LEGISLATIVE COUNCIL

Wednesday, April 7, 1971

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

QUESTIONS

WEEDICIDE

The Hon. H. K. KEMP: My question is directed to the Minister of Agriculture and concerns the use of weed poison on road verges. Can he give me any information on the type of weed killer used on the verges of Greenhill Road that seems to be causing the death of the native vegetation for a considerable distance away from and below the edge of the road?

The Hon. T. M. CASEY: I cannot give the honourable member an answer offhand, but I will definitely find out from the department exactly what weedicide it is using; I will get the information as quickly as possible and notify the honourable member.

RAILWAYS INSTITUTE

The Hon. C. M. HILL: Has the Minister of Lands a reply to my recent question about the Railways Institute?

The Hon. A. F. KNEEBONE: My colleague has informed me that when the decision was taken to build a festival hall it involved the demolition of the Railways Institute. It appears that no provision was made at that time for adequate replacement of the facilities in the Railways Institute. This Government has a working committee investigating the adequate utilization of a site on the southern bank of the Torrens River, between the river and existing railway buildings. The present facilities conducted by the Railways Institute are of great importance so far as this Government is concerned, and it is its earnest desire to see the Railways Institute and its accompanying facilities replaced as early as possible. In the light of the above, the rest of the honourable member's question is irrelevant.

WILLIAMSTOWN SCHOOL

The Hon. M. B. DAWKINS: Has the Minister of Lands a reply to a question I asked on March 10 about the projected underpass between the Williamstown school and the playground?

The Hon. A. F. KNEEBONE: Yes. When the honourable member spoke to me the other day, I said I would make every effort to get this reply to him before the end of the session. I received the answer only a few minutes ago, when it was handed to me here in Parliament House. It is as follows:

Three proposals were put forward by the Williamstown school committee to alleviate the dangerous crossing to the playground:

(1) Feasibility study for development of new playing area in section 26, hundred of Barossa.

(2) Rerouting of the main road in order that the present sports field be maintained.

(3) Relocating of the school on land adjacent to the sports field.

The department subsequently engaged the services of a firm of consulting engineers to provide a feasibility report on the matter. The firm of consulting engineers, following consultation on site with the district clerk and headmaster, has recommended the construction of a pedestrian underpass. This recommendation is under consideration and it is expected that a submission to the Education Department will be made very shortly for that department's consideration and formal confirmation of requirements.

RURAL PROPERTIES

The Hon. A. M. WHYTE: On April 1, I asked the Chief Secretary to inquire from the Premier how he had assessed rural properties in South Australia for land tax, as there appeared to be a discrepancy of 19,000 between the figure given by the Premier and that quoted in the *Australian Year Book*. Has the Chief Secretary a reply?

The Hon. A. J. SHARD: The higher figure of 48,000 quoted is the total number of individual rural properties which have been assessed by the Valuation Department. The statistician records in the year book a total number of just over 29,000 rural holdings, as the honourable member has said. The *Year Book* states that, where the holdings are near to one another and in effect worked as one farm, a composite return is obtained and is treated as covering a single holding. The Valuation Department records would show them as separate properties. This is a reason for part of the difference in the two sets of figures, but it is not likely to account for the whole difference. A further part of the difference is that the figures of the Valuation Department include some properties of one acre or more which are not used for primary production, or which do not contribute substantially to the income of the owner and normally would not be included in the

statistician's figures. The Government will have, in due course, more detailed statistical information from computer procedures than has been available in the past, and should be in a better position to resolve differences such as have been quoted.

SALISBURY TEACHERS COLLEGE

The Hon. M. B. DAWKINS: Has the Minister of Agriculture, representing the Minister of Education, a reply to the question I asked regarding the completion of the Salisbury Teachers College and the number of students to be trained there?

The Hon. T. M. CASEY: My colleague has furnished me with the following report:

Salisbury Teachers College will accommodate between 850 and 900 students. The distribution of students will be approximately as follows:

	%
Primary classes	30
Infants classes	20
Lower Primary (mid year)	25
Secondary classes	25

OVER-QUOTA WHEAT

The Hon. A. M. WHYTE: I seek leave to make a short statement before asking a question of the Minister of Agriculture.

Leave granted.

The Hon. A. M. WHYTE: It is generally felt that at least some portion of the over-quota wheat for the 1970-71 harvest will be paid for this year. Is the Minister able to say whether the whole of the over-quota wheat will be paid for; will it be paid for at the rate of $1.10 a bushel, which is the first advance on wheat; and, if so, will it be paid for before June 30?

The Hon. T. M. CASEY: I am unable to furnish a reply to the honourable member. Information has not been conveyed to me as to payment for over-quota wheat. What has been conveyed to me is that over-quota wheat will be taken in, because there is plenty of room in the silos. I will attempt to get the information for the honourable member and let him know as soon as possible.

FIREARMS

The Hon. A. M. WHYTE: Has the Chief Secretary a reply to the question I asked regarding the advertising of firearms?

The Hon. A. J. SHARD: There is no legislation that requires dealers in firearms to advertise that any air gun or air rifle is a lethal weapon.

EYRE PENINSULA SCHOOLS

The Hon. A. M. WHYTE: Has the Minister of Agriculture, representing the Minister of Education, a reply to my question regarding the Streaky Bay High School?

The Hon. T. M. CASEY: The Minister of Education informs me that it is not intended to establish a high school in the Streaky Bay area instead of area schools at Streaky Bay, Karcultaby, and Miltaburra, since it is considered this would involve the students in greatly excessive travelling.

SOUTH-EAST RENTALS

Adjourned debate on the motion of Hon. R. C. DeGaris:

(For wording of motion, see page 4523.)

(Continued from March 31. Page 4549.)

The Hon. A. M. WHYTE (Northern): I am pleased to have the opportunity to support the petition of the settlers who, in the opinion of most people in the State, are victims of an injustice. The Leader and the Minister of Lands dealt with this petition in much detail and produced documents, all of which made the position of the settlers quite clear. They have had one of the rawest deals handed down by any authority in a long time. I am not saying that the situation was a premeditated manoeuvre by anyone, but rather it was the culmination of circumstances that have placed these settlers in such an invidious position. Rather than repeat everything that has been explained to the Council by the two previous speakers, who covered in great detail the various aspects leading to the present situation, I should like to give my impression of what I believe has happened during the last 20 years and of the things that have caused the people to be situated as they are today.

In 1945, the Commonwealth and States entered into an agreement for the purpose of settling exservicemen on the land under the War Service Land Settlement Agreement Act. The Act was well received by the States and by exservicemen's organizations throughout the country. During the next two or three years the South Australian Land Board, which quite correctly was vested with the necessary authority, purchased certain areas of land within the assured rainfall areas of the State. Up to that stage, all of the proceedings were according to plan.

In 1948, certain settlers, having qualified as suitable applicants, were allotted blocks, and most of the allotments were made under

arrangements that have been suitable, subject at times to some adjustments. In connection with zone 5, which is the centre of the controversy, there was an absolute about-face by the authorities on the initial agreement entered into between the Land Board, on behalf of the State Government, and the settlers themselves. To me, an agreement is an agreement, whether it be verbal or otherwise, and no-one can convince me that these settlers would have continued their efforts for 17, 18 or 19 years if they did not believe their efforts in connection with their land would be honoured. They were under the impression that the land would be theirs and that the title would be transferred to them.

The Hon. A. F. Kneebone: They could sign a lease tomorrow, you know.

The Hon. A. M. WHYTE: Yes, and I believe that some of the people who accepted second adjustment were unaware of the type of person they were dealing with. If this wrangle continues throughout the Minister's lifetime and my lifetime, the Government will not get any more rental than it is getting at present, because there is a principle involved in the settlers' action. True, some of them have been offered a rental as prescribed under the agreement, which clearly states that, after the settlers had accepted an allotment on a provisional rental, the rentals would be fixed within 12 months on the basis of the cost of production or productivity, whichever was the lesser. The cost of bringing the land into production would be considered. The settlers went ahead in all good faith, and no-one can convince me that there was not an established agreement between the State Government (through the Land Board) and the settlers. These are men of integrity; most of them have been competent farmers, and they showed ability to develop land efficiently before they took the blocks. Some of them submitted to a training course and, generally speaking, they were under the impression that sooner or later, provided they complied with the covenants of their leases, they would be the leaseholders of the blocks that had been allotted to them. However, somewhere along the line, I think it was in the 1960's—

The Hon. R. C. DeGaris: It was between 1960 and 1963.

The Hon. A. M. WHYTE: —someone discovered that there was a great discrepancy in connection with the balance of payments between the State Government and the Commonwealth Government. It was at that stage that someone said, "We will have to recover this through the rentals".

The Hon. A. F. Kneebone: I do not think so.

The Hon. A. M. WHYTE: Had the rentals been thought of before in connection with all the zones, perhaps something could have been done about it. There was only one zone left to tackle and, with little ado, the rent increased from about £200, which was the provisional rent on many of the blocks, to over £400. No real details were given as to how the second rent had been arrived at.

The Hon. R. C. DeGaris: It was £573.

The Hon. A. M. WHYTE: I know that in a number of cases the rents were in excess of £500, whereas 15 to 17 years before the settlers had entered into a binding agreement with the Government at a rent of £200, or a rent based on productivity.

The Hon. A. F. Kneebone: They were all aware that a final rent would be fixed at some later stage.

The Hon. A. M. WHYTE: Yes. They were all under the impression that there would be an adjustment of rent and that the final rent would be fixed on the prescribed formula set out in the Act. All the other zones were adjusted. It was not until the discrepancy was discovered and someone came up with the brainy idea that it should be covered by rental that the controversy arose. These people have held out against it to a man, with the exception of those who have, as a result of financial difficulty, been forced to sign a lease and to arrange some equitable means of carry-on finance. The remainder of them have struck out steadfastly, asking the Government to honour its initial contract. A letter from the chairman of the soldier settlers group in zone 5 states:

The W.S.L.S. scheme based on the 1945 agreement between State and Federal Governments has been described as the most successful closer settlement scheme in Australian history. I agree with this statement. The scheme was carefully planned in an atmosphere free of political motive, with the economic viability of the farm units as the major consideration.

The viability of the farm units was handled very carefully in the initial stages of the scheme. The important factor was the assessment of the final rent. It was put into effect at a time of reasonable prosperity. As the scheme has been administered in South Australia, the settlers have had the opportunity to acquire a modest area of land on reasonable terms. They were still young enough to build

up funds, and that is what they had hoped to do. They were young and newly-married returned men, and to them this settlement scheme was Utopia. They had every hope that they would eventually own these blocks on a viable basis with a rental that had been promised (something they could cope with) and not one that had been raised to about $1,100. The letter continues:

However, in May 1963, the authorities struck a brutal blow at the high hopes of the settlers in zone 5. This is a group in the area generally known as the Western Division of the South-East and, although the allotment of properties was current with the allotment of many of those in the neighbouring zones, numbers 1, 2 and 3, considerable delay occurred in the fixing of final charges. The 100-odd settlers in this zone were advised in May, 1963, that the rental would be increased to double, and in some cases treble, the provisional rent they had been paying for up to 11 years—

11 years, when they were told that the final rental would be fixed within 12 months! The letter continues:

In one case, the properties were separated only by a road, and in this case the authorities did choose to make the appropriate adjustments for the eight settlers involved because the land was found to be in zone 3.

When they found that they had made a mistake and there was a road between eight of these settlers and the other 100, they said, "Our assessment here was wrong because you are in the other zone", and they reduced the rent accordingly. The letter continues:

For some reason not yet explained, even this did not flow to the settlers at Canunda, near Millicent, whose land is in zone 1. In response to the flood of protests from the settlers, the Minister of Lands, Mr. Quirke, appointed a "committee of inquiry" under the chairmanship of Sir Thomas Eastick, the State Chairman of the R.S.L. The committee included Mr. O. Bowden, then Chairman of the Land Board, and Mr. G. R. Rowe, a member of the Land Board. Both these men had previously held senior positions in the administration of the W.S.L.S. scheme and had at times been associated with subdivision development, allotment and valuation of the land.

Mr. Frank Pearson, who had for many years been South-East agricultural adviser, and Mr. D. Byrne of the Auditor-General's Department completed the committee. The settlers objected to the presence on the committee of the two Land Board members, on the grounds that they could be biased by decisions they had already made or in which they had concurred. Mr. Quirke insisted that the committee stand but conceded that any member could make an independent report if he was not in agreement with the substantive report of the committee.

The committee commenced taking evidence at the end of September, 1963, and its report was handed to the Minister just before Christmas, a most commendable effort. In January, 1964, Mr. Quirke described the report to Mr. Corcoran as a nation-rocking document and in February he told my committee that the crux of the matter was that the authorities had changed the method of arriving at the rent and in his opinion this was a total abrogation of the agreement with the settlers. I believe that this is the crux of the argument.

The Hon. R. C. DeGaris: This was before the report of the Eastick committee?

The Hon. A. M. WHYTE: The report of the Eastick committee was referred by Mr. Quirke to the soldier settlement committee in zone 5. It seems to be a mystery document.

The Hon. D. H. L. Banfield: What year was this?

The Hon. A. M. WHYTE: The committee sat in 1963 and the report was completed in 1964.

The Hon. R. C. DeGaris: And it was never tabled?

The Hon. A. M. WHYTE: No.

The Hon. D. H. L. Banfield: The Government of the day was lacking a little somewhere.

The Hon. A. M. WHYTE: Yes, I am afraid so; but I do not want to take sides about Governments.

The Hon. D. H. L. Banfield: I was just pointing out that it was the Government of the day.

The Hon. A. M. WHYTE: Little point will be served by pursuing that. This problem has gone on for years.

The Hon. D. H. L. Banfield: That figures!

The Hon. A. M. WHYTE: There is no doubt about who was at fault and the fact that there was insufficient money being recouped to be repaid to the Government; and it had to be repaid somehow.

The Hon. R. C. DeGaris: Is that your view?

The Hon. A. M. WHYTE: That is my opinion.

The Hon. D. H. L. Banfield: It is not necessarily fact.

The Hon. A. F. Kneebone: Where did you get details to substantiate that?

The Hon. A. M. WHYTE: I noticed it somewhere when I was reading the evidence. It was estimated that some $2,000,000 would be necessary—

The Hon. R. C. DeGaris: I think the Minister said $1,800,000.

The Hon. A. M. WHYTE: —to be paid by the State (all right—$1,800,000) to adjust this. My point is—

The Hon. A. F. Kneebone: You did not get the point I made.

The Hon. A. M. WHYTE: The Minister will have the opportunity—

The Hon. D. H. L. Banfield: You know he has not got the opportunity to do anything.

The Hon. A. M. WHYTE: I think the Minister has a wonderful opportunity, and I believe he will do his best.

The Hon. A. F. Kneebone: Not in this debate.

The Hon. A. M. WHYTE: No, not in this debate, but he can do better in the future.

The Hon. A. F. Kneebone: I hope I can.

The Hon. A. M. WHYTE: This is a very sad state of affairs. There is a deficiency, whether or not I have misquoted the amount.

The Hon. A. F. Kneebone: That amount is the capitalization of the difference between the two rents.

The Hon. A. M. WHYTE: Can the Minister explain why suddenly the rent was doubled?

The Hon. A. F. Kneebone: That difference is the difference between the rents set, so the figure I gave was the difference between the rent that had been set as a provisional rent and the final rent. The final figure I gave is that difference capitalized over a period of 40 years.

The Hon. A. M. WHYTE: I thank the Minister for that explanation but I still make the point that it is money to be found: I do not think that this money will ever flow to the coffers of the Treasury.

The Hon. A. F. Kneebone: That was not the reason why the rent was fixed.

The Hon. A. M. WHYTE: A book adjustment of the figures would put the position as it should be. That is all that is necessary.

The Hon. A. F. Kneebone: There are two books—one for the State and one for the Commonwealth. How do we adjust them?

The Hon. A. M. WHYTE: That was the argument until the ruling of Mr. Justice Bright, which has somewhat clarified the position of the State in this matter inasmuch as he pointed out that the State is acting not as an agent but as the principal.

The Hon. A. F. Kneebone: Not "the principal" but "a principal" in a partnership.

The Hon. A. M. WHYTE: I will not go into that; it would take me too long. I think Mr. Justice Bright said "the principal". There is a great difference here because, acting as an agent, the State could say, "That is a Commonwealth matter and we will take it up with the Commonwealth as its agent." However, the fact has been established (and I am prepared to accept it) that the State is acting not as an agent but as a principal.

The Hon. R. C. DeGaris: That has been established in law.

The Hon. A. M. WHYTE: Yes.

The Hon. D. H. L. Banfield: You are not quite clear whether or not it is established.

The Hon. A. M. WHYTE: If the honourable member likes, I will go through this judgment to find the passage.

The Hon. D. H. L. Banfield: Why not? We have all day.

The Hon. A. M. WHYTE: I still maintain that the adjustment is a book adjustment and, no matter how hard the Government holds against this, the settlers themselves are quite convinced on this point. They are men of character. There is a principle involved and they will not be prepared to accept this unrealistic rental that has been imposed upon them with no explanation of why it was imposed. When we establish whether the State Government is a principal or the principal I can continue. There is a great deal of difference in the role of the State acting as an agent as distinct from acting as a principal. If it were an agent it had the right to take up the matter with the Commonwealth and see that justice was obtained for the settlers. It would be acting as the agent of the settlers and the agent of the Commonwealth in dealing with the settlers as a third party.

When it was established that it was not the agent but the principal, then it was up to the State Government to make the adjustments. I do not say it is not possible for the State Government to recoup some of these losses or write off the debt with the Commonwealth. I believe it should be able to do this, but it is not freed from the responsibility clearly upon it to make the adjustments and to give the settlers the rights to which they are entitled and which they were promised in the first agreement entered into.

It is not in any way fair or just to believe that people could spend 20 years of their lives improving a property and then be assessed at a rental quite out of keeping with the original intention, and in fact based on their own efforts to develop the property. The ball is very much in the Minister's court; he need only assert his authority to bring justice to these people, and I hope that in the very near future he will take a more positive step than has been taken previously.

The Hon. A. F. Kneebone: You would be doing better if you approached this problem by working on your Commonwealth colleagues.

The Hon. A. M. WHYTE: No, I believe the responsibility is fairly and squarely with the State Minister and the State Land Board, and it is up to them to negotiate with the Commonwealth after, and if, they make the adjustment.

The Hon. A. F. Kneebone: Do you insist that we have to make an adjustment with the Commonwealth?

The Hon. A. M. WHYTE: No. I say you have to make an adjustment to the settlers. The adjustment you get from the Commonwealth rests entirely on your ability to negotiate with the Commonwealth, but the responsibility of correcting the anomaly belongs to the State.

The Hon. A. F. Kneebone: If we are the principal why do we have to negotiate with the Commonwealth?

The Hon. R. C. DeGaris: You don't have to.

The Hon. A. M. WHYTE: You take it up with the Commonwealth and see how you get on, and I hope you will be successful.

The Hon. A. F. Kneebone: But why would I need to do that if I am the principal?

The Hon. A. M. WHYTE: Quoting from the case of *Heinrich* v. *Dunsford*:

The State in this case asserts its rights and denies the petitioner's rights in the character of a principal. The agreements made between the State and the Commonwealth are not agreements to which the petitioner is a party or with which he is concerned save in so far as the provisions contained in those agreements may have been imported into the arrangements (to use a neutral word) subsisting between the State and the petitioner.

Further on, the judgment states:

I regard the State as having demonstrated an intention that a legal relationship should subsist between the State and the petitioner, namely, the relationship of Crown as owner and petitioner as War Service Lessee in Perpetuity with right of purchase.

The Hon. R. C. DeGaris: That is the agreement between the State and the settlers.

The Hon. A. M. WHYTE: That is right. The judgment continues:

The lease, it will be noted, was not submitted in 1966 as an offer but as a document expressing in formal terms the arrangement which was, in the view of the State, already in existence. It dated back to 1953 and therefore purported to refer to a legal relationship which had already been in existence for 13 years. All the letters issuing from servants of the Crown to the petitioner support the same view.

The Hon. A. F. Kneebone: It does not say anything about the Commonwealth not being a party.

The Hon. A. M. WHYTE: I am not trying to suggest that the State has not some right of redress from the Commonwealth.

The Hon. A. F. Kneebone: It has.

The Hon. A. M. WHYTE: I would hope they can negotiate, but what the State has been trying to say up until now is that we can only run to the Commonwealth and tell the story. In fact, this is wrong and the State has the right to correct it.

The Hon. A. F. Kneebone: The rents have to be fixed by consultation with the Commonwealth; that is all.

The Hon. A. M. WHYTE: Where does it say that?

The Hon. A. F. Kneebone: Look at the agreement. If you had listened to what I said the other day in quoting from the agreement you would have seen it.

The PRESIDENT: Order! The Hon. Mr. Whyte.

The Hon. A. M. WHYTE: Also, it came out in evidence that you had already agreed that this was a formula set down. All that happened was that there was a variation in the means of assessing the rent some 13 years after the initial agreement had been reached. The State at that time had the right to effect a means of assessing rentals, and it did. It said it would be a provisional rental for 12 months, and then a rental would be fixed, based on productivity, so that arrangement in fact was made.

If the Commonwealth diverted from its original contract it fell to the State to make the correct assessment. The Minister of Lands said he was extremely sympathetic to the plight of these farmers, but I make the point that these men do not ask for sympathy; they want justice. I appeal to the Minister, whom I believe to have the authority, to see that these men get justice.

The Hon. V. G. SPRINGETT (Southern): The Leader, the Minister, and the Hon. Mr. Whyte have covered well and completely the facts and details of this case. I want to bring to the attention of honourable members what has really brought the matter to a head—the point of conscience. Year after year after year a group of men who had served their country sufficiently well to be favourably considered as soldier settlers have been fighting for justice to do away with the disillusionment with which they are surrounded. I am glad to say that in this Chamber there has been shown considerable support, not for red tape, not for one Government backing against

another, but for realization that these soldier settlers deserve, and indeed demand, and have every right to, justice at the hands of the State. It is worth remembering that 29 people started in zone 5, the number built up to 100, five have since died, 13 have been lucky enough to sell out, and the others are struggling. It is amazing that they were charged a provisional impost of £200 and told that the matter would be settled within a year, but not for 11 years afterwards did that happen and then they were told that their future impost would be not £200 but £400. I ask honourable members to put themselves in the shoes of one of these soldier settlers who have been paying £200 a year (and also been told that the matter would be settled) but then having to wait for 12 years, and be paying £400, although some were paying £500, and others £550. The big question still arises—who is responsible? The Minister said that His Honour Mr. Justice Bright emphasized that South Australia was a principal.

Surely, with all the financial outgoings of this State, a group of men like this, who have proved their worth to their country and who have not been treated with the responsibility that is their due, are entitled to justice from one principal, if not both of them. Surely that one principal is able to look with pleasure and pride upon this group of people and ensure that they are served with justice: a justice they demand and which causes them to stand firm and not to pay the rent that they have been paying and that has been demanded of them in the past. In speaking to this debate I do so with great respect and regard for the men, and with great regret and a certain shame, because all these years have passed and nothing has been done for them officially.

The Hon. H. K. KEMP (Southern): I underline what has already been said concerning this matter. The position in which the men find themselves has convinced me that the only possible thing that we must do before long in this State is to appoint an ombudsman.

The Hon. R. C. DeGaris: It would not do any good in this case.

The Hon. H. K. KEMP: In this case there has been a typical backward and forward shuffle, not within our Public Service but between the State and the Commonwealth, and the position has been reached where it has been impossible for those involved to put their finger on the cause of the trouble, although undoubtedly a grave injustice has been involved. We have seen so many similar circumstances where a divided responsibility has occurred (in this case between two different Public Services) leading to this sort of situation.

I do not think that anyone who is aware of the circumstances of the zone 5 settlers would not be deeply sympathetic to them, but the fact that they had to take court action against the Government to obtain any resolution of their problems indicates that the situation has been pretty bad.

Now that court action has resulted unmistakably in their favour they still find uncertainty and shuffling continuing. The State contends that it is not a principal whereas I am sure that the meaning of His Honour's judgment is that for the settlers the State is the principal and, concerning the relations between the Commonwealth and the State, the State is the agent for the Commonwealth. Here is another case of people being given responsibility when they do not understand the work with which they are dealing.

It is significant that this trouble arose in 1963, and arose in relation to other forms of land settlement in this State, in this connection with the war service land settlers on the Murray River. In their case it was so manifestly impossible for blockers to survive if they were loaded with the full cost of establishment that there was no hesitation in making a decision. Large amounts of capital costs were written off without hesitation.

Why were people in the South-East, who had much less expenditure involved, treated differently? I do not wish in any way to place the Government in any more invidious position than it is in already, but I hope that it will be possible for this matter to be resolved quickly.

The Hon. R. C. DeGARIS (Leader of the Opposition): First, I should like to thank members who have devoted their time to speaking to this motion. I know that this is a difficult situation to understand, as I have been involved in it for nearly eight years. In that period I must admit that it took me a long time to understand the situation in which the settlers find themselves. A couple of honourable members who made speeches today had only read through this material in the last few days, and I congratulate them on their contribution to the debate. Before replying to the Minister concerning his opinion that the motion was introduced because there was a new Government, I repeat that in introducing this motion I would have done so

irrespective of the present incumbent in the office of the Minister of Lands. This motion has had nothing to do with who is in office.

The Hon. A. F. Kneebone: Why didn't you introduce it before when you were in Government?

The Hon. R. C. DeGARIS: I will comment on that point, but I dealt fully with this matter in my first speech about it. The fact is that the rights claimed by the settlers were not established in law until after the Labor Government took office. I must emphasize that point, because before this the whole matter was *sub judice*.

The Hon. A. F. Kneebone: You would never have taken any action unless you were forced to by the court.

The Hon. R. C. DeGARIS: Once again, I dealt with this point fully in my first speech. If one considers the history of this matter, one will realize that there was general agreement at State level in relation to the settlers' claim but all statements made at that time were that we were the agents of the Commonwealth and could not act although we agreed with the settlers' case. Now, for the first time the settlers have established their case in law, and that is the fundamental difference. The declaration of His Honour, Mr. Justice Bright, was made on September 8 last, and if any other Minister had been the Minister of Lands I would not have changed one word of what I have said in introducing this motion.

The Minister said that he has done more than any other Minister has done in this regard. He is entitled to his opinion, and if he can do more I shall be the first to congratulate him. However, I should like to pay a tribute (because I know details of this case well) to the previous Minister of Lands (Hon. David Brookman), who was the only Minister in the whole period to facilitate this dispute going to law. That can be established. I was a member of a Cabinet that facilitated this matter going to law. If one goes back through the history of this matter prior to that, one will see that every obstruction possible was placed in the way of getting the settlers' rights established in law. In his speech on the motion the Minister's argument rested mainly on the contention that the 1945 agreement between the Commonwealth and the State still stood.

The Hon. A. F. Kneebone: Has it been repealed?

The Hon. R. C. DeGARIS: There was an agreement between the State and the Commonwealth, and Mr. Justice Bright said that the 1953 agreement was effective, and it was a restatement of the 1945 agreement. However, the important point is being overlooked because, whether the 1945 agreement is the correct agreement or whether the 1953 restatement is the correct agreement, that is no dispute of the settlers—the dispute between the State and the settlers has been resolved by the declaration. The important point is that the settlers' case has been resolved at law. In any case, it is quite clear from Mr. Justice Bright's judgment that he does not accept the Minister's contention. Indeed, His Honour goes further and says that neither agreement has been carried out.

Let me restate the matter: there are two agreements or contracts, one between the State and the Commonwealth (contained in the 1953 restatement, which is based on the 1945 agreement) and a further legal agreement between the State of South Australia and the settlers in zone 5. That arises from, among other things, correspondence between the department and the settlers. This legal agreement between the State and the settlers has been upheld by Mr. Justice Bright in favour of the settlers. If we go further into this matter we see that the grants made to the State in relation to this matter were made under section 96 of the Constitution—further evidence that the State in this matter is the principal. In his speech on the motion the Minister said:

I would, however, refer to clause 9 of the schedule to the War Service Land Settlement Agreement Act, which states that all financial matters relating and incidental to the carrying out of the scheme shall be arranged in a manner satisfactory to the Treasurer of the Commonwealth and the Treasurer of the State.

As I have pointed out, that has nothing whatever to do with the agreement between the settlers and the State: it is a totally separate matter.

The Hon. A. F. Kneebone: The State could not have operated the scheme without financial assistance from the Commonwealth.

The Hon. R. C. DeGARIS: And that financial assistance came under section 96 of the Constitution. We are dealing here with two separate contracts—the contract between the State and the settlers on the one hand and the contract between the State and the Commonwealth on the other hand.

The Hon. A. F. Kneebone: If there had not been a contract between the State and the Commonwealth there would have been no soldier settlement at all.

The Hon. R. C. DeGARIS: There were two contracts, and the contract between the State

and the settlers has been resolved. There is no question about that.

The Hon. A. F. Kneebone: Until the agreement between the State and the Commonwealth is resolved, the other agreement cannot be resolved. I have said that all along.

The Hon. R. C. DeGARIS: Can the Minister say how the settlers can now pursue the Commonwealth in law? The answer is that they cannot do so. The only body that can pursue the Commonwealth in law is the State.

The Hon. A. F. Kneebone: I agree.

The Hon. R. C. DeGARIS: Since the settlers have gone as far as they can in law, their case should be corrected. The other contract is up to the State, not the settlers.

The Hon. A. F. Kneebone: I am approaching the Commonwealth and doing all I can about the matter.

The Hon. R. C. DeGARIS: And previous Governments, thinking they were the agent, have done exactly that, too. However, the settlers' rights have now been established in law, and the State is the principal to the agreement. Let us consider a simple situation where B signs a contract with C; C sues B, and B then says, "I am sorry, but I cannot meet the court's judgment because I cannot get A to agree." This can reach a ridiculous stage. If it occurred in a workmen's compensation case I know exactly what the Minister would be saying. A workman may sue for compensation and win a case against his employer and the employer may say, "It has nothing to do with me; that is the insurance company's problem." That may be an odd example, but it illustrates what I am trying to get at. The settlers' only recourse to law has been satisfied. Their position in law was established in September, 1970.

The Hon. A. F. Kneebone: What about my need to contact the Commonwealth?

The Hon. R. C. DeGARIS: That is a fight between the State and the Commonwealth, and it has nothing at all to do with the settlers. There are two separate contracts, and the settlers have won their case. In his speech on the motion the Minister also said:

Blocks were allotted in this zone during the year 1952 and the years up to and including 1960. It is true that in the first *Gazette* notices it was stated that rents would be fixed within 12 months after allotment. As things turned out, this was not possible, and later *Gazette* notices stated "as soon as practicable thereafter".

The first *Gazette* notice came out saying that rents would be allocated 12 months after the allottee went on the property. They did not get their final rents until 12 or 13 years later. Some contained the footnote "as soon as practicable thereafter." What does that phrase mean? There was a decision in a case in the Supreme Court of Western Australia, *Gilbert v. Western Australia,* where this point was raised, and the court held that "as soon as practicable thereafter" meant within 12 months. That is what it means. The court held that any other term was not practicable. This has been established in law in that case of *Gilbert v. Western Australia,* in which exactly the same thing happened; the footnote "as soon as practicable thereafter" was inserted and the court held that it meant 12 months after. The State Government made an offer to reduce rentals on those blocks where the 12 months period applied, but it has not worried about the ones to which "as soon as practicable" applied.

The Hon. A. F. Kneebone: I thought the settlers would have taken another case, if that were so.

The Hon. R. C. DeGARIS: This question has already been established in a legal decision.

The Hon. A. F. Kneebone: It fixed rents in the ones with the footnote "within 12 months". Why wasn't it forced to do it in the others?

The Hon. R. C. DeGARIS: The State or the Commonwealth was never forced to do anything. The change from 12 months to "as soon as practicable" was made in the *Gazette* in South Australia under pressure from the Commonwealth, which claimed to be embarrassed by the 12 months provision in ascertaining zone costs. Subsequently, the 12 months term was regarded as a mistake. However, the Commonwealth is bound by it in law. The Minister also said:

It was not until 1962 that the total cost of zone 5 could be ascertained or reasonably estimated and it was in that year that action was taken to finally determine the results that would apply to the blocks allotted in zone 5. Recommendations for rental were submitted to the Commonwealth and these were notified to the settlers in May, 1963. Immediately after the notification the settlers objected and declined to sign the leases that were forwarded to them.

The Minister should bear in mind the two points raised by the Hon. Mr. Whyte. The rentals were to be based on cost of producing the block or on productivity, whichever was the lower figure, and the rents were based on 2½ per cent of costs or 2½ per cent of productivity. How was the question of costs arrived at? The costs were supposed to be kept for

each zone, yet in places we see that the Government said the total costs were not known. Regarding productivity, how does one assess 2½ per cent of that? The way it was done in all other zones was to assess the property on a dry sheep carrying capacity and a standard property carrying 1,200 dry sheep.

It was assessed at £6 a dry sheep. Taking 2½ per cent of £6 gives 3s., which was the multiplier used to get the rental. A standard property of 1,200 dry sheep multiplied by 3s. gives £180, which was the rent fixed in all other zones and which will be seen to check throughout the area. The evidence given in the case by officers of the Commonwealth supported this contention. These settlers went on in about 1952 and, somewhere between 1960 and 1963 (up to 10 years after the settlers went on the blocks), the Government suddenly decided that it had to find a new multiplier to get the rents up to where it wanted them eight to 11 years after the people went on their properties. In the years 1960 to 1963, a productivity multiplier of 6s 6d. was produced, and this was supported by the evidence in the case before Mr. Justice Bright. How can anyone justify the finding of a multiplier eight to 11 years after a person went on the block, with all the other factors in the case? The Minister also said:

In 1966, rents were notified to settlers and leases were reissued, but in very many cases the settlers concerned refused to sign. At the present time, 29 settlers have signed their leases and 73 are still outstanding.

Of course 29 settlers have signed their leases and 73 are still outstanding. I should say that at least 25 of the 29 signed under protest. The Minister should not be misled into thinking that the settlers who signed are perfectly happy: they are not. Some have been signed by widows where death has occurred. The Minister should remember that these people have had nothing to mortgage; they have worked on their properties, have built up an equity, but cannot raise any carry-on finance. Many of them have had to leave their properties because of that, and some have retired for health reasons. The Minister said (quoting His Honour):

I find that the proper method of fixing the rental for the petitioners' land was to assess the value in terms of paragraph 5 of the recited conditions and to take 2½ per cent of that figure with the adjustment provided therein.

That was not done. That can be seen clearly in the evidence before the court. The Minister also said (quoting His Honour):

He said his approval was not required. I think this means that the footnote must be regarded as amounting to an authentic condition relating to the offer by the State of the land. The case is not like *Cullimore v. Lyme Regis Corporation,* (1962) 1 Q.B. 718, where failure to determine certain charges within a specified time meant that the charges could never be levied. But it does mean, in my view, that when the rent is fixed it must be fixed as if it had been fixed during the first 12 months.

The rent had to be fixed in the first 12 months. We must not forget that we are dealing here with a period eight to 11 years later, with a new multiplier of 6s. 6d. a head, not 3s. as previously determined. What justification can we find for suddenly plucking out of the air a new multiplier and saying that it applies to 12 months after allocation when it was decided on eight to 11 years later? The Hon. Mr. Whyte has also quoted from the judgment to the effect that the State is a principal. That is borne out quite clearly in the judgment. No declaration could be made in favour of the settlers if the State were not the principal.

The Minister says that the 1945 agreement is the agreement. If we look at page 18 of the judgment, we see clearly that His Honour sets out that there was no need for legislation to restate the agreement in 1953. I made the point earlier that it does not matter whether we are dealing with the 1945 agreement or the 1953 restated agreement: the terms and conditions of neither have been carried out. While I appreciate very much that the State for political reasons may not wish to twist the Commonwealth's arm and risk the liability for $1,800,000—

The Hon. A. F. Kneebone: We are prepared to twist its arm.

The Hon. R. C. DeGARIS: Wait until I have concluded what I am saying. While I appreciate that for political reasons the State may not wish to twist the Commonwealth's arm and risk the liability for $1,800,000, I do not think the liability could be legally imposed. I am certain that the Commonwealth-State agreement is political and not legal. Of course, the Commonwealth could get its money back in other ways. I also refer to the correspondence—

The Hon. A. F. Kneebone: You admit that there would be some difficulty?

The Hon. R. C. DeGARIS: Absolutely. I will say clearly that, if the State would recognize this situation as far as the settlers were concerned, the Minister would have in me a first-class advocate against the Commonwealth

in this matter. I see no other way for the State to meet its commitments. If the State does it, it will have a first-class advocate on its side as far as I am concerned in its case against the Commonwealth, because the Commonwealth legally has not a leg to stand on. But, first, the State must meet its commitments to the settlers.

I return to the correspondence between the State and the Commonwealth from 1945 to 1953 and later. This constitutes a political and not a legal agreement between the State and the Commonwealth. I am sure the Minister has missed the point so far in the whole discussion. I sum up now by saying that (1) the declaration by Mr. Justice Bright establishes the State as the principal; (2) the declaration made by Mr. Justice Bright is in favour of the settlers; and (3) the State should act immediately to settle the matter justly, and it is in Cabinet's power to do so.

This having been done, I would join the State in any action it wished to take against the Commonwealth, and so would every honourable member in this Chamber. I will give the Minister my undertaking on that. The Commonwealth has not a leg to stand on. I re-emphasize that the settlers have received a judgment in their favour against the State. Surely it is not their responsibility now to take action against the Commonwealth. How can they in any case take action against the Commonwealth?

Motion carried.

LOTTERY AND GAMING ACT REGULATIONS

Order of the Day, Private Business, No. 2:

The Hon. R. C. DeGaris to move:

That the regulations under the Lottery and Gaming Act, 1936-1970, in respect of lotteries, made on February 25, 1971, and laid on the table of this Council on March 2, 1971, be disallowed.

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

That this Order of the Day be discharged.

Order of the Day discharged.

PISTOL LICENCE ACT AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

This short Bill is intended to cover a gap that appears to exist in the principal Act. At present, members of rifle clubs are exempt from the restrictions on carrying unlicensed pistols contained in section 4 of the principal Act. With the growth of pistol clubs as distinct from rifle clubs, it is felt that this exemption should be extended to members of those pistol clubs. Accordingly, by clause 2 of this Bill the exemption is extended to cover members of pistol clubs. I commend the Bill to the Council.

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

Later, Bill returned from the House of Assembly without amendment.

BUILDERS LICENSING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from April 6. Page 4698.)

The Hon. L. R. HART (Midland): There are many aspects of the Builders Licensing Act on which one could speak, particularly the possible effect on building costs in South Australia. Like many measures we have had to deal with under the administration of the Labor Government, the teeth are not in the Bill itself but in the regulations brought down under the provisions in the Act. One never knows what effect regulations will have in an industry until they have been introduced. They may create problems more far-reaching than those they are introduced to cure.

To say there has been a storm of protest over the regulations brought down under the Builders Licensing Act would be an understatement. People associated with the industry have made strong representations to all Parliamentarians from the Premier downwards. So strong have been these representations that the regulations were disallowed in this Chamber, and if this had not happened the Government was prepared to amend them.

South Australia for many years has enjoyed a low cost structure in the housing industry, and the quality of its housing has been the envy not only of other States but also of many oversea countries. One would hardly expect any sane Government to throw away this enviable record and prejudice the future development of the State. If the effect of this legislation cannot accurately be estimated, South Australia could well find itself facing an exodus of many of its skilled tradesmen. There is always considerable movement of skilled tradesmen in the building industry in Australia; they move from one State to another depending on a number of conditions that may exist at any time. At one stage South Australia was short of tradesmen, because many had gone to Western Australia, preferring the

conditions existing there. Possibly there were more jobs available in Western Australia.

The Hon. D. H. L. Banfield: They are coming back now.

The Hon. L. R. HART: That is the point I am making. The tradesmen from Western Australia are returning to South Australia, and this movement has occurred since Western Australia has introduced building licensing regulations. That is why we are getting our trademen back.

An expanding practice within the building industry has been subcontracting. Part of the work for an agreed price has been let out to subcontractors, who own their own tools of trade, are independent, and have served the industry very well.

The Hon. D. H. L. Banfield: But they do not set their own rates.

The Hon. L. R. HART: The honourable member can make his speech at a later stage. No doubt he is very well informed on this industry.

The Hon. D. H. L. Banfield: Obviously you are not.

The Hon. L. R. HART: He will be able to give the Council the benefit of his experience. The Bill allows a subcontractor to obtain a restricted builder's licence, but the guide to applicants issued by the board set up under the legislation, consisting of some 18 pages, lays down the conditions under which a restricted builder's licence will be issued. It says, for instance, that people working in the painting and decorating industry must work in that industry for at least eight years, two of which must be worked under responsibility; they must be working on their own account. This exceeds the qualifying period laid down for an apprentice or for a general builder's licence, where the applicant is required to have not less than three years practical experience in general building work.

A bulldozer driver, just to take an example, must have spent four years in the industry, one year of which must have been acting under responsibility (or, to use the correct term, minimum years of responsibility). The building contractor must have had four years experience before he can operate a bulldozer, working as a subcontractor, but if he is working under the direction of a general builder he need have only two days experience. As long as he can drive the jolly thing he is able to carry out the same work as if he were contracting on his own account. As time goes by, the effects of this will be that more and more work will be done by day labour and less and less by subcontracting, thus increasing housing costs.

The worst aspect of the legislation will be its effect on building costs in country areas. Every country area has its handyman who is able to perform general building work. Some of these people are well qualified, having learned the trade from the ground upwards, and they can build a house with all the necessary facilities.

The Hon. R. C. DeGaris: I have heard of a man in a country town who has been building for 20 years but now must close down.

The Hon. L. R. HART: Yes, because he will not be able to obtain a general builder's licence. No doubt he will be able to obtain a restricted builder's licence to do certain work, but the remainder of that work will have to be done by another person holding a licence. Such a person may not be available in the area and may have to be imported from 100 or even 200 miles away. One can see the effect of this on building costs in the country. A person cannot engage in general building work unless he has had three years' experience in the industry, working under responsibility for one of those years. Even so, he is not permitted to engage in the simple process of painting unless the total value of the painting work he does, including materials, is less than $100.

The Hon. A. F. Kneebone: Painting is an apprenticeship trade: you said it was a simple operation.

The Hon. L. R. HART: If he purchased two gallons of paint and applied it, the $100 would be used. If he exceeds $100 he is required to obtain a licence as a painter, and to obtain that licence he has to serve seven years in the industry if he has been an apprentice, and two of those years must be served with responsibility. If he has been an improver, he must have served eight years in the industry, including two years under responsibility. The handyman in the country will be severely restricted and, undoubtedly, building costs in country areas will increase considerably.

The Hon. M. B. Dawkins: They may go up by as much as 25 per cent in some cases.

The Hon. L. R. HART: I would be surprised if they did not go higher. This legislation will reduce the number of people entering the building industry, and this is not likely to be made up with apprentices if we consider the pattern of apprentice intake in recent years. At present, about 14,000 skilled personnel are engaged in the building industry in this State, so many apprentices will be

required to replenish this reservoir of skilled workers. It may interest honourable members to have incorporated in *Hansard* a table showing the number of apprentices enrolled in South Australia during the last six years. I seek leave to have this table incorporated in *Hansard* without my reading it.

Leave granted.

NUMBER OF APPRENTICES ENROLLED IN S.A.

	1965	1966	1967	1968	1969	1970 (approx.)
Carpenters	172	138	98	108	142	142
Bricklayers	9	8	18	5	12	12
Painters	14	18	18	25	24	24
Plasterers—						
(solid)	9	2	3	4	3	3
(fibrous)	5	4	1	2	—	—
Electricians (covers all types general mechanics)	108	125	108	151	137	140
Plumbers	101	115	71	74	90	95

The Hon. L. R. HART: In 1965, there were 172 carpenters enrolled as apprentices: this number fell to 138 in 1966 and went back to 98 in 1967; it picked up to 108 in 1968; in 1969 it was 142, and for 1970 the total is about 142, which is still 30 less than the number enrolled in 1965.

The Hon. A. F. Kneebone: This has been brought about by subcontracting.

The Hon. L. R. HART: In 1965, there were nine bricklayers; in 1970, there were 12. In 1965, there were 14 painters and, in 1970, the total was still only 24. In 1965, there were nine solid plasterers, while in 1970 there were three. In 1965, there were five fibrous plasterers and, in 1970, there was none. In 1965, there were 108 electricians, and in 1970 there were 140. In 1965, there were 101 plumbers, and in 1970 the total was only 95. It can be readily seen that there will not be sufficient apprentices entering the building trade to compensate for the loss through retirements and other factors.

The Hon. A. F. Kneebone: The number will keep shrinking under the subcontracting system.

The Hon. L. R. HART: It may, but, if the subcontracting system is eliminated as well, there will be a dearth of tradesmen. My point is that there are many people available to work in this industry today who have not served an apprenticeship but who are qualified tradesmen. The Minister would recognize this fact and accept it. By this legislation we are trying to eliminate the subcontractors. Today, migrants supply a large part of our work force in the subcontracting field. Many of them may face difficulties in obtaining licences, and this would discourage them from coming to this State and, if they are already here, it will encourage or force some of them to go to another State. I have reasonably accurate figures of the percentage of migrants engaged in the subcontracting field.

In the material subcontracting field, 20 per cent of plumbers, 60 per cent of electricians, 95 per cent of gyprock fixers, 85 per cent of concreters and tilers, and 50 per cent of plasterers, are migrants. If we consider the labour-only subcontractors, we find that 80 per cent of painters, 80 per cent of carpenters, and 95 per cent of bricklayers are migrants. This legislation is setting out to create a closed shop; there is no question about that. The excuse for its introduction has been that houses have been shoddily built. Admittedly, some houses have been shoddily built, but there may be certain circumstances that have caused that. There may be a demand from the home builder for a cheap house, and that is one reason why a house is shoddily built. However, the percentage of shoddily built houses is very low.

The Hon. D. H. L. Banfield: What is the percentage?

The Hon. L. R. HART: No authority would build more shoddy houses than would the Housing Trust. To catch a small percentage of dishonest and incompetent tradesmen (and I say tradesmen, because under the legislation we are covering all trades) we are setting up this bureaucratic, all-embracing legislation. Its effect on the building industry is such that houses of tomorrow will be out of the reach of the ordinary citizen, and we will have the situation where people will not purchase houses but will rent them. I know that the Government wishes to have this legislation

passed soon, and I do not wish to delay it any longer. As much as I regret it, I will support the second reading.

The Hon. R. C. DeGARIS (Leader of the Opposition): This Bill makes some minor alterations to the original Act. When the original Bill passed through this Chamber, if one recalls the comments that were made, many members said that when the building industry understood the implications of the legislation it would rue the day it accepted builders licensing as presented in the Bill. I do not think any people understood more fully than honourable members of this Council what would happen when the "teeth" of the legislation came before Parliament. When we saw the regulations we began to understand the tremendous ramifications of the legislation. At present the building industry is aware of this matter and I believe the community at large will become aware of it, too. Everyone is now realizing what a very high price we will have to pay for implementing this legislation.

I have always believed that the design of the legislation goes much more deeply than just protecting the home owner or the purchaser of a building. If the Government's intention were limited to such protection, I believe there would be a much simpler and cheaper way whereby its intention could be carried out. It appears that there is a hatred of the subcontracting system among members of the Labor Party. In the early days of his Premiership (in 1965, I think) the late Mr. Frank Walsh left no doubt in one's mind that the intention behind the legislation was to get at and control the subcontracting system, which has produced a high standard of house in South Australia at the cheapest possible rate.

I believe that this legislation, when fully implemented, will add considerably to the cost of building houses in this State; it will destroy the subcontracting system, and it will not offer any protection to the home owner. It may be argued that over a period we shall get some improvement in building standards, but even that is a difficult argument to sustain. I believe there will be a rather steep increase in the costs of building houses. As the Hon. Mr. Hart said, if the Building Bill had been passed in the form in which it reached this Council, the legislation would have applied over the whole State and the position of many country builders of the handyman type would have been perilous indeed.

I believe that the Government needs some assistance with its legislation on this matter, and I think that an inquiry into the impact of this legislation on costs in the State is warranted. I said earlier that I am not opposed to the concept of licensing builders. If the Government desires to protect the home owner, I have absolutely no objection to its desire. I commend the Government for that, but I strongly believe that this Bill goes much further than protecting the home owner. I know that some honourable members believe that, to assist the Government, an inquiry should be held into the whole impact of housing costs in the State. It may be that a move will be made along these lines as a means of assisting the Government to implement legislation that will have the desired effect. I support the second reading.

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

UNFAIR ADVERTISING BILL

Schedule of the Legislative Council's amendments to which the House of Assembly had disagreed:

No. 1 Page 2, line 9 (clause 2)—Leave out "or" and insert "and".

No. 2. Page 2, line 22 (clause 3)—Leave out "prove" and insert "satisfy the court before which those proceedings are brought".

No. 3. Page 3, line 3 (clause 3)—Leave out "prove" and insert "satisfy the court before which those proceedings are brought".

Consideration in Committee.

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

That the Council do not insist on its amendments.

The House of Assembly's reason for disagreeing to the Council's amendments is that they seriously weaken the effectiveness of the Bill. If I remember correctly, amendments Nos. 1 and 2 deal with the one subject. I shall state why the Government is not willing to accept the amendments. In its present form the definition of "unfair statement" includes two types of statement. The first is a false statement and the second is a misleading statement. Linking these statements is the disjunctive "or" not the conjunctive "and". The reason for this approach may best be stated in the words of the then Lord Chancellor in *Aaron's Reefs v Twiss* (1896 Appeal Cases, page 273) when he said:

If by a number of statements you intentionally give a false impression and induce a person to act on it, it is not less false although if one takes each statement by itself there may be difficulty in showing that any specific statement is untrue.

This then has been the general tenor of Statutes, and judicial interpretation of them, dealing with the law of misrepresentation. If the amendment were accepted a great part of the value of the measure as a protection against unfair advertising would be lost and indeed it would be possible for an unethical advertiser safely to deliberately deceive or mislead the public so long as he ensured that each separate assertion in his deceptive advertising was in fact true.

The Hon. R. C. DeGARIS (Leader of the Opposition): I am rather sorry that another place could not see fit to accept the Council's amendments, which seemed to offer some protection to an advertiser. Regarding the second amendment, namely, "the satisfaction of the court" as opposed to "prove", the Chief Secretary said in the debate that these meant exactly the same thing. If that is so, I cannot understand why the Government will not accept the amendment. I can only conclude that they are not the same. As no doubt the Government is keen to have this legislation on the Statute Book and as I have been convinced by the Chief Secretary's explanation, I agree that the Council should not insist on its amendments.

Motion carried.

FISHERIES BILL

Adjourned debate on second reading.

(Continued from April 6. Page 4686.)

The Hon. C. R. STORY (Midland): I support the Bill. Honourable members who have studied the legislation would no doubt agree that this is a Committee Bill. The history of the measure is well known to the fishing industry and to honourable members. Over a period of years the fishing industry in South Australia has been somewhat neglected whichever Government has been in office, and has been run on a shoestring. When I took over the responsibility for this legislation, the departmental inspectors' fleet was dilapidated. I do not think there was one four-wheel drive vehicle. I think they owned one ship, and certainly they did not have the facilities even to check up on the provisions of the Fisheries Act. In addition, the inspectors doubled up as inspectors under the Fauna Conservation Act.

I am pleased to see that in the last two or three years things have improved greatly in this respect. Much of the credit must go to the present Director, who is a very good marine biologist and who served with the Commonwealth Scientific and Industrial Research Organization for some time and in private enterprise, and who came to the department when a Select Committee was being set up to inquire into the fishing industry. That Select Committee, after taking evidence throughout the whole of the State and deliberating for some months, brought down its report, which was printed on September 14, 1967. At least three Ministers have been faced with the formidable task of having this legislation drafted and of getting their Cabinet colleagues and the industry to agree to it.

For my part, it was a difficult piece of legislation. The Bill now before us is not the same as the one I had drafted. Changes have been made, particularly in the type of licence to be issued and in the amount of money to be placed in a special trust fund. In the Bill that I submitted to Cabinet when I was in office I visualized putting all the money from the special licence fees into the research fund. When this legislation was introduced in another place the present Government visualized one-third of the money derived from special licence fees going into the special fund and the balance going into general revenue. However, as a result of pressure from the industry the Government agreed to put one-half of the money from special permits into the special fund for research.

My feeling is that the Government is being rather tough, because representatives of the prawn industry told me that they would levy themselves $200 a year as a special licence fee so that the money could go into prawn research. The abalone representatives did not come along voluntarily, but a licence will cost them $100 a year. I have no doubt the Minister will, by regulation, impose something on crayfishing, as provided for in this Bill. Also, I have no doubt that the fee for the ordinary class A or class B licence will be raised considerably. It is ridiculously cheap at present but I am sure that under the regulations it will be increased.

The Commonwealth has put aside in a fund of its own a sizeable amount of money. We in South Australia are not responsible for raising any specific amount of money: we do not have to produce a certain sum of money in order to get the benefit of the Commonwealth research moneys in this case. If we have $50,000 in our own fund we can spend that $50,000 within the State on useful research, particularly into the prawning industry. We are in great need of a marine laboratory. Tasmania, a small State, has a magnificent set-up with two marine biologists

engaged in research. We have here only one marine biologist, who is also Director of Fisheries and Fauna Conservation—far too great a job for one person.

I do not know whether the Government intends to try to finance the whole Fisheries Department from the fees it raises from the actual fishing. If it does, it will be unfair, for other departments are financed from general revenue. For instance, in the Agriculture Department fees are charged for certain services rendered—seed certification and the work done by veterinarians—but we do not expect the State's primary producers to finance the whole Agriculture Department. So I do not think we should expect the fishermen of South Australia to provide nearly as much money as they are being asked to provide for research—at least half the money collected. That money should be for a specific purpose—the further investigation of our fish resources.

We have had a most disastrous year again in respect of tuna. It started well but petered out, as it has done over the last three or four years; yet New South Wales has had an excellent run. All this means that fisheries management is tremendously important. We have large amounts of money invested in the fishing industry. Some of the boats are worth up to $150,000. If the fisheries management is not good and research does not keep pace with that in other places, it will mean that the whole of the fisheries effort will be dissipated and wasted, and people will leave the State and go to the east coast of Australia. Some fishermen are going to the Gulf of Carpentaria for prawning. We do not want to lose any of our fishermen if we can avoid it.

Certain facilities are provided for by clause 22 of the Bill. There is an obvious need for much better facilities at Port Lincoln and most of the small ports along the west coast of the State—for instance, at Coffin Bay, where the Hurrells many years ago at their own expense erected a rather cheap construction, but it has served as the only wharf in Coffin Bay for quite a big fleet. Thevenard, too, should be considered. Some of this work is now proceeding. It was very much behind schedule and a big backlog had to be picked up. Extra money will be collected because of the new survey regulations that came out not long ago. More money should be used in giving the West Coast and South-East fishermen better facilities, particularly for slipping, because the survey regulations that were introduced when we were in Government must have returned to the Treasury a considerable amount of money, as the impost was fairly big. I mention money because all this is to be done by regulation. We have no indication from the Minister or anything written into the Bill about how much in additional fees these people will be called upon to provide. Even more so, this Bill is notorious for the fact that it provides for a tremendous amount of work to be done by proclamation. Whilst I agree that the power to make a proclamation is something that a Minister often needs to enable him to act quickly, certain things in some clauses of this Bill would be much better dealt with by regulation.

By and large, I cannot criticize the Bill. Fishing is a difficult industry to manage. Much of the work connected with it is inspectorial: first and foremost, it is a policeman's job to see that the regulations are complied with and that people do not infringe the rights of others. We cannot erect fences on the sea; therefore, we must have the sort of legislation that prohibits people doing things in or on the sea that could be legislated for easily on the land, because fences can be erected on the land and notices displayed saying "Trespassers will be prosecuted", whereas on the sea a strict code of ethics must be observed. For much of the work that the department will have to do, the Minister will have to provide far more facilities than we have at present, in the way of more four-wheel-drive vehicles, more craft and certainly more inspectors.

The fishing industry has made approaches: it has approached many members of Parliament. Most of the matters raised have been incorporated in amendments made in another place. I have no further amendments to suggest. Nobody will be very thrilled with this legislation. I must add a word of warning to the fishermen, who are mad keen, as are their representatives, to get this legislation through. They are just as keen as were the builders 12 months ago. When they see the regulations and proclamations that come from the legislation they will get a shock, because so much of this legislation vests power in the Director and the Minister, and the fishermen are not going to like some of those powers one little bit.

I say this because the legislation is being hurried through. I know the Minister's difficulty. Representatives of the industry have said to me that whatever happens we should not hold up the legislation any longer. It suits the fish buyers, who will have the whole of the fishing effort channelled through

orderly and organized marketing. It will take away from many part-time fishermen the rights which have existed for some considerable time to do a bit of fishing after they knock off from their other job and to sell their fish. They will not be able to do this any longer.

There will be class A and class B licences, but the class B licence holder must satisfy the Director that it will be part-time employment and that it will continue as only part of his employment. This will not appeal to many people who make quite a bit of pin money from part-time fishing. Some men engaged in shearing fish during part of the year. I know that the policy of the Labor Party is one man one job.

The Hon. D. H. L. Banfield: There is so much work about under the Labor Government that the labour must be supplied.

The Hon. C. R. STORY: I will be raising certain queries in Committee, but by and large this is as good a Bill as we can get. It was drafted by Sir Edgar Bean, and I think this Parliament appreciates that he was one of our best draftsmen. It is clear and well laid out, and I think we can consider ourselves fortunate in that respect. However, the proof of the pudding in this case will be in the regulations. If they are good I am quite sure we will not have much trouble, but I see great difficulty in framing regulations without giving tremendous power to the Director and, in some cases, to the Minister.

I am rather disappointed that whilst provision is made for a person aggrieved by not gaining a licence or by having his licence revoked, the Minister may refer to a competent person who will report back to him, and, whatever the finding of that person, it will be binding upon the Director to carry out the instruction of the Minister. Had I been handling this matter I would have set up a tribunal to investigate grievances about licences and other matters in dispute with the Chief Inspector or the Director. It is not fair to the Minister, who is under tremendous political pressure, and it is not fair to the fishermen, because they do not get the sort of justice they should get. I would have provided for a properly constituted tribunal, and I am sure it would be in the interests of the Minister to do this. I know the pressure that can be put on a Minister. He must listen to these things, and it is most difficult for him to arbitrate. I support the second reading.

The Hon. A. M. WHYTE (Northern): I support the Bill, which is formulated, I believe, with the concurrence of the fishing industry. After the circulation of the draft Bill, members of the Australian Fisheries Industry Council conferred with the Minister and suggested certain variations. The council has not approached me since that time, so apparently the Bill is to its liking.

The Hon. Mr Story covered the legislation in some detail, mentioning its effects on the industry. I agree that any moneys obtained from the industry and any moneys that can be infused into it are essential for further survey, further experimentation, and further facilities.

The fishing industry is of great value to South Australia, which has one of the best shark and tuna-fishing areas in Australia. I know many very good fishermen who have plied this trade most of their lives and who believe that there are more fish in the sea than have been taken out and that further surveys should be conducted. However, as the Hon. Mr. Story pointed out, the fishermen have done most of the spadework themselves, even to the point in many cases of handling their own loading and shipping facilities. It is an undernourished industry. The Bill, although it will please many professional fishermen, will cause some misgivings to part-time fishermen. It will have some adverse effect on the tourist who, for many years, has loaded his boat on a Friday night, gone somewhere on Eyre Peninsula for the week-end, paid for his expenses and even brought back some fish as well. It will have a curtailing effect on this type of activity.

The Hon. T. M. Casey: Do you think that is good or bad?

The Hon. A. M. WHYTE: It is bad from a tourist point of view, but from a fisherman's point of view it might be all right. Fishermen have been in touch with the people who designed this Bill, and apparently it meets with their approval. I raise no objection to it. I hope the Minister will channel all the revenue he can into the further surveys and facilities so necessary for the industry. I support the Bill.

The Hon. T. M. CASEY (Minister of Agriculture): I thank honourable members who have supported the Bill. This is not an easy matter, because for many years the Government of this State did nothing for fishermen, and it was not until 1966, when the previous Labor Government was in office, that a Select Committee was set up to consider the problems

of fishermen in this State. That committee brought down a report, and the cogs were left turning when the Labor Government went out of office. It was not until the present Labor Government took office that this measure was introduced. It is a complicated measure, and it will not please everyone, but we have done our best to ensure that we will maintain an industry in this State that will be beneficial to the State. At the same time, we have considered the stocks of fish in the State that have been depleted considerably, particularly in the gulf waters, in the last two years.

Members can fly their political kites easily in regard to this Bill and can criticize the Government for not allowing more money to go into the fishing research fund. No pressure was placed upon the Government by the fishing industry, and we decided upon 33⅓ per cent of the fees after I had recommended it to Cabinet. There is no reason why it cannot be altered if necessary. I doubt whether a single voice speaks for fishermen in this State, because there are so many factions in this industry. The figure of 33⅓ per cent was decided on, although the Government was willing to provide 50 per cent of the amount of licence fees received, to be placed in the fund.

The Hon. C. R. Story: Why not write that into the Bill?

The Hon. T. M. CASEY: We included 33⅓ per cent, but we could go further because it still provides in the Bill that other moneys may be appropriated by the Government for this fund. Recently, the Government made $10,000 available and this, together with a similar sum provided by the processing firms, was used for a prawn survey in the South-East. This is the sort of thing the Government can do, and what is available in the research fund need not be the only money to be used for future research. The Government must decide on priorities and act on them. The Hon. Mr. Story raised a question about authority. That point can be covered in Committee, because it is not a question that the Minister may decide: if he is requested by an aggrieved person who appeals against a decision of the Director concerning licences, the Minister shall appoint a competent person to review the decision. I am satisfied that whoever is given the job of determining these cases will do the job satisfactorily.

Bill read a second time.

In Committee.

Clauses 1 to 21 passed.

Clause 22—"Minister of Marine may construct facilities."

The Hon. C. R. STORY: I understand that the Minister of Agriculture will be relieved of the responsibility of fixing priorities for fishing havens and this type of work, and that the decision will be made by the Minister of Marine. Is that correct?

The Hon. T. M. CASEY (Minister of Agriculture): In the past, much time has been wasted on the existing procedure. In future, as Minister in charge of fishing, I will be approached by fishermen regarding the provision of certain facilities. I will refer the matter directly to the Minister of Marine and he will handle it himself; he is the constructing authority, anyway. The Minister of Marine will go ahead without referring it again to the Minister in charge of fisheries. Money for this purpose will not come from the Fisheries Research and Development Fund: it will come from general revenue. It will be much more expedient if one Minister handles this matter.

The Hon. C. R. STORY: My experience is that the Minister of Marine and his department treat these matters as though they are all major operations. Although one may want only a light type of fishing wharf, one may finish up with something that could cope with the *Queen Mary*. The Minister in charge of fisheries should have the power to fix priorities, because engineers, though wonderful people, are not very flexible.

The Hon. L. R. HART: Some years ago I drew attention to the facilities provided at Edithburgh that were totally unsuitable for the purposes for which they were provided. Any person with any knowledge of the fishing industry would never have provided the facilities that were provided at that place. I suggest that the Minister should visit the fishing jetty there. The fishermen there will tell him what they asked for and what they got. The Marine and Harbors Department erected a hand winch but, to operate its handle, one had to stand on the seaward side of the jetty! After much pressure, it was altered so that one could operate the handle while standing on the jetty. The fishermen wanted the jetty to be of a certain width, but the department decided otherwise. The timber provided was too long for the department's specifications, so it cut 18in. off each plank. We finished with a strong jetty, but it was not sufficiently wide for the fishermen to use for carting their fish. The shore end of the jetty is a solid construction hollowed out instead of being humped. Little consideration was given to

the effect of a build-up of seaweed through tidal action. Whereas the fishermen once tied up their boats in an area that had a sandy bottom, there is now a considerable depth of seaweed there. This is a typical example of the problems that can occur when people with insufficient knowledge of the fishing industry are the constructing authorities.

Clause passed.

Clauses 23 to 26 passed.

Clause 27—"Licensing of fish dealers."

The Hon. C. R. STORY: Can the Minister say what the licence fee will be for fish dealers?

The Hon. T. M. CASEY: This matter will be discussed with fish processors, and it will be dealt with under the regulations. I am sure that everyone will be happy with the result.

Clause passed.

Clause 28—"Fishing licences."

The Hon. C. R. STORY: This clause, which is the crux of the Bill, provides:

(1) There shall be two classes of fishing licences—

(*a*) a class A fishing licence;

and

(*b*) a class B fishing licence.

(2) A fishing licence shall authorize the taking of fish for sale subject to the other provisions of this Act, by lawful devices of every kind or, if the licence so provides, only by devices specified or described in the licence, and the sale of fish so taken.

(3) A fishing licence of either class may contain conditions as to the total number of devices, or the number of devices of any one kind or the type or specifications of devices which may be used for fishing pursuant to the licence.

It is in connection with this provision that the discretion vested in the Minister and the Director has to be used with much skill and judgment; if it is not, the effect of the provision may be harsh. My experience in the past has been that people sometimes work strictly by the rule and, in doing so, they think they are being strictly fair. In connection with licensing, the milk of human kindness has to be used, particularly in compassionate cases. Some people may have family difficulties and some people may want to shift from port to port. These matters must be carefully considered. I think the drafting of this clause is too wide.

This provision is also badly worded in the Act, because too much is left to discretion. That is why the competent authority should be a person able to judge and be human enough to deal with a situation without having it tied down by rules. The class A licence holder will probably fish for cray, prawn or abalone; I doubt whether he would be interested in tuna or shark. The class B licence holder will probably operate in the less lucrative section of the industry.

The Hon. T. M. CASEY: If a man is a full-time professional fisherman he will automatically receive a class A licence. I think the class B licence is well covered in the definition which, if adhered to, will work well.

Clause passed.

Clauses 29 to 46 passed.

Clause 47—"Under-size fish."

The Hon. C. R. STORY: At present, bag limits are proclaimed, and this has caused some consternation in the industry. I understand that the Bill does not provide for bag limits, which will continue to be proclaimed.

The Hon. T. M. Casey: Yes.

The Hon. C. R. STORY: Will a fish buyer who buys under-size fish be liable in the same way as the person who caught them?

The Hon. T. M. Casey: Yes.

Clause passed.

Clauses 48 to 62 passed.

Clause 63—"Fish illegally taken."

The Hon. L. R. HART: As I assume that under-size fish will come into the category in this provision, can the Minister say whether it is true that under-size fish confiscated by inspectors are served in the Parliament House dining-room?

The Hon. T. M. CASEY: I cannot answer that. They are not sold; the inspector usually gives them to a local hospital or charitable institution.

Clause passed.

Clauses 64 to 66 passed.

Clause 67—"Fisheries Research and Development Fund."

The Hon. C. R. STORY: In 1968, at a fisheries conference, it was decided that a fund would be created by the Commonwealth to assist the States with their fisheries, and it was suggested that the sum of $1,000,000 be made available to each State in its own Treasury to get a fund set up. My complaint is that only half of the money to be extracted by the Government will find its way into the Fisheries Research and Development Fund. The Commonwealth does not mind how much money we have in the fund. I should like the fishermen and the Minister to know what I proposed to do in respect of this fund. We were going to be much more generous. This is what we were proposing:

There shall be established and kept in the Treasury a fund to be called "The Fisheries Research and Development Fund".

We were going to pay into the fund all fees paid for the issue of fishing licences in excess of $2 for each such licence, all fees paid for any other licences under the Act, all fees paid for permits issued pursuant to regulations under the Act for the purpose of authorizing persons to take specified classes of fish, and all fees paid for registration of boats and certificates issued pursuant to regulations under the Act.

The Hon. D. H. L. Banfield: Too generous; no wonder that Government was turned out!

The Hon. C. R. STORY: The Minister was to be allowed to use the money—that is the part I like. Unfortunately, the fishermen did not know about it at that time.

The Hon. T. M. CASEY: I thank the honourable member for putting that information on record. Would he also put on record the fact that he did not introduce the Bill into this Chamber?

The Hon. C. R. Story: We had some bad luck there.

The Hon. T. M. CASEY: Things are different when they are not the same.

Clause passed.

Remaining clauses (68 and 69) and title passed.

Bill read a third time and passed.

COMPANIES ACT AMENDMENT BILL (FEES)

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 second schedule to the Companies Act, 1962-1970, prescribes the fees payable under the Act, and the purpose of this Bill is to repeal and re-enact that schedule to give effect to a decision made by the Standing Committee of Attorneys-General of the Commonwealth and the States at a conference held in Canberra recently, when it was agreed that, owing to the increase in the cost of administering the companies legislation, it was necessary to increase some of the fees prescribed by the Act. Particulars of the proposed increases are as follows:

1. The minimum registration fee prescribed by item 1 of the schedule and which is payable in respect of a company having a nominal capital not exceeding $10,000 is increased from $60 to $100.
2. Where the nominal capital exceeds $10,000, the additional fees payable under item 2 of the schedule in respect of that excess are being doubled.
3. Where an existing company increases its nominal capital, item 3 of the schedule requires the company to pay fees in respect of the amount by which the capital is increased to the same extent as if the company had been originally registered with the increased amount of capital. The new scale of fees payable in respect of the nominal capital will apply to increases of capital.
4. The fee payable under items 20 and 21 of the schedule on the registration of a charge created by a company, and on the registration of particulars of a series of debentures, is increased from $8 to $10.
5. The fee of $4 payable under item 22 of the schedule on registration of particulars of each issue in a series of debentures is increased to $5.
6. The proposed fee of $50 prescribed by items 27 and 27c of the new schedule for lodging a prospectus by a local company or a trust deed relating to "interests" (as defined in section 76 of the principal Act) represents an increase of $30 on the existing fee. Prospectuses of local companies and trust deeds must be carefully checked by the Registrar before being accepted for registration, and it is considered that the number of man-hours devoted to the checking of those documents fully justifies the increase in the fee.
7. The fee of $4 prescribed by item 31 of the schedule for entering on the register a memorandum of satisfaction of a charge is increased to $5.
8. The fee of $10 payable under items 39 and 39a of the schedule on the lodgement of an annual return of a company and of a balance sheet of a foreign company is increased to $12.
9. The Act makes provision for the lodgement of returns upon the happening of certain events, for example, changes in directors, allotment of shares, change in situation of registered office, etc. and a common fee of $3 is payable under item 40 of the schedule on the lodgment of those returns. It is proposed to increase that fee to $4.

Items 18a and 19a in the amended schedule do not effect an increase in fees but have been inserted to correct an anomaly in the existing schedule. The share capital of some oversea companies consists of shares that have

no par value, and it is therefore impossible to apply the formula set out in items 1, 2 and 3 of the schedule when assessing the amount payable on the registration of the company, or upon an increase of capital. Items 18a and 19a prescribe a formula to overcome that difficulty and to ensure that large oversea companies do not escape payment of reasonable registration fees.

The effect of the increases in the fees will be that, in the vast majority of cases, existing companies will pay only an additional $3 or $4 a year, and this will produce approximately an additional $100,000 in revenue. It is difficult to estimate the amount of additional revenue that would result from the increase in the registration fees of new companies, because the registration fee is based upon the amount of nominal capital in each case, and because it is impossible to know how many new companies will be registered each year. However, it is conservatively estimated that an additional $150,000 would be derived from that source. In view of the obvious benefits derived by persons who take advantage of the protection and facilities afforded by the Companies Act, it is considered that the proposed increases are by no means unreasonable. The Companies Amendment Bill currently being debated by the Victorian Parliament contains identical increases in the fees payable under the Companies Act of that State, and in Queensland it is proposed to adopt the increased scale of fees in the near future. The remaining States are also examining the question, and it is anticipated that similar action will be taken by them at an appropriate time. The Bill is to be brought into operation on a day to be fixed by proclamation.

The Hon. Sir ARTHUR RYMILL (Central No. 2): This is purely and simply a revenue Bill, and I do not want to delay its passage. Consequently, I have looked at it as well as possible in the short time available. Being a revenue Bill, there is nothing this Council can properly do about it, or possibly should do about it, although it does provide for very substantial increases in company fees in two categories, the one being the initial registration fees of a company and the other, in the main, the various annual fees paid.

The second reading explanation points out without any apparent shame of face that the capital registration fees are being more than doubled. I would like to quote some examples of what has happened over the years. The figures might not sound terribly dramatic, but they have been increased dramatically. I will not guarantee the accuracy of the figures, but I think they are right. In the short time available to me I have done some very hasty arithmetic.

Under the 1934 Companies Act a company with a capital of $1,000,000 (then £500,000), which is not a large company, paid a capital fee on registration of $138. There was an increase by *Gazette* between 1934 and the 1962 Act, but I have not had time to look at that. Under the 1962 Act the $138 went up to $630 and now, nine years later, it is going from $630 to $1,280. In the case of a company with a capital of $20,000,000 it was $2,038 under the 1934 Act, $5,380 under the 1962 Act, and under this Bill it will be $10,780—more than double, as the second reading explanation says.

Also under the Bill it is provided that foreign companies wishing to register locally as foreign companies must pay one-half of the prescribed fees. This means one can translate this to the other States, because we are told this is a Bill that has been more or less agreed upon by the various Attorneys-General, so that an Australia-wide company wishing to have a capital of $20,000,000, or increasing its capital by that amount, must pay a fee of $10,780, and also must pay five times half of that amount, which is five times $5,390, or $26,950, to register Australia-wide, so it must pay total fees for that $20,000,000 of capital of $37,730.

That might not sound a tremendous sum of money in relation to a company of that magnitude, but it is certainly a pretty substantial increase over the years, and if the company (as most companies try to do) pays that out of profits after taxes, since it is not a tax deduction for income tax purposes, it must earn about $70,000 to pay these fees, and we are now getting into fairly substantial figures.

The Hon. R. A. Geddes: Are these fees paid annually?

The Hon. Sir ARTHUR RYMILL: No, this is a charge either on registering the company initially or on increasing its capital. If a registered company increases its capital by that amount it must pay the same fee on the increase. The annual fees are not vastly increased, but in aggregation they do produce for the Government a reasonably substantial increase in revenue, an estimated additional $100,000, and I do not think most companies will find the annual increases very painful. We know the Government must get extra revenue, but I hope that in addition to getting

increased revenue the Government is taking every opportunity to reduce expenditure wherever possible. I have evidence that this is going on, but I urge the Government that reducing expenditure, wherever possible, is far more important than the revenue increases themselves.

The other interesting provision is the application of the Bill to the shares of companies which have no par value. We have no provision for this in companies legislation in any of the States of Australia, but Canada and other countries have a provision that the shares of a company need have no nominal value. An attempt has been made in this Bill to see that those companies also have to pay a reasonable registration fee. That is done by clauses 18 (*a*) and 19 (*a*) of the second schedule. I think there is a mistake in clause 18 (*a*), which I will point out in the Committee stage.

These no par value shares are very interesting. I have always held that it would be a good thing to have some similar provision in this country. It has been discussed many times and I know it has worked very well in Canada. This Bill sets out, because the shares have no par value and because the capital fees are related to the par value of shares or the nominal capital of the company, to provide a yardstick by which a capital fee can be imposed on these no par value shares. I think it is anything but perfect, but it is not for me to go into the question. I shall deal with the second part of the clause during the Committee stage and point out what I regard as an imperfection. Since this is a revenue Bill, I do not think it is for this Council to attempt to amend it in any way. As the Government obviously thinks that the Bill provides for a reasonable increase in this branch of revenue, I support the Bill.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Repeal of second schedule of principal Act and enactment of schedule in its place."

The Hon. Sir ARTHUR RYMILL: This clause, the operative clause, attempts to give a value to no par value shares. Because such shares have no value attached to them by the company itself, the Legislature, for the purpose of taxation, is attempting to give them a value. Item 18a of the second schedule provides:

For the registration of a foreign company the share capital of which consists wholly or partly of shares having no fixed nominal value, the same fee as would be payable if those shares had a nominal value being—

(*a*) in the case of shares for which a maximum issue price is fixed by the instrument constituting or defining the constitution of the company—the maximum issue price;

and

(*b*) in any other case 1.00

When I saw this provision, my curiosity was aroused, because I could not see that, if a $20,000,000 company had to pay $10,000 in fees, a no par value company, which might well be worth much more, would have to pay only $1. With the co-operation of the Chief Secretary, I have ascertained that "$1" printed on the right-hand side of the Bill should be translated across to the left-hand side. The provision would then read "In any other case, $1". That would mean that, in any case where a maximum issue price was not fixed, the value of the no par value shares would be $1 each. I could see there was something wrong with the Bill as it was printed, because I could not see why companies should be let off with only $1. The fallacy is that many no par value shares are worth infinitely more than $1. A certain Canadian mining company, for instance, has no par value shares worth many times more than that. The conference of Attorneys-General should look at this matter if they want to get revenue out of such shares, because they are letting them off very lightly at present. I can do nothing here: it is a matter for study by the experts. The clause not only needs correcting at the moment, but it needs reconsidering in the future.

The Hon. A. J SHARD (Chief Secretary): I thank the Hon. Sir Arthur Rymill for locating the mistake, because I certainly would not have picked it up myself. His remarks on this clause will be brought to the attention of the Attorney-General.

Clause passed.

Schedules and title passed.

Bill read a third time and passed.

INDUSTRIES DEVELOPMENT ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from April 6. Page 4744.)

The Hon. C. M. HILL (Central No. 2): The primary purpose of this Bill is to establish a body that is to be called the Industries Assistance Corporation. At one point in his second reading explanation the Minister called it the Industries Development Corporation and there is another point in his speech where

"Development" has been changed to "Assistance". I therefore stress that the name of the corporation established by this Bill is the Industries Assistance Corporation. That point has some bearing on a venture that I shall deal with later in my speech.

Clause 7 deals with the terms and conditions of establishing the corporation, its powers and its management. It is proposed that a chairman and four other members will be appointed by the Governor. Clause 7 sets out the powers of the corporation. The first power is for the corporation to be able to make loans on its own terms and conditions. The second power deals with the issue of equity capital by the corporation in some industrial enterprises in the State. The third power deals with the right of the corporation to enter into what is commonly known as lease-back arrangements. The fourth power is to make non-repayable monetary loans to industry outside the metropolitan area; this is of particular interest to those people who would like to see more decentralization of secondary industry in this State. I think that this power and the use of this opportunity to grant non-repayable loans in some circumstances may assist decentralization.

The last power is a very broad one, in that it gives the corporation the right to act within the provisions of the Bill to help industry generally in a financial manner. A fairly small capital limit is placed on the amount of help that may be given to any one applicant, namely, $200,000. New section 16g(5) lays down that, if the assistance exceeds $75,000, the matter must go to the Industries Development Committee for consideration and approval. Subsection (6) states that, irrespective of the amount, any non-repayable monetary grant or any purchase of shares must be approved by the committee before action can be taken. Subsection (7) gives the Treasurer complete control over the financial dealings of the proposed new body; that is a safe and wise precaution to have in a Bill of this kind. The other provisions simply conform to the general plan to establish the corporation.

The Minister in his second reading explanation pointed out that at present a system of bank guarantees allows for some industries to be assisted in this State. A second method by which industries are being assisted at present is through the Housing Trust which, in some restricted areas of the State, constructs and, indeed, purchases industrial buildings and leases them back to industrial enterprises. To widen the whole scope so that other industries can be assisted, including those whose financial requirements do not come within those two areas, the corporation is proposed to be set up. The Minister has rightly pointed out that there are industries in the smaller class that want loans of a longer term than it is usual for a bank to grant. In some instances, they require loans on an interest repayment principle that a bank or normal financial institution cannot grant or in some cases, where the banks cannot see their way clear even to join with the Government when the Government makes a guarantee, industries that need to be got off the ground or to be assisted might be helped under this new arrangement.

The breaking of new ground by the taking up of shares and becoming, therefore, involved with equity capital is something that we should consider carefully before approving of this measure. It is certainly a new proposal for involvement in what is, in effect, a semi-government institution, which is what I would call the proposed new corporation. This is something that should be approached with caution. Also, apart from the issue of ordinary shares, a radical financial proposal in the Bill is that interest payments can be deferred for a period of time before any payment of interest is made by a borrower; that point should be approached with caution. I compliment the Government on the checks written into the measure and on the limit of $75,000, over which applications must be investigated by the committee.

We all know how well the committee works and how well it investigates applications for industrial assistance: that is one check in the Bill. The upper limit of $200,000 to any one applicant is another check. The total capital the corporation will be permitted to use is $3,000,000, which is not excessive for a corporation that will assist industry throughout the State. I think that is a fairly modest beginning, and it is commendable that it should be kept at a modest figure in the initial stages. The overall surveillance by the Treasurer of the corporation's operations indicates to me that the approach is one of caution. The plan is a moderate one, and I think that the Government's entry into this new field in a modest way is the best possible way for it to enter it.

In a State such as South Australia, which does not have the natural wealth of the Eastern States and in which industry and business do not find it easy to establish and develop, there is room for a body of this

kind, provided that it is kept within proper limits, that its duties are defined, and that it carries out its duties within the provisions of the Act.

[*Sitting suspended from 5.50 to 7.45 p.m.*]

The Hon. C. M. HILL: Before the adjournment I had touched on some of the clauses of the Bill and had pointed out that it seemed to me that a corporation such as the Bill suggests could be well worth while, and I think industry in South Australia could benefit as a result of the establishment of such an advisory corporation.

A corporation such as that envisaged in the Bill before us could be of tremendous help in tackling the problem confronting the State at present and which has confronted it in the last decade or two in the matter of decentralization. Situated as we are geographically, with the focal point of the State being the metropolitan area of Adelaide, it is essential that some definite moves be made to assist in every way possible in industrial decentralization, and to assist country towns to develop their secondary industries so that we have a better balance than at present in our economic and social structures.

It is proposed in this Bill that loans, if this corporation is set up (even to the extent of being non-repayable loans), should be granted to industries in country areas so that they might establish and develop and therefore attract labour to country townships and create the balance which is highly desirable.

The Hon. R. A. Geddes: What would be the extent of the non-repayable loans?

The Hon. C. M. HILL: That depends entirely on the amount of the grant, but I can well understand that the honourable member is vitally interested, as he represents the Northern District.

The Hon. D. H. L. Banfield: And he does a good job.

The Hon. C. M. HILL: Yes, like all members from the Northern District. He does an exceptionally good job. Such loans are subject to investigation and processing and final approval by the advisory committee. So it is not a case of any reckless business arrangement being concluded by the corporation. It means that the existing machinery (which is the committee on which honourable members from this Council serve) must investigate these matters and give approval before any grants are made for industries to establish and develop in country towns.

The Hon. R. A. Geddes: What size of grant will be allowable?

The Hon. C. M. HILL: The maximum grant is $200,000 an applicant. I imagine that this is the kind of proposal or allocation envisaged. Our country towns in the main are fairly small and if secondary industry in those towns can obtain relatively small amounts—say, for example, in the vicinity of $50,000—it might well be that assistance can be given for these townships to develop a small pool of employment labour and, as we all know in business, if management and other circumstances assist the position big things come from small and growth takes place.

The whole question of decentralization has never really been tackled in South Australia in the way in which it should be tackled. The Government proposes to set up the Industries Assistance Corporation, and one of its primary aims is to encourage industry in rural areas.

The Hon. D. H. L. Banfield: That is our policy.

The Hon. C. M. HILL: It is the policy of both Parties. The honourable member need not start playing politics in the matter. He is not only telling me: he is trying to score politically.

The Hon. D. H. L. Banfield: Liberal Governments were in office for long enough and did nothing about it.

The Hon. C. M. HILL: We should forget politics.

The Hon. A. J. Shard: This is a good Bill and we want it passed.

The Hon. C. M. HILL: I agree that it is a good Bill. If its provisions are implemented wisely, decentralization will be encouraged and the rural areas of this State will be helped much more than they have been in the past, irrespective of which Government has been in power. The Bill provides that the Government may make a non-repayable grant if it thinks that an industry outside the metropolitan area can be developed successfully. The most important point is that honourable members, in the interests of the State, must consider whether they are encouraging the growth of Socialism.

The Hon. T. M. Casey: Who is getting political now?

The PRESIDENT: Order! I suggest that those honourable members who want the Council to make progress should listen to the speaker and not interject.

The Hon. C. M. HILL: If this Council really wants to assist the growth throughout the State of industries that are small and in need of assistance that they cannot obtain through orthodox channels, it will pass this Bill. However, I believe that assistance should be given only during the period of establishment and growth. The corporation should be, as the Bill describes it, an assistance corporation, not a development corporation.

Whilst I agree with the radical approach in the Bill, which provides that the Government can take an equity interest in these industries. I believe that, at the moment an industry becomes viable and profit-making, the Government should withdraw and turn to some other small, battling South Australian concern that needs assistance to get on its feet, too. If we adhere to this principle the corporation can make a sound contribution to the industrial growth of the State. However, if the Government does not withdraw from these concerns after they become viable, we will have the problem of Socialism looming.

The Government has no place in holding equity capital in any viable and well-established concern and it should not employ the people's money in that kind of investment. As South Australia grows, a corporation of this kind can play a worthwhile part. So, whilst I support the Bill, I emphatically believe that the corporation should deal with short-term assistance only.

After industries have become viable, the Government should withdraw its capital from them and reinvest it in other concerns that need assistance but cannot obtain it through normal channels. I am very wary of the present Government: I know its policy is socialistic, and I do not agree with that policy. Of course, the Government is entitled to hold to its views.

The Hon. A. J. Shard: I do not think there is much room in this Bill for Socialism of any kind.

The Hon. C. M. HILL: I know the Chief Secretary is sincere in making that comment but, human nature being what it is and Party policy being what it is and senior public servants (for whom I have a very high regard) being what they are, once investment is taken up in enterprises that become profitable there is an urge to keep the investment in those enterprises.

There is some danger in this measure; the Government should not stay in any enterprise once it is profitable. Those of us who have had some experience in private enterprise know that there are many small industries and commercial undertakings in the State that cannot obtain assistance through normal orthodox means. This is what attracts me like a magnet to the Bill, because I can see small business men getting on their own feet and becoming successful if the Bill is passed and if the provisions in it are carried out along the lines I am endeavouring to enumerate.

The Hon. R. C. DeGaris: Will you speak along the lines of allowing this assistance to come from normal banking channels?

The Hon. C. M. HILL: I have reached a point where I think the two accepted means of guarantee of business loans through the State Bank and the Housing Trust's involvement in this area have gone far enough. I think in our advancement as a State and in our commercial and industrial growth we have reached a stage where the appointment of a corporation of this kind might be an additional advantage.

However, I cannot help think, after reading the Bill in detail, that the position has been checked very carefully. I am interested to see (and I commend the architects of the Bill) that no special Government department will be set up but that use will be made of the existing expertise in the Public Service. Many checks and limitations have been included in the Bill.

If the measure is passed and if it is implemented in the manner in which it should be implemented, I think that to the commercial and industrial sector of South Australia it could be of considerable advantage because I think it will help many small business men who are struggling and who, I believe, should be assisted to get on their feet so that ultimately they can manage and administer large commercial and industrial enterprises in the State.

Regarding the Housing Trust's previously taking part in the purchasing and building of factories and the lease-back of these factories to private enterprise, now that we are in 1971 (and I do not want to cast any aspersions on the trust; it has a great record in this State), I think the time has come when it should be made to withdraw completely from the commercial field and from luxury housing. Most housebuilding in the State should revert to private enterprise, which can build the houses that the State needs and which can fulfil the State's industrial demands.

I believe the trust should continue to build houses for people in the lower-income

bracket and that, subject to further investigation, it could interest itself in the redevelopment of many of the inner metropolitan suburbs. It is interesting to know that workers' housing provided by the trust is of superior design and construction to that built by the housing commissions in other States.

The Hon. D. H. L. Banfield: The South Australian worker is superior.

The Hon. C. M. HILL: I agree that the workers in this State have no equal among the workers of Australia. The Housing Trust should withdraw from the area of commercial development and the proposed corporation should take its place. In the interests of the State and of its progress and industrial growth, I support the Bill.

The Hon. L. R. HART (Midland): This is a very important Bill and it is unfortunate that it must be dealt with in the closing hours of the session. It could well justify more time being spent on it. However, I do not blame the Government for this, because of the circumstances that have arisen. We spend much time discussing emotional issues that have no relevance to the industrial and economic growth of the State. Rather than spend so much time on those issues, perhaps we could spend more time on the more important issues. Assistance under the Industries Development Act has functioned very well over the years and has been of great assistance in helping industries to establish and expand. It has also assisted those that have got into financial difficulties, sometimes through no fault of their own.

Over the years there have been a few failures of industries supported by the Government. Perhaps insufficient evidence was taken relating to the financial structure of these industries prior to the Government coming to their assistance. The Auditor-General's Report states that at present about $4,000,000 is outstanding in the Industries Development Fund. Under the Industries Development Act the Treasurer is empowered to guarantee loans recommended by the committee. In addition, there is what is known as the Grants for Country Secondary Industries Fund, which was set up to assist secondary industries in country areas. The advances from the Country Secondary Industries Fund amount to over $100,000 outstanding, making a balance in all of $4,045,479, which is not a large sum of money when one considers the assistance that has been granted to a number of industries in the State.

Where industries have failed it has been due largely to poor management. In fact, where the Industries Development Committee does not see its way clear to recommend assistance for an industry it is largely because the principals of the firm involved do not have the necessary managerial expertise. I believe this is very important. It is a situation that will not necessarily be overcome by this legislation. It is important in any situation where the Government is to be involved in assisting an industry that there should be efficient management. Without it, no industry will be successfully launched or maintained.

I believe there is a feeling that under this legislation the Government should go out looking for industries to assist. That would be the wrong approach. Under the corporation that is to be set up under this Bill, there will be a reservoir of finance available to those industries that are really in need of assistance. If that situation develops, those industries will come looking for assistance rather than the Government going out to look for industries that it can assist. There will be no question that, once the word gets around that the Government is assisting certain industries, many more industries will be looking for assistance, and with any industry looking for assistance it is necessary that an investigation in depth be carried out as to the possible economic viability of that industry.

The Industries Development Committee in its recommendations to the Treasurer lays down stringent conditions that must be adhered to. I hope similar conditions will be laid down by the corporation. New section 16g (7) provides:

Before granting assistance to any person under this Act, the corporation must satisfy the Treasurer (*a*) that the assistance sought by the applicant is not obtainable by him, in the ordinary course of business upon reasonable terms and conditions, otherwise than from the corporation.

In other words, the Treasurer must be satisfied that the money is not obtainable elsewhere. Then we have paragraph (*b*):

that there is a reasonable prospect that the industry in respect of which the assistance is given will be profitable.

Here again, it is necessary that any industry that is assisted must have some chance of economic viability. Paragraph (*c*) states:

that it is in the public interest that assistance be given.

This provision may have a fairly wide application. When we look at the public interest, the immediate conditions to be considered will include the number of persons who may be employed in the industry, and the amount of economic growth of advantage to the State to be obtained from such an industry. Finally, we see that the Treasurer must approve the granting of the assistance. In other words, the corporation on its own account cannot give the assistance without the Treasurer's approval. It recommends to the Treasurer that approval be given, which is the present situation under the Industries Development Act.

When an industry is in such a situation that it requires assistance and it cannot obtain it elsewhere, it is necessary for it to find an authority prepared to lend it money with a Government guarantee. It is laid down also that there should be certain conditions regarding the repayment of the loan. Furthermore, there are other conditions relating to the interest rate that can be charged on the loan.

At present, the Treasurer will not agree to a loan on which the interest rate exceeds 8 per cent. In addition to all this, there are other conditions that must be observed. There are certain guide lines in relation to assistance being given to oversea companies. These guide lines are laid down by the Reserve Bank. With enterprises in which oversea interests own more than 25 per cent of the equity, they are required to obtain Reserve Bank approval for borrowings in Australia. So generally the whole situation with regard to assistance to industry is covered by stringent conditions.

There did exist at one time an Industries Assistance Branch, which gave technical assistance to industries that were not able to provide such assistance for themselves. I believe that, unfortunately for the industries involved, this branch is now not operating. It was of great advantage to many of the small industries, particularly in country areas, that could not provide this technical assistance for themselves. However, where the Government is involved in providing a guarantee for a loan to an industry, the Treasurer can require that that industry shall allow the Government to put a nominee on the board. In other words, a man with technical expertise is available to that industry if it requires him or if the Government thinks the industry needs him.

At present, it would appear that this corporation may relieve the Industries Development Committee of some of its work. That is not so. In fact, this legislation could well mean that the Industries Development Committee will have more work than it has at present. At the moment, that committee is working far harder than ever before. It has had 22 meetings since January 1, whereas in previous years its meetings totalled a maximum of 22 in a full year.

Over the years, South Australia has enjoyed the benefit of being a low-cost State and of having excellent industrial relations, which have been of great advantage to industry. However, these conditions are now fast disappearing. No doubt, there will have to be further Government assistance to attract industries here. The Hon. Mr. Hill said he believed that the Housing Trust should phase out assistance to industry and that it should perhaps phase out the building of factories. The honourable member referred also to housing.

The Housing Trust is mainly involved in the building of houses on this State, although it is involved also in the building of factories for industry. The trust provides reasonably cheap money, which is one of the great attractions of Housing Trust involvement. The trust still has an important function to fulfil in assisting industries in this State.

Under the Bill, the metropolitan area is enlarged to take in the new planning and development area, which of course means that areas previously regarded as country areas (Elizabeth, Tea Tree Gully, and places through that area) will now be in the metropolitan area. I think the main function under this new legislation is that the corporation can recommend to the Treasurer that loans up to a limit of $75,000 be made available to industry under certain conditions. Apart from that, practically every function of the corporation must be investigated by the Industries Development Committee. This is very worth while, because that committee is a Parliamentary committee of representatives of both political Parties and is able to give an unbiased view on the requirements and needs of industry.

I regret that we have not as much time as we would like in which to discuss this legislation, which contains a certain amount of merit. The Government has a mandate to introduce it, as it was outlined in its policy speech, and provided that certain protections are incorporated within the legislation I believe it can be of assistance to the development of industry in South Australia. I support the second reading.

The Hon. C. R. STORY (Midland): As a past Chairman of the Industries Development

Committee, I have had some experience in this type of financing. Also, I have served for some 20 years on boards of companies that operate under the Industrial and Provident Societies Act, which has done a tremendous amount for the development of industry in South Australia. I support the legislation. If this measure is to be used in the way I believe it ought to be used, it will be of very great benefit; if it is not so used, and if it is used politically in any way, it could do tremendous harm to existing organizations. I refer particularly to the Upper Murray districts of South Australia, where some successful people have managed to battle their way through over a long period of years and to get themselves into a creditworthy situation where the banks will back them. However, these organizations have found that Government assistance has been given to other companies that have not been able to get themselves creditworthy through the normal banking channels, and those organizations have now failed and will leave the Government lamenting.

If this type of financing is to go on, the Government can either make a tremendous success of decentralization or it can make a complete mess of it; it will be a matter of administration. I agree with the Hon. Mr. Hart, who is a member of the committee at present. I have no objection to the principle of the legislation, because we have some very good success stories in what has been done with Government finance in South Australia, particularly in regard to the co-operative movement. I think of Cellulose Australia Limited, which would have gone to the wall. Whether it has been a tremendously successful organization is incidental, for it has employed a great number of people and under the new management I understand it is a very successful enterprise. I can think of other organizations, such as Male Bros. at Murray Bridge, which would certainly have gone to the wall had it not been that Government finance was used, and the Case Company was encouraged to come in to assist.

I support the principle of this legislation, but I warn that this type of financing in the wrong hands could be very dangerous to established business in country towns and to people who have built up a creditworthiness. I maintain that if any Government wants to buy votes by financing sick companies it will be ruinous for that Government. I still support the measure.

The Hon. H. K. KEMP (Southern): I support the remarks of the Hon. Mr. Story. South Australia has a unique record in being able to attract industry and, over the past 25 years of development, what was formerly the poorest and driest State of the Commonwealth stands without criticism in this regard. This has not been done by force or by legislation which says that industry must be here or must be there. We have records in the last few years of how industrial development cannot be forced. All that can be done is to offer industry advantages under which it can work.

On several occasions industry has been offered what appeared to be great concessions. I refer to the many attempts to establish manufacturing in the Wallaroo area in the huge buildings constructed there during the war. All went bankrupt until they moved down to Elizabeth and into an environment in which they could survive.

Without any doubt, we could have disaster if this legislation is not handled with understanding. I quote from a publication circulated widely in Australia and containing an article that could forecast disaster for this State. I refer to the *Primary Industry Newsletter*, dated March 17, 1971, which states:

P.I.N. learnt this week that the Dunstan Government, far from losing its enthusiasm for easing ties on margarine, is investigating the "possibilities" of the situation. South Australia is, in short, looking around to see what it can gain from being the first State to break the quota system. And, if what we hear is correct, there are quiet behind-the-scenes negotiations under way between the Government and more than one major margarine producer. This suggests the S.A. Government is looking for a "deal" which would bring added industry to this State. If this is so, it must be willing to consider not merely a quota increase to 1,100 tons, but either a massive increase, or else total quota abolition. If either of these courses were followed, South Australia, already the "naughty" State in book publishing, could become a major margarine producing base for Australia, with margarine being shipped freely interstate under the protection of section 92.

The Hon. T. M. Casey: Do you believe that?

The Hon. H. K. KEMP: There is reason to ascertain whether or not it is true, because it is typical of the sort of thing a civil servant, charged with bringing industry to South Australia without regard to anyone else, will put forward as a proposition. We also know the attitude of the Labor Party on this matter of margarine *versus* butter. It is not sympathetic to the dairy farmer.

The Hon. T. M. Casey: That is not true. Get your facts straight.

The Hon. H. K. KEMP: We have heard much about sympathy for the dairy farmers, but actually they are being forced off the land every day as a result of the policies being followed by the present Government. This is typical of the damage that can be done through the automatic application of a Bill of this kind. Industry does not come at the behest of Governments and at the offer of a nice little place in the sun: industry comes here only if it is possible for it to make a profit. It will go elsewhere if the prospects of profitability are greater. The Government has forgotten what costs will be loaded on to industry as a result of the Bills that it has put before this Council in the past two days. I support this Bill because, if it is administered with understanding, it will benefit the State. However, if, in the background, things are going on that have been referred to by people who are watching primary producers' interests, those things will be most damaging to this State.

The Hon. T. M. CASEY (Minister of Agriculture): I did not intend to speak on this Bill. I know that the Council wants to deal with it as quickly as possible because it will be to the advantage of industry in this State. However, I must reply to the Hon. Mr. Kemp's remarks about an article by Mr. Anderson, who is some type of news reporter who sifts through information and comes up with statements from time to time. I completely refute the statements that the honourable member made regarding the Labor Party's attitude to the dairying industry of this State. The honourable member's claim that we have no sympathy for the dairy farmers of South Australia is completely and utterly false. I stated the case before the dairying industry of this State last year and again this year. We import into South Australia over 500 tons of table margarine.

The Hon. H. K. Kemp: How much butter do we import?

The Hon. T. M. CASEY: The amount varies. If we have been importing 528 tons of margarine into this State, why should we not produce it here rather than import it? That is the viewpoint that I put to the dairying industry, which is in complete agreement with it. So, I do not know what the honourable member is complaining about. There has been no behind-the-scenes activity by this Government in connection with the dairying industry of this State: the industry has been taken into the Government's confidence on all aspects of the matter. What the honourable member implied is purely hypothetical. He has read from an article by a journalist who wants to show that he knows more than anyone else. I refute the honourable member's statements that we are not being sympathetic toward the industry.

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

UNIVERSITY OF ADELAIDE BILL

Second reading.

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

That this Bill be now read a second time.

It follows extensive discussion within the university concerning the revision of the constitution of the University of Adelaide and the other provisions of the University Act. Discussions have been held with the Education Committee, the Finance Committee, the (Academic) Staff Association, the Ancillary Staff Association, the Adelaide University Union, the Students Representative Council, the Graduates Union and the Standing Committee of the Senate. In addition, various student groups organized open meetings of students and staff from time to time to discuss the matter. The Bill thus represents the fruits of very extensive consideration and debate. On receipt of the first comments received from the various interested bodies, a special committee appointed by the council compiled the first draft for a new Act to take the place of the existing Act. This draft was referred back to the various bodies to which I have previously referred. Two further drafts were prepared and the third draft was accepted in substance by the council at a special meeting on July 9, 1970.

Not all the changes proposed by the various university bodies were incorporated in the council's draft, as some of the suggestions were mutually conflicting. The University Council sought to obtain a consensus of opinion, and this measure is believed to represent the most reasonable compromise that is likely to be obtainable. The major difference from the existing Act lies in the constitution of the University Council. No change has been made in the existing provision for the appointment of five members of the council by Parliament —three by the House of Assembly and two by the Legislative Council.

However, under this Bill the number of members of the council is increased from 27 to 33. The Bill provides for the undergraduates of the university to elect from amongst their own body four members of the

council. After allowing for those four members, the five members appointed by Parliament, and the Chancellor and the Vice-Chancellor (who are members *ex officio*) there remain 22 members to be elected by the staff and graduates of the university. Of these, one must be a postgraduate student, one a member of the full-time non-academic staff of the university, eight are to be members of the full-time academic staff and 12 are to be persons who are not members of the full-time academic staff. Transition arrangements are made whereby the new constitution of the council will become effective at the end of 1972.

The council agreed on the following matters of principle: (*a*) There should be only two *ex officio* members of the council—the Chancellor and the Vice-Chancellor. (*b*) The council should not have power to co-opt members. (*c*) There should be only two electoral bodies as outlined above. (*d*) Provision should be made in the Act for recognition of the Adelaide University Union. (*e*) There should be no discrimination on grounds of sex, race or religious or political belief in the admission of students or the appointment of staff of the university. (*f*) The council should have explicit power to delegate authority and responsibility without divesting itself of the ultimate right and responsibility to transact any university business. (*g*) There should be an approximate equality in the number of council members who are closely associated by work or study with the university and the number of those whose employment does not lie with the university.

The provisions of the Bill are as follows. Clause 1 is formal. Clause 2 repeals the University of Adelaide Act, 1935-1964. Clause 3 sets out a number of definitions necessary for the purposes of the new Act. Clause 4 provides that the university shall continue as a body corporate. Subclause (2) provides that the university shall have full juristic capacity and unfettered discretion, subject to the law of the State, to conduct its affairs in such manner as it thinks fit, except that the university has limited power to alienate its property without the consent of the Governor. Clause 5 provides that the university shall not discriminate against or in favour of any person upon grounds of sex, race, or religious or political belief. Clause 6 empowers the university to confer degrees. Clause 7 makes provision with respect to the office of Chancellor. Clause 8 provides for the office of Vice-Chancellor. Clause 9 provides that, subject to the new Act, and the statutes and regulations of the university, the council shall have the entire management and superintendence of the affairs of the university.

Clause 10 empowers the council to delegate any of its powers under the Act to any officer or employee of the university. The delegation is not, however, to derogate from the power of the council itself to act in any matter. Clause 11 deals with conduct of the business of the council. It provides that eight members of the council shall constitute a quorum at a meeting of the council. Any decision of the council must be supported by the votes of at least four members of the council. Each member of the council is to be entitled to one vote on any matter arising before the council, except that the chairman has a casting vote where the members of the council are equally divided. The Chancellor is to preside as chairman at any meeting of the council at which he is present. If he is absent, there is provision for his place to be taken by the Deputy Chancellor, the Vice-Chancellor or a chairman elected by the members present at the meeting.

Clause 12 provides for the constitution of the council. It provides that the Chancellor and the Vice-Chancellor are to be members of the council *ex officio*. Five members are to be elected by the Houses of Parliament. Twenty-two members are to be elected by the convocation of electors, of whom eight are to be persons on the full-time academic staff of the university, one is to be a person in the full-time employment of the university who is not a member of the academic staff, one is to be a postgraduate student, and 12 are to be persons who are not engaged in the full-time employment of the university. There are to be four members elected by undergraduates. Subclause (2) enacts a number of transitional provisions extending until the end of 1972, when the membership of the council will have been raised to the numbers contemplated by subclause (1). Subclauses (3) and (4) deal with the qualifications to be elected as a postgraduate member and as an undergraduate member of the council respectively. Subclause (4) provides that an undergraduate member who graduates during the term of his membership of the council may continue as a member of the council until the expiration of his term of office. Subclauses (5), (6) and (7) deal with the term of office of those members of the council who have been elected by the convocation of electors.

Clause 13 deals with casual vacancies in the membership of the council. Subclause (1) provides that the office of a member of the council shall become vacant if he dies, resigns by notice addressed to the Vice-Chancellor, or becomes incapable, in the opinion of the council, by reason of physical or mental illness of performing the functions of his office as a member of the council. Subclause (2) provides that, where a member of the council does not continue in the capacity in which he was elected a member of the council, he shall vacate his office on the day on which elections are next held of candidates for election in that capacity. Subclause (3) provides that a member elected to fill a casual vacancy shall have been deemed to be elected to the council when his predecessor was last elected a member of the council.

Clause 14 provides that no decision or proceedings of the council shall be invalid by reason only of a vacancy in the office of any member of the council. Clause 15 provides for the appointment of members of Parliament to the council. The procedure remains effectively the same as that existing under the present University of Adelaide Act. Clause 16 provides that elections are to be held in each year to fill vacancies arising in the membership of the council. Subclause (2) provides for the council to appoint a day for the holding of each election. The council is to appoint a returning officer, and the election is to be held in accordance with the statutes, regulations and rules of the university.

Clause 17 also deals with elections. It is stipulated that a member of the convocation of electors is entitled to one vote at an election. Similarly each undergraduate is entitled to one vote for the election of undergraduate members. A person is not entitled to be a candidate for election in more than one capacity. Clause 18 provides for the constitution of the senate. The senate is to consist of all graduates of the university; all persons in the full-time employment of the university who are graduates of other universities or have other qualifications recognized by the university; and all postgraduate students. The membership of the senate is thus rather wider under the terms of the Bill than under the present Act. Clause 19 deals with the conduct of the affairs of the senate. It provides for a quorum of 50 members. Any decision of the senate must be supported by the votes of at least 25 members of the senate. The Warden is to preside as Chairman over any meeting of the senate.

Clause 20 provides that the Governor is to be the Visitor to the University with the powers and functions appertaining to that office. Clause 21 provides for the continuation of "The Adelaide University Union". This clause is inserted because it is desired to give statutory recognition to the union. Clause 22 provides that the council has power to make statutes, regulations and rules on certain enumerated matters. Any statute or regulation must, however, be approved by the senate. Upon approval by the senate a proposed statute or regulation may be submitted to the Governor, and upon confirmation by the Governor shall come into operation.

Clause 23 empowers the council to make by-laws regulating conduct and vehicular traffic upon the university grounds. These by-laws must also be confirmed by the Governor. Clause 24 provides for the summary determination of offence against the by-laws of the university. Subclause (2), however, enables the university to refer a charge to a tribunal established by statute of the university. Subclause (4) enables the university to apply the expiation principle to traffic offences. Clause 25 requires the council to report to the Governor, and a copy of the report to be laid before Parliament.

Clause 26 is a provision specifically relating to land granted to the university under certain enumerated Acts. Clause 27 exempts the university from land tax. Clause 28 refers to the foundation of the university by Walter Watson Hughes. The indenture upon which the university was founded is set out in the schedule. The clause provides that the trusts of indenture shall so far as they are not exhausted continue in operation.

The Hon. JESSIE COOPER secured the adjournment of the debate.

The Hon. T. M. CASEY moved:

That this debate be adjourned on motion.

The Hon. Sir NORMAN JUDE (Southern): I would like to debate the motion. This is a most important Bill, and no member of this Council has had an opportunity of seeing it. It is only reasonable that the Minister should allow us time to do so.

The Hon. T. M. CASEY: I agree with that.

Motion carried.

Later:

The Hon. JESSIE COOPER (Central No. 2): This Bill of importance to all the people in the State comes to us in the final hours of the session. This is regrettable. Parliament should not

be asked to act as a rubber stamp when a Bill for an Act to provide for the continuance and administration of the University of Adelaide is before us. It is, after all, a Bill to change the whole set-up of the council and the senate of the university. It would be easy at first sight for honourable members to assume from the Minister's second reading explanation that agreement had been reached in all the groups he mentioned: the Education Committee, the Finance Committee of the Council, the Academic Staff Association, the Ancillary Staff Association, the Adelaide University Union, the Students Representative Council, the Graduates Union, and the Standing Committee of the Senate.

However, when members consider the complete exposition by the Minister of the history of the various discussions between May, 1968, and the end of last year, they will realize that great differences of opinion existed and very serious problems arose. Strong moves were made by various pressure groups, and it is not to be wondered at that three different drafts were submitted before the one finally decided on in early October, 1970, by the council. All of these groups, apart from the Graduates Union and the Standing Committee of the Senate, are to a greater or lesser degree dominated by thoughts from within the university. Although universities are the centres of learning and education they do not necessarily represent the last thoughts and objectives and purposes of tertiary education.

The largest group of interested people have not been consulted on the matter: I refer to the people of the State, not forgetting the professional groups, commerce, the arts, industry, and let us not forget the most important group: the parents of the students. For these people, this is the only stage at which they have a voice: here in Parliament. Whereas it has taken about two years consideration of three different drafts before the university groups could be partially satisfied, the groups I have just mentioned, namely, the professional groups, the arts, commerce and industry and the parents of the students, are expected to deal with the matter and have their requirements met within 24 hours—a palpable absurdity.

We hear much about democracy and the right of every person to have a voice in the administration of the State, but this is certainly not an example of presenting proposed legislation to the public and its Parliamentary representatives for serious consideration. This sort of thing is simply making a joke of our alleged system of popular Government. I was, I believe, the only member of the council who served on one of these committees, namely, the Graduates Union. I represented the Adelaide University Women Graduates Association, of which I was the then President. I have therefore been closely associated with all the arguments and discussions arising from the meetings of the various committees. There are three major changes: one in the constitution of the university council; one in its mode of election; and one in the constitution of the senate. The proposed change in the council is for the membership to be increased from 25 to 33. At present, apart from the five members of Parliament, the members are elected by the senate. The senate consists, roughly speaking, of all graduates of the University of Adelaide of three or more years standing.

The Hon. R. C. DeGaris: These must be graduates of the university?

The Hon. JESSIE COOPER: Yes. It is really quite a simple election, and the system has to date guaranteed to produce a council of diverse and mature knowledge, made up of people of a wide range of experience of the world outside. The proposed set-up is to be quite different: out of the 33 proposed members, five members are still members of Parliament, together with the Chancellor and the Vice-Chancellor, leaving 26 members to be elected, four to be elected by the undergraduates and 22 to be elected by the convocation of electors.

What is the convocation? It comes from the Latin *convocare,* meaning to call together. It is a term I have always been accustomed to as a graduate of the University of Sydney. Let us see what persons are called together for the purpose of voting for the Council of the University of Adelaide. In clause 3, definitions, one finds that the convocation of electors means all graduates of the university, all postgraduate students, and all persons in the full-time employment of the university. This is a widening of the people with voting powers: all graduates of the university who are members of the present senate, plus graduates of less standing than three years. As soon as they get their degree they will become eligible to vote, but that is not so at present. It embraces all postgraduate students, irrespective of the university from which they come; that is a new departure. Likewise, it embraces all members of the full-time staff, whether graduates or not. In this category, everyone employed full time, be

they academic staff, laboratory technicians, library assistants, office staff, maintenance men or groundsmen, will have a vote for the council.

It may interest honourable members to know that in April, 1970 (the last figures available), 779 persons were employed in the full-time academic field at the university, 542 being engaged in academic teaching, 82 in academic research and 155 in technical academic research. There were 878 engaged in full-time non-academic employment, 319 being technicians such as laboratory assistants, 99 being connected with the library, 118 in central administration, 203 in departmental administration, two in development and construction, 133 in maintenance, and four in sundry services. All these 1,657 academic and non-academic people will have a vote for the University Council. This is a very large bloc vote.

Turning now to clause 12, we see whom the convocation of electors has the power to elect. It has the right to elect 22 members, of whom eight shall be persons engaged in the full-time employment of the university as members of the academic staff, one shall be a person in the full-time employment of the university otherwise than as a member of the academic staff, one shall be a postgraduate student, and 12 shall be persons who are not engaged in the full-time employment of the university.

Honourable members heard what the Minister said tonight in his explanation, that the Government agreed on the following matters of principle, and he listed seven principles. The seventh one is the one I should like to quote:

There should be an approximate equality in the number of council members who are closely associated by work or study within the university and the number of those whose employment does not lie within the university.

We must all agree with that. This, however, is by no means sure when we consider the Bill. Whatever the objects of the Bill are, the effect is that the administration of the University of Adelaide will be under the control of staff (that is, all employees) and students. No matter what the Government's intention is, under the provisions of the Bill it will be very difficult indeed for anyone who is not a member of the staff or an employee or a student to be elected a member of the council.

In the council in its proposed new form we find that it becomes mandatory for 15 members of a 33-member council to be members of the staff or students (that is, the Vice-Chancellor and 14 others). Against this, there are only six members (the Chancellor and five Members of Parliament) who are guaranteed not to be employees of the university. Of the remaining 12 to be elected, the only condition being applied to them is that they be not full-time employees of the university.

The size of the university bloc vote, about which I have just told honourable members and which includes everyone down to the ground staff, is likely to ensure that a notable proportion of these 12 will have a close connection with the inside of the university, be they full-time or part-time. The importance of the strength of the part-time staff cannot be overlooked. It is difficult to assess the total number involved, but it would be about 300. Honourable members may appreciate this when I say that in 1969-72, in the academic staff field, 74,500 hours of teaching was given by part-time academic staff and 300 hours was spent in part-time academic research. In technical academic research, four persons spent 35 hours a week but, when we turn to the non-academic staff, the picture is quite clear: there were four laboratory technicians doing 35 hours a week; nine people in the library doing 35 hours, two in central administration doing 35 hours, six in departmental administration doing 35 hours, three in sundry services doing 35 hours, and 134 doing maintenance for 30 hours. So it is a very big group.

Whilst it may seem that under the present system the members of the council may come from inside or outside the university, under the new system proposed, despite the Government's declared intention, 15 must come from within, and it is likely, and certainly possible, that many of the 12 will also come from within the university.

Honourable members will realize that the seventh principle (the one I have already read) has not been provided for. The guarantee that approximately one-half of the council must come from within the university has been incorporated in the Bill, but there has been no such provision that one-half of the council must come from outside the university; that has not been written into the Bill. I support the second reading.

The Hon. H. K. KEMP (Southern): Some amendments are proposed to this Bill and many others must be made because, in effect, it takes the control of the University of Adelaide from the people of this State and puts it in the hands of the academic staff and the people

employed by the university. This is very serious.

To work efficiently, the university must have autonomy; there is no dobut about that. The university is the only body capable of regulating its own affairs but it must be answerable to people who have been there before and who will certainly object strongly to what is going on at present—the university being taken over by people coming in from other parts of the world with a dedication to principles that we do not uphold.

Why has this change been made so that the election of the Council of the University is to be taken from the people who have done so well in the past and have given us a stable institution and put in the hands of a new body called the "convocation", which I think the Hon. Mrs. Cooper has shown can be a tightly bound up body answerable to nobody but itself?

It is completey wrong that a Bill of this importance should be put in front of us at this hour of the night on the last sitting day of this session. It is a Bill which will almost automatically be followed by another Bill to regulate the affairs of the second university in this State and which will be fundamentally very important to what can go on behind those walls on North Terrace and South Road. I object to having to give detailed thought to the Bill at this stage. It needs long and considered thought, which must be taken in consultation with the people who have been quarrelling, and quarrelling very bitterly, over a period of two years before the Bill came to us.

Do not think this Bill has the wholehearted support of everyone at the university. If it were taken back to the university today there is quite a strong possibility that the majority of people on the campus would object to it, and many have not given it any thought whatsoever.

The Hon. A. F. Kneebone: They have had plenty of time to do it.

The Hon. H. K. KEMP: They have had two years and still they have been quarrelling about it.

The Hon. A. M. Whyte: Has the legislation been the same over the two years?

The Hon. H. K. KEMP: It has been changed, hacked about, and changed again. The only thing that has really come through has been the little bit about taking control of the university from the senate, in which it has rested for so many years, and giving it to a convocation of electors. Only a small proportion attend. It consists of graduates of the university, a postgraduate student, and eight persons in full-time employment of the university.

The Hon. F. J. Potter: Are they going to make provision for a postal vote?

The Hon. H. K. KEMP: They are going to make that provision, but they do not say it. They do not have to do that on the Bill in front of us.

The Hon. F. J. Potter: There is provision for it in the Bill.

The Hon. H. K. KEMP: This Bill, as far as I can see, is completely crook. There is no provision whatsoever for any restriction on whom the university shall employ. One of the amendments I propose to bring in will give that.

The only possible thing that could be done with the Bill as it stands before us, if it is to be forced through tonight, is to remove from its context this new concept of the convocation of electors, which means that the control of the university goes from the Government of South Australia and the people of South Australia to this new body, which obviously could be packed. To make this a decent Bill and one which would fit the needs of South Australia, every reference to the convocation must be removed. We must have some restriction on the people who have been making our university the laughing-stock of the community.

Clause 12 does not read as if the university itself, after two years of arguments, feels that it wants this representation. As the clause stands the council shall be constituted of the Chancellor and the Vice-Chancellor, who are members *ex officio*, and those are the only members not elected, and the only members in whose appointment the Government has any say—and a very small say indeed.

Five members shall be elected by the Parliament of South Australia and 22 members elected by the convocation of electors, of whom eight shall be persons in the full-time employment of the university as members of the academic staff, and one a person in the full-time employment of the university other than as a member of the academic staff. There is no limitation. It is just "otherwise than the academic staff".

One shall be a postgraduate student—and good enough—but 12 shall be persons not engaged in the full-time employment of the university. They could be any of the part-time lecturers—these people who put in nearly 65,000 man-hours a year in instructing university students.

I am not concerned whether the press is listening or not. The only thing that is wrong here is so badly wrong that we are likely to lose control of the university if we are not mighty careful. I have had the privilege of preparing the amendments which must be worked into this Bill. I am going to do everything possible to oppose it.

The Hon. R. C. DeGARIS (Leader of the Opposition): I have much pleasure in supporting the views of the Hon. Mrs. Cooper and the Hon. Mr. Kemp, and I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Interpretation."

The Hon. H. K. KEMP: I move:

To strike out the definition of "the convocation of electors".

I am told by the Draftsman that it is impossible in the time permitted to prepare amendments that will do what I have in mind. By this convocation the control of the university is being taken away from the senate and put in the hands of the academic and semi-academic staff. I oppose that move. I should like to move consequential amendments but, as the Senior Assistant Parliamentary Counsel has told me that they cannot be prepared at short notice, I ask the Minister to report progress to enable me to have these amendments drawn.

The Hon. F. J. POTTER: If these words are deleted, they must be replaced. I would share the Hon. Mr. Kemp's fears except that postal voting is provided for. I understand that there are 11,000 graduates at the university compared to about 1,600 members of the full-time staff and postgraduate students, and the use of the postal vote will ensure that a democratic process is involved at elections.

The CHAIRMAN: We are dealing with the amendment moved by the Hon. Mr. Kemp, but the discussion I have heard seems to deal with other parts of the Bill.

The Hon. F. J. POTTER: What we have been discussing is intimately connected to the question of the definition of convocation.

The Hon. H. K. KEMP: An important Bill like this should not be hurried through without much consideration. I am sure that only three members have given this Bill any consideration. This clause will place the control of the university in different hands from those that have controlled it in the past. Again, I ask that progress be reported.

Amendment negatived; clause passed.

Clause 4 passed.

Clause 5—"Power to admit to degrees."

The Hon. H. K. KEMP: I move to insert the following new subclauses:

(2) The university shall not employ any person who is known by the university to have advocated the overthrow of the Government of the State or the Commonwealth, or the constitution of the State or the Commonwealth otherwise than by democratic process.

(3) The Supreme Court may annul the appointment of any employee of the university where it is proved to the satisfaction of the court that that employee has advocated the overthrow of the Government of the State or the Commonwealth or of the constitution of the State or the Commonwealth otherwise than by democratic process.

This clause provides for a complete licence of employment for anyone. Unless it is appreciated that the universities are the centre of subversion in this community, I think many people will be putting their heads in the sand and thereby encouraging disruption, which is dangerous to our community. I have not had time to check my amendment since receiving it from the Senior Assistant Parliamentary Counsel. I had intended that the words "otherwise than in conformity with the Constitution of the State" be included in it. One of the things worrying most people who have a slight acquaintance with universities is that in universities there are people who are completely disaffected with what many people believe are the loyalties we should adhere to.

We have recently had some dramatic and emotional experiences in this State, and I hope honourable members will forget them in considering this matter. We must bear in mind that across the world on this side of the iron curtain a fuse has been lit that runs from university to university. That fuse has lit up the young people attending these institutions and has led to much disruption, divided loyalty and subversion, which has made much progress in the academic world because of the autonomy that must be given to academic institutions if they are to function well. This very autonomy carries with it dangers that are difficult to control. However, we must not limit the self-government that a university must have if it is to function as a centre of advanced learning.

In other parts of the world, this difficulty has been taken very seriously; in one community not far from Australia the appointment of academic staff has been taken completely away from the university itself. It is the responsibility of a certain person to ensure that troublemakers do not appear.

We do not want to get to that stage in the Adelaide University, because we can be proud of that university. However, we have in it some people who are certainly not thinking of the best interests of this State. I ask the Minister to report progress so that these matters can be further considered.

The CHAIRMAN: I point out to the Hon. Mr. Kemp that his amendment in new subclause (3) includes the words "that that"; perhaps "such an" should be substituted for one of those words.

The Hon. R. C. DeGARIS: I think every honourable member would be sympathetic to what the Hon. Mr. Kemp is trying to do, but I point out that in this Bill we are dealing with one university, not two. If the kind of provision suggested by the honourable member is to be approved, it should be included in the Acts relating to both universities. The amendment is not only badly presented in the area you spoke about, Mr. Chairman, but I draw the Committee's attention to the phrase "known by the university", which is certainly not easy to understand. New subclause (3) provides:

The Supreme Court may annul the appointment of any employee of the university where it is proved to the satisfaction of the court . . .

Who will bring the action and under what process of law will it be brought? The drafting of the amendment should be absolutely clear. I therefore suggest that the Committee should not support the amendment, although I believe that the thought behind it needs considering at some stage.

Progress reported; Committee to sit again.

WORKMEN'S COMPENSATION BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos. 1, 5 to 11, 15 to 21, 23, 25 to 28, and 30 to 35, and had disagreed to the Legislative Council's amendments Nos. 2 to 4, 12 to 14, 22, 24, and 29.

Consideration in Committee.

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

That the Council do not insist on its amendments.

As honourable members already know my reasons for opposing the amendments, I do not intend to reiterate them.

The Committee divided on the motion:

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

Noes (14)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris (teller), 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, C. R. Story, and A. M. Whyte.

Majority of 10 for the Noes.

Motion thus negatived.

Later:

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendments to which it had disagreed.

The Legislative Council granted a conference, to be held in the Legislative Council conference room at 11 p.m., at which it would be represented by the Hons. D. H. L. Banfield, R. C. DeGaris, A. F. Kneebone, F. J. Potter, and V. G. Springett.

At 11 p.m. the managers proceeded to the conference, the sitting of the Council being suspended. They returned at 4.48 a.m. on Thursday, April 8. The recommendations were as follows:

As to Amendment No. 2:

That the Legislative Council do not further insist on its amendment, but make the following amendment to the Bill in lieu thereof:

Clause 7, page 3, line 39—After "in relation to" insert "a workman who has suffered".

and that the House of Assembly agree thereto.

As to Amendment No. 3:

That the Legislative Council do not further insist on its amendment, but make the following amendment to the Bill in lieu thereof:

Clause 8, page 6, line 37—After "that injury" insert—

"but the day on which the injury occurred shall not be ascertained by reference to the day so certified where the Court is satisfied that the injury occurred before the commencement of this Act.

(5) Where the Court is satisfied that the injury referred to in subsection (4) of this section occurred before the commencement of this Act, the Court shall if it is material to do so, fix a day that in its opinion is the nearest day that can be determined, having regard to all the circumstances, to the day on which that injury occurred and the day so fixed shall be deemed to be the day on which that injury occurred."

and that the House of Assembly agree thereto.

As to Amendment No. 4:

That the Legislative Council do not further insist on its amendment.

As to Amendments Nos. 12 to 14:

That the Legislative Council do further insist on its amendments and the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 22:

That the Legislative Council do not further insist on its amendment, but make the following amendments to the Bill in lieu thereof:

Clause 69, page 33, after line 20—Insert—

"Speech Loss—

Total loss of the power of speech	75
Sensory Loss—	
Total loss of senses of taste and smell	50
Total loss of sense of taste . .	25
Total loss of sense of smell . .	25"

Clause 70, page 34, line 19—Leave out "an" and insert "a permanent".

lines 20 and 21—Leave 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 total or partial incapacity for work whether such incapacity is actual or potential or that injury is an injury referred to in subsection (3) of this section.

Page 35, lines 1 to 8—Leave out all words in these lines and insert in lieu thereof:

"(3) Notwithstanding anything in this section or in section 69 of this Act, where compensation is to be assessed in the manner provided for by this section in respect of an injury being—

(*a*) loss of genital organs;

(*b*) permanent loss of the capacity to engage in sexual intercourse;

or

(*c*) severe bodily or facial scarring or disfigurement;

the amount of that compensation shall not exceed the sum of nine thousand dollars.

and that the House of Assembly agree thereto. As to Amendments Nos. 24 and 29:

That the Legislative Council do not further insist on its amendments.

Consideration in Committee.

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

That the recommendations of the conference be agreed to.

It was a fairly lengthy conference. The honourable members who were managers on behalf of the Legislative Council worked diligently in an effort to reach some compromise that would provide a satisfactory solution for this Council. It was a hard-working conference that investigated all sorts of solutions and discussed at length the various amendments that had been made to the Bill. The Minister of Labour and Industry, who chaired the conference, handled it capably. It was conducted in a pleasant atmosphere: there was no heat and everybody worked as hard as possible to reach a solution. Although I do not want to cast any aspersions on the professional men who were amongst us, I point out that there were three lawyers present, and I know of no better way of lengthening a conference than to have three lawyers sitting down together to work out something.

The Hon. C. M. Hill: You might very well have had four lawyers on the conference.

The Hon. A. F. KNEEBONE: Yes. On other conferences I have attended, Sir Arthur Rymill has been one of the managers. However, those conferences did not take so long because Sir Arthur always seemed to be able to find a solution that suited most people.

The Hon. F. J. POTTER: I support the motion. The conference was most satisfactory in many ways. The matters with which we had to grapple were not easy, because they involved certain legal concepts that were difficult to handle in some ways, and this provoked in the conference varied points of view. Various opinions were given and points taken. I think the outstanding thing about the conference was that everyone worked hard in a most amicable way to reach a solution that was fair to all the parties involved. As I said earlier, the employers, the employees, and the insurers, who foot the bill, are the three main parties concerned with this legislation, and the points of view of all those groups must be considered. I am sure that the conference has achieved a most reasonable compromise on the very difficult matters that arose.

The Hon. V. G. SPRINGETT: As one of the managers of this Council at the conference, I endorse what the Minister and the Hon. Mr. Potter have said. I am quite sure that the outcome of the conference represents a very fair and reasonable balance for the three main groups concerned with this legislation.

Motion carried.

MARGINAL DAIRY FARMS (AGREEMENT) BILL

Adjourned debate on second reading.

(Continued from April 6. Page 4746.)

The Hon. H. K. KEMP (Southern): Various things must be considered in speaking to this Bill, which is a means by which it is hoped to rehabilitate the dairying industry chiefly in districts other than South Australia. In South Australia, the position in the dairying industry is somewhat different from that in other States. If the industry were not interfered with there would be a fair chance that things would settle down and that these farmers would be able to find their own way without any great assistance; certainly any interference must be closely regulated.

A peculiar position arises here, in that we are under-supplied with dairy produce. I was

told by one of our chief dairy produce manufacturers in the Adelaide Hills only a week or two ago that we are now short of cheese and that we cannot fulfil orders.

The Hon. R. A. Geddes: Is that seasonal?

The Hon. H. K. KEMP: No, it is not. South Australia is an immense importing State and we have to import about 60,000 or 70,000 tons of butter a year. This year Australia as a whole will not be able to supply the quota of butter allowed to her under the terms of the agreement between countries supplying the United Kingdom market. The difficulty in assessing the position is that we have little knowledge of the prices at which butter, cheese and other things are sold overseas. Within Australia they are sold at profitable prices, which have sustained the dairy farmer in a reasonably prosperous position, with some subsidy by the Commonwealth Government on the produce sent overseas. It is difficult to ascertain just how profitable the individual prices are. The big sales of cheese being made to Japan from South Australia at present are at reasonable prices: they are by no means the give-away prices fixed when Australian dairy produce has been placed on oversea markets.

The very fact that the European Common Market has tremendously reduced its stocks of butter is significant, too. On the other side of this industry, the Argentine will not this year be able to export any beef at all. The proposal is that the Commonwealth Government should find the money to buy out the small sub-marginal dairy farmer and allow his land to be consolidated with the next farm—possibly a dairy farm or land in efficient use. That is not a very great problem in South Australia.

I doubt whether this provision will be widely used. It certainly will be more useful in the closer dairy areas where there are small dairy farms of below 100 acres in good rainfall districts, but there are not very many dairy farmers today who are taking less than the standard laid down of 12,000lb. of butterfat or the production of 20 cows or less. That sort of dairy farm belongs to a part-time worker and, as the assistance to be provided will be granted only to the dairy farm that has a cheap source of income, it is doubtful just how far we can go.

The idea is excellent, except for one thing—that this consolidation of farms in the agricultural field in this State is very dangerous. As a farm grows, it becomes more and more vulnerable to the onset of capital taxation. and this type of taxation will lead to the farmer as a private individual vanishing from the land.

What will do the most damage of all is the fact, which is becoming quite evident, that the South Australian Government is determined to increase the margarine quota. I shall not repeat the information that I gave in my previous speech tonight, because that is not necessary. That information is being circulated throughout the length and breadth of Australia by a source that is regarded as reliable.

We were glad to hear the Minister's earlier statement that this report is completely without foundation, but we have also heard the statement that a decision has already been made to increase our margarine production here to the amount now in force. It is not a very great amount: 1,100 tons a year comes into this State above the quota that can be manufactured here.

It is important in that it is a breakdown of the principle so long established and so strongly held for so many years that the amount of manufactured margarine must be strictly limited in this State. This can do more to break down dairying than anything else and can completely destroy the benefit of this good scheme for solving one of the dairying industry's problems.

That industry faces several difficulties that I think it will solve if it is given the chance to. This is a fairly favourable climate, one of the few favourable climates we can find in the agricultural world, but the fact that we already have a shortage of cheese and need to export large quantities of butter because the rest of Australia cannot supply its quota of butter for the United Kingdom and the fact that other parts of the world have greatly reduced the stocks held in store mean that for this small section of agriculture there is some possibility of stability soon, as long as it is not disturbed.

The terms under which this legislation will come into operation are laid down in the schedule to the Bill. They are terms that have already been signed by representatives of both this State and the Commonwealth and, therefore, are not subject to variation. However, this is the only part of the Bill about which I have some minor queries.

Obviously its provisions are complex and detailed, requiring long consideration. Overall, they seem to be well thought out. After careful thought and much time spent on studying the Bill, I have no alternative but to give

it my support, but with the plea to the Government that it does not introduce other factors that can so easily upset the dairying industry.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Approval of agreement."

The Hon. C. R. STORY: I do not want to delay the Committee, and I refrained from speaking on the second reading. In this measure there is one thing that appears completely anomalous, and that is that the Bill is in the hands of the Minister of Lands in this State and his counterparts in the other States. It would appear that the administration of this measure could be better handled by the Minister of Agriculture and the Agriculture Department, where we have some very good advisers. I make a plea to the Government to reconsider the vesting of this measure in the Agriculture Department.

In my opinion this Bill is something that is going to rehabilitate and reorganize the dairying industry, and the people best qualified to advise in the matter are the experts of the Agriculture Department—people like Mr. Itzerott and others trained in this sphere, rather than an administrator, although I have the highest regard for the ability of Mr. Dunsford as an administrator.

I have been interested in this matter from its inception. There is something in it for the dairying industry. I do not think we will need the assistance that the marginal areas of New South Wales and Queensland have had. It may assist people to aggregate, without being forced to, and also to diversify their production. I am not reflecting upon the Minister of Lands or his officers, but I believe the Bill should be under the control of the Minister of Agriculture.

The Hon. A. F. KNEEBONE (Minister of Lands): The honourable member spoke like a true former Minister of Agriculture. It is evident that he does not know the ramifications of the Lands Department, its history, or its administration of many similar difficult matters. He does not know the high standing of the Lands Department administration in the Commonwealth sphere, where the finance for these schemes is provided. I assure him that the administration of this measure by the Lands Department will cause no concern regarding effective and fair administration.

The Hon. T. M. CASEY (Minister of Agriculture): I listened intently to the remarks of the Hon. Mr. Story. As he knows, it was the duty of the Minister of Agriculture to come to agreement with the Commonwealth and the other States. When I assumed office I found that the agreement with the Commonwealth was drawn up, but the previous Government had decided to play along with New South Wales and Victoria. However, I could see the possibilities of arriving at an agreement with the Commonwealth that would be beneficial to the industry in South Australia, perhaps not to the extent that it would be to New South Wales, Victoria or Queensland, but nevertheless it was a step I thought should be taken in the interests of the industry.

I believed the agreement should have been handled by the Minister of Agriculture, because he has at his disposal all the dairying experts, but I differ from the Hon. Mr. Story's view that the application and implementation of the agreement should be with the Agriculture Department. The purchase of a property comes within the ambit of the Lands Department and the Land Board, For this reason I think the basis of the problem lies more with the Land Board than with the Agriculture Department.

Under the Rural Advances Guarantee Act we now supply technical officers as advisors to the department, and I think basically it rests with the Lands Department. Under the marginal dairy farms reconstruction scheme we persuaded the Commonwealth Government to give us 50 per cent of the money as a grant and 50 per cent as a loan. However, a totally different deal was made between the Commonwealth and the States in connection with other rural industries—25 per cent of the money is to be a grant and 75 per cent will be a loan.

I think the scheme for other rural industries should, in this respect, have followed the marginal dairy farms scheme. I mentioned this point at the inaugural meeting between the State Ministers and the Commonwealth Minister last year when we were dealing with rural reconstruction, but we could not get anything of consequence from the Commonwealth Government. I said that, since we had a scheme that provided for a 50-50 deal, we should follow the same policy in connection with other rural industries. However, we got a totally different deal from the Commonwealth Government.

Clause passed.

Remaining clauses (4 to 8) and title passed.

Bill read a third time and passed.

LOTTERY AND GAMING ACT AMENDMENT BILL (TROTTING)

Returned from the House of Assembly without amendment.

RURAL INDUSTRY ASSISTANCE (SPECIAL PROVISIONS) BILL

Adjourned debate on second reading.

(Continued from April 6. Page 4749).

The Hon. G. J. GILFILLAN (Northern): I support the Bill, which provides for carrying out an agreement to assist rural industry. As the Minister said in his second reading explanation, should such an agreement eventuate before Parliament resumes, it will be necessary to have interim legislation to give the Government statutory authority to carry out the agreement. The Bill confers the necessary authority and provides that protection certificates may be issued to primary producers who are in financial trouble; that will halt, until the scheme can become operative, any move by a mortgagee to sell such a primary producer's property. In his second reading explanation the Minister said that the Government was aware of the growing problems in the rural community and that, since the scheme was first considered, those problems had become even more serious.

I commend both the State Government and the Commonwealth Government for their efforts to provide an effective rural reconstruction scheme, but I fear that the sum involved ($100,000,000 to the States over four years) will be completely inadequate. The rural debt is such that that sum will enable help to be given in only relatively few instances. I predict that, unless some means can be found to increase the price of the main basic commodities, particularly wool, no reconstruction scheme will work: it is as serious as that. I was distressed to hear that the average price at the last Perth wool sales was only 23c. Anyone with any connection with the land realizes that such a price is hopeless. This is one of the reasons why honourable members are so concerned over the impact of various forms of taxation, including land tax and succession duties.

Any form of reconstruction must take consideration of these factors if it is to be at all successful, because it is of little use pouring large sums of money into making viable units if they will be destroyed on the death of the owners.

The Bill gives the Minister absolute authority, some of which he can delegate. He can act only on the advice of the committee, and the issue of a protection certificate must be made with the committee's sanction. The issue of the certificate can be made even though perhaps a summons has been served on the person and the case is already before the court.

As the Minister cannot act without the committee's advice, I believe that one of the most important aspects is the composition of the committee, which is not spelled out in the Bill. Where a board or a committee is formed, it is usual that the classes of person who will comprise the committee or board are defined in the Bill. The definition states that the committee means the committee provided for by regulation under this Act. I know that regulations can be disallowed and that members can speak on them, but there is no opportunity for members to amend them or to introduce a private member's Bill. Perhaps the Minister will outline the Government's intention on the composition of the committee, because the personnel of the committee will be important to the success or failure of the scheme. I hope that such people will be appointed on ability and that they will not be appointments of favour. I support the Bill.

The Hon. R. A. GEDDES (Northern): The Northern District covers 346,000 square miles of the State. The main problem is that the State Government has $12,000,000 to distribute to an unknown number of people in distress. Only by the Bill becoming operative and by giving authority to the Minister of Lands for his department to invite those in trouble to submit their claims will all authorities, both State and Commonwealth, be convinced of the overall need of rural industries. When the press refers to $100,000,000 aid to rural industry, it sounds a considerable sum of money, but this State's share of $12,000,000 is only a paltry sum. Borrowers will have to pay interest on these loans, which I suppose is only fair. It is only by the introduction of the legislation that the authorities can obtain the next answer.

No Government has yet said that the wool industry is paramount to Australia's needs from an export point of view, but if this legislation will help in this regard it is a step in the right direction. However, if the Bill is a political gimmick it will be a sad day for the industry, which only those who can remember the depression of the 1930's will appreciate.

There is no help better than a farmer tightening his own belt and doing the work himself, but some of them are not able at all times to solve the problems. The Government should be realistic in its help to those who apply and who have a genuine need of assistance. I support the Bill, because rural industry needs more money and because it is a challenge to the man on the land to keep going.

The Hon. A. F. KNEEBONE (Minister of Lands): I thank honourable members for the attention they have given the Bill. They realize, as I do, that the scheme presented to us by the Commonwealth Government for administration by the Lands Department is not a complete answer to the present situation. It is not even as complete an answer as it may have been at the time the scheme was presented a few months ago in Canberra, since when the price of wool has dropped even further.

I agree with the Hon. Mr. Gilfillan regarding the price of wool and the inability of rural people to exist on the income from wool today. I have had given to me the budgets of various properties, and it is depressing to see the effects of wool prices on those budgets. The prices that we looked at were above those quoted by the honourable member as the prices at the recent wool sales in Perth. This indicates the position in South Australia. The Hon. Mr. Gilfillan complimented both Governments on the scheme. I do not think the Commonwealth Government can be complimented. Certainly, it has implemented something, but it goes nowhere near what is needed in this respect.

The Hon. G. J. Gilfillan: We made that point, too.

The Hon. A. F. KNEEBONE: As regards the $12,000,000 provided for South Australia, unless the stipulated conditions under which people can be helped are moderated, the $12,000,000 will not be spent because there will not be the people eligible for that assistance. The Director of Lands is our representative on an interstate committee. He has repeatedly spoken to officers in the Department of Primary Industry, pointing out our fears and saying that something must be done. I fear that the scheme as first proposed will probably be the scheme that will be introduced into the Commonwealth Parliament and that we shall have to proceed on that basis.

Applications will be called for. Although we have money in the Treasury in respect of a previous scheme, until the Commonwealth has put through the necessary legislation to release that money and has approved its own scheme for rural reconstruction, we shall not be able to get the scheme off the ground. So, if honourable members have colleagues in Canberra who can exert some pressure, push the scheme along and get the legislation through, they will be doing a great service for South Australia.

I assure honourable members that the appointments to the committee will be based on ability. I propose to approach the rural organizations with a view to getting lists of names (there are, of course, two organizations), and a selection will be made of the most appropriate people on the ground of ability and acceptability to the rural industry generally as members of the committee. There will be a member of a rural financial institution on the committe, plus a Government employee from the Treasury Department. This will be the committee that will recommend to me, as Minister, what action should be taken in regard to these matters. I can take no action without a recommendation from the committee.

I assure honourable members that appropriate people will be chosen. The Hon. Mr. Gilfillan asks what opportunity we would have, if certain things were done by regulation, of discussing this further. I assure the honourable member that, when the Commonwealth passes its legislation, a similar Bill containing full details of the scheme will be introduced early next session, and any committee constituted under this Bill will have to be reconstituted then.

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

WATERWORKS ACT AMENDMENT BILL (POLLUTION)

Adjourned debate on second reading.

(Continued from April 6. Page 4693.)

The Hon. M. B. DAWKINS (Midland): I rise to give some consideration to this Bill for an Act to amend the Waterworks Act. It has been described as a holding Bill, because we all know that the Waterworks Act and the Sewerage Act are being revised and it is considered that the complete revision may take a couple of years. In some respects at least to call it a holding Bill, although not perhaps misleading, is not an accurate description, because it is rather more than that.

I believe that we have to support the principles and the objects of the measure, for I do not think any honourable member would

seriously consider allowing pollution to become a great danger in this community. We are in a very different position from the other States. In the second reading explanation the Minister indicated that watersheds in the other States are 20, 30 or 40 miles from the city, with very few inhabitants, and it is possible to have very much larger storages with less risk of pollution under those conditions. We have watersheds which are large in area because of South Australia's relatively low rainfall, and they are inhabited to a greater degree than are some others in this country. It therefore presents problems which are not common to the other States and which we would be foolish to ignore.

However, while I subscribe to the principles and the objects of the Bill, I cannot subscribe to the measure as it stands, because I believe it is too wide in some of its applications. It is probably unnecessarily wide, especially if it is applied in certain watershed areas and areas of watershed for projected reservoirs detailed on the map, displayed in the Chamber, which no doubt honourable members have examined. In some cases there has been unnecessary interference with the normal rights of the rural community and the primary producers living within the Adelaide Hills and adjacent areas.

There is a very great need to use all our water resources in South Australia, simply because they are so limited. We have a pressing need to make the best use of the water available. The shortage of iron during and after the war and the consequent lack of rainwater tanks makes a difference. It could be said that if every house had a rainwater tank this would not necessarily give a very large quantity of water, but honourable members who live in the country have probably used rainwater for drinking throughout their lives. They do not turn on taps and forget to turn them off for 10 minutes, as occurs in areas where the water supply appears relatively unlimited. Even this provision for rainwater in the city, where tanks would be refilled several times in a good year, would make some contribution towards conservation of water.

We must make use of our reclaimed water and we must reuse water. We had an urgency motion on this matter only a few days ago. I sympathize with landholders in the watershed areas, particularly in the township of Chain of Ponds, where landholders are to be moved out. I sympathize also with those in the watershed of the projected reservoirs, some of which will not be built for some years. Some landowners have already had restrictions and obligations thrust upon them. While they are not to be moved out, as at Chain of Ponds, they are still restricted and still in some cases put to what is at present needless expense, when one considers that the reservoirs are projected only.

I am aware, as other members will be, that the map shows a number of areas in what might be called a common watershed, having relation to two or more of the dams that have been built or are to be built. On the other hand, some areas have reference to a particular storage and some to a projected storage. The map shows several projected storages. I can think of four, and there are more; I can think of Little Para, Finnis, Baker Gully and Clarendon.

I consider that it is unfortunate that, even at this stage, it seems that some people have had demands made on them although they are living in the area of these projected reservoirs, some of which will not be constructed for perhaps 10 years. Recently, I saw a report in a newspaper in which a Government member indicated that the Baker Gully reservoir may not be constructed for 10 years. I know that a projected reservoir is planned for the Little Para River, but this may not be constructed for a considerable time. Surely, it is premature to apply restrictions or make demands on people who live in these watersheds at present. Clause 2 amends section 4 of the principal Act by inserting certain definitions, and the definition of "stream" has been recast, to make it wider than the existing definition, as follows:

"stream" includes a river, creek, brook, spring, lake, aqueduct, conduit, tunnel or any structure through or along which water passes and includes any water in a stream:

That definition is very wide indeed. Clause 2 also adds four new definitions to section 4 of the principal Act. The term "watershed" has been used, without being defined, in section 58 of the principal Act, but it is now defined for the first time in this Bill—and defined too widely, as follows:

"watershed" means any area of land for the time being declared by proclamation pursuant to subsection (1) of section 9a of this Act to constitute a watershed:

That definition virtually means that any land anywhere can be declared by proclamation. My first thought with regard to that wide definition was that it should be struck out, but I have since decided that it might be acceptable if the word "proclamation" were

changed to "regulation". The powers needed to cope with problems that may occur in a watershed need to be very wide, but there must be some control over the exercise of those powers. The term "waterworks" is defined as follows:

> "waterworks" includes all water storages, reservoirs, wells and bores, pumping stations, water treatment stations, tanks, aqueducts, tunnels, pipes and other works for the collection, treatment and distribution of water and all land acquired by or under the control of, the Minister, for the purposes of this Act in connection with the supply of water.

During the Committee stage that definition should be amended to ensure that it is not abused. Clause 3 provides:

> The following section is enacted and inserted in the principal Act immediately after section 9 thereof:
>
> 9a. (1) The Governor may from time to time by proclamation—
>
> (*a*) declare any land described in the proclamation to constitute a watershed for the purposes of this Act; and
>
> (*b*) provide a name for the land so declared,
>
> and may by proclamation amend, revoke or vary any such declaration or name.

Here, too, the power is very wide and could be abused by some enthusiastic public servant. Although I have a high opinion of our public servants, I realize that some younger officers have much enthusiasm but may not always be completely fair and reasonable in what is done. No doubt members have had the opportunity to examine the map of the watershed zones that is displayed in this Chamber. Not only are the watersheds of two types shown on the map of existing reservoirs but watersheds are shown for several projected reservoirs, some of which may not be built for a very long time.

There is quite a similarity between the powers provided in the principal Act and the powers provided in this Bill, except that in almost every case the powers available to the Government and the Public Service are much wider in this Bill. Some dairy farmers have already been required to spend large sums of money on anti-pollution devices. One such farmer is in the watershed of the projected Little Para reservoir; he has been required to spend between $1,500 and $2,000 on improvements to ensure that there is no possibility of pollution. If that reservoir had been constructed and was being used at present that expenditure might well have been justified. However, in this case the expenditure has been required in a watershed that may not be used for many years. This seems ridiculous and is an example of the unfortunate use of power that could victimize many people who are not in a position to spend money in this way, especially as in some cases such as this one it is not yet necessary and may not be for a number of years. There are, admittedly, some watersheds that overlap. A watershed can be in an area affecting an existing reservoir and it could also affect a future one, but there are some watersheds that affect only the future storages, which are not likely to be in service for some time. Where such powers as I have mentioned are being used now, we wonder what will happen under the new legislation.

Clause 4 amends section 10 of the principal Act by inserting five new paragraphs under which by-laws may be made for regulating, controlling or preventing the impairment of the quality of water within a watershed or the use of any stream or watercouse within any watershed or the obstruction or diversion of any stream or watercourse within any watershed. While in certain circumstances these powers may be necessary, it concerns me that there is room for the unwise and unfair use of them. Clause 6 repeals section 56 of the principal Act and inserts in its place a new section, which provides:

> A person shall not (*a*) bathe; (*b*) throw, convey or suffer or permit to be thrown or conveyed any rubbish, dirt, filth or other noisome thing; or (*c*) wash or clean any cloth, wool, leather or skin of any animal or any clothes or other things, in any stream or watercourse within a watershed or in any waterworks wherever situated.

This is not unlike the section being repealed, except that it is wider in its effect, and the penalty is considerably higher, being $200 instead of the present penalty of $10. This carries through into clause 7, which repeals section 57 of the principal Act and inserts a wider new section in its place. Again, the penalty shall not exceed $200 in place of the previous maximum of $10.

The general effect of this legislation is to widen the powers. The objects of the Bill are commendable, but the powers provided are very wide indeed. At least control by regulation instead of proclamation should be inserted in the Bill. No Government should be frightened of acting by regulation because, if there is an unwise use of these powers, at least they can be examined when they are laid before Parliament. I foreshadow certain amendments that I shall move to two clauses. I circulated earlier an amendment by which I intended to strike out two clauses of the Bill. I have had further

thought about them, and I will now move to have "regulation" rather than "proclamation" inserted in several places in the Bill rather than strike these parts out. With the reservations I have mentioned, I support the second reading.

The Hon. H. K. KEMP (Southern): People in the watersheds have been looking forward to these regulations for a long time. I support the Bill wholeheartedly, subject to the amendments foreshadowed by the Hon. Mr. Dawkins being carried. When we go into Committee, I propose to move to add two clauses that will make it acceptable to most people concerned. I think the Bill should go into Committee immediately so that these matters can be considered.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Interpretation."

The Hon. M. B. DAWKINS moved:

In the definition of "watershed" to strike out "proclamation" and insert "regulation".

The Hon. T. M. CASEY (Minister of Agriculture): The Government has no reason to oppose this amendment. I draw the honourable member's attention to the fact that the matter is controlled by by-laws, anyway.

Amendment carried.

The Hon. M. B. DAWKINS moved:

In the definition of "waterworks" after "water" third occurring to insert "acquired by or under the control of the Minister".

The Hon. T. M. CASEY: I accept the amendment.

Amendment carried; clause as amended passed.

Clause 3—"Watersheds and zones."

The Hon. M. B. DAWKINS moved:

In new section 9a (1) to strike out "proclamation" first and second occurring and insert "regulation" and to strike out "and may by proclamation amend, revoke or vary any such declaration or name"; and in new section 9a (2) to strike out "in a proclamation referred to in subsection (1) of this section or by any proclamation made after that proclamation".

Amendments carried; clause as amended passed.

Remaining clauses (4 to 8) passed.

New clauses 9 and 10.

The Hon. H. K. KEMP: I move to insert the following new clauses:

9. This Act shall be administered by inspectors appointed under the Local Government Act and the Health Act, except where there is no such inspector the Chief Engineer of the Engineering and Water Supply Department may appoint an inspector.

10. Where any proclamation or regulation under this Act prevents previous land use or right, there shall rest upon the Government the responsibility to purchase the land in question at fair price at valuation based on the rate ruling before such regulation or proclamation was made, or to pay for compensation for the disability presented by such proclamation or regulation.

This is based on experience of the administration of the regulations under the town planning legislation. I am sure that if the Government will accept these two new clauses there will be no great argument about this matter in the Hills area from now on. The present inspectors under the Local Government Act and the Health Act, very highly qualified and conscientious men, resent being treated high-handedly. Secondly, there must be some appeal from the decisions that the roving inspectors have been making.

The Hon. T. M. CASEY: I have taken up this matter with the Minister of Works and with the Parliamentary Counsel and am awaiting a reply. Therefore, I ask that progress be reported.

Progress reported; Committee to sit again.

MOTOR VEHICLES ACT AMENDMENT BILL (POINTS DEMERIT)

Adjourned debate on second reading.

(Continued from April 6. Page 4754.)

The Hon. C. M. HILL (Central No. 2): Having to deal with a Bill of this kind at this hour after a session that ended about 3.45 a.m. yesterday is very difficult indeed. The Bill includes principally a change in the Act to introduce a points demerit scheme. I have been hoping for a long time that the Government would introduce such a scheme.

I can recall that late in 1969 this Council took, I think, two to three months to debate a Bill that included such a scheme, and it finally passed that Bill. It then went to the other House where it was, in my view, rather high-handedly put to one side by the then Labor Opposition, with the help of the then Speaker. I believe that such a scheme is a major contribution to reducing the road fatality rate. I have noted that the road fatality rate in 1970, when a points demerit scheme was not in force, was the highest fatality rate ever for a calendar year in this State. The Government has at long last introduced this measure, and it is my view that the Council ought to consider it favourably, despite this late hour.

The Bill also includes many other provisions, most of which were dealt with by this Council

in 1969, but they, too, were all laid aside. I point that out because honourable members who may wish to review all those clauses again will see from the debate that took place over a long period that all matters in those sundry clauses were fully considered by the Council.

For example, clause 3 deals with mobile field bins, bale elevators and farm implements being exempted from registration fees. That provision was contained in the previous Bill. Similarly, the subject matter of clauses 5 to 18 were included in the Bill that was fully considered here at that time. Therefore, I do not intend to make any further comments on those clauses.

Clauses 19 and 20 deal with the points demerit scheme, which varies in some respects from the scheme that was approved by this Chamber in 1969. The scheme varies in four ways, and the first of those variations is dealt with in new section 98b (10) inserted by clause 20. That provision deals with the court's power to reduce the number of demerit points recorded against a convicted person. In the previous measure the court had the right to review and reduce the total number of points carried by a particular offence, but in this Bill the court may not only reduce the score (if I may put it that way) of the offender by the exact number of points the offence carries, but can vary and reduce the number, so that, for example, the court may consider that half the demerit points should be allocated to the particular offender. I do not oppose that variation.

The second variation is in new subsection (13), which is the appeal provision. In the previous measure an appeal against suspension was made to the Supreme Court or a special magistrate, whereas in this Bill the appeal is to the Local Court. The third difference in the scheme deals with the question of costs. The previous proposal provided that no order could be made against the Crown and that the appellant had to pay all costs but in this Bill both the appellant and the Crown are entitled to be heard on appeals. This is not a serious difference.

The major difference between the two schemes is contained in new subsection (15): it deals with the grounds on which an appeal can be made. In the previous proposal in the first instance there was no appeal, then there was a change of policy and an appeal was permitted on the ground of public interest, but this Bill provides an appeal on the ground of undue hardship to the appellant. This is a major change. It means that if someone records a loss of demerit points and ultimately reaches the score of 12, he can apply to the court (and this would particularly apply to a professional driver) and the person could say to the court, "I have a personal need to retain my licence. Its loss would occasion undue hardship to me and, therefore, I appeal to retain my licence rather than be disqualified under the points demerit scheme."

I do not agree with this approach. I have always maintained that the holding of a driver's licence is a privilege and not a right, but many people consider it a right. Irrespective of personal hardship, if any offender reaches the score of 12 under this scheme he is a menace on the roads, and if a points demerit scheme is to work effectively that offender should be removed from the roads for a period. I strongly suspect, and I am sure everyone would acknowledge the fact, that considerable pressure has been brought to bear on the Government about this matter by, I think, the Transport Workers Union.

Naturally, this union is concerned. However, I believe that professional drivers would not suffer under this scheme because, generally, they are good drivers. If any of them began losing demerit points he would pull up his socks, and then would have nothing to fear. I do not think that this major change is good: it causes the whole scheme to be rather weak and, unless a points demerit scheme is a tough scheme, it will not be as effective as it should be.

The Hon. R. A. Geddes: What is a professional driver?

The Hon. C. M. HILL: He is a commercial vehicle driver or a taxi-cab driver, and is one who drives for a livelihood. This matter has been reviewed by a Select Committee, and I am most keen to see a points demerit scheme operate. I do not think this present system will work as effectively as the previous system would have done, but it will reduce the road toll and be a great contribution to road safety and, because of the urgent need to reduce road fatalities in the community, I support the measure.

The Hon. Sir NORMAN JUDE (Southern) moved:

That this debate be now adjourned.

The PRESIDENT: Is the motion seconded?

The Hon. A. M. WHYTE: Yes.

The PRESIDENT: The question is that the debate be now adjourned: the adjourned debate to be made an Order of the Day for?

The Hon. A. F. KNEEBONE moved:

That the adjourned debate be taken on motion.

The Hon. Sir NORMAN JUDE: I realize the interest of the Minister in the question of this Bill being adjourned on motion, but I draw the attention of honourable members to the time. This Bill has recently been introduced with only one small amendment from another place. As members know, there are other items on the Notice Paper with which honourable members wish to deal. It has been suggested to me that we could throw the Bill out. I do not fall for that with my experience in Parliamentary life, but I suggest that, as today is Thursday, an ordinary sitting day of this Council, there is no reason why the Council should not adjourn shortly and sit again at 2.15 p.m. and then make an expeditious clearing of the necessary matters on the Notice Paper by, perhaps, 5 p.m.

The Hon. A. F. Kneebone: There is no guarantee that you will do that.

The Hon. Sir NORMAN JUDE: As members realize, after sitting until 2 a.m. yesterday morning—

The Hon. C. M. Hill: It was a quarter to four!

The Hon. Sir NORMAN JUDE: I stand corrected. After the House sat until a quarter to four yesterday morning, it is now suggested that we could complete the Notice Paper by lunchtime today. Honourable members will receive no satisfaction from the judgment of the people by trying to pass legislation at 4 a.m. or 5 a.m.

The Hon. C. M. Hill: You get bad legislation.

The Hon. Sir NORMAN JUDE: Of course. It is reasonable to suggest that, with 19 items on yesterday's Notice Paper and another five new Bills having been introduced in the current sitting (not through the fault of this Council), we should now adjourn. We have been prepared to do our work and I am sure my colleagues are willing to carry on with the work next week if it is necessary. There is no suggestion of talking these Bills out: we are here to do our job.

The PRESIDENT: Order! The debate on a motion for adjournment is strictly limited to the time of the adjourned debate. Only the time can be debated, not the subject.

The Hon. Sir NORMAN JUDE moved:

To strike out "on motion" and insert "2.15 p.m. this day".

The Hon. A. F. KNEEBONE: I hope I am not out of order in opposing the motion. We worked last night for the purpose of completing the business of the session during this sitting and we have sat diligently through this night. I compliment honourable members on the work they did during the previous sitting, when they worked to about 4 a.m. I have worked as hard as anyone in this place during the last few weeks, and I am willing to go on and finish the business. During the last five hours the Hon. Sir Norman Jude has been resting while other honourable members have been working, yet he now says he cannot go on at this stage. Managers from this Council worked from 11 p.m. to about 4 a.m. trying to get the business of this Council finished by the end of this sitting. We would not have sat so long last night and we would not have continued for so long during this sitting if we had intended to sit next week. I therefore ask honourable members to co-operate so that we can get the Bill through and thereby save lives on the roads.

The Hon. Sir NORMAN JUDE: I rise on a point of order, Mr. President. You called me to order for discussing more than the time of the adjourned debate.

The PRESIDENT: The point of order is well taken. I have been considering the motion and the amendment. The motion was, "That the adjourned debate be taken on motion", which the Hon. Sir Norman Jude moved to amend by striking out "taken on motion" and inserting "made an order of the day for 2.15 p.m. this day". The Hon. Sir Norman Jude had some freedom, as did the Minister, while I was considering the motion and the amendment. However, there will be no further debate. The question is that the amendment be agreed to.

Amendment negatived; motion carried.

PLANNING AND DEVELOPMENT ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from April 6. Page 4690.)

The Hon. C. M. HILL (Central No. 2): This Bill has been introduced at a time when the four-year terms of office of the members of the State Planning Authority expire. It is proper that, if there are to be changes in the set-up of the authority, now is the time to make them. The Government intends to include on the authority someone representing conservation interests, and I wholeheartedly support that idea.

I can recall that I agreed earlier that it would be very wise to allow conservationists to be represented on the State Planning Authority. At that time the Director of

Planning thought that perhaps changes should not be made until the four-year terms expired, and I agreed with that view. However, I have always been impressed by representations I have received from many conservation groups in regard to their desire to be represented on the authority. The method of choosing the representative should be considered in a little more detail. The Bill simply provides that the Governor shall appoint someone interested in conservation and aesthetics, whereas many of the other appointees are chosen from a list of three names supplied by the institutes or associations involved.

I have carefully considered this matter because I believe that one or two of the associations actively involved in conservation ought to be given the right to submit jointly a panel of three names to the Government. Elsewhere in the Bill the Chamber of Manufactures and the Chamber of Commerce are asked to submit jointly a panel of three names, from which the Governor will choose one. However, at present an association that would have to be considered is the Conservation Council of South Australia, which has only recently been formed and so far has not been incorporated. I understand it intends to be incorporated in the relatively near future but, as it has not been so far, it would appear that it would be inappropriate to amend the Bill to include it, for the time being.

Another association that the Government may consider should be given the right to join with the Conservation Council of South Australia is the Town and Country Planning Association (S.A.) Incorporated. This is the most active group in this State in conservation matters. I hope that in the future a representative of the conservation interests may be chosen by the Government of the day from a panel of three names submitted to the Government jointly by the Conservation Council of South Australia (after that body has become incorporated) and the Town and Country Planning Association (S.A.) Incorporated.

However, it appears at present that the best approach is the one chosen by the Government in this Bill. I am sure the Government will consider the matter deeply and will choose a representative of these interests who will act for them all and consider all the submissions that the various bodies will make to him. That representative will make a worthy contribution to the State Planning Authority.

My next point is the representation by local government. In the previous Bill passed in 1967 the councils in the State were represented by two different associations. I shall deal with this in some detail but at this stage I ask leave to conclude my remarks

Leave granted; debate adjourned.

ADJOURNMENT

At 5.2 a.m. the Council adjourned until Thursday, April 8, at 2.15 p.m.