the same degree and has the same disabling effect. I know for sure that some people have a different threshhold for pain. One man can stand much more than another. Because he can do that, how does his assessment of value compare with the man who can stand less pain?

The Hon. A. J. Shard: Should he be paid more for taking it?

The Hon. V. G. SPRINGETT: It seems that one is paid more because he cannot take it. We all know the old trick of pains in the back and pains in the abdomen, but this is very real. I have seen a man who could not move his head until a $10 note was held behind it. Then he moved it very quickly. Is it a trick, or is it not? We come now to the effect of noise. I refer to deafness and the ill-effects of noise, which can be minimized by bedding machinery and wearing ear mufflers, but how much disability will follow residually? It is impossible to be certain and to be able to say that after so many years a man will be affected to a certain degree.

Certain industrial diseases develop slowly—asbestosis, chrome ulcers, silicosis from silica dust. The Bill contains a separate section for silicosis, which is an affection of the lung. Silicosis works must be especially constructed and controlled. What is the period of time between the periodical medical examinations? I am not quite sure from reading the Bill. There is a special reference to Port Pirie with the special risks and special hazards of lead, mercury, antimony, asbestos, and so on.

There is a special medical board, and with that comes the use of referees and arbitrators. Referees have been used for a long time. The day I entered this Parliament I resigned as a State medical referee. One of the needs in South Australia, and indeed in the whole Commonwealth, is for an increasing number of experienced medical referees who do not have to cover a range of branches of medicine but keep to their own speciality. That will come in time.

I agree with the Hon. Mr. Potter that the principle of the Bill is good. It ensures safeguards for employees which are vital for the good of the community, and it is equally vital that the employees play their part and give the employer a fair deal. One very famous industrial medical pundit of days gone by said that until the employer has done everything the employee can do nothing. I think that is a ridiculous statement and quite untrue. The employer must rely very largely on proving the absence of a condition, because it is true to say that the Bill does weigh in favour of the worker all along the line. Society thrives and relies on industrial output. Cost prices depend on the cost of manufacture. If workers regard every minor scratch, or even the absence of symptoms, as meriting a "sicky" for three days now and again, the cost to industry will never come down. I realize that part of the responsibility rests with my profession. We do not, as a profession, like to get involved in legal tangles, and industrial

injuries and occupational diseases tend to lead that way.

This Bill makes sure that the employer plays his part. It is up to the unions and other bodies that influence the workers to make sure they play their part. Given fair play on both sides, in a general outline this Bill will be for the good of the community and for the betterment of society, and that is why I support it.

The Hon. C. M. HILL (Central No. 2): I support the second reading of the Bill and I commend the Hon. Mr. Potter for the immense amount of detailed work he has performed in connection with it. As other honourable members have said, this Bill is in the main a Committee Bill. In order that the Bill can reach the Committee stage at least, I intend to support the second reading. It seems to me that we have two principal considerations to bear in mind. On the one hand, we have the situation of those genuine people who are injured in the course of their daily work and are entitled to receive quite generous workmen's compensation.

I have had it put to me by some people interested in the Bill that the weekly payment of $65 or 85 per cent of the existing wage, whichever is the lesser, is too high. On the other hand, if one considers the genuine cases that are affected in this respect, one must accept that most of the money paid in salaries and wages today is spent: all that is in the pay envelope is committed in one way or another. If, through no negligence whatever on the part of the wage-earner, injury is caused at work, it does not take much imagination to realize the hardship that results in the home to the workman and his family. These people form a group to which, like any other minority group, this Council should give every consideration. Hardship caused in those circumstances is hardship that one cannot overlook.

Although I know that the proposed payments, together with other lump sums mentioned in the Bill, are higher than those in any other State, nevertheless I believe that the wage-earner needs all of the figure of 85 per cent to see himself through a difficult period. From the viewpoint of justice and humaneness, it seems to me that a very good case can be made out for workmen's compensation in that respect.

The other side of the picture, of course, is the viewpoint of the employers and the insurers, who are confronted with a serious problem. The insurers claim that, if this Bill is passed in its present form, premiums will be increased by about 60 per cent. The Hon. Mr. Potter said that the 1967-68 figure indicated that about $10,000,000 is paid annually; if we add on 60 per cent of that figure, we see that another $6,000,000 in costs will result.

It is proper to consider whether industry and commerce can absorb and afford these extra outgoings. It is all very well to say that inevitably costs will rise and prices to the consumer will rise. However, putting the matter in broad terms does not get to the bottom of the problem, because the time can come when the consumer cannot afford to pay the increased prices. At that time the repercussions will run right through the cost structure of primary and secondary industry in this State. Of course, the wage-earners are affected in another way, too—by the unfortunate problem of unemployment.

South Australia must sell its secondary products on the eastern seaboard, and to get them there we must pay high freight costs. So, when our secondary industries compete with those in Victoria and New South Wales, it is not enough for us to keep our costs of production down to a level comparable with those of the other States: we must keep them down to an even lower figure, because transport costs must be added to the costs of production in this State. So, when we see that there will be higher outgoings under this Bill than are applicable in the other States, we must accept that this facet of costs will be higher in South Australia than in Victoria and New South Wales.

We could reach the stage where our goods will go on to the market in Sydney, Melbourne and Brisbane at prices higher than those of products manufactured in those cities. When the consumer is faced with this situation, he buys the cheaper articles. In these circumstances South Australian products could not compete with the products of the Eastern States, and unemployment would result here. That is the second main problem that this Council must bear in mind, and it must weigh one problem against the other.

In connection with the representations that have been made about this Bill, one cannot but be impressed by the representations of employee groups on the one hand and by the sound arguments that the other side advances when it expresses fears about increased costs. So, it is a very big decision to make. We cannot take lightly the possibility of an additional $6,000,000 being added to costs of production here. I shall wait until we debate some of

these issues in Committee before I decide which way I will vote on specific issues.

I support the principle of the cases being transferred from what was the Local Court to the Industrial Court, where an industrial magistrate will hear them and where the court will be a specialist court. I am reminded of the precedent when the Land and Valuation Court legislation was passed in this Chamber. I submitted then, and I submit now, that I believe in the principle of a specialist court, which can become more efficient and expert than can a court that handles many other varying matters. I support that change. So that we can get the Bill into Committee, I support the second reading.

The Hon. R. A. GEDDES (Northern): I rise to speak to this most important Bill. I am well aware of the competence of previous speakers and of their knowledge of the legal side of this legislation. We had an interesting preamble to the Bill when we observed in the press that certain trade unions were going to take industrial action if the Council dared do anything in relation to it. It shows how difficult it is in 1971 for people outside Parliament to understand the institution of Parliament. With a bicameral system there is a reasonable chance that legislation will be reviewed conscientiously so that when it becomes law it should be able to stand up to any argument the court may bring as to the interpretation of any Act. It would be a shame if legislation was passed without amendments and, when brought to the light of day in legal argument, it was found that the law was defective.

Without maligning the trade unions that made these statements in the press, I want it to be understood that this institution of Parliament is a well-tried one: it did not come up like a mushroom, but through generations of trial and error to what we have today. The Bill was promised by the Labor Party at the last election. It is a proud moment in the Australian Labor Party's history that this type of legislation, which benefits the working force of South Australia to the extent it is designed to do, has been introduced with all its complexities at this stage of the session. One comment made in the second reading debate was that it was hoped that by the appointment of a judge from the Industrial Court claims made on behalf of an injured worker would be speeded up. As the Hon. Mr. Potter said, I wonder whether this will be possible, as the claims come in and as the court will be loaded with its responsibility. The court, too, has a procedure to be abided by, just as much as Parliament has. The court cannot proceed any more quickly, but must hear legal argument from both sides.

So long as we believe in the judicial system, this must be accepted. Let not the worker think that now, because of the Bill, if he is injured the whole process will be speeded up at the drop of a hat. Just as there is the procedure of Parliament, where all legislation must face the light of argument and debate, so must the Industrial Court carefully consider all matters before it. I am interested in the amendments proposed by the Hon. Mr. Potter, especially the ones relating to the Magistrates Court, because I foresee that these will help at the lower court level to speed up certain parts of the process. There are major problems of costs to industry, particularly to primary industry. It has been said that the cost of insuring for workmen's compensation, which is compulsory, will increase by about 60 per cent. A man shearing about 2,000 sheep today is not able to employ permanent labour (because of economic problems); therefore, he is reduced to employing casual labour plus a shearing team when the sheep have to be shorn. From figures I have obtained, the average bill for workmen's compensation for this type of proposition is $100 a year. One can understand that this is another growing problem to the rural industry of the State. However, one does not need much imagination to appreciate that this will be another charge to an industry that cannot pass on its costs. It is another charge which, because of its nature, must be met, and rightly so, because if there is an injury on the property the farmer would be worse off if he did not have workmen's compensation insurance.

With costs spiralling, the worker might be getting a better deal, but the employer will be getting a worse deal as a result. In industry, this added cost must be placed on the cost of production formula, but whether the cost of the finished product will increase remains to be seen. If the cost increases it must be a legitimate charge on the cost of production formula because of the legislation and the nature of the insurance involved. This could be one of the problems to be faced immediately. I have no quibble with the fact that the rate will be 85 per cent of the man's wage up to $65 a week, but for how long will that figure be realistic? Every time we move it seems to me that there is a stirring of the mud at the bottom of the pond and it rises to the surface and there is

another cost increase. So by 1972, $65 could be unrealistic if prices go up because of additional charges brought about by an ambitious Government that wishes to fulfil its election promises. Secondary industry has an advantage that rural industry does not have: it can pass on its costs. Reference was made to the fact that a worker must get payment within two weeks of an injury occurring. It is when a man is out of work that his need is greatest; therefore, this payment to be made within two weeks is one that may create problems to the employer, but to the injured person it is legitimate.

Hospitals have two major problems in relation to unpaid fees. One is third party insurance, which is always dragging its feet because of the problem of proving who is the guilty party, and the other one is workmen's compensation. If there is argument in the court, no insurance company will make any payments to hospitals. It would have been wise to write into this Bill that not only should the workmen be paid within two weeks of injury but also a formula should be devised for paying the hospitals so that they, with their costs and wage and salary problems, could move forward without embarrassment. When the court has finally decided who was responsible for the injury, let the judgment day be then instead of it being the other way around, because at present the hospital is the last body to be paid.

There is a special provision covering Port Pirie and the problems of lead poisoning that could occur. When I was a schoolboy in Port Pirie, I remember the industrial gases that were spewed out over the town 24 hours a day for 365 days of the year. We were warned never to drink rainwater in Port Pirie because of the coating of lead dust on the roofs of the houses. Business is often maligned, but through education and legislation it has learnt to accept much more responsibility than it had in the 1930's. Because of workmen's compensation legislation, there are more physical safety measures in industry than there used to be. Measures have been taken in respect of the by-products from smoke stacks. Action was taken by Broken Hill Associated Smelters in Port Pirie years ago to counter the pollution of the air for the safety and welfare of the community there. These days it is called pollution; in those days it was known as stopping the lead gases coming out. However, even in spite of all this, Port Pirie is still specially mentioned in this Bill. The Minister's second reading explanation referred to rehabilitation in these terms:

It will be appreciated that the drafting of a Bill of this magnitude has taken some months. About the middle of last month, when the draft of this Bill was completed, the New South Wales Government released a report of an inquiry which had been conducted by the Chairman of the Workers Compensation Commission of New South Wales into the feasibility of establishing a scheme for the rehabilitation of injured workers in New South Wales. It has obviously been impossible since then to give a great deal of attention to the 129-page report, which includes a number of matters that I consider should be carefully considered in this State, even though the inquiry was conducted in New South Wales. This opens up a big, interesting and possibly exciting way, in which Government help would be first-class, to help an injured person back into a normal living atmosphere. If he cannot return to his old trade, he can take up an occupation that he is able to. Knowing the compassion of the Chief Secretary and the Government, I suggest it will not be long before more measures are introduced for the injured work force. We all know what Bedford Industries tries to do. The principle is good but obviously we need a bigger set-up to cater for all injured people.

To sum up, all this may well mean increased costs to industry, which in turn will produce another price increase to the consumer. It will also mean an increase in costs to the rural industry, thus increasing its burden. It may be the last straw that breaks the camel's back. Hospitals still have a problem.

The Hon. A. J. Shard: I think that is well on the way to being solved with the new set-up of the courts.

The Hon. R. A. GEDDES: I thank the Chief Secretary for telling me that. Lastly, there is the rehabilitation of the injured to enable them to return to a normal life as quickly as possible.

The Hon. R. C. DeGARIS (Leader of the Opposition): I should draw the attention of honourable members to several facets of the Bill. No doubt, they have been touched on already by other honourable members, but I pose this question to the Government: does it know what this Bill will do as far as most South Australian industries are concerned? I believe that any person who is working deserves to be covered to the best possible extent for workmen's compensation, but it should remain as workmen's compensation, and nothing more.

A reasonably important company in South Australia, whose activities are fundamental to the industrial progress of the State, is at present paying, in workmen's compensation

insurance, $120,000 a year. With the increased rates and widening of the scope of compensation, it will probably be up for $200,000 a year, under the new legislation.

The Hon. C. M. Hill: Or more.

The Hon. R. C. DeGARIS: Or more. We do not know exactly what the increase will be, but I had a quick look at the Bill and, at an estimate, I would say that not less than 60 per cent and possibly not more than 80 per cent of the average weekly earnings would be paid. I wonder whether the Government has fully considered what the impact of this Bill will be on the competitive ability of industry in South Australia. The Bill proposes an increase in weekly payments from 75 per cent of average weekly earnings to 85 per cent, plus $5 for each dependent child (previously $3.50) and $13 for a dependent wife (previously $9). The maximum for a man with a dependant will be $65 a week, or the average weekly earnings, whichever is lower. For a workman not having a wife or any member of his family dependent on him it is $43 (previously $27).

Let me compare this with the situation in other States. Under the new Act, as it is at present, a workman receiving $60 a week will receive 85 per cent of $60 as compensation—$51. The wife's allowance will be $13 and for three children the allowance will be $15, making a total of $79. The entitlement will be $60, being average weekly earnings. If we compare that with the situation in Victoria, we find that a workman earning $60 would get $26 workmen's compensation, plus $8 for his wife and $9 for three dependent children, making a total of $43, when his maximum entitlement is $41. That compares with $60 to be provided under this Bill. In New South Wales the entitlement for the same category is $63.50. This is a large increase in compensation in South Australia which takes it well beyond the rates paid in Victoria and New South Wales. It is difficult to argue that the benefits of workmen's compensation in South Australia should be less than the rates in the Eastern States. I am not arguing that we should be below the rates applying in other States, although I think every member would admit that, unless we can keep our costs below those of other States, industries in South Australia will be in difficulties.

The Hon. C. M. Hill: There will be no real future for them.

The Hon. R. C. DeGARIS: True. The fact remains that we export about 80 per cent of our total industrial production, and if we have a situation where the cost structure (by tax or by any other way, capital or indirect) comes within 5 per cent of the cost structure in other States we are no longer in a competitive position, and industry will leave this State to go where the major markets exist. It is difficult to justify the rise of compensation provided for in this Bill. According to figures issued by the Bureau of Census and Statistics, workmen's compensation premiums in South Australia in 1968-69 cost almost $11,000,000. The increased payments will mean an increase in that burden of at at least $6,000,000 a year and possibly $8,000,000 or $9,000,000 a year. The present premium for employers in general engineering is 3.7 per cent to 4 per cent of the total wages, and it is 2.66 per cent in light engineering.

This means that the premium for a small employer, say of 50 men who earn an average wage including overtime of $60 a week, in general engineering, with a total annual payroll of $156,000, for which the present rate is 3.74 per cent, would be $5,834. The future rate could be as high as 6 per cent (at least 5.5 per cent) and the premium would be between $8,750 and $9,500. In light engineering the present premium is $4,149, but the increase under the Bill would take it to between $6,225 and $7,000. One can see the impact of these new figures. I am not arguing against the justice of reasonable workmen's compensation, but I am pointing out the impact of this type of legislation on our ability to compete with other States for industrial production.

Unless we are prepared to remain in a competitive position there is little future for our established industries and no future for any expansion of them. I believe that we should do all in our power to ensure that a workman who is injured is satisfactorily compensated, but I think this Bill goes much further than the concept of workmen's compensation. These aspects, plus the fact that the rates will be so much in advance of those in other States, cause me some concern. I know that in the last election speech certain promises were made about workmen's compensation.

I do not think we should interfere with the rates of compensation as set out in the Bill, but I believe the Bill goes beyond what a normal compensation Bill should provide.

Perhaps some form of compromise could be arrived at. If one reads the Bill and considers its scope and the increase in the rates, one realizes that there will be a large increase in premiums, and I believe that employers and established industry will be in a difficult situation in trying to compete with industries in other States. At this stage I support the second reading, but will have something to say about various clauses in the Committee stage.

The Hon. Sir NORMAN JUDE (Southern): My colleague has covered this matter fully, especially the points to which the attention of the Council should be drawn. One point that has not been referred to in the debate is the increase in premiums in relation to the person employing a few people. Large businesses may be able to afford this increase, because it can be added to the cost of the goods produced. However, a person employing a shearer will invite an increase of about 60 per cent to 70 per cent in insurance premiums. Does the Government not care about people in the country? Can they afford these additional costs? Other costs have been thrust upon them in the past few weeks, especially the fantastic land tax assessments which, if it were not so terribly serious, could be a laughing joke for those who have imposed this assessment.

I wonder whether the Government has considered a modest increase of $100 a year for workmen's compensation to be paid by the farmer. A fairly large farmer would be battling to pay such an increase, but no provision is made for him in any way. My next quarrel is with the Joneses, the people with whom I have not been willing to live. In this case the Joneses are the extraordinary people who have been frequently referred to by the Government in the last few months. It has said, "We must keep up with the Joneses."

I hope to direct the attention of the Government to reports of the Grants Commission about the disabilities of this State and the non-necessity of increasing taxation to a level comparable with that in the other States because we are in a difficult position here. No notice has been taken of that, yet in this Bill we find provision for a payment of $65, instead of $60 as in New South Wales. Why is this to be inflicted? A few weeks ago it was suggested that, if the Government was successful in obtaining more funds from the Commonwealth Government, it might even consider withholding further taxation measures. That shows a trend in thought in connection with keeping up with the Joneses. At present the Joneses are New South Wales; Victoria has provided for rather lower compensation payments. When this Bill reaches the Committee stage, I will move that the payment of $65 be reduced to $60.

The Hon. A. M. WHYTE (Northern): I support the Bill, because it is necessary to adjust workmen's compensation from time to time. Every honourable member would agree that it is only fair that an injured workman should be compensated justly and as quickly as possible after his injury. The Bill should deal with compensating injured people. However, as the Hon. Mr. DeGaris has pointed out, it has a much wider scope and, in all probability, much of the increase in insurance premiums can be associated not with compensating workmen but with the wider scope of the Bill.

The Hon. Mr. Geddes said that industry will have to pay huge sums to meet the increased premiums, but I point out that the primary producer will have to pay the increased premiums and will not be able to pass them on, as will secondary industry. However, there is little one can do except accept the Bill. I am disappointed that, at a time when we are trying to provide just compensation, the scope of the Bill is stretched, even to the point of compensating a *de facto* widow. Although its scope leaves me a little dumbfounded, I support the intention of the Bill.

The Hon. H. K. KEMP (Southern): I have long been concerned about the delay that often occurs in payment of workmen's compensation. Such a delay in previous years has been wrong. In many cases it has led to employers (including myself) having to pay much more sick leave than the employee has been entitled to, just to give enough finance to an injured man's family to carry on. Much later the employer is reimbursed through insurance. So, I am very sympathetic to the idea that compensation payments, when the injury is clear, should start within a fortnight of the occurrence of the injury. That is fair and reasonably realistic.

In most cases, sick leave has accumulated for several years and it can carry a man and his family over the period of delay, which must be of some duration. I have no objection whatsoever to the terms of payment proposed. These payments are $65 a week for a married man, with various payments for dependants; alternatively, 85 per cent of his salary is paid, whichever amount is the lesser. That is fairly realistic, because many people today

are earning far in excess of $65 a week. Those things are just and right, but what concern me are the false claims that are so often made. On every other page of this Bill a penalty is mentioned that shall be exacted from the employer, but we see no mention whatsoever of any penalty that shall be exacted from an employee who makes a false claim, and there are many areas in which a false claim may be made and on which it is impossible to get a decision without bias.

The Hon. Mr. Springett referred to this matter earlier today. Back injuries and hearing impairments have been referred to. In my district we are closely concerned with the malaise that can be confused with the poisoning effects of pesticides that are freely used in the horticultural industry. As soon as such a matter comes up, the medical profession runs for cover and will rarely give an opinion that can be definitely sworn to. The profession will not swear to such opinions because these matters are difficult.

When we first started using in this State, in an experimental way only, some of the nerve gases that were devised during the First World War we were very careful. The men who were to use them in orchard work and in trials at the Government orchard were warned about the possible consequences of using them and were given protective clothing. They were told that as soon as they experienced any symptoms about which they had been warned they were to let us know immediately. They came in within an hour of being sent off. They were in a serious state because the symptoms they were describing indicated they had a very short time to live. All of those men are living today! They had merely talked themselves into the dangers of the materials in their hands.

This sort of thing could happen conscientiously. It occurs from day to day, and it is a very difficult subject because dishonest claims can be made under this legislation and the claimant is completely protected. Some penalty must attach to false claims under workmen's compensation. This point has been overlooked by other speakers in the debate. It is easy to kill the goose that lays the golden egg. I support the Bill, but reserve the right to move any amendments in Committee.

The Hon. A. F. KNEEBONE (Minister of Lands): I thank honourable members for the way in which they have dealt with the Bill in the time given to them. I thought we might have been able to continue the debate earlier than this. As the Bill is mainly a Committee Bill, I do not intend to answer all the matters raised in the second reading debate. I have become accustomed since being in the Council to hearing the same sort of argument every time we have considered workmen's compensation or any other legislation for the purpose of bringing the conditions of the workers in the State up to what they are in other States, or perhaps even a little in advance of what they are in other States; it has always been the same old argument. We have been told that conditions and wages in this State must be lower than they are in other States if we are to compete. We heard that argument for many years throughout the reign of Sir Thomas Playford as Premier. We know that legal advisers of the Crown were sent to other States to appear before tribunals to ensure that wages in South Australia would always be lower than they were in other States and that only a certain percentage of the New South Wales living wage would apply here. Even in my first session here an honourable member, who was an industrialist, said that if a worker wanted to be covered under workmen's compensation when going to and from work he should insure for that purpose himself. That has been the attitude in the Council ever since. We have been able to so cover the employee because that provision was agreed upon at a conference by way of a compromise. We have always heard the cry: how can South Australia afford to give the workers something comparable with or even a little better than other States? It has been said that this will be the State's ruination. I should have been disappointed if these matters had not been raised. Because time is running out and because I want the Bill to advance as far as possible, I shall not speak at any greater length.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

Clause 6—"Jurisdiction of court in certain proceedings."

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

In subclause (1) to strike out "may" and insert "shall".

The amendment is necessary so that there shall be no inconsistency between this clause, which was introduced into the Bill by another place, and subclause 5 (1).

Amendment carried; clause as amended passed.

Clause 7—"Application of this Act."

The Hon. F. J. POTTER: I move to strike out this clause and insert the following new clause:

7. Except as provided in section 5, section 6 and subsections (8) and (9) of section 69 of this Act, this Act shall apply only to and in relation to a workman who suffers an injury after the commencement of this Act.

Honourable members may perhaps not know that the Law Society set up a special committee to deal with the provisions in the Bill, and the committee looked carefully at them. The society said that the Bill should state the position concerning injuries that occurred prior to the coming into operation of the legislation. This clause does not state clearly and unequivocally the position concerning old injuries. It states:

Except as expressly provided in this Act, this Act shall apply only to and in relation to an injury that occurred after the commencement of this Act.

Clause 5 clearly provides that, where a person is receiving compensation under the present Act, he shall advance to the higher compensation provided by this new legislation. There are other clauses in which it is not clear whether or not such people are covered by this provision. I used as an example clause 59, which provides for additional compensation for medical, hospital, nursing and other services. Some of those are additional to the services provided under the present Act, and it may well be argued that the provisions of clause 59 apply also to injuries that occurred before the coming into operation of the new Act and that, notwithstanding clause 7 as it now reads, these additional benefits may be recovered. The basis of this argument is that clause 59 is concerned with not the occurrence of an injury but the case where a workman is entitled to compensation under other provisions of this legislation. That may not be easy for honourable members to follow, but it is a distinct possibility.

If that is correct, other clauses, too, could be affected by clause 7. The workman in receipt of weekly payments under the present Act is entitled to payments at the new rate as from the commencement of the new Act. Clause 5 (2) makes that clear. If that is so, does that workman not then qualify to be entitled to compensation under the new provisions? In other words, does not clause 59 come within the ambit of the expression "Except as expressly provided in this Act"? If so, the workman who suffers the injury gets increased and additional benefits under clause 59. I do not know whether that argument could be sustained in court (perhaps it could not) but, if we are to be unequivocal about it, why do we not expressly say what prior injuries are to be covered and in what way by this new Act?

My amendment seeks to clarify the position. Clause 7 should be completely rephrased in the way I suggest, and the amendment is designed to clarify the position beyond doubt. It is not only a drafting amendment, for it follows the Law Society's suggestions in respect of prior injuries. When we introduce a new Bill, it cannot be made retrospective to a great extent. If we want that, we must be specific about the factors we are dealing with.

The Hon. A. F. KNEEBONE: The intention of this clause appears perfectly clear even to a layman. The amendment seeks to specify the sections which are to be excepted. The difficulty in amending the clause in this manner is that it is very easy to leave out some section numbers. It is far clearer to leave the clause in its present form, and I oppose the amendment.

The Hon. R. C. DeGARIS: I understand that the Law Society has stated that the wording should be more explicit.

The Hon. F. J. POTTER: I have seen a letter from the Law Society stating that the provisions of this clause should be expressed in clear and unequivocal language.

The Hon. D. H. L. Banfield: Did you refer your amendment to the society and was it passed?

The Hon. F. J. POTTER: No, but my amendment is expressed in clear and unequivocal language. I may have forgotten something, but I do not think so, and I am sure that no other clause would be affected. The kind of expression used in the Bill has caused trouble in the past and may do so again.

The Hon. D. H. L. BANFIELD: The wording of this clause, could not be any clearer. The Hon. Mr. Potter has admitted that he may have left something out, so that someone may be excluded as a result of this amendment.

The Hon. F. J. POTTER: I have not been told that I have left something out, and I do not believe that I have. However, I am not infallible, but I submit that my wording is preferable to the wording in the clause.

The Hon. A. F. KNEEBONE: Apparently, the letter from the Law Society was not a straight-out direction concerning this clause. There cannot be any ambiguity in the words shown in the present clause: it is simple, factual, and all that is necessary.

The Committee divided on the amendment:

Ayes (9)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris (teller), C. M. Hill, Sir Norman Jude, H. K. Kemp, F. J. Potter, E. K. Russack, and V. G. Springett.

Noes (9)—The Hons. D. H. L. Banfield, T. M. Casey, R. A. Geddes, G. J. Gilfillan, L. R. Hart, A. F. Kneebone (teller), Sir Arthur Rymill, A. J. Shard, and A. M. Whyte.

The CHAIRMAN: There being nine Ayes and nine Noes, I give my casting vote to the Noes.

Amendment thus negatived; clause passed.

Clause 8—"Interpretation."

The Hon. A. M. WHYTE: I move:

To strike out the definition of "husband".

I do not wish to question the right of anyone to live with a *de facto* wife, but I question whether a *de facto* widower should be included within the scope of the Bill. A firm could be faced with the need to pay compensation to a young man whose two *de facto* wives were killed on the way to work. If a man was permanently disabled and something happened to his *de facto* wife, who had been keeping him, the man in question would no doubt be a pensioner of some sort or under some form of compensation.

The Hon. A. F. KNEEBONE: The definition of "husband", which the honourable member seeks to strike out, was inserted in the Bill in another place because of representations that the Government received from the Law Society. An *ad hoc* committee of the Law Society, which comprised a number of lawyers with considerable experience in the workmen's compensation jurisdiction, made a number of suggestions to the Government for amendments that would clarify the intention of the Bill. They pointed out that, without the definition, it was not altogether clear from the other provisions whether a *de facto* relationship included a relationship with a *de facto* husband. Accordingly, the definition was included in the Bill and, in view of the source from which it came, I would be reluctant to agree to its deletion. I therefore oppose the amendment. If a *de facto* wife has assisted in keeping a man who has been injured and that *de facto* wife is killed, the honourable member says that the man might be getting a pension, but a pension does not cover all that the man would need. It is a rather callous way of looking at the matter and I ask the Committee not to accept the amendment.

The Hon. G. J. GILFILLAN: Can the Minister say in what context the word "husband" is used in the Bill? This is the crux of the matter.

The Hon. A. F. KNEEBONE: The "husband" is referred to as a member of the family. The honourable member should look at the definition of "member of family". The person concerned may be a dependant.

Amendment negatived.

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

In subclause (4) to strike out "totally or partially physically or mentally incapacitated by reason of that injury or when that day cannot be ascertained the day on which a legally-qualified medical practitioner has certified that the workman was so incapacitated by reason of that injury" and insert "disabled from earning full wages by reason of that injury".

This is an important amendment. The Bill provides for a definition of "disease" and of "injury". When "injury" includes a disease and when "disease" includes an injury, a problem arises regarding the time at which the injury or disease occurred. In the case of a physical injury it is easy to ascertain when that occurred, but in the case of a disease it is not so easy. In the case of an injury, which is a disease, it is deemed to occur on the day on which the workman became totally or partially physically or mentally incapacitated. To me, "incapacitated" means physically incapacitated, not economically. However, an injury, which is a disease, can be a long-standing thing. It may not be associated with any loss of wages. Therefore, the question of when the person suffered an injury becomes important; it becomes even more important in regard to clause 70, because a further payment may be made for a disease where there is no loss of time at work. Clause 70, which gets away from the principle of incapacity for work, provides that a lump sum can be paid for that injury, which includes a disease.

The date of the injury is the problem. A man may have had industrial dermatitis for a long time. If he becomes totally or partially mentally or physically incapacitated after the commencement of the new Act he is entitled to the new weekly payments up to a maximum of $15,000 and to a total sum under the provisions of clause 70. Honourable members should look carefully at the provisions of the section as they now exist. The legislation does not stipulate who will appoint the medical practitioner or whether the worker can obtain a certificate from any doctor, or whether the doctor must be one appointed by the employer. There is no right of

appeal against the certificate. Having regard to clause 70, we should tie in a disease type of injury with the provision that a workman is prevented from earning full wages by reason of that disease. The purpose of my amendment is to remove these difficult words that can cause all sorts of trouble. It is in line with the true principles and the philosophy behind workmen's compensation legislation. Also, the amendment will determine the date beyond doubt.

The Hon. V. G. SPRINGETT: I agree with the Hon. Mr. Potter that the date of an injury is easy to fix but it is not so easy to fix a date when certain diseases began, because they often have an incubation period, and a period through which the condition develops. The commencement of some physical diseases, such as lung diseases, cannot be accurately determined. Skin diseases are probably the least troublesome in that respect, because we can generally see when a rash comes up—not that that will always be the starting point of a disease. The onset of a mental illness is difficult to pinpoint. In retrospect, it is sometimes possible to say, "A change was noted on such-and-such a date", but that is not very accurate. Mental conditions can be extremely difficult to pinpoint. I think this is a reasonable amendment.

The Hon. A. F. KNEEBONE: I oppose the amendment. Subclause (4) of clause 8 as it now stands provides that an injury that is a disease is deemed to have occurred on the day upon which the workman became incapacitated or, when that day cannot be ascertained, the day on which a legally qualified medical practitioner certified that the workman was incapacitated. Both these requirements are necessary. It is not sufficient that the day referred to be the day the workman was disabled from earning full wages. Take the example of a workman who contracts a disease without realizing it and, being a diligent worker, continues to attend work for some time after he feels the first symptoms, thinking he is just a bit off colour. He suffers both pain and inconvenience because of his own diligence. Should he receive less compensation than the worker who leaves off work at the first hint of illness?

The Hon. F. J. Potter: He gets his pay while he is still at work, doesn't he?

The Hon. A. F. KNEEBONE: Yes, he gets his pay. As a second example, let us take a worker who suffers noise-induced hearing loss. This is classified as a disease, yet the worker may continue earning full wages while he suffers the disability. Under the amendment, the injury would never be deemed to have occurred, because the worker was not disabled from earning. It is also necessary to provide for the case where the beginning of the disease cannot be ascertained. The amendment does this but, as I have explained, the amendment does not cover all cases. If we are to accept the first part of the subclause as it stands—and we must to protect the diligent worker—we must also accept the second part as an objective method of ascertaining when the injury occurred when it cannot be ascertained under the first part. For these reasons, I oppose the amendment.

The Hon. G. J. GILFILLAN: I have listened to the Minister with some concern because, if I interpret his reply correctly, he is suggesting that a person should receive wages and workmen's compensation at the same time.

The Hon. F. J. Potter: That is exactly what he did say.

The Hon. G. J. GILFILLAN: That is his argument. What does the Hon. Mr. Potter mean by "full wages"?

The Hon. F. J. POTTER: It is clear from his reply that the Minister has touched on the real point at issue here; it only highlights what I said just now, that subclause (4) is tied in with the new concept under clause 70, under which clause a workman gets his compensation whether or not he suffers incapacity for work by injury and whether or not he is receiving full wages. In other words, the Minister is right, because clause 70 provides that a workman gets payment for injury even though he is back at work earning wages. That is the real departure that this new Bill makes from the present Act, under which a man suffering from one of these diseases or injuries not defined in the table got only his weekly compensation while off work. When cured, he went back to work and got his full wages. If there was a recurrence of the disease, he went back on to weekly workmen's compensation and nothing else.

This Bill, however, moves away from that: the workman now gets something in addition. Even though he is back at work and not earning less than previously, he will get compensation for the disease or injury he suffers. That is the real crux of the matter. We must look ahead to clause 70. The Minister says that, even though a man has a disease or is putting up with a loss of hearing, he remains

at work, so why should he not get compensation? My answer is that he is getting his full wages anyway. It is a strange notion to introduce that into a workman's compensation measure. It is like talking about getting general damages for injury. It is the first time this has been imported into the Workmen's Compensation Act, in either this or any other State. The Hon. Mr. Gilfillan said something about full wages.

The Hon. G. J. Gilfillan: Yes; what does it mean?

The Hon. F. J. POTTER: It means his full average weekly wage, the wage that he normally gets. It seems to me that he is not disabled from earning his full rate of wage. Whether "full wages" needs to be defined can be considered later. If he is earning his full wage he should not also receive extra compensation. This seems to be an anomalous situation which is being extended beyond any Act in the Commonwealth. It is probably the most important aspect of my amendment.

The Hon. A. F. KNEEBONE: It is possible for a workman to return to work and receive compensation as provided in the schedule. Under the honourable member's amendment, the workman would receive no compensation unless he lost time, although he had been involved in medical expenses and was working under difficulties. This is one reason why we should pin-point the time of occurrence, and the present clause does this effectively.

The Hon. A. M. WHYTE: If the workman were incapacitated he would not perform to his full ability: if he received full wages he should not receive compensation.

The Hon. D. H. L. BANFIELD: This amendment would encourage malingerers. Some employees suffering from industrial dermatitis continue at work in the interest of the employer, although they incur medical expenses. If they cannot get compensation until they have been incapacitated and are not earning their full rate of pay, they cannot obtain payment for medical expenses incurred. They should be compensated for their medical expenses.

The Hon. F. J. POTTER: This workman would be an exceptional case. If a man is suffering from a disease, and he may have suffered from it for a long time, he may bring himself under these provisions with their additional benefit by obtaining a medical certificate from any doctor stating that he suffers from the disease and that he is partially or totally physically incapacitated because of that disease. If this happens and the date of injury is advanced so that he is brought under the provisions of this clause and clause 70 after the new Act operates, something more definite is required than obtaining a certificate from a legally qualified medical practitioner, and a more specific date is essential. The relevant date is the date that he was disabled and thus prevented from earning full wages because of the disease.

The Committee divided on the amendment:

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

Noes (4)—The Hons. D. H. L. Banfield, T. M. Casey, A. F. Kneebone (teller), and A. J. Shard.

Majority of 10 for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 9 passed.

Clause 10—"Acting in employment."

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

After "workman" to insert "who suffers an injury resulting in his death or permanent total incapacity for work".

I point out that there is a misprint in this clause. At present it reads, "For the purposes of section 8 of this Act" but I point out that it should read, "For the purposes of section 9 of this Act". Clause 9 (5) provides:

Notwithstanding anything in this Act, no compensation under this Act shall be payable in respect of any injury that is consequent upon or attributable to the serious and wilful misconduct of the workman unless that injury results in the death or permanent total incapacity of the workman.

Clause 10 sets out the circumstances in which a workman shall be deemed to be acting in the course of his employment. My amendment relates clause 10 to the provisions of clause 9 (5). Clause 10 provides that, for the purposes of clause 9, a workman shall be deemed to be acting in the course of his employment notwithstanding the fact that he was acting in contravention of an Act or regulation or was acting without instructions from his employer. My amendment makes the provision clear and brings it into line with the Victorian Act. If the amendment is carried, clause 10 will provide:

For the purposes of section 9 of this Act, a workman who suffers an injury resulting in his death or permanent total incapacity for work shall be deemed to be acting in the course of his employment . . .

The Hon. A. F. KNEEBONE: I oppose the amendment. To be eligible for workmen's compensation, a workman must be acting in the course of his employment when the accident occurs. This clause extends "course of employment" to the case where the workman was acting in contravention of any statutory or other regulation applicable to the employment; and to the case where the workman was acting without instructions from the employer, so long as he was so acting for the purposes of and in connection with his employer's trade or business. Such an extension is to be expected, bearing in mind the common law doctrine of vicarious liability, which is analogous to the concept of workmen's compensation. Vicarious liability is a relationship between a master and his servant (in particular an employer and his employee) in which the employer is liable for any civil wrong which the employee commits in the course of his employment, regardless of whether there is or is not negligence on the part of the employer.

The courts, over a long period of time, have devoted much attention to the idea of "course of employment"; the result is a very wide interpretation of the phrase, far wider than the extension allowed by clause 10. In common law, an act of an employee falls within the scope of employment if it is expressly or impliedly authorized by the employer, or is an unauthorized manner of doing something which is required, or is necessarily incidental to something which the servant is employed to do. The courts have widened this often-quoted definition to cover some acts in which the employee has deviated from his duty, even if this means direct disobeyance of the employer's orders.

I have mentioned vicarious liability merely to show that the courts have widely interpreted the concept of "course of employment", putting a far greater onus on the employer than we are doing by including clause 10 in the Bill. We have extended "course of employment" to cover this situation where an employee was acting without the instructions of his employer. How often must a situation arise where the workman has to use his own initiative and do something not instructed by the employer, particularly in a large factory where the employer or the foreman is not readily available, and it is tacitly understood that the workmen use their own common sense if a situation arises not covered by the everyday instructions of the employer. The common law interpretation of "course of employment" was extended to cover such a situation. Surely it is only right that we extend the definition of "course of employment" to this sort of situation, which must be a common occurrence in the day of a workman.

Clause 10 also extends "course of employment" to cover the case where the workman was acting in contravention of any statutory or other regulation applicable to the employment. This could happen in several ways. First, the workman may not be aware of the rule or regulation. How many workmen are fully acquainted with every clause of every Act covering them? Surely they should not be debarred from compensation because they were acting in contravention of a rule or regulation of which they were not aware? Secondly, it is not an unknown practice in industry to contravene a particular rule or regulation. Although such a practice should not be encouraged, it cannot be ignored that this often happens. Should we prevent the workman from recovering any compensation for this reason? And thirdly, the particular employer may have instructed a workman to contravene the rule. The workman should not be the one to suffer by losing his right to compensation. Clause 10 extends "course of employment" to enable a fair administration of the Act. I am surprised that the amendment seeks to limit its operation, in view of the common law position and in view of normal relations between employer and employee. Why should it be limited to an accident occasioning death or serious injury? The principle is the same, whatever the nature of the injury. I, therefore, must oppose any amendment to clause 10. With regard to the reference to clause 9 (5), only on occasions where it is serious or wilful misconduct will this provision apply to clause 5.

The Hon. V. G. SPRINGETT: Doctors in industry constantly come up against people who will not wear protective goggles or clothing. It seems unreasonable that all the responsibility should be placed on the employer and none on the employee.

The Hon. A. F. KNEEBONE: A penalty should be imposed on the employer who does not supply goggles or other protective equipment. It is not always the employee's fault that safety equipment is not used.

The Hon. V. G. SPRINGETT: I agree that an employer should be penalized for not providing protective clothing.

The Hon. D. H. L. BANFIELD: The purpose of the amendment is clear. If the Hon.

Mr. Potter's amendment is passed, the Hon. Mr. Springett says that, provided the employee is permanently injured or dies as a result of an accident, he should be paid compensation. That will be the result of the Hon. Mr. Potter's amendment. If an employee were to break his arm and be away from work, does the Hon. Mr. Springett suggest he should be deprived of workmen's compensation because he was acting contrary to his employer's instructions, or without any instruction, although the employer knew that that sort of thing happened from time to time?

The Committee divided on the amendment:

Ayes (12)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris (teller), R. A. Geddes, L. R. Hart, C. M. Hill, Sir Norman Jude, H. K. Kemp, F. J. Potter, E. K. Russack, Sir Arthur Rymill, and V. G. Springett.

Noes (6)—The Hons. D. H. L. Banfield, T. M. Casey, G. J. Gilfillan, A. F. Kneebone (teller), A. J. Shard, and A. M. Whyte.

Majority of 6 for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 11—"Application of Act to injury outside State."

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

In subclause (1) (*a*) to strike out "travel" and insert "a journey or journeys".

This amendment is moved to improve the drafting. The word "travel" may suggest more than one journey, and cases often occur where an employee is advised to travel only once on a particular job. The Government appreciates the assistance and comments we have received from an *ad hoc* committee of the Law Society on which a number of practitioners who have considerable experience of workmen's compensation matters have served. This committee has examined the Bill as originally drafted, and as subsequently introduced into this Chamber, and has suggested to the Attorney-General that several amendments be made to clarify the Bill. This is one of them.

Amendment carried; clause as amended passed.

Clauses 12 to 21 passed.

Clause 22—"Court constituted of the industrial magistrate."

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

Before "industrial" to strike out "the" and insert "an".

I notice that in other places in the measure "an" industrial magistrate is referred to.

The Hon. A. F. KNEEBONE: I accept the amendment.

Amendment carried; clause as amended passed.

Clauses 23 to 38 passed.

Clause 39—"Summary list."

The Hon. F. J. POTTER: I move to insert the following new subclause:

(4) For the purposes of hearing and determining any application in the summary list made pursuant to section 52 or section 53 of this Act the Court may be constituted by the industrial magistrate.

I believe an industrial magistrate will perform a useful function in being in charge of the summary list and determining applications under sections 52 and 53. These clauses deal with comparatively minor matters of jurisdiction, which will be expedited by allowing an industrial magistrate to deal with them.

The Hon. A. F. KNEEBONE: Those parts of the court's jurisdiction in workmen's compensation matters which the industrial magistrate may exercise were carefully considered by the Government before the Bill was introduced. However, as amendments were made in another place to have applications, made pursuant to the two sections referred to in this amendment, heard and determined in the "summary list" these matters were not specifically considered. In the circumstances I am prepared to accept the reasons advanced by the Hon. Mr. Potter in moving this amendment and I therefore accept it.

Amendment carried; clause as amended passed.

Clause 40—"Removal from summary list."

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

After "Court" to insert ", which may be constituted by an industrial magistrate,".

This deals with the limited matter of removal of cases from the summary list, and I see a useful function in the industrial magistrate being in charge of that list.

The Hon. A. F. KNEEBONE: I accept the amendment.

Amendment carried; clause as amended passed.

Clauses 41 to 50 passed.

Clause 51—"Compensation for incapacity."

The Hon. Sir NORMAN JUDE: I move:

In subclause (2) to strike out "sixty-five" and insert "sixty".

In addition to employers of industrial labour there are employers of rural labour, and these latter employers are finding things difficult at present. To suggest that they should pay more for insurance premiums than is paid in New South Wales is out of all reason.

The Hon. A. F. KNEEBONE: I oppose the amendment because I believe that a workman is entitled to receive as compensation his average weekly earnings. In New South Wales and Queensland employers pay insurance premiums which enable the workman to be compensated to the extent of his average weekly wage. The employers find no difficulty in paying the premiums in those States. Why should they have any more difficulty in South Australia? It has been moved that the maximum amount payable to an injured workman be $60 a week. A man with dependants will be permitted, in addition to 85 per cent of his average weekly earnings, an extra $13 for a wife or member of his family mainly dependent on his earnings and an extra $5 a week a child. These amounts have not been objected to. Surely these additions for dependants would be pointless if the maximum total was limited to $60 a week. If we passed the amendment, our increases in payments for dependants would be useless.

When a workman is injured, his whole family suffers. The workman himself must bear the pain and suffering. His dependants must suffer the mental strain which invariably accompanies such an injury. Many workmen are committed to hire-purchase payments and payments for general necessities to the full amount of their weekly wage. Surely we should not add to the pain and suffering already incurred the additional mental strain of trying to make the reduced amount meet these commitments along with the immediate medical expenses which accompany the injury. For far too long we have accepted the payment of workmen's compensation to injured employees as a privilege, not a right. If an employee, through no fault of his own, is injured and cannot work, it is his right that he be compensated as nearly as possible to the wage he was earning previously.

This Bill provides that a workman with dependants should be allowed as compensation his average weekly wage to a maximum of $65 per week. The amendment moved to limit the maximum to $60 a week is an attempt to whittle down the workman's right to be paid an amount as near as possible to the amount he was earning before the accident. In previous years the maximum amount of compensation has been related to the minimum living wage declared by an industrial tribunal, but in recent years there has been increasing divergence between award rates set by industrial tribunals and the average earnings of employees due to over-award payments, overtime and penalty rates. Surely a person whose 40-hour week consists of shift work over seven days and whose normal wage includes additional payment for working at weekends and on afternoon or night shifts, should not suffer a sharp drop in income if injured because he loses the benefits of penalty rates. These considerations are included in average weekly earnings and the $65 maximum is reasonable as it equates roughly to 85 per cent of the South Australian average earnings of $78.40 at the end of 1970. Many people are earning much more than the $65 provided for in the Bill. I therefore ask the Committee to oppose the amendment.

The Hon. D. H. L. BANFIELD: The Hon. Sir Norman Jude referred to the rural labourer, as distinct from the industrial labourer. Of course, both types of labourer have to work and live. To say that the rate should be reduced from 85 per cent to about 71 per cent is going too far. At the end of last year, the average wage was about $79 a week and it has now increased to $84 a week, yet the honourable member is asking that an injured man should have further worry as a result of the amount being reduced by another 14 per cent. Such further worry will not assist the man to get back to work, whether he works on a farm or in a factory. As the Minister has said, a person whose average wages are $84 a week budgets for about that amount of expenditure. If we reduce the amount to less than $65 we will cause him serious financial embarrassment. Actually, I believe that an employee should not lose any wages as a result of an industrial accident. However, the Government has taken a good step forward in going to this extent. I do not think anyone should be asked to take a reduction of $24 a week simply because he has suffered an injury in the course of his employment.

The Hon. Sir NORMAN JUDE: I am glad that the honourable member has supported me, more or less, because I was wondering where I would get support for the rural industry. The honourable member spoke on behalf of rural workers, but I ask the Government to note the position of the rural employer today. If the Government suggests that the rural employer is in a happy position today, let it state that publicly outside. Let it say that the rural employer can pay more charges, be they land tax or anything else. I have asked for sympathetic accommodation from the Government to bring the amount to a level that would still be higher than that in Victoria and equal to that in the wealthy industrial State of New

South Wales. I trust that the Committee will support the amendment.

The Hon. D. H. L. BANFIELD: I am always willing to assist the honourable member, but I must point out that I did not refer to the rural employer; I referred to the rural employee who has to keep himself and his family while he is incapacitated. He is the man with whom the Bill is concerned. If a man can afford to pay $84 a week to an employee, that employee should not be penalized to the extent of $24 a week when he suffers an injury. At no time did I say whether or not the rural employer was going through a good time. Is the honourable member willing to say to rural employees in the South-East that they should live on $24 less a week when they suffer an injury? It is no wonder that the honourable member is getting out of politics; if he said that to employees in the South-East he would soon be out of this place anyway.

The Hon. R. C. DeGARIS: Regarding rural death duties, about 6 per cent of the State's population supplies the State Treasury with about 50 per cent of the death duty revenue. As the rural person supplies this revenue to the State, will the Minister consider providing him with workmen's compensation benefits when he has an accident? At present, these people have to provide their own accident insurance.

The Hon. A. F. KNEEBONE: I accept the Leader's suggestion as being a facetious one. Compensation is payable to employees.

The Hon. G. J. GILFILLAN: I am sorry that the Hon. Mr. Banfield became personal in his remarks about the Hon. Sir Norman Jude, who has served with distinction and impartiality in the Council. Our primary and secondary industries face great problems in the near future, and a near depression exists in the rural sector at present. The matter of expense and costs in competition with the larger Eastern States, where the populations and the markets exist, is a real problem to South Australia. However, I believe it is not in the field of workmen's compensation that economies should be made first; there are many other fields in which the Government has been extravagant, and this has added to our costs. Therefore, in this instance I support the Government and oppose the amendment.

The Committee divided on the amendment:

Ayes (8)—The Hons. Jessie Cooper, M. B. Dawkins, C. M. Hill, Sir Norman Jude (teller), H. K. Kemp, Sir Arthur Rymill, V. G. Springett, and A. M. Whyte.

Noes (9)—The Hons. D. H. L. Banfield, T. M. Casey, R. A. Geddes, G. J. Gilfillan, L. R. Hart, A. F. Kneebone (teller), F. J. Potter, E. K. Russack, and A. J. Shard.

Pair—Aye—The Hon. C. R. Story. No—The Hon. R. C. DeGaris.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clause 52—"Unlawful discontinuance of weekly payments."

The Hon. A. F. KNEEBONE moved:

In subclause (1) to strike out "who has examined the workman".

Amendment carried; clause as amended passed.

Clauses 53 and 54 passed.

Clause 55—"Making of weekly payment not admission of liability."

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

In subclause (2) after "court" second occurring to insert "before which those proceedings are brought".

This is really a drafting amendment. There is no provision in this legislation for proceedings to be brought in the Industrial Court; they would normally be brought in the Local Court, which would have to adjudicate on whether or not there had been any misrepresentation or fraud.

The Hon. A. F. KNEEBONE: I am happy to accept the amendment.

Amendment carried; clause as amended passed.

Clauses 56 to 58 passed.

Clause 59—"Additional compensation."

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

In subclause (2) before "constant" second occurring to insert "regular or".

The South Australian Branch of the Australian Council for Rehabilitation of the Disabled made representations to the Government concerning the inclusion of rehabilitation services in the Bill. The solicitor for that council has drawn attention to the fact that there would be some cases of an injured workman requiring the regular personal attendance of another person, which may not necessarily be constant personal attendance. It has been suggested that the word "constant" may involve the notion of 24 hours a day. This amendment will clarify without altering the intention of the clause.

Amendment carried; clause as amended passed.

Clauses 60 to 66 passed.

Clause 67—"Partial incapacity to be treated as total."

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

To strike out paragraph (*b*) and insert "(*b*) employment for which the workman is fitted is not reasonably available to the workman"; and after "Act" second occurring to insert the following new subclause:

(2) In any proceedings under subsection (1) of this section it shall lie upon the employer to prove that employment for which the workman is fitted is reasonably available to the workman.

This clause deals with partial incapacity being treated as total incapacity. This new provision is different from section 24a of the present Act. The clause begins with the same wording as is found in that section of the Act:

. . . so far recovered from an injury as to be fit for some employment.

The change then places the onus on the employer, and not the employee, to find suitable alternative employment. That onus is a little heavy to be placed completely on an employer, that he should be compelled to make available employment for "a workman who has so far recovered from an injury as to be fit for some employment", or to find him another job. With the change in emphasis, there is no longer any need, as there was under section 24a, for a workman to make any effort to find suitable employment. That will make it difficult for some employers to find suitable employment. It has been suggested that, if an employer cannot make a job available for his workman in his factory either because a suitable job is not available or because there happens to be a period of economic retrenchment, the employer could easily find somebody else to employ the man. That is probably going a little too far. After all, employers are employers of labour; they do not run an employment bureau. I would not want to remove from them the onus of doing what they can to find employment for disabled workmen. In these circumstances, there is no need for partial incapacity to be treated as total incapacity. These amendments are not unreasonable. The man will still, of course, receive his weekly payments at the total incapacity rate if his employer cannot make suitable work available.

The Hon. A. F. KNEEBONE: The purpose of clause 67 is to ensure that the onus rests on the employer to give or find suitable employment for an injured workman when he is fit for work again. The effect of the proposed amendments is twofold. First, it lays down as a prerequisite for the court to order that the workman's incapacity shall be treated as total incapacity, and that employment for which the workman is fitted is not reasonably available to the workman. This removes any obligation from the employer to find work suited to the employee. The amendment is vague as to who is responsible for finding work: who is to find what work is available? If there is no obligation on the employer, often he will not bother to obtain work, so this leaves the workman back where he started, with the responsibility resting on him to find work.

The second effect is an attempt to modify the situation. It provides that if proceedings are brought under subclause (1), then the employer has an obligation to prove that work is not reasonably available. The result is that a workman, not fit for the work he was doing before the accident, and injured through no fault of his own, is obliged to go out to look for work suited to his more limited capabilities. He does not have the contacts, knowledge, and experience of the employer, so he is likely to find this difficult. If he cannot find work, he must go to the expense of bringing an action against the employer to be compensated for his lack of earnings.

Then, the employer can exempt himself from any liability under subclause (2) by proving that there is some employment available, employment which he has been able to obtain because he has the available knowledge and contact. It would be far more logical for the employer to have the responsibility right from the beginning, as the Bill now requires, and thus save the workman the expense of bringing the action, and the worry which would accompany it, without any additional effort on the part of the employer. The attitude of some employers places the workman in an invidious position. For these reasons, I oppose the amendments.

The Committee divided on the amendments:

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

Noes (4)—The Hons. D. H. L. Banfield, T. M. Casey, A. F. Kneebone (teller), and A. J. Shard.

Majority of 10 for the Ayes.

Amendments thus carried; clause as amended passed.

Clause 68 passed.

Clause 69—"Fixed rates of compensation for certain injuries."

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

In subclause (2) to strike out "pursuant to this section and the amount of compensation

payable pursuant to this section shall be payable in addition to any weekly payment payable in respect of that incapacity" and insert "in accordance with either of those sections".

The amendment is self-explanatory.

The Hon. A. F. KNEEBONE: I accept the amendment.

Amendment carried.

The Hon. A. F. KNEEBONE moved:

In subclause (8) after "section" first occurring to insert ", where a workman suffers a subsequent injury in respect of which he is entitled to have compensation assessed under this section"; to strike out "in respect of a relevant injury"; to strike out "is" and insert "in"; in subclause (9) to strike out "payable" and insert "paid"; to strike out "relevant injury" and insert "subsequent injury in relation to a prior injury"; and to strike out "a" and insert "the".

Amendments carried; clause as amended passed.

Clause 70—"Injuries not mentioned in the table."

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

In subclause (1) to strike out "whether or not the workman is likely to suffer incapacity for work by reason of that injury" and insert "and that injury results in either permanent total or permanent partial incapacity for work".

This is the one clause that makes a big departure from the principle of workmen's compensation. One must not forget that the term "injury" includes a disease. I suppose those responsible for the Bill wanted to give to a workman who suffered an injury not in the table in clause 69 the same sort of right as was enjoyed by a workman who happened to suffer a table injury. That may have been all right as an ideal, but subclause (1) provides that the injury is to be compensated whether or not the workman is likely to suffer incapacity by reason of that injury; that takes the matter so much further. In clause 69 a series of injuries is set out, as are the amounts a man is to receive for those injuries. Although I suppose it can be said that the table departs in some respects from what one may have thought the philosophy of the legislation was, it does not really do so, because the injuries in the table do result in an impairment of earning capacity.

The Hon. A. F. Kneebone: Not always.

The Hon. F. J. POTTER: But in most cases they do. It is actual or potential, and the assessment of compensation for those injuries is only a convenient way of assessing the loss of earning capacity. That must be the position, because the lump sum settlement is in place of the man's weekly payments. At one time the weekly payments were deducted from the table sum. So, it cannot be said to be anything other than a convenient method of assessing the loss of earning capacity. However, clause 70 provides for something completely new—a table sum for any injury at all. Not only does "injury" include a disease but also aggravation, acceleration or recurrence of a disease. The workman gets this whether or not he is likely to suffer incapacity for work. That is the real and important change in this Bill that goes much further than the true philosophy of workmen's compensation, which is to compensate an injured workman who is unable to earn to his full capacity.

I know that it is suggested that these people are hard cases and have injuries that may cause loss of speech, taste, smell and sexual function but, if they are to be compensated for those injuries, whether or not they suffer incapacity for work, we are getting away from the concept of workmen's compensation. We could not import into the Bill that kind of concept without getting into great difficulty. If there is an injury not included in the table the compensation continues. That is a fair position, and it has always been the position under the old Act. I see no reason why we should go to the extent of importing this new concept. I suggest we cure the difficulty by tying back to the incapacity to work either total or partial permanent incapacity.

The Hon. A. F. KNEEBONE: Clause 70 covers injuries not listed in the table set out in clause 69. Obviously some such clause is necessary to cover other injuries, as it would be impossible to tabulate an exhaustive list of compensable injuries for the purposes of this Act. Clause 70 covers two kinds of injury not covered in clause 69—those in which the workman is likely to suffer incapacity for work, and those in which he is not likely to suffer incapacity for work by reason of that injury. In the first category are such injuries as back strain, muscle strain, and in fact any injury that does not involve the loss of a limb or a faculty. Also included in this group are some of the "social" injuries listed in clause 70 (3). To a wine-taster, the loss of his sense of taste or smell would be disastrous to his occupation. Surely he should be compensated for the loss of enjoyment caused by the disability and especially the loss of employment that would result from the injury. Clause 70 covers such an injury by giving the court the discretionary

power to fix an amount of compensation which takes into account both the nature of the injury and the occupation for which he was suited both before and after the event.

Another example is that of a model who has suffered severe bodily or facial scarring or disfigurement. Obviously a top model earning a very high salary cannot be reimbursed completely for the salary she would lose when forced to take another kind of work. But this clause allows the court to balance the kind of injury with the loss of employment, and so come up with a fair amount of compensation. Surely we should not deny a person in such a position compensation for pain and suffering and for the loss of occupation. The second and more controversial category is that in which the workman is not likely to suffer any incapacity for work. Injuries in this group would be those which carry with them mental or physical suffering or disability which does not hinder the type of work the workman is employed to do, or some form of social stigma or embarrassment. A labourer may suffer loss of memory or loss of mental capacity resulting from concussion and yet still be able to fulfil the requirements of his job.

Clause 70 (3) lists four such injuries. Surely a person who suffers a loss of power of speech should receive some compensation for the embarrassment and difficulty it will cause; surely a young person, severely scarred, should be compensated for the embarrassment and loss of social activity that often accompanies such an injury. In any other form of action, be it a road accident claim or an action in negligence, such injuries are recoverable. It is irrelevant here that the employer may not have been negligent, for the workman, whatever the cause of his injury, suffers the same amount of pain and embarrassment, and through no fault of his own. For these reasons, I cannot accept this amendment to clause 70; in fact, I think it is a very necessary clause if we are going to allow fair and just compensation. The fact that we have never done this before is no argument that it should not be done now. I have always considered, in regard to this proposition of workmen's compensation, that it should be tied to the fact that no compensation is paid unless time is lost.

The Committee divided on the amendment:

Ayes (13)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, C. M. Hill, Sir Norman Jude, H. K. Kemp, F. J. Potter (teller), E. K. Russack, Sir Arthur Rymill, V. G. Springett, and A. M. Whyte.

Noes (5)—The Hons. D. H. L. Banfield, T. M. Casey, L. R. Hart, A. F. Kneebone (teller), and A. J. Shard.

Majority of 8 for the Ayes.

Amendment thus carried.

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

In subclause (2) to strike out "prescribed" and insert "provided".

This is a drafting amendment.

The Hon. A. F. KNEEBONE: I accept the amendment.

Amendment carried; clause as amended passed.

Clause 71 passed.

Clause 72—"Lump sum in redemption of weekly payments."

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

In subclause (1) to strike out "or other compensation".

The deletion of these words will remove the undefined limit to amounts of money that can be paid for medical expenses, etc.

The Hon. A. F. KNEEBONE: This clause provides for weekly payments or any other compensation to be redeemed by the payment of a lump sum. The phrase "or any other compensation" refers to the additional compensation in clause 59 of the Bill, covering medical services, hospital services, nursing services, constant attendance services, rehabilitation services and ambulance services. The advantage of lump sum payment is that on the payment of the sum the whole matter is finished with. The workman may rest secure in the knowledge that he has the money and that no more action need ever be taken on this point. In the case of weekly payment, an event such as the bankruptcy of the firm which employed him or the dissolution of the insurance company (not uncommon nowadays) could well result in further action to obtain compensation.

It may also be to the advantage of the employer to finalize the matter with a lump sum payment. Clause 72 allows payment by lump sum on application by employer or employee. If, as has been suggested, we limit such payment to weekly payments and do not allow it for other compensation, the advantage of lump sum payment is negated. Either compensation is finalized by payment of a lump sum or it is not: there can be no compromise. If we are going to allow lump sum payment for weekly earnings, we must allow it for other compensation or it becomes pointless. I admit that it is difficult to assess lump sum

amounts for such services as constant attendance or ambulance service. But it is no more difficult than trying to assess how long the worker will be incapacitated and what he should be compensated for loss of employment. A judge in workmen's compensation claims is experienced in such assessments. He can order a total payment, inclusive of all compensation, as easily as he can order a sum to cover only weekly earnings. I cannot agree to the amendment.

The Committee divided on the amendment:

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

Noes (4)—The Hons. D. H. L. Banfield, T. M. Casey, A. F. Kneebone (teller), and A. J. Shard.

Majority of 10 for the Ayes.

Amendment thus carried.

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

In subclause (1) after "permanent" to insert "total or partial".

This is another amendment suggested by the Law Society that the Government is willing to accept, to make it clear that the permanent incapacity to work referred to in this clause includes both partial and total incapacity.

Amendment carried; clause as amended passed.

Clauses 73 and 74 passed.

Clause 75—"Investment payment in case of death."

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

In subclause (2) after "court" to insert ", which may be constituted by an industrial magistrate,".

This amendment is linked with the two following amendments. Power is already given to the Industrial Magistrate to vary an order, and this additional power will be useful.

The Hon. A. F. KNEEBONE: As it seems clear that the matters referred to in this clause are of the type which could be dealt with by the Industrial Magistrate, I agree to the amendment.

Amendment carried; clause as amended passed.

Clause 76—"Payment of weekly sum due to person under disability."

The Hon. F. J. POTTER moved:

After "court" first occurring to insert ", which may be constituted by an industrial magistrate,".

Amendment carried; clause as amended passed.

Clause 77 passed.

Clause 78—"Investment insurance society."

The Hon. F. J. POTTER moved:

After "court" to insert ", which may be constituted by an industrial magistrate,".

Amendment carried; clause as amended passed.

Clauses 79 to 81 passed.

Clause 82—"Liability independently of this Act."

The Hon. F. J. POTTER: I move to strike out subclause (2) and insert the following new subclause:

(2) Where a workman has received compensation under this Act in respect of an injury he shall not bring an action against his employer for damages in respect of the same injury unless—

(*a*) within six months after he received such compensation, or if more than one payment of compensation was made, within six months after he received the first such payment he gave the employer written notice of his intention to bring that action; or

(*b*) having failed to give the written notice in accordance with paragraph (*a*) of this subsection, his failure is excused by the Court on the ground that—

(i) he was, at the material time, absent from the State;

(ii) he was, at the material time, a mentally defective person within the meaning of the Mental Health Act, 1935-1967, as amended;

(iii) he was, at the material time, an infant; or

(iv) the failure was occasioned by mistake or other reasonable cause.

This restores the position to what it is at present, and provides for notice to be given by a workman of his intention to bring a common law claim. This gives some opportunity to the insurers to prepare for cases where common law claims are likely.

The Hon. A. F. KNEEBONE: The present Workmen's Compensation Act contains a provision similar to that proposed to amend subclause (2) of clause 82 of the Bill. Clause 82, as drafted in the Bill, was designed to simplify what is virtually a limitation with a list of escape clauses. Under section 69, which is the corresponding section of the present Act, a workman who has been compensated under the Act must give notification that he intends to bring an action for damages in respect of the same injury within six months of receiving the first payment. A workman can escape the limitation in four ways.

The first three of these are governed by circumstances, but the fourth provides a means of avoiding the limitation which can easily be taken advantage of. If the workman manages to escape the limitation of six months, there is no further limit to the time within which he must give notice of an action. This position can be easily overcome by laying down a definite time which is long enough for a person outside the State, or a person who does not give notice (within the six months) by mistake to fulfil the requirement, yet allows no-one to escape the limitation.

I must also point out that, if the Government had been willing to accept any amendment along these lines, it would have been necessary to alter paragraph (iv) to include failure occasioned by mistake, ignorance, or any other cause to be considered with other sections of the Bill. The result of this, however, would be to give an even wider avenue of escape to anyone wanting to avoid the six months' limitation. I oppose the amendment.

The Committee divided on the amendment:

Ayes (13)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill, Sir Norman Jude, H. K. Kemp, F. J. Potter (teller), E. K. Russack, Sir Arthur Rymill, and V. G. Springett.

Noes (5)—The Hons. D. H. L. Banfield, T. M. Casey, A. F. Kneebone (teller), A. J. Shard, and A. M. Whyte.

Majority of 8 for the Ayes.

Amendment thus carried.

The Hon. A. F. KNEEBONE moved:

In subclause (6) after "Act" to insert "or under a law of any other State or of the Commonwealth".

Amendment carried; clause as amended passed.

Clauses 83 and 84 passed.

Clause 85—"Where claim exists elsewhere as well as in this State."

The Hon. A. F. KNEEBONE moved:

After "State" to insert "and compensation has been recovered under that claim"; and after "compensation" third occurring to insert "or damages".

Amendments carried; clause as amended passed.

Clauses 86 to 89 passed.

Clause 90—"Diseases contracted by gradual process."

The Hon. F. J. POTTER moved:

In subclause (2) to strike out "ten" and insert "three".

The Hon. A. F. KNEEBONE: In including the period of 10 years in this clause, the Government gave consideration to the right of a present employer of a workman to recover from previous employers in the case of diseases that may have been contracted over a long period. However, if the employers are willing to accept the period of three years instead of 10, I have no objection.

Amendment carried; clause as amended passed.

Clauses 91 to 95 passed.

Clause 96—"Claims under other provisions of Act not affected."

The Hon. F. J. POTTER: I oppose the clause.

The Hon. A. F. KNEEBONE: I do not object to the honourable member's view.

Clause negatived.

Clauses 97 to 123 passed.

Clause 124—"Compulsory insurance."

The Hon. A. F. KNEEBONE moved:

In subclause (3) to strike out "receive" and insert "recover".

Amendment carried; clause as amended passed.

Remaining clauses (125 to 133), schedule and title passed.

Bill reported with amendments.

Bill recommitted.

Clause 7—"Application of this Act"—reconsidered.

The Hon. F. J. POTTER: I move to strike out this clause and insert the following new clause:

7. Except as provided in section 5, section 6 and subsections (8) and (9) of section 69 of this Act, this Act shall apply only to and in relation to a workman who suffers an injury after the commencement of this Act.

In view of other amendments made to the Bill, I think it is necessary to move this amendment again. At the time the previous vote on this amendment was taken, there was some confusion in members' minds. This was the first amendment I moved, and I do not think that all members understood the implications at that time.

The Hon. A. F. KNEEBONE: I do not like the procedure whereby an amendment is defeated, and then it is brought back again for another try. I am particularly annoyed because, in this case, I sincerely put the case previously that, in its present form, the clause in the Bill covers all eventualities. There is no ambiguity in this straight-forward clause. The amendment specifically refers to other provisions. The Hon. Mr. Potter says that these provisions must be expressly referred to. However, the present clause is explicit.

I cannot understand why the honourable member believes this amendment is so important that he should have the Bill recommitted to deal with it.

The Hon. R. C. DeGARIS: The Minister has said there is no ambiguity. Perhaps he can say whether, in clause 59, a workman is entitled to compensation under other provisions in the legislation.

The Hon. A. F. Kneebone: Clause 59 is not referred to in the amendment.

The Hon. F. J. POTTER: I wish to ask the Minister about clause 67. Is he satisfied whether, under the provisions of clause 7, clause 67 applies to a workman who suffers injury after the commencement of the Act? I think that clause does apply; consequently, there is ambiguity.

The Hon. A. F. Kneebone: You haven't mentioned it in your amendment.

The Hon. F. J. POTTER: I said that there were many other provisions.

The Hon. A. F. Kneebone: Why put in the provision you have put in? The honourable member has admitted that his amendment does not cover all the provisions.

The Hon. F. J. POTTER: The position is the exact opposite. It is because of that ambiguity that I have moved the amendment.

The Hon. A. J. SHARD (Chief Secretary): Recommitting the Bill to move this amendment is a smart tactic. I understand that a pair will be claimed for a person who has not been in the Chamber throughout the debate. We were not approached to ask for his vote. I do not think this is reasonable or straight-forward. I do not appreciate these tactics. I take strong exception to any member's pairing with a member who has not been in the Chamber during a debate. To the best of my knowledge, we were not even consulted, and this is playing the game pretty low.

The Hon. Sir ARTHUR RYMILL: I do not really appreciate the Chief Secretary's remarks, as I am the person who has agreed to pair with the other person, who I am informed wished to vote on the opposite side from me. In view of the Chief Secretary's representations, I do not intend to enter into the type of talk that he has just indulged in. I will ask the Clerk to destroy the pair, and I will merely abstain from voting.

The CHAIRMAN: A pair is entirely a private arrangement between members and is not official in any way. It is recorded only in *Hansard*.

The Committee divided on the amendment:

Ayes (9)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, C. M. Hill, Sir Norman Jude, H. K. Kemp, F. J. Potter (teller), E. K. Russack, and V. G. Springett.

Noes (8)—The Hons. D. H. L. Banfield, T. M. Casey, R. A. Geddes, G. J. Gilfillan, L. R. Hart, A. F. Kneebone (teller), A. J. Shard, and A. M. Whyte.

Majority of one for the Ayes.

Amendment thus carried; new clause inserted.

Bill reported with a further amendment; Committee's report adopted.

Bill read a third time and passed.

PLACES OF PUBLIC ENTERTAINMENT ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from April 1. Page 4609.)

The Hon. R. C. DeGARIS (Leader of the Opposition): This Bill deals with a tax on admission to certain public entertainments, at the rate of 7½ per cent. It is to be levied upon certain entertainments the admission price to which exceeds $1. The Bill details certain exemptions which extend to, among others, entertainment for charitable purposes, admissions to agricultural, horticultural and floricultural shows, and things of that nature. I should like the Government's views on this matter. The tax will, I believe, be effective on admission prices of $1 and over and will affect the lower income groups in the community more than those people who can, possibly, afford higher prices for entertainment.

The tax will affect particularly the film industry in this State. Possibly some other area of application would have been considered by the Government. In reply the Chief Secretary may like to expand on that. For example, do the exemptions mentioned in new section 27a (7) cover entertainment at licensed premises? The words "primarily or substantially" are used. These words are very hard to sustain and to all intents and purposes there will be a complete exclusion from entertainment tax for any entertainment conducted on licensed premises or where a permit is operating. It seems rather anomalous that there may be a world class oversea artist entertaining at a hotel where the normal dinner charge is $3 and $6 is charged for admission. Under this legislation, I am certain they will not be paying entertainment tax. This appears anomalous, particularly when the film industry is unable to compete at this level. The

question of permits is also mentioned. New section 27a (7) provides:

The tax shall not be payable in respect of an entertainment provided upon premises in respect of which a licence or permit is in force under the Licensing Act, 1967, as amended, where the charge for admission to the place in which the entertainment is conducted is not made primarily or substantially in respect of the entertainment.

This appears to place a most unfair advantage in the hands of people holding entertainment on licensed premises. It also uses the word "permit". I believe the film industry is going through a very difficult period at present, and the imposition of this tax could well mean the end of a number of theatres in the city of Adelaide and elsewhere.

I make this first point on the grounds that this tax selects one part of the entertainment industry and lets go an area where the entertainment area is fast finding its way. I refer to licensed premises. One sees a variety of these premises not only in hotels but elsewhere where, although the question of entertainment plays a very big part in the actual charge, no tax is payable on the operation. Theatres are under very strict supervision in regard to safety precautions, yet I am informed that some hotels are showing pictures as part of the entertainment; in other words, films are being used.

The Hon. A. J. Shard: In hotels?

The Hon. R. C. DeGARIS: I cannot say this is absolutely factual, but I have been informed that it has happened. Theatres must obey very strict rules and regulations regarding fire prevention, but licensed premises can compete without taking such precautions, and at the same time they will be outside of the scope of this tax.

The last point I make is the question that arose earlier. Theatres showing films at present are experiencing difficult times economically. I would like to ensure in this legislation that charges for film hire will not be on the total price of the ticket. As most honourable members will appreciate, film hire charge is on the gross takings at the box office. One could envisage a situation where a theatre is paying film hire charge on the 7½ per cent entertainment tax as well. I ask the Chief Secretary's advice as to whether it is practicable to include an amendment providing that the film hire charge is paid on the entrance fee less the tax, so that theatres are not paying hire on the actual tax paid to the Government.

The Hon. G. J. Gilfillan: It would not cost anything in revenue.

The Hon. R. C. DeGARIS: Nothing at all. If the theatre had an annual turnover of $20,000, 7½ per cent would be $1,500.

The Hon. A. J. Shard: It is only on tickets of $1 or over. It will only be the yearly total of that portion of the income from tickets of $1 or more.

The Hon. R. C. DeGARIS: They could be paying film hire charges on the actual tax paid to the Government.

The Hon. A. J. Shard: That is not the intention.

The Hon. R. C. DeGARIS: It could happen unless the situation was protected by this legislation.

The Hon. T. M. Casey: Can you do that?

The Hon. R. C. DeGARIS: I am asking whether it can be done. Some theatres are making very heavy weather of things economically; the tax itself could be a difficulty to them, and no doubt it will be, but if they are paying a film hire charge on the tax as well, this could be quite a burden.

The Hon. A. J. Shard: Do you say they are going to put up the tickets to cover the tax?

The Hon. R. C. DeGARIS: They will have to. Having looked at theatre operations in South Australia, I think it is perfectly obvious that costs must go up. On a ticket costing $2 the tax will be 15c. The present profit margin in theatres could make it absolutely certain that this 15c will go on to the cost of the ticket, otherwise the theatre cannot operate. I believe some theatres will close, even if they have to pass on the extra charge, but to pay the film people the tax as well would make it impossible. I do not know whether it is practicable to include an amendment of this type. Perhaps the Chief Secretary could seek advice on this before we proceed to the Committee stage.

It is unfortunate that this Bill has come in. We realize the Government has a right to gather its revenue. I have made the only complaints I wish to make. This is a tax on one section of the entertainment industry; other parts of the industry will not be affected, and the areas not affected are those probably more capable of standing the tax than others that will be taxed under the Bill. The second point is the question of payment of film hire charges which, if not protected, could be on the tax as well. I support the second reading.

The Hon. C. M. HILL (Central No. 2): I object strongly to the kind of taxation provided for in this Bill. As the Hon. Mr. DeGaris said, we all know that the Government is imposing taxes in several areas. We accept that some overall increase in taxation is necessary, but that does not necessarily mean that a Government should impose taxation in every possible field. Only two other States have employed this form of taxation, and only Tasmania taxes cinema tickets as the Government proposes to do under this Bill.

There may well be many means by which the financial affairs of this Government can be kept in order other than by resorting to this kind of taxation. It will hit the little people who cannot afford a motor car and therefore cannot go to a drive-in theatre. It will hit the little people who have to use public transport to go to cinemas in Adelaide.

The Hon. T. M. Casey: A critical remark could be made about any taxation legislation.

The Hon. C. M. HILL: I expected that the present Government would have this category of people uppermost in its mind. On the mainland, South Australia is leading the nation in reintroducing this form of taxation, which was abolished soon after the war to everyone's relief. Because the theatre proprietors will have to add the tax to their present charges, the people will have to pay more. That is the patrons' viewpoint.

The previous speaker said that many theatres were now sailing very close to the wind financially and any loss in patronage would cause some of them to close down altogether. These representations have been made to me not by irresponsible people but by responsible people who have put a sound and moderate case.

The Hon. T. M. Casey: Which theatres are you talking about?

The Hon. C. M. HILL: There are four in metropolitan Adelaide.

The Hon. A. M. Whyte: There are many in the country.

The Hon. C. M. HILL: The representations were that four theatres (I understood that they were city theatres) were sailing very close to the wind and that they expected this form of taxation would cause them to close down. I suppose this means that the theatre buildings will be used for bingo or something of that kind. How much does the Government estimate it will get through this form of taxation? Such estimates are always put forward by Treasury officials when they discuss these forms of taxation. If the Government will receive only a relatively small amount (and I think it will), it should have another think as to whether this form of taxation is really worthwhile and in the best interests of the people of South Australia.

An ironical aspect is that the Labor Party said in its policy speech that it intended to promote the film industry in South Australia; it would go to great lengths to bring the grandeur and natural beauty of this State as a background for film production to the notice of film makers in Japan and elsewhere. The people of South Australia will be costed out of seeing films made as a result of that policy, but they will be enjoyed by people in other States and other countries, where costs are more moderate.

It is very odd that the Government should increase costs to theatre patrons in this State. I heartily agree with the previous speaker that this entertainment tax will affect only one section of the entertainment world; any section that has a licence will be exempt. Consequently, every live theatre will apply for a licence to escape the tax.

Theatres such as Her Majesty's Theatre will obtain some form of licence at the first opportunity. This situation should be looked at far more deeply than it has been looked at. One live theatre, the Union Theatre, will be exempt from this form of tax because it has a licence. When an entertainment promoter can rush in and hide behind a licence to avoid entertainment tax, we must conclude that the tax is sectional and has been imposed in undue haste. Consequently, the Government should reconsider the Bill.

The Hon. Mr. DeGaris was quite correct when he said that people attend hotels and licensed premises primarily to enjoy the entertainment provided there. Surely, if we must have this form of taxation, such people should be taxed just as much as the patron who uses public transport to attend a city cinema. What does the Government estimate will be collected through this form of taxation? It should carefully consider the whole matter, because this form of taxation will be one of the most unpopular taxes in this State.

The knowledge that there is to be an entertainment tax is beginning to filter into the community now, but it will not be fully understood until the people are actually charged the tax at the cinema door. I think the Government is trying to be shrewd; the fact that there is a tax is not to be printed on the tickets or displayed at the box office.

I think it ought to be so displayed; if it is, when people pay $2.15 for a ticket instead of $2, as at present, they will know that the extra 15c is entertainment tax.

The Hon. D. H. L. Banfield: That practice is not followed in connection with petrol sales.

The Hon. C. M. HILL: But the practice was used when entertainment tax was previously imposed in this State. I remember paying 7d. for a ticket in the front stalls, and everyone knew that 6d. was the admission charge and 1d. was the entertainment tax. I therefore strongly object to this form of taxation. It will not bring in very much revenue and it will affect both the little people and the cinema industry.

It is ironic that it should be introduced at a time when the Government is making every endeavour to encourage the film industry in South Australia. In the whole world of entertainment, it is far too sectional. If this form of taxation must be imposed and if the Government is willing to take seriously the public criticism that will undoubtedly follow it, the Government should widen this form of taxation so that it is a true entertainment tax; it should not direct the tax only to those relatively few people who attend cinema entertainment. I oppose the Bill.

The Hon. R. A. GEDDES (Northern): I rise to express some disagreement with the Bill. Many country institutes throughout the State have been making money for the institute and for the community from the showing of films. Before television was introduced, it consisted of a weekly programme. These institute picture shows were able to sell tickets at a reasonable price, were able to attract a reasonable crowd, and make a reasonable profit. These shows stretched from Ceduna right across the State. It was an excellent source of income but, with the advent of television, there was a drying up of these picture shows. However, as television has worn thin with many people in their homes, by the introduction of what the film industry calls percentage films it has been possible in certain areas to run a picture show about once a month. However, to get the crowd in it must be a top quality film (what the industry calls a percentage type of film), and the industry dictates what prices will be charged.

Furthermore, a return must be supplied showing the number of tickets sold, and the rental is charged accordingly. I have had the pleasure of running these picture shows at Wirrabara. The film industry imposes a charge in some instances of over $1 a head, but people attend and we make a profit. Under this legislation, institute picture shows will have to pay an additional 7½ per cent tax. Will the Minister see whether it is possible to exempt this type of entertainment? The Bill lists a considerable number of exemptions, the most ridiculous being the one where, if a liquor licence is granted, no tax will be charged. Without reiterating what the Leader has said, there is a legitimate argument that a charge should be made, particularly on night-club type entertainment. As horticultural societies and floricultural exhibitions are exempt from the tax, I cannot see why this institute type of entertainment for the benefit of the community should not be exempt.

The Hon. Mr. Hill said that some film companies in Adelaide were having a difficult time. This could mean that there is an oversaturation of picture theatres in the metropolitan area. With our new permissive society, I should not be surprised if some enterprising picture theatre proprietor secured first-rate pornographic type films, advertised them and showed them in order to keep his theatre open. In order to pay the tax, it could mean the lowering of standards in the community. The person who does not own a motor car and the family that uses public transport must have some form of entertainment. The imposition of such a tax, all for the sake of 7½ per cent in the dollar, would be a backward step. I oppose the Bill.

The Hon. M. B. DAWKINS (Midland): I am unable to support the Bill. I concede, as some honourable member has said, that the Government of the day has the right to decide where it shall raise its revenue. If the Government chooses to raise revenue in what I consider to be an unfortunate and unpopular way, that is its own business. The Bill provides that the tax shall not be applied where the proceeds of the public entertainment are to be devoted to charitable purposes. The exemption also relates to agricultural and horticultural exhibitions. I do not know that either of these exemptions means very much, because I do not know of any show in South Australia that charges more than $1 admission at present. I think the Royal Show admission is about 85c. If it goes up to $1, it is not likely to go any higher; so that exemption does not mean much.

What I wish to bring to the attention of the Government and of the Minister in particular is that no thought seems to have been given to an exemption for cultural purposes. The Australian Broadcasting Commission,

together with the Government of South Australia and other interested individuals, has supported the South Australian Symphony Orchestra (and five other symphony orchestras in Australia) for many years at a cost to this Government of, I think $40,000 a year. The orchestra is a cultural activity which will never make money and which will probably lose more money if admission prices are increased. This may mean that the South Australian Government could be asked eventually to pay $50,000 towards the orchestra; if it were, it would still be worth while. I believe there ought to be an exemption for cultural purposes. I do not know of any cultural purpose, whether music or drama, which is run on a professional basis, such as the orchestra is, or on an amateur basis, as are many worthwhile institutions, that makes money, because most of them find it hard enough just to keep going. Also, whereas with certain entertainments it is not necessary to charge $1, in the case of some cultural entertainments it is necessary to charge more than $1, in which case they would be taxed.

I could mention not only the activities of the Australian Broadcasting Commission, which has considerable backing from licence fees and Commonwealth Government revenue as well as State revenue, but also the worthwhile activities of a number of amateur (in the sense of being not full-time professional) bodies within the State and within the city of Adelaide and its environs which are well worth while and which should, I believe, have the full consideration of the Government in being made exempt.

I know that the Premier has often said that he is very much in favour of art and of encouraging art and culture. Although I do not always agree with the Premier, I agree with him in this case. If the Bill is passed as it stands, and if there is no exemption for cultural purposes, it will make it more difficult for cultural organizations such as the Burnside Municipal Orchestra. I have often heard Mr. Whitehead, of the Elder Conservatorium of Music, stating that he cannot keep the Adelaide Choral Society's head above water. However, this sort of tax on the prices they have to charge will be another imposition on those amateur bodies which are doing valuable cultural work in this State at present.

Without going further into the pros and cons of this Bill, which is unpopular and which other honourable members have covered in other aspects, I seek the Minister's serious consideration of an exemption of this type. I have looked at the Bill and see nothing in it at the moment that would exempt this type of body. If I am wrong, no doubt I shall be corrected, but I suggest that the Government seriously consider exempting the worthwhile cultural bodies in the State.

The Hon. Sir NORMAN JUDE (Southern): First, I cannot agree entirely with some of my colleagues who have said that this Bill will affect the small man. I do not know who the "small man" is today, unless he is the man on the land with no income to pay his way. I cannot think of a Bill that could be more class-conscious than this one. The person who can afford a $1 seat or a $5 seat pays this tax, but the person who occupies a 20c seat is free. This is a deliberate tax on the person who can afford to pay a little more for a seat. Therefore, it is objectionable, because it should be spread over the whole community. Is there anything better known to the taxation people and people in high offices in Government than the fact that we cannot get sufficient income to run the State's affairs by taxing only the "tall poppy"? If we tax everybody, including people on small incomes, we have a reasonable source of revenue. I cannot see why we cannot impose an entertainment tax of 5 per cent on everyone and let the person attending a football match for 50c contribute his 7½ per cent.

I congratulate the Government on endeavouring to simplify the method of collection (there is nothing wrong with that) but why the tax should be imposed only on tickets costing $1 or over is beyond my comprehension. More money could probably have been obtained by introducing an overall tax of 5 per cent. I suppose the actuaries have looked at that aspect. If my suggestion were followed, it would at least be a tax applicable to everyone.

It is not always the poorer people who go into the cheaper seats. Many times they take the cheaper seats because members of associations, for instance, occupy most of the better seats. No thought has been given to entertainments involving a body with a large membership, where people participate on an annual subscription basis. When the total membership is divided into the total annual subscriptions received, it is often revealed that the result does not amount to $1; so they will pay no entertainment tax. I am not suggesting that those people cannot afford to pay: probably they can, but was any thought given to that in drafting the Bill? The person who enters a place of entertainment individually and pays

$1.50 for his day's amusement will pay tax. It is not fair. I have known the Hon. Mr. Banfield, in one of his lighter moments, say, "They do not do that with petrol." I remember seeing all over the city and the country a sign "4s. 4d. a gallon including 1s. 3d. tax". Would the honourable member agree with me there?

The Hon. D. H. L. Banfield: Where do you see it now?

The Hon. Sir NORMAN JUDE: I said I did see it.

The Hon. D. H. L. Banfield: Yes, but I say they do not do it now.

The Hon. Sir NORMAN JUDE: At least, that was one of the points that petrol stations made at one time. The point of the Hon. Mr. DeGaris was well taken, that the Government should look again at this tax. It is obvious that a person in possession of a liquor licence in order to be exempt from paying this tax not only has the entertainment to bring in his income but also the liquor bar to increase his income. To suggest that a theatre with a bar is exempt because it has a liquor licence and a theatre without a bar pays tax and charges a little more for its tickets because it has not got a bar is not right. I hope the Chief Secretary will consider that point before we go any further with this Bill. We should have an answer to that. The Chief Secretary is a fair-minded man and must realize that that point has not been examined. I reserve my final opinions on this Bill till later.

The Hon. H. K. KEMP (Southern): I differ from many of my colleagues. This tax is being levied on money that is available for purposes above the basic needs of living, and that is where tax should be levied. There is no difference between an entertainment tax and a tax on luxury items such as cigarettes, tobacco and petrol, which for many people is a luxury item today. I should like further information upon this. Much money today is spent on costly entertainment, such as a hotel with a floor show or a hotel with music and with films—

The Hon. A. J. Shard: Where are these hotels with films?

The Hon. H. K. KEMP: There are two in Adelaide—one in the western suburbs and one in the eastern suburbs.

The Hon. A. J. Shard: I will find out where they are, because it is news to me.

The Hon. H. K. KEMP: People who go to those places are charged heavily. Under new section 27a (5) there is complete exemption for that type of person, and in new section 27c there is an underlining of this same discretionary power. There will be no harm in striking out subsection (7) of new section 27a, and leaving it to new section 27c, because the way exemptions are provided for seems to be a little out of line. I can see the purpose of subsections (1), (2) and (3) of new section 27a. Subsection (3) is designed, probably, to cut out football, racing, etc., that so many people attend. As regards new subsection (7), I do not agree with the way in which the tax is being levied, because that is where money could be syphoned off to sustain worthwhile services today. At least entertainment tax is being exacted on what is spare money, whereas so many other imposts are levied on money that cannot be spared. I support the Bill.

The Hon. A. M. WHYTE (Northern): I oppose the Bill. Previous speakers have pointed out that this is a sectional tax and, apart from the fact that it will sound the death knell of many picture theatres that are having trouble to keep open at present, it will also hit the person who takes his family to the pictures. However, a couple who can afford to visit a night club or a place that has a licence and a live show and leave the family at home, are not taxed. This seems to be an unjust means of levying entertainment tax.

The Hon. H. K. Kemp: They spend ten times as much there.

The Hon. D. H. L. Banfield: They are taxed on the beer they drink.

The Hon. A. M. WHYTE: That is not my point: I am not concerned about the beer tax but about the person who cannot afford to take advantage of the various night clubs and does the right thing by taking his family to a picture theatre. He is the one who will pay this tax. In that regard it is an unjust tax. Its only redeeming feature is that when entertainment tax was imposed previously it was one of the most unpopular taxations levied, and I am pleased that it is a Labor Government that has introduced this tax now. Apart from that, I see no bright spots in the Bill, and I oppose it.

The Hon. A. J. SHARD (Chief Secretary): I have listened with much delight to the debate and hearing the champions of the poor people!

The Hon. A. M. Whyte: It's about time someone came to their rescue.

The Hon. A. J. SHARD: If it was not such a serious matter it would be really

funny. All members have urged that it is an unpopular tax. I can assure members that they do not have to tell me that it is unpopular, because I can remember when it was introduced last time. If the Government wants to do the reasonable thing and keep hospitals and education going, it must obtain more revenue from somewhere. I shall be pleased if honourable members will tell me where to obtain it other than by this means. There is no need for them to tell the Government that there are better tax measures than this. This is one of the hardest taxations for a Government to impose and for the people to bear.

It has been imposed in Victoria, but when it is imposed here we must remember that Victoria has also imposed a taxation on the organization supplying gas in that State. If we could do that in South Australia the tax would return us three times as much as the entertainment tax will return, but we cannot do it. We are left in the position where we have to impose this tax. If we do not raise our taxation to an amount comparable with the other States, we will receive nothing from the Grants Commission. If the Liberal Government were in power it would be faced with the same position. The Labor Government faced up to its responsibilities and introduced this measure, but I do not want any member to tell me how unpopular it will be. We do not sit around like statues at Cabinet meetings.

The Hon. R. C. DeGaris: You would not be a good statue.

The Hon. A. J. SHARD: I take notice all the time, and no-one knows more than I how unpopular entertainment tax will be. When our children were young we could not go outside our house because we could not afford it. No-one has to tell me about hardship, but it made me smile to hear the self-styled champions of the poor this evening. In reply to the points made by the Leader, I inform him that we considered hotel taxes, but we think that the hotel licensee pays his share of taxation now. It is different from that to be imposed on theatres. People who go to hotels pay their tax either to the Commonwealth Government or to this Government because of what they drink. I do not accept that people go to hotels for the floor shows and not for dinner and drinks. I have been to many of them (and sometimes I wished that I was home in bed), but no interest is taken by many people in the floor show.

The Hon. R. C. DeGaris: Except when they are of world class.

The Hon. A. J. SHARD: I agree, but eight out of 10 people take no notice of floor shows.

The Hon. A. M. Whyte: If you are that old you should be home in bed.

The Hon. A. J. SHARD: Not many people in this Council have enjoyed life and made as much out of it as I have, and I hope that I shall be around for a long time to come. We have had our bad times and our good times and I have thoroughly enjoyed my life. The hardships of the depression days made my life, because I have enjoyed what I have had after that.

The Hon. T. M. Casey: You appreciate it more.

The Hon. A. J. SHARD: Yes, and to the full. I hope that there is much more in front of me, God willing. The Leader hoped that theatre proprietors would not have to pay tax on the percentage of the tax they pay the Government. The Parliamentary Counsel tells me that that point can be overcome, and that an amendment is not needed. He thinks it can be organized that their gross taxes will be reduced by the amount of tax paid to the Government, and that is the figure they would pay: they will not pay on their total income, but on the total income less the amount of tax, and I think that is reasonable. I did some reading because I wanted to give a correct reply to the Hon. Mr. Hill's question, and I understand that the Government will obtain between $200,000 and $250,000 a year from this tax. I am not sure about that, but I have read it somewhere.

We have gone through this measure fairly well and have offered it with an amendment. The Hon. Mr. Kemp referred to new subsection 27c concerning membership tickets (I think that is what it refers to). It will not be the full amount but less something for membership privileges, and that is the way it will be worked. I hope the amendment will be carried. This is a money Bill and the Government has to get more money, but members need not tell me that it will be an unpopular tax. I am sure that any tax is unpopular, and that people will not like the extra electricity charges: I will not.

The Hon. C. M. Hill: Some are more unpopular than others.

The Hon. A. J. SHARD: Of course. We have introduced this measure with our eyes open, knowing that it will be unpopular. We had to get money from somewhere, and there are not many places left from which to

get it. The only alternative is that some of the present taxes must be increased.

The Hon. C. M. Hill: Or some of your expenditure cut down.

The Hon. A. J. SHARD: Don't worry about that. You made a statement this afternoon that I think was not correct. You said we would not balance the Budget. I will remind you of that next year. It will not be Revenue Account—

The Hon. C. M. Hill: Don't put your Loan money into it.

The Hon. A. J. SHARD: Let's be fair. You people put Loan money into it.

The Hon. C. M. Hill: I am being fair.

The Hon. A. J. SHARD: I do not want to dodge it. You made the statement this afternoon.

The Hon. C. M. Hill: And I will stick with what I said this afternoon.

The Hon. A. J. SHARD: Wait until August! That is exactly what you did. Your Government balanced the Budget with your Loan money.

The Hon. C. M. Hill: No, we did not.

The Hon. A. J. SHARD: Yes, you did, but I do not want to quarrel with you now.

The Hon. T. M. Casey: Your Treasurer said you did.

The Hon. C. M. Hill: You want to quarrel with the Auditor-General in that case.

The Hon. A. J. SHARD: We will check that out and have the facts.

The Hon. C. M. Hill: My word, we will!

The Hon. A. J. SHARD: That is the position. No-one wanted this entertainment tax. We would like to take it off, but we cannot get the money from other sources.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—"Imposition of tax."

The Hon. R. C. DeGARIS (Leader of the Opposition): The Chief Secretary has dealt with the reason the Government did not move into other fields of entertainment for this tax. Is there any reason why a person running an entertainment cannot include in any notice or on the tickets that tax has been added? I know the philosophy of this Bill differs from the previous entertainment tax. This is a bulk tax, and the earlier one was on the tickets.

The Hon. A. J. SHARD (Chief Secretary): There is nothing to prevent a notice if they wish to put it up.

The Hon. R. C. DeGaris: And it can be included on the ticket that the price is $2.15, including tax?

The Hon. A. J. SHARD: To the best of my knowledge there is nothing to prohibit it.

The Hon. R. C. DeGARIS: The second question relates to the licence or permit. We have a number of live theatres which have permits. Among our live theatres are the Union Theatre at the university and the Olde Kings Music Hall, which comes into a different category. Is it intended that live theatres will pay this tax because of the permit and will the music hall, where dinner and drinks are included with the stage show, be included in the tax or not?

The Hon. A. J. SHARD: I do not know whether the Leader has studied the Bill, but new section 27a (7) provides:

> The tax shall not be payable in respect of an entertainment provided upon premises in respect of which a licence or permit is in force under the Licensing Act, 1967, as amended, . . .

I am informed that live theatres will have to pay the tax.

The Hon. R. C. DeGARIS: I think I would accept that. However, section 27a (7) continues.

> . . . where the charge for admission to the place in which the entertainment is conducted is not made primarily or substantially in respect of the entertainment.

On the question of the Union Theatre at the university, it is primarily and substantially entertainment. In other areas it becomes rather doubtful. The Olde Kings Music Hall has dinner with a licence and a full three-hour stage show. This appears to be getting into the area where I claim there may be an infliction of tax on one section. I do not know whether that is primarily or substantially entertainment, primarily or substantially the dinner, or primarily or substantially the licence. It will be decided, probably by the commissioner, but I would like information on whether these types of entertainment will be caught by the Bill.

The Hon. A. J. SHARD: I am informed that the Olde Kings Music Hall would be one of the extremely doubtful ones. On some occasions the primary factors are dinner and drinks and some entertainment, and sometimes the situation is reversed. To be quite frank I think that would be a doubtful one, but it is one of the very few in that category. The live shows—the Arts Theatre and Union Theatre—would have to pay, without doubt.

The Hon. R. C. DeGARIS: I seek an undertaking from the Chief Secretary that the Government will examine the whole question further if it appears that the tax on one section of the entertainment industry will adversely affect its business in relation to others not taxed. I agree with what he has said that it is very doubtful whether the Olde Kings Music Hall type of production will be taxed. I think possibly it will get away without paying tax.

The Hon. A. J. SHARD: In some cases, yes, but for some performances it could be the other way.

The Hon. R. C. DeGARIS: We could see, as a result of this tax, further shows along these lines. Picture theatres could move into this field with films, instead of a live show, where a licence goes with it. Will the Chief Secretary give an undertaking that the Government will re-examine the position and apply the tax if this does occur?

The Hon. A. J. SHARD: That undertaking can be given easily. This tax will be closely watched by me and by other members of Cabinet. The Leader can take my word that it will be closely studied, because it is not the intention of Cabinet or the Government to favour one entertainment area rather than another.

The Hon. M. B. DAWKINS: I move to insert in new section 27a the following new subsection:

(8) The tax shall not be payable in respect of such entertainments presented for cultural purposes as are approved for exemption by the Minister.

My amendment may not be entirely satisfactory from the viewpoint of amateur cultural bodies or possibly bodies such as the Australian Broadcasting Commission, but it does leave the matter in the Minister's hands. He would be able to either approve or not approve cultural bodies for exemption.

The CHAIRMAN: I point out that the amendment will be a suggested amendment.

The Hon. A. J. SHARD: The suggested amendment is not acceptable to the Government. In today's permissive society I would not like to be the Minister dealing with such a matter; one would never know where one was going.

The Hon. T. M. Casey: Such a body could show pornographic films.

The Hon. A. J. SHARD: Yes. There could be unforeseen consequences if this amendment were carried. This matter was discussed in Cabinet, and I point out that there is no-one more keen to protect the bodies that the Hon. Mr. Dawkins pleads for than is the Premier. As a matter of fact, sometimes we think he goes too far in this way. I ask the Committee not to accept the amendment.

The Hon. M. B. DAWKINS: I suggest that the word "cultural" does not imply "pornographic" by any stretch of the imagination. The amendment leaves the discretion with the Minister. I believe a responsible Minister can decide for himself what is worth while culturally and what is not.

Amendment negatived; clause passed.

Clause 6 and title passed.

Bill read a third time and passed.

INDUSTRIES DEVELOPMENT 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.

The purpose of this amending Bill is to fill an important gap in the provisions for financial assistance toward the development of South Australian secondary industry. The present provisions in the principal Act enable the Treasurer in approved circumstances to guarantee loans made by banks and institutions to industries with good expectations of profitable development but which have inadequate formal security to offer. These provisions have worked well, as have the provisions enabling the Housing Trust to build factories outside the narrowly defined metropolitan area for the purpose of leasing to promising industries.

However, from time to time smaller industries, often in the very early stages of their development, find it difficult to secure a bank or institution to provide the requisite developmental funds under guarantee upon acceptable terms. Such a smaller industry often requires the assurance of a longer term loan than most banks prefer to undertake and also may require unusual terms. A particular problem is that such an industry, while giving promise of being able ultimately to develop to a stage when it can meet all obligations upon a normal basis, finds it most difficult during its earlier formative years to meet interest and repayment charges out of its regular cash flow. To facilitate its experimentation and development it requires the whole of its cash flow to meet current expenses and for ploughing back into the business.

There are two ways in which such a developing industry can be relieved of the cramping

effect of interest charges during its formative years. One is to secure equity capital by issue of ordinary shares, and the other is to secure a loan on which the interest is deferred and capitalized during the critical period of early development. As the ordinary banks and institutions do not provide these types of finance, the Government proposes to set up a special corporation to perform the functions where they are found to be necessary. I believe that in most cases it will be found preferable to meet these particular needs by loans with interest and repayment appropriately deferred. This is because interest, although deferred, will rank as an expense when determining profit for income tax purposes while the deferring of dividends on ordinary shares does not so reduce the tax liability. However, there will possibly be cases better handled by taking up shares.

The only direct loans provided for by the Industries Development Act at present are those authorized from the Country Secondary Industries Fund. This fund was first constituted in 1943 when $200,000 was provided out of a revenue surplus. During 1951 a further $50,000 was provided from Loan Fund to facilitate advances to an undertaking manufacturing refractory bricks at Wallaroo, but this undertaking failed, involving a loss of about $43,000 of capital funds. The only other addition has been $50,000 provided out of Loan Fund during December, 1970, in accordance with authority given in section 16a of the Industries Development Act, and that amount was needed as the available balance in the fund at that stage was inadequate to cover an approved advance urgently required to support a country engineering industry. The present balance in the fund is about $16,000 and there are outstanding loans therefrom aggregating some $243,000, plus some interest accruing due. This Bill proposes to vest this fund with all its balances, rights and obligations in the new Industries Assistance Corporation. The corporation will have no interest obligations on the main part of this fund but it will be required to reimburse the interest to the Treasury on the recent $50,000 provision of Loan moneys.

The new funds required for the use of the corporation may be provided by borrowing as a semi-governmental authority with the approval and under guarantee of the Treasurer, and to the further extent necessary they will be provided by the Treasury out of funds provided by Parliament for the purpose. Under present arrangements with the Australian Loan Council, the corporation will be able to borrow up to $300,000 a year without reducing the borrowing allocations available to the State's major semi-governmental borrowers (the Electricity Trust and the Housing Trust).

Whilst provision is made in the Bill for the appointment of staff for the proposed Industries Assistance Corporation, it is not expected that any large staff will be required. It is expected that most of the necessary inquiries, investigations, and reports can be carried out by staff of existing departments, such as the Industrial Development Branch of the Premier's Department and officers of the Treasury, the Audit Department, and possibly of the Public Service Board. Where special technical or scientific advice is required the corporation can use specialist staff of the Engineering and Water Supply Department, Marine and Harbors Department, Public Buildings Department, etc. For this reason, the Bill provides for a board to control the corporation, of which three members out of five may be selected from appropriate officers of the Public Service. I expect that the other two of the five board members will be secured outside the Public Service from persons skilled and experienced in private industry and finance.

In conformity with the present provisions of the Industries Development Act, it is proposed that all financial assistance of any kind given by the corporation must have the prior approval of the Treasurer. Moreover, except for small loans not exceeding $75,000, all proposals must be inquired into and recommended by the Parliamentary Industries Development Committee before approval.

As it is believed that the present provisions for guarantees in the Industries Development Act are adequate where large sums are involved, it is proposed to limit the authority of the corporation to lend or otherwise give assistance to $200,000 in any one case. In addition, it is proposed to limit the aggregate borrowing authority of the corporation to $3,000,000, at least for the time being. If subsequently an extension should appear desirable, it will be necessary to submit the requisite amending legislation to Parliament.

The provisions of the Bill are as follows. Clause 1 is formal. Clause 2 provides that the new Act shall come into operation on a day to be fixed by proclamation. Clause 3 inserts definitions of "the corporation" and "the metropolitan area". The definitions are

self-explanatory. Clause 4 amends section 8 of the principal Act. This section at present provides that any recommendation from the committee that a guarantee be given under the existing provisions must be concurred in by at least four members of the committee. The amendment extends this provision to cases where the committee is required to approve assistance to be given by the Industries Assistance Corporation. Clause 5 amends section 10 of the principal Act. The amendment is merely consequential. Clause 6 amends section 16 of the principal Act. This again is a consequential amendment.

Clause 7 amends the present provisions relating to the Country Secondary Industries Fund. New provisions are inserted providing for the establishment of the Industries Assistance Corporation. As has been mentioned, the corporation is to take over the functions of the fund. New section 16a establishes the corporation. It is to consist of a chairman and four other members appointed by the Governor. The membership of the board must comprise at least one person with extensive knowledge of, and experience in, financial matters; one must be a person with extensive knowledge of, and experience in, engineering or industrial science nominated by the Minister of Development and Mines; and one must be an officer of the Public Service engaged in the department of Government relating to industrial development. New section 16b provides for remuneration of members of the board of management.

New section 16c deals with the procedure at meetings of the board of management. New section 16d is the usual provision to cure possible invalidity resulting from a vacancy in the membership of the board, or a defect in the appointment of a member of the board. New section 16e enables the Governor to appoint officers and employees of the corporation. The corporation may also utilize the services of Public Service officers. New section 16f empowers the corporation to borrow money up to a limit of $3,000,000.

New section 16g sets out the powers of the corporation. The corporation may make loans for the purpose of assisting in the development of an industry; it may subscribe to the capital of any corporation that engages or proposes to engage in an industry by the purchase of shares; it may acquire land and equipment and make it available on such terms and conditions as the corporation thinks fit for use in any industry; it may make non-repayable monetary grants to any person for the purpose of enabling him to establish, carry on or extend any industry outside the metropolitan area or to enable him to conduct experiments, research or investigation relating to the establishment, carrying on or extension of any industry outside the metropolitan area; and it may perform any other acts that may, in the opinion of the corporation, be necessary for, or incidental to, the effective conduct of the affairs of the corporation.

New subsection (2) enables the corporation to defer repayments of instalments of capital or interest on any loan granted by the corporation. New subsection (3) provides that the assistance provided in any one case shall not exceed an aggregate amount of $200,000. New subsection (5) provides that assistance to the value of more than $75,000 shall not be provided except on the recommendation of the committee. New subsection (6) provides that the corporation shall not grant assistance by way of a non-repayable monetary grant or by way of the purchase of shares in the capital of a body corporate, except upon the recommendation of the committee. New subsection (7) provides that the corporation before granting assistance must satisfy the Treasurer that the assistance sought by the applicant is not obtainable by him otherwise than by the corporation, that there is a reasonable prospect that the industry in respect of which the assistance is sought will be profitable, and that it is in the public interest that the assistance be granted.

New section 16h provides for the corporation to take over the rights and liabilities existing in respect of the Country Secondary Industries Fund. Clause 8 repeals and re-enacts section 17 of the principal Act. The section is amended to embrace applications for assistance from the corporation. Clause 9 makes a consequential amendment. Clause 10 repeals section 19a of the principal Act. This section has now exhausted its purpose and is no longer required. Clause 11 repeals a heading that is misplaced in its present position in the principal Act. Clause 12 makes consequential amendments to section 23 of the principal Act.

The Hon. C. M. HILL secured the adjournment of the debate.

MARGINAL DAIRY FARMS (AGREEMENT) BILL

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

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

That this Bill be now read a second time. After lengthy negotiations, the Commonwealth of Australia and the State of South Australia have entered into an agreement in relation to a Marginal Dairy Farms Reconstruction Scheme. This agreement was executed on Friday last, April 2, 1971, by the Prime Minister of the Commonwealth and the Government of this State. The agreement is set out as a schedule to this Bill, and by this measure Parliament is asked to approve the agreement and pass the necessary enabling legislation so that the scheme of reconstruction can be established.

The purpose of the scheme is to provide arrangements for the reconstruction of dairy farms that are marginally economic. The agreement is based upon the general proposition that the Commonwealth and the States mutually recognize that there is a low income problem within sectors of the dairy industry, particularly in the case of those producers relying on the sale of milk or cream for manufacturing purposes. The low income problem within the dairy industry varies within different regions of the Commonwealth and arises from various causes, which may include the marginal nature of the farm in relation to its level of production or its general efficiency.

The Commonwealth Government has agreed to provide $25,000,000 over the four years from July, 1970, for the purposes of carrying out the scheme throughout Australia. There is no definite allocation of money to any particular State, the actual amounts available to each State being determined by the rate at which the scheme progresses. The scheme is Commonwealth-wide and the terms laid down by the agreement are, of necessity, general in their application to the dairy industry throughout Australia. However, to meet the particular needs of South Australia special provisions have been agreed between the Minister for Primary Industry and the State Minister to provide for the situation created by the system of equalizing returns to farmers from sales of whole milk and manufacturing milk in the metropolitan milk-producing districts. Although these provisions are not included in the agreement, as this document is one of Australia-wide application, they are covered by an exchange of letters between the respective Ministers of the Commonwealth and the State.

I would particularly direct honourable members' attention to the definitions of marginal dairy farms and economic units, which are shown in clause 1 of the agreement. If honourable members refer to clause 5, they will see that the level in respect of a marginal dairy farm agreed for the purposes of these definitions is an average of 12,000 lb. per annum of butterfat or such other level of production as may from time to time be agreed by the Commonwealth Minister and the State Minister. For the general purposes of the scheme, the average level of 12,000 lb. of butterfat will be used, but where farms in the metropolitan milk-producing district are concerned this will be modified. Provision is made to include a rural property used wholly or partly for dairying within those areas of land constituting the metropolitan milk-producing district that are prescribed from time to time, provided that (*a*) not less than one-half of the gross income of the rural property is obtained from the production of milk or cream that is derived from not less than 20 lactating cows; (*b*) the authorities certify that the level of production of the rural property if used only for dairying and purposes incidental to dairying is not reasonably capable of producing to a level of, or the equivalent of, an average per annum of 10,000 lb. of butterfat; and (*c*) a system acceptable to the Commonwealth Minister and the State Minister operates for the purpose of equalizing the returns from the sale of milk produced.

This provision will operate in a manner which will enable an uneconomic dairy farm within the metropolitan milk-producing district to be dealt with under the scheme should any dairy farmers in this situation so desire. This latter provision is one of great importance to the dairy industry in South Australia, and the Government is pleased that the Commonwealth has seen fit to agree to this provision. The Government regrets having to ask the Council to consider a measure of this nature at this stage of the session but, as the agreement has only just been executed, honourable members will realize that submission of a Bill earlier has not been possible. Nevertheless, the Government wishes to bring this scheme into operation at an early date and hopes that the Council will see fit to give this Bill a speedy passage.

I now turn to consider the Bill in some detail. Clause 1 is formal. Clause 2 sets out the definitions necessary for the purposes of the Bill. Clause 3 provides for the approval of the agreement and formally designates the Minister to whom the administration of the measure will be committed as

the authority for the purposes of the reconstruction scheme. The Minister of Lands is constituted this authority, and it is intended that the administration of the scheme will be handled by the Lands Department. Clause 4 is a formal provision providing for amendment of the agreement with a provision that any amending agreements will be tabled in this Chamber.

Clause 5 is a most important provision from the point of view of this State, as I have previously mentioned. Because of the operation of the system of equalizing returns to farmers in the metropolitan milk-producing district from the sales of milk wholesale and as manufacturing milk, it is likely that many dairy farms in this State would not have fallen within the definition of a marginal dairy farm as set out in clause 1 of the agreement. This equalization scheme is unique to this State. As I have already stated, an exchange of letters has taken place between the Commonwealth Minister and the State Minister which forms the basis of an extension of the scheme as earlier outlined. This exchange of letters will constitute the framework within which the agreement for the extension of the scheme will operate. Clause 6 formally constitutes the Marginal Dairy Farms Reconstruction Scheme Fund, the operation of which will be apparent from an examination of the financial provisions of the agreement contained in clauses 17 to 28 thereof.

Clause 7 enables advances to be made by the Treasurer to the fund. Clause 8 is intended to ensure that farms built up under the scheme do not again become fragmented in uneconomic units. The agreement itself is, as I have mentioned, set out in the schedule and generally is self-explanatory. The scheme has been undertaken so that dairy farmers whose farms have insufficient potential to become viable economic units while based on the sale of milk or cream for manufacturing purposes may voluntarily dispose of their land and improvements. Such farms, after allowing for the disposal of redundant improvements, may be made available to build up other dairy farms into economic units. In the disposal of reconstruction land it is required that the authority shall have due regard to the objective of securing the most practicable and economic use of land, with a view to achieving, so far as is consistent with such land use, the diversification of production.

It should be pointed out that there is no obligation on the authority to purchase farms solely because an application has been received for it to do so. The scheme is entirely a voluntary one and it is expected that it will operate by farmers wishing to build up their holdings arranging with others who wish to sell out joining in a joint application to the authority. The authority will not be in a position to provide livestock, plant or crops or the like and funds must be devoted entirely to the purchase of land and improvements for reconstruction purposes.

In dealing with the agreement in some detail clauses 1 to 3 are self-explanatory and require no comment. Clause 4 of the agreement sets out in detail the basis of the scheme and I direct honourable members' attention to this particular clause. Clauses 5 to 16 of the agreement again set out in detail the manner in which the scheme is intended to operate. Clauses 17 to 26 set out the financial basis of the scheme. In summary the State will be required to pay back to the Commonwealth half of the amount paid by the Commonwealth to the State together with interest over a period of 23 years. I commend the Bill to honourable members.

The Hon. H. K. KEMP secured the adjournment of the debate.

RURAL INDUSTRY ASSISTANCE (SPECIAL PROVISIONS) BILL

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

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

That this Bill be now read a second time.

Honourable members will be aware that, for some time, this State, conjointly with other States, has been negotiating with the Commonwealth Government with a view to setting up a scheme of assistance to rural industry, particularly the sheep and wheat-sheep sectors which have been affected by depressed wool prices and more recently by the imposition of quotas on wheat production. Both the Commonwealth and the States have agreed that it is essential that action be taken in these circumstances, and discussions and negotiations have proceeded between the parties for the past four months. A draft proposal was prepared but only recently the States, realizing the increasing difficulties facing farmers, had further discussions with the Commonwealth and this has had the effect of delaying the conclusion of a final agreement. It is clear that economic circumstances have deteriorated since this arrangement was first contemplated and it may well be that the provisions which

were earlier considered may need to be further varied.

This State has made submissions to the Commonwealth for consideration so as to ensure that whatever scheme is finally decided upon will serve the purpose for which it is intended. This action has been taken as, from information available to us, it appears that the present proposals are likely to be found quite inadequate to meet existing circumstances and many farmers are likely to find that they would not qualify for assistance. Recent movements in wool prices have been contrary to the earlier forecasts upon which the arrangements were originally developed and this circumstance, in itself, has thrown serious doubts upon the likely effectiveness of the original proposals.

It is now quite clear that agreement is unlikely to be reached until after the end of this session of Parliament and the Government wishes to be able to proceed with the scheme as soon as agreement is reached and the Commonwealth legislates to bring it into operation. The Government has therefore decided, in order to avoid any delay in making assistance available to farmers of this State, to bring down the present measure. This measure is essentially of a temporary nature and is designed only to cover the period between the execution of the agreement and the bringing down of such supporting legislation as may be found necessary. If this measure is enacted there needs to be no delay in bringing the scheme into operation and the House may be assured that the Government will bring down a Bill to give full effect to this scheme and the arrangements together with all necessary machinery matters during the next session of Parliament.

As no formal agreement can be made available to honourable members I can do no better than describe in general terms the matters which have been discussed in the formulation of the provisional arrangements. The financial arrangements proposed by the Commonwealth provide that a sum of $100,000,000 will be made available to the States over a period of four years. A sum of $75,000,000 will be loaned to the States over a period of 20 years at an interest rate of 6 per cent and $25,000,000 will be provided as a grant. The State would receive $12,000,000 as its share. The States will be required to repay to the Commonwealth a sum of $130,800,000 which represents principal and interest on the $75,000,000 loan. It is estimated that, if the scheme can be operated in the manner prescribed, the States would recover sufficient to meet these repayments with a small surplus. It is intended that the scheme will operate in three parts. The first part will deal with the reconstruction of farmers' affairs, the second part will deal with the build-up of rural properties into economic units and the third part will deal with some form of rehabilitation for farmers.

It appears that, insofar as reconstruction is concerned, this will basically be designed to assist farmers who, although having been denied credit from normal sources, can be adjudged as having sound prospects of future economic viability provided that some assistance can be provided to them. It appears that an economic assessment of each farmer's application will be necessary to establish the likelihood of a successful outcome and, if an applicant qualifies, funds will be made available to assist with debt reconstruction and to provide carry-on finance. It is intended that funds under this heading will be made available at an interest rate of 4 per cent per annum. Insofar as farm build-up is concerned, this will be available to farmers who are unable to obtain finance for this purpose from other sources and is generally designed to build up properties which, whilst reasonably successful, are not considered economically viable units. It is proposed by these means to build farms up into economic units in a manner which should enable them to be able to carry on in the present environment. Interest rates for the purposes of farm build-up have been determined at 6¼ per cent per annum.

The third part of the agreement will be devoted to measures for the rehabilitation of farmers who may for various reasons have to leave their properties. Arrangements for this purpose have not as yet reached an advanced stage and it is not possible to make comment on the likely provisions which will emerge. I regret that I am unable to give honourable members a great deal of information about this scheme and I hope that it will be understood that the only reason for this is the fact that we have not yet an agreement upon which to operate. As I said earlier this Bill is one which will enable the State to enter into and operate an agreement and subsequently the Government will bring down further legislation.

The present Bill incorporates a scheme of protection certificates to give certain farmers some immediate but temporary relief in cases where creditors are pressing. The intention of this section is to provide protection while an application is being considered and a scheme arranged. It is included only and will be used

only for this purpose as it is clear that the wholesale granting of such certificates could seriously and adversely affect the availability of credit to rural industry. The Government seeks the full co-operation of the various private credit sources in the difficult situation in which sectors of primary industry find themselves. It is unfortunately necessary, for good legal reasons, that the provisions relating to protection certificates, clauses 11 to 24, constitute a large portion of this Bill, but I would once again stress that they must be regarded as being available only in the most limited circumstances.

I now deal with the clauses of the Bill. Clauses 1 to 3 are formal. Clause 4 sets out the definitions necessary for the purposes of this Act. I would draw honourable members' attention to the definition of "farmer", which excludes persons eligible for assistance under the Marginal Dairy Farms Reconstruction Scheme. Since an agreement in relation to dairy farm reconstruction was executed on April 2, 1971, it is now possible to bring down an appropriate Bill in this session. Clause 5 formally binds the Crown.

Clause 6 authorizes the Government of the State to enter into an agreement to provide for a scheme of assistance for rural industry and to do all things necessary to carry out the agreement. Clause 7 constitutes a Minister to be the authority for the purposes of carrying out the agreement and the scheme. It is intended that this measure will be administered by the Minister of Lands. Clause 8 is a formal financial provision.

Clause 9 deals with the function of a committee that will be constituted by regulations under the Act. Subclause (2) provides that the Minister in his capacity as an authority will act on the advice of the committee. Clause 10 formally constitutes the fund in the Treasury and transfers to it the balance of a fund maintained under the Primary Producers Assistance Act, 1943. Clause 11 provides for the granting of protection certificates. Clause 12 is of great importance, as it attempts to spell out and make clear that the grant of a protection certificate will be limited to circumstances of the greatest financial hardship when immediate relief is the only solution if the farmer is to have a chance of economic survival.

Clause 13 provides for the cancellation of the certificate if the farmer abandons his farm. Clause 14 provides for the keeping of lists of protection orders by the Master of the Supreme Court and the clerk of the local court. Clause 15 sets out in some detail the types of protection afforded by the certificate; subclause (4) provides for the Minister to lift the protection certificate in relation to particular land or chattels. Clause 16 provides, in effect, for a magistrate to allow claims to proceed notwithstanding the fact that a protection certificate has been issued.

Clauses 17 and 18 provide for the cancellation of a protection certificate by the Minister. It might be mentioned in this connection that it is the firm policy of the Government that protection certificates will run for no longer a period than is absolutely necessary. Clause 19 provides that, in computing the time for taking any proceedings, no regard shall be paid to the time during which a protection certificate is in force. Clause 20 provides for the delivering up of a cancelled protection certificate.

Clause 21, in effect, protects the rights of the creditors in relation to property that may be unlawfully dealt with. Clause 22 gives the Minister the right to supervise the operations of a protected farmer—particularly the right to limit the incurring of further debts. Clause 23 continues the application of the protection certificate in the circumstances mentioned in the clause. Clause 24 exempts certain actions from the prohibition contained in the protection certificate. Such actions may proceed to judgment only.

Clause 25 permits the Minister to delegate his powers and functions under the Bill, other than the power of granting or cancelling a protection certificate. Clause 26 is a formal financial provision. Clause 27 provides for summary hearing of offences. Clause 28 provides a comparatively wide regulation-making power, wider perhaps than is usually granted by the Parliament, but I suggest no wider than is necessary adequately to provide for contingencies that may arise until appropriate further legislation is introduced. Any regulations that may be made are, of course, subject to the scrutiny of this Council.

The schedule to the Bill sets out the form of the protection certificate and the form of notice of cancellation of such certificate. I trust that this Bill will be accepted by the Council in this session and thereby enable a scheme of rural reconstruction, as envisaged, to be given effect to without delay. The Government regrets that it has not been possible to submit this measure to the Council earlier, but it should be understood that, in the absence of an agreement, that has not

been possible. Nevertheless, the Government wishes to be in a position to give effect to any agreement that may be reached with the Commonwealth so that any benefits which may emanate from it can be made available to farmers. I seek the assistance of honourable members in a speedy passage of this measure.

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

JURIES ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

It provides for: (*a*) the selection of the annual jury lists by computer as an alternative to the present method of random selection by ballot; (*b*) the discharge of persons from jury service, in the first instance, by the sheriff (at present applications for discharge can only be heard by the court concerned); and (*c*) a revision of the classes of person exempt from jury service.

Of the three main matters covered by the Bill the new provision relating to the preparation of jury lists by computer is perhaps the most significant. While the costs for the first year of operation may be marginally greater than those for selection by the method of ballot it is anticipated that substantial savings can be effected in subsequent years. This is of course aside from the great savings in time that can be effected by use of the computer.

To consider the Bill in some detail: clause 1 is formal, and clause 2 provides that applications for discharge from jury service may be made to the sheriff. By new section 16 (2) there is a right for a person to apply to the court directly for a discharge. In addition, there is provided a right of appeal against a refusal by the sheriff to grant a discharge.

Clauses 3 and 4 make amendments consequential on the amendments made by clause 5, which sets out the procedure for preparation of the annual jury list by computer. It will be noted that this is an alternative procedure; that is, the method of selection by ballot has been preserved. Clause 6 makes an amendment to section 32 of the principal Act that is consequential on the amendments made by clause 7, which provides for the completion of jury panels by computer.

Clause 8 recasts the third schedule to the principal Act by bringing it up to date and by adding some new classes of exempt person, being, amongst others: (*a*) persons in the employ of commercial airlines; (*b*) ambulance personnel; (*c*) persons in the employ of the Electricity Trust of South Australia; (*d*) opticians; (*e*) physiotherapists; (*f*) veterinary surgeons; and (*g*) persons with an inadequate knowledge of the English language. In addition, Part II of the old third schedule, which exempted persons having a connection with the Commonwealth, has been omitted. These exemptions are now provided for by the Jury Exemption Act, 1965, of the Commonwealth and the regulations made thereunder. The retention of this Part could result only in confusion as to the jury status of persons having this connection with the Commonwealth.

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

ABORIGINAL LANDS TRUST

The House of Assembly transmitted the following resolution to which it requested the concurrence of the Legislative Council:

That, pursuant to the final proviso of section 16 (5) of the Aboriginal Lands Trust Act, 1966-1968, this House hereby authorizes the sale by the Aboriginal Lands Trust of sections 147 and 149, hundred of Seymour, to Alan Reginald Sheppard and Lena Mavis Sheppard of 35 Grenfell Street, Adelaide.

ELDER'S TRUSTEE AND EXECUTOR COMPANY LIMITED PROVIDENT FUNDS BILL

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

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

That this Bill be now read a second time.

It concerns two provident funds established in connection with the business of Elder's Trustee and Executor Company Limited, one for male members of the company's staff, and the other for female members. The fund for males is called "Elder's Trustee Provident Fund" and that for females is called "Elder's Trustee Women's Provident Fund". I shall first deal with Elder's Trustee Provident Fund. The trustee company was incorporated in 1910. It was promoted by Elder Smith & Company Limited, which always held a majority of the issued shares.

Elder's Trustee Provident Fund was established in 1921 and its object was to provide pensions and other benefits for male members of the staff on their retirement, and for their dependants if they should die while in the company's employ. It was established on

lines similar to a fund which had been established by Elder Smith & Co. Ltd. in 1913 for the benefit of male members of its staff and their dependants, which is now known as "The Provident Fund".

Broadly speaking, each fund provides life pensions for members on retirement, and lump sums for the dependants of members who die while in the company's employ. In the case of each fund the employee member contributes a percentage of his salary, and the company also makes contributions in respect of each member. Elder Smith Goldsbrough Mort Limited (Elders-G.M.) was incorporated in 1962 with the object of merging the businesses of Elder Smith & Co. Ltd. and Goldsbrough Mort and Company Limited. Elders-G.M. acquired the whole of the issued shares of those two companies and the businesses have been merged.

Following the merger Elders-G.M. took over responsibility for the Provident Fund which had been established by Elder Smith & Co. Ltd. and that fund is now conducted as a fund for providing pensions and other benefits for male persons on the staffs of Elders-G.M. and its subsidiary companies. In 1963, Elders-G.M. acquired the whole of the issued shares of the trustee company, so that the trustee company is now a wholly-owned subsidiary of Elders-G.M. and male members of the staff of the trustee company are eligible for membership of the Provident Fund.

The number of members of the Provident Fund is much larger than of the trustee company's provident fund, and as a consequence the fund itself is much larger and, due to this and a number of other factors, the pensions and other benefits provided by the Provident Fund are greater than the corresponding benefits provided by the trustee company's provident fund, although the members of the two funds contribute the same proportion of their salaries, namely, 5 per cent.

Since the trustee company became a wholly-owned subsidiary of Elders-G.M. it has been the policy of the directors of the trustee company that, as members of the staff become eligible, they be admitted as members of the Provident Fund and not of the trustee company's provident fund, and no new members have been admitted to the latter fund.

However, there are still 54 members of the trustee company's staff who are members of the trustee company's provident fund and have been so for many years. The position thus is that some members of the staff are members of the trustee company's provident fund and some are members of the Provident Fund. Although they all contribute the same percentage of salary (5 per cent) to the fund of which they are members, those who are members of the Provident Fund can look forward to greater benefits for themselves and their dependants than can those who are members of the trustee company's provident fund. The directors of the trustee company regard this as unsatisfactory.

The financial position of the trustee company's provident fund is not such as to enable the benefits to be increased to bring them into line with those under the Provident Fund. In fact a recent actuarial investigation has shown that there is presently a deficiency in the trustee company's provident fund. The directors of both Elders-G.M. and the trustee company wish all male members of the trustee company's staff to be on the same footing as regards superannuation, and they want to achieve this be merging the trustee company's provident fund in the Provident Fund.

To effect this, it is proposed that all present members of the trustee company's fund be admitted as members of the Provident Fund as from the respective dates of their admission to the trustee company's fund, that the trustees of the Provident Fund undertake responsibility for all current pensions payable under the trustee company's fund and for all other liabilities of the trustee company's fund, and that in return the whole of the assets of the trustee company's fund be transferred to the trustees of the Provident Fund to be held as part of that fund.

The directors of Elders-G.M. and the trustees of the Provident Fund are agreeable to this proposal, and the regulations of the Provident Fund make provision for such an arrangement. However, the regulations of the trustee company's fund do not provide for such a transaction and in order to carry it into effect the regulations must be altered. If the proposal is given effect, it will mean that the moneys and other assets constituting the trustee company's fund will become part of a common fund available to provide pensions and other benefits not only for male members of the staff of the trustee company and their dependants, but also for males on the staff of Elders-G.M. and other subsidiaries of that company and their dependants.

Regulation 50 of the regulations of the trustee company's fund makes provision for amendment of the regulations, but it expressly prohibits any amendment which would

authorize the application or use of any part of the fund for the provision of pensions or benefits for anyone other than "officers", their wives, widows and dependants. In this connection "officer" means a male person on the staff of the trustee company who is a member of the fund. It is thus not possible to make the necessary amendment of the regulations by using the machinery provided by regulation 50, and the assistance of Parliament is required.

A further complication arises due to the fact that among the assets of the trustee company's fund are interests in remainder under 11 settlements made by the late Mr. Robert Barr Smith. Each settlement provides that the income of the trust fund established thereby be paid to a certain person for life (or in some cases more than one person is interested in the income) and on determination of those prior interests the trust fund is directed to be held in trust for the trustees of the trustee company's provident fund to be held by them as part of and in augmentation of that fund. Those prior interests are still subsisting.

If the proposal referred to earlier is carried into effect and the trustee company's fund is wound up, that fund will have ceased to exist. If that should occur before the prior interests under the settlements have ceased, it may be held that the trust in favour of the trustees of the trustee company's fund has become impossible of fulfilment, and that there is a resulting trust for the personal representatives of the settlor, the late Mr. Barr Smith. In order to avoid such a result, it is necessary first to empower the trustees of the trustee company's fund to assign the interests under the settlements to the trustees of the Provident Fund, and secondly, to provide that such an assignment will be effective and that there will be no resulting trust as a consequence.

I shall now deal with Elder's Trustee Women's Provident Fund. This fund was established in 1947 to provide pensions for females on the trustee company's staff upon their retirement. It consists wholly of moneys contributed by the company and of legacies and gifts to the fund. Members of the staff do not contribute to the fund. It is a fund that provides pensions on retirement, and nothing else. No benefits are payable on death while in the company's service. No formal admission to membership was required, and every female employee who fulfils certain qualifications becomes entitled to a pension. After the businesses of Elder Smith and Company Limited and Goldsbrough Mort and Company Limited were merged. Elders-G.M. established a fund known as "Elders-G.M. Women's Provident Fund" to provide pensions and other benefits for females on the staffs of that company and its subsidiaries. Females who become members of the Elders-G.M. fund contribute a percentage of their salaries and the company by which they are employed also makes contributions. At the present time each member contributes 5 per cent of her salary and each employer company contributes 7½ per cent of the salaries of its employee members. The pensions provided under the Elders-G.M. fund are greater than those under the trustee company's fund, and benefits other than pensions are provided.

After the trustee company became a wholly owned subsidiary of Elders-G.M., the directors of the trustee company decided that it would be more beneficial for the company's female employees to become members of the Elders-G.M. fund than to rely on the trustee company's fund for provision for their retirement. Accordingly, in 1968 the regulations of the trustee company's fund were amended so as to limit the persons entitled to pensions under that fund to those females who on October 1, 1968, were on the company's staff, were unmarried, had attained 25 years of age and had been in the company's service for five years or longer. All other females on the staff are admitted to the Elders-G.M. fund as they become eligible.

As a consequence of this 1968 amendment, it is anticipated that in course of time the money in the trustee company's fund may become more than adequate to pay the then subsisting pensions and to make proper provision for any pensions that subsequently may become payable. Furthermore, eventually the stage will be reached when there will be no pensions and no females still on the staff who may become entitled to pensions from the fund on their retirement. To meet this position, it is desired that any moneys in the trustee company's fund that from time to time are surplus to requirements and any ultimate balance in the fund be paid to the trustees of the Elders-G.M. fund to be held as part of that fund. In this way the moneys will be used for purposes as near as circumstances admit to those for which they were subscribed.

To enable this to be done, the deed that established the fund will require amendment, but there is a similar difficulty to that experienced with the Trustee Company's Provident Fund. Clause 15 of the deed relating to the Trustee Company's Women's Fund prohibits any amendment that would authorize any part

of the fund to be used to provide pensions or benefits for anyone other than a female on the staff of the trustee company or her dependants. It is proposed to meet the difficulty by inserting a new clause that will enable any surplus in the fund from time to time and also any ultimate balance remaining in the fund to be paid to the trustees of the Elders-G.M. Women's Provident Fund, to be held as part of that fund. The safeguards against too much being paid to the trustees of the Elders-G.M. Women's Fund and so leaving the trustee company's fund short of money are:

(*a*) The directors of the trustee company must first be of the opinion that there are surplus moneys in the fund.

(*b*) If they form that opinion, the matter will be referred to an actuary appointed by the directors, and he will determine the amount that should be retained in the fund to answer subsisting and possible future pensions. The trustees are obliged to retain that amount and any balance will be paid into the Elders-G.M. fund.

(*c*) As time goes by, pensioners die and further surpluses arise, the matter will again be referred to the actuary, who will determine what further amount may be paid into the Elders-G.M. fund, and the amount he fixes will be paid.

(*d*) If at any time after part of the fund has been paid to the trustees of the Elders-G.M. fund, in accordance with the actuary's determination, it is found that the moneys remaining in the fund are insufficient, the deficiency must be made good by the trustee company.

As in the case of the Trustee Company's Provident Fund, the late Mr. Barr Smith made a settlement under which the income of the trust fund is payable to a named beneficiary for life and, after death of the life tenant, the capital of the trust fund is given to the trustees of the Trustee Company's Women's Provident Fund to be held as part of and in augmentation of that fund. A similar difficulty arises here to that in the case of the settlements under which the Trustee Company's Provident Fund has interests. The Bill, therefore, empowers the trustees of the Trustee Company's Women's Provident Fund to transfer the interest under the settlement to the trustees of the Elders-G.M. Women's Fund in the same manner as provided in the case of the Trustee Company's Provident Fund.

I shall now deal with the clauses of the Bill. Clause 1 is formal. Clause 2 contains all necessary definitions of the various provident funds, the deed and regulations establishing certain of those funds and the companies involved. Clause 3 enacts and inserts a new regulation into the regulations that govern the Trustee Company's Provident Fund (that is, for male staff). New Regulation 54a provides that the trustees of the fund may, upon the approval of the board, arrange with the board of directors of Elders-G.M. and the trustees of the latter company's provident fund, first that all male contributors to the fund still in the service of the trustee company shall be admitted to the Elders-G.M. fund as at the date they were admitted to the trustee company fund; secondly, that the trustees of the Elders-G.M. fund take over the responsibility for all pensions and benefits then payable under these regulations; and, thirdly, that all assets of the fund be transferred to trustees of the Elders-G.M. fund. The new regulation further provides that, if such an arrangement is made and upon all matters resulting therefrom being effected, the fund shall be wound up.

Clause 4 amends the deed that established the Trustee Company's Women's Provident Fund by inserting a new clause 18A. This new clause provides that as, in the opinion of the board of directors, the moneys in the fund become more than adequate for the payment of pensions, the trustees shall set aside a portion of the fund sufficient to pay existing and future pensions and transfer the balance of the fund to the Elders-G.M. Women's Fund, and shall continue to transfer from time to time amounts that are not required. The new clause further provides that an actuary shall determine the portions to be retained for the payment of pensions, that any deficiency shall be made good by the trustee company, and that when all pensions have ceased and there are no prospective pensioners the fund shall be wound up.

Clause 5 provides that, if an arrangement is made under new Regulation 54A by the trustees of the trustee company's fund to transfer the assets of that fund to the Elders-G.M. fund, then the Robert Barr Smith interests may be so transferred and such transfer shall be effective and no resulting trust for Robert Barr Smith's personal representatives or any other person shall in any circumstances arise. Clause 6 similarly provides that the trustees of the Trustee Company's Women's Fund may effectively transfer under new clause 18A to the Elders-G.M. Women's

Fund all the Robert Barr Smith interests without giving rise to any resulting trust.

I should perhaps reaffirm at this point that the provisions of clauses 5 and 6 in no way alter the final devolution of the Barr Smith settlements or deprive any person of his interest therein. In fact, these clauses merely ensure that the settlements will follow the course intended and desired by Robert Barr Smith and that his intentions will not be affected by the merging of the provident funds.

This Bill has been considered and approved by a Select Committee in another place.

The Hon. R. C. DeGARIS (Leader of the Opposition): I see no reason why this Bill should not pass through all stages as quickly as possible. It has been reported on by a Select Committee of the other House. Evidence has been taken by that committee, which is satisfied that the merger of the funds as provided for in the Bill will be of benefit to the employees concerned. Some time ago, we discussed rather hurriedly a Bill dealing with the original merger of Elder Smith with Goldsbrough Mort. Now we have a similar situation in regard to the trustee companies. I support the second reading.

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

UNIVERSITY OF ADELAIDE BILL

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

MOTOR VEHICLES ACT AMENDMENT BILL (POINTS DEMERIT)

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

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

That this Bill be now read a second time.

Its major purpose is to introduce a points demerit scheme of motor vehicle licence suspension. Honourable members will recall that a Bill for this purpose was introduced by the previous Government. That Bill was referred to a Select Committee of the House of Assembly and a subsequent Select Committee also examined the desirability of introducing a points demerit scheme. The result of these inquiries has been that a number of worthwhile improvements has been suggested to the original scheme. It is hoped that the points demerit scheme embodied in the present Bill will prove to be both effective and just and will achieve the vital aim of greater road safety without improper restriction of personal rights and liberty. The Bill also makes several other significant amendments to the principal Act that I shall explain in the course of dealing with the clauses of the Bill.

Clause 1 is formal. Clause 2 makes a formal amendment to the section of the principal Act dealing with the arrangement of its provisions. Clause 3 adds mobile field bins and bale elevators to the farm implements exempted from registration fees. Clause 4 makes a drafting amendment to the principal Act. Clause 5 makes two amendments. It enables the Registrar to vary the registration number allotted to a vehicle. It also enables the Registrar to refuse registration to a vehicle if he is not satisfied that the design or construction of the vehicle conforms with the requirements of any legislation governing the design or construction of the motor vehicle.

Clause 6 repeals section 25 of the principal Act. The repeal of this section is necessary in view of the fact that the Registrar is to have a discretionary power to vary the registration number allotted to a motor vehicle. Clause 7 repeals and re-enacts subsection (2) of section 26 of the principal Act. This re-enactment is made to clear up some confusion as to the commencing date of the provision and does not alter its substance. Clause 8 provides that registration without fee shall be granted to motor vehicles used for the purpose of civil defence; for the purpose of controlling or eradicating weeds under the Weeds Act; or for the purposes of the Lyrup Village Association.

Clause 9 empowers the Registrar to issue an amended registration label at any time. Clause 10 deals with hire-purchase transactions. Usually where a vehicle is purchased on hire-purchase the vehicle is registered in the name of the person who takes the vehicle on hire. Thus when the vehicle is eventually paid for there is no change in the person registered as the owner of the vehicle. Section 61 already takes care of this situation. However, occasionally the vehicle is registered in the name of the person who lets the vehicle on hire. Where this occurs the registration must be transferred when the vehicle is paid for to the purchaser. The amendment is designed to cover this kind of transfer under a hire-purchase agreement.

Clause 11 removes a weakness in the provisions related to limited trader's plates. The amendment provides that these trader's plates can be used only by stipulated classes of person and for stipulated purposes. Clause 12 provides for the fee for a duplicate licence or learner's permit to be prescribed. Clause 13 gives the Registrar a slightly wider power

than he has at the moment to require motorists to undergo tests relating to their ability to drive. The power is extended to cover applications for learner's permits and the Registrar is empowered to refuse a licence or a learner's permit where he is satisfied that it is in the public interest to do so. Clause 14 amends section 82 of the principal Act. This section enables the Registrar, upon the direction of the Minister, to refuse a licence to any person who has been convicted of certain offences, or who is otherwise unfit to drive. The amendment extends the provisions of the section to cover learner's permits.

Clause 15 makes a drafting amendment to the principal Act. Clause 16 repeals and re-enacts section 89 of the principal Act. The section as re-enacted will enable the Registrar to refuse to issue, or to suspend, a licence where a person has been disqualified from holding a licence by a judgment, order or decision given or made pursuant to the law of another State or country. Clauses 17 and 18 make drafting amendments to the principal Act. Clause 19 amends section 93 of the principal Act. This section requires an officer of court or the Commissioner of Police to give the Registrar notice of any order disqualifying a person from holding or obtaining a licence. Under the amendment the notification is required in respect of any conviction attracting demerit points or any order of court affecting demerit points.

Clause 20 enacts new section 98b of the principal Act, which contains the points demerit scheme. New subsection (1) provides that upon the conviction of a person for an offence mentioned in the third schedule the number of demerit points prescribed by the section shall be recorded against the convicted person. Where the number of demerit points amounts to 12 or more, the licence shall be suspended. Demerit points are not, however, to be recorded in respect of an offence committed before the commencement of the amending Act. New subsection (4) provides that only the demerit points accumulated within a period of three years shall be taken into account for the purposes of the section. New subsections (5) and (6) provide for the Registrar to issue a warning where half the requisite number of demerit points have been accumulated. New subsection (2) provides that demerit points shall not be recorded until any right of appeal expires or, if there is an appeal, until the determination of the appeal.

New subsection (8) provides that where two or more offences attracting demerit points arise out of the same incident demerit points shall be recorded only in respect of the offence that attracts the most demerit points. New subsection (9) provides that in assessing penalty a court shall not take into consideration the fact that an offence attracts demerit points. New subsection (10) enables a court to order that demerit points be not recorded, or that a reduced number of demerit points be recorded, where it is satisfied that the offence is trifling or other proper cause exists. New subsection (11) provides for personal service of a notice of suspension where the required number of demerit points has been incurred. New subsections (12) to (17) provide for an appeal against suspension of a licence to the local court. The appeal may be allowed if the court is satisfied that it is not in the public interest that the licence be suspended or that the suspension would result in undue hardship to the appellant.

Clauses 21, 22, 24, 25, 26, 27, 28 and 29 provide for the administration of the third party provisions to be placed in the Minister rather than the Treasurer, as the present Act provides. Clause 23 enables a member of the Police Force to require production of evidence that a vehicle was insured at some time in the past as well as evidence that the vehicle is for the time being insured. This enables a police officer to ascertain whether a vehicle was covered by third party insurance at some time in the past when the vehicle might have been involved in an accident. Clauses 30 and 31 are drafting amendments. Clause 32 introduces the schedule of demerit points.

The Hon. C. M. HILL secured the adjournment of the debate.

LIFTS ACT AMENDMENT BILL

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

BOILERS AND PRESSURE VESSELS ACT AMENDMENT BILL

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

EVIDENCE ACT AMENDMENT BILL

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

UNFAIR ADVERTISING BILL

The House of Assembly intimated that it had disagreed to the Legislative Council's amendments.

JUDGES' PENSIONS BILL

The House of Assembly intimated that it had disagreed to the Legislative Council's amendments.

LOTTERY AND GAMING ACT AMENDMENT BILL (POOLS)

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

PISTOL LICENCE ACT AMENDMENT BILL

The Hon. R. C. DeGARIS (Leader of the Opposition) obtained leave and introduced a Bill for an Act to amend the Pistol Licence Act, 1929-1965. Read a first time.

ADJOURNMENT

At 3.45 a.m. the Council adjourned until Wednesday, April 7, at 2.15 p.m.