LEGISLATIVE COUNCIL

Wednesday, March 29, 1972

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

QUESTIONS

RURAL UNEMPLOYMENT

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

Leave granted.

The Hon. R. C. DeGARIS: It has been drawn to my attention that in the South-East, where some people are employed under the rural unemployment relief scheme, a union has brought pressure to bear on those people to enrol as union members. It will be realized that such people may be employed for only two or three weeks; in those circumstances it is rather disconcerting for a demand to be made for $14 for union membership. Will the Minister bring this matter to the attention of the Minister of Labour and Industry?

The Hon. A. F. KNEEBONE: Yes.

The Hon. A. M. WHYTE: I seek leave to make a statement prior to asking a question of the Minister of Lands.

Leave granted.

The Hon. A. M. WHYTE: Over the last few months the Commonwealth Government has provided very useful assistance in rural unemployment grants, which have helped not only the economy of the country but also the various communities that have availed themselves of this assistance. The matter on which I wish to elaborate is that of the sons of farmers who, because they have no cash readily available from their own enterprises, are gratefully availing themselves of this unemployment assistance. As the funds for rural unemployment assistance and for the rural reconstruction scheme come from the same source, it is considered that these young men could be more gainfully employed in their own industry, especially at this time of the year, close to seeding time. I want to suggest that wages could be paid to these young men to enable them to work in their own industry, even if those wages were repayable after harvest and, perhaps, attracting a small interest charge. In this way, the economy and the rural industry would be better served than it is by the present expenditure of money. Will the Minister therefore consider what I have said and pass on my suggestions to the proper authorities?

The Hon. A. F. KNEEBONE: The honourable member has referred to rural reconstruction assistance and also to rural unemployment funds, both of which are made available by the Commonwealth Government. Although the administration of both schemes is handled by the State, the Commonwealth Government provides the money on the understanding that it will meet the cost of that administration. It was considered that the local council, being the body closest to the area involved, was the best authority to handle applications for rural unemployment assistance. The councils have supplied the Lands Department with schemes that resulted in the employment of those people who had registered for unemployment relief. Most of the people that the honourable member is speaking of would not normally register for unemployment relief: they would remain on their fathers' properties but would be encouraged by the councils to register for unemployment relief, and as a result they would gain employment under a council scheme. That works all right and, as the honourable member has said, has provided a useful amount of money to those people who sought employment who were sons of farmers.

Rural reconstruction money is made available by the Commonwealth on strict grounds, which do not envisage any such proposal as the one put forward by the honourable member. In most cases, the young fellows are probably sons of farmers who are not in such serious trouble as to have to apply to the rural reconstruction bodies for finance. If they were, the boys would receive money as a result of that being so and the farmer would receive assistance in that way. I see no way in which the money made available from the Commonwealth could be used to alleviate the situation referred to by the honourable member, even on the basis that it is to be repaid after harvest. I know it is a difficult problem. Next Wednesday, I am going again to discuss with the Commonwealth authorities the rural reconstruction scheme, which has not yet been completely reviewed. I have been over there a couple of times. I will bring back any further information I can get on the matter, but I am not confident that the Commonwealth will come to the party on this proposal.

The Hon. E. K. RUSSACK: I seek leave to make a short explanation prior to asking a question of the Minister of Lands.

Leave granted.

The Hon. E. K. RUSSACK: My question concerns a district council in the area I

represent. It has received $4,200, involving the employment of 10 men. As late as March 16, it was indicated that money for this purpose was still being distributed and, in good faith, the council applied for an allocation of about $5,460 for further work, which would involve the genuine employment of 13 men who had registered for employment; but this application was refused. The council is in the difficult position that, believing further money would be available, it has ordered the delivery of materials to carry out this work. Can the Minister say whether money is still available and would it be possible for this council to have a further financial allocation, as many other councils in country areas have had much more money given them?

The Hon. A. F. KNEEBONE: I have with me some figures in regard to the rural unemployment grant. I believe a similar question has been asked in another place. Initially, the Commonwealth made a grant of $945,000 to this State for the financial year 1971-72 for rural unemployment relief. This was later supplemented by a further $675,000, making a total of $1,620,000 available for expenditure by June 30, 1972. Of this sum, $1,600,000, or 98 per cent of the total, has been allocated to employment projects. The Lands Department has under investigation a number of applications and these are expected to absorb the remaining $20,000. It is not expected that the department will be able to consider any further applications for grants from these funds. I have confirmed that grants have been allocated on the basis of registered unemployment in the district and that not less than two-thirds must be spent on the labour component. In South Australia careful administration and co-operation by local government bodies has resulted in a figure of about 75 per cent being achieved for the labour content. The Government has been applying the money on the basis of where the greatest need exists. Where the greatest number of people are unemployed, those councils have received a greater sum. That is the only way by which the scheme can be administered fairly, as I see it. For this reason, some councils have received more money than others.

AGRICULTURE DEPARTMENT

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

Leave granted.

The Hon. L. R. HART: On March 22, in reply to a question from the Hon. Mr. DeGaris, the Minister said that the staff establishment of the rural youth section of his department was one Senior Adviser and five Rural Youth Advisers and that at that stage there were three vacancies. Does the Minister's statement mean that the rural youth section is being run by only half the necessary staff, and has the Minister succeeded in filling the vacancies that existed?

The Hon. T. M. CASEY: According to my mathematics, what the honourable member has said is correct. I do not know whether the staff vacancies have been filled but I shall ascertain from the Director of Agriculture what the position is and inform the honourable member as soon as practicable.

FILM INDUSTRY

The Hon. A. M. WHYTE: Has the Chief Secretary a reply to my question of March 22 concerning the film industry?

The Hon. A. J. SHARD: I have been supplied with the following replies:

(1) The Government has not made finance available to help the film industry in South Australia.

(2) Government policy on this matter has been given in the explanation of a Bill now before Parliament.

LITTLE RED SCHOOLBOOK

The Hon. E. K. RUSSACK: I seek leave to make a statement prior to asking a question of the Chief Secretary.

Leave granted.

The Hon. E. K. RUSSACK: Publicity has recently been given to a publication called the *Little Red Schoolbook*, and the press has suggested that copies of the publication could be made available in South Australia. I have received correspondence from two organizations, namely, the Northern Yorke Peninsula School Welfare Association and the Port Wakefield Primary School Welfare Club, together with the signatures of 34 parents. I have also been contacted by parents in the Moonta area. Because of this serious concern and the parents' attitude towards the publication, can the Chief Secretary, as Leader of the Government in this Chamber, say what is the Government's policy concerning this publication and whether there will be any restriction or prohibition on its distribution?

The Hon. A. J. SHARD: I will refer the honourable member's question and explanation to the Attorney-General, under whose control censorship (call it what you like) in this State lies, and obtain a report as soon as practicable.

WATERWORKS REGULATIONS

Adjourned debate on the motion of the Hon. H. K. Kemp:

(For wording of motion, see page 4095.)

(Continued from March 22. Page 4096).

The Hon. V. G. SPRINGETT (Southern): In rising to speak to this motion I am conscious, as I am sure every honourable member is, that one of the main words in the motion is "pollution". This word is not only well publicized nowadays but it explains and deals with the subject which we all realize must be controlled or, sooner or later, it will control us. Our environment, be it land, sea, or air, can be polluted and can cause a situation to arise whereby ill-health, malnutrition, and all sorts of other diseases can be thrust upon man. Therefore, realizing the importance of the control of pollution, I am sure no-one, either in this Chamber or living in the Hills districts referred to in the motion, would fail to give 100 per cent backing to measures to prevent pollution.

People in South Australia, as elsewhere in the world, are being made increasingly aware of the need to control pollution, and any practical measure (and I emphasize the word "practical") which can be undertaken by the Engineering and Water Supply Department or by any other organization to control pollution should have the blessing and the backing of us all. It is noticeable, therefore, that this measure, which sets out to prevent pollution of watersheds and rivers, is receiving some opposition in this Chamber. The reason is not that it aims to prevent pollution. Far from it. But in seeking to control pollution it is the old story of the sledge hammer being used to crack a nut.

There are many people in the Hills areas whose living depends upon market produce and the use of water supplies and has depended in this way since the early days of settlement of this colony in the last century. These people have little dams, they have blocked creeks, they have made available to themselves in various ways a supply of water to enable them to grow their crops. This measure, if carried to its logical conclusion, makes it absolutely impossible for any person to make available to himself and for himself a supply of water that will enable him to carry on his business or trade. The damming of small creeks and the building and application of even small local dams to meet the needs of one farmer are things which will not affect, it would appear, the water supply as a whole which comes to Adelaide and which this measure is designed to protect. In supporting this motion, I simply say that we all agree that pollution must be controlled, but there is no point in robbing market gardeners and people with small industries if, in so doing, we are not helping to prevent pollution. I support the motion moved last week by the Hon. Mr. Kemp.

The Hon. E. K. RUSSACK (Midland): I rise to speak very briefly to this motion. I speak also in commendation of the moves made by the Government and its efforts to control pollution in all the areas where it is hoped to make conditions as congenial as possible. I stress, as other speakers have done, that I am fully aware of the need to control pollution in all areas, particularly in the watershed areas. Consequently, I do not wish to cover the other points made by other honourable members.

I have been contacted by the Tea Tree Gully City Council, which is concerned about the welfare of some of its ratepayers in connection with compensation. The by-laws clearly state that piggeries, dairies and similar establishments must not be developed, extended or set up without the Minister's permission. Such provisions could possibly be justified in most cases in pursuit of a policy of controlling pollution, but I wish to stress the question of compensation. When land is acquired for roads, the authorities consider the effect that acquisition will have on the livelihood of the people concerned. I firmly recommend that the question of compensation should be considered in the case of these by-laws, too. Unfortunately, the by-laws cannot be amended by this Council; they must be either allowed or disallowed in their entirety. As the Hon. Mr. Springett has said, the flow of water in a creek cannot be restricted, irrespective of the quantity of water required, without the Minister's permission. So that these by-laws may be reconsidered by the authorities and reintroduced in an amended form that will be more acceptable to the people affected, I support the motion.

The Hon. R. C. DeGARIS (Leader of the Opposition): I have listened with great interest to the speeches on this motion by the Hon. Mr. Kemp, the Hon. Mr. Springett and the Hon. Mr. Russack. I have no objection to by-laws that control pollution of the environment; that point has been adequately made by previous speakers. Any reasonable action to control the environment and prevent pollution will always be assisted by this Council.

Unfortunately, this Council has power only to allow the by-laws in their entirety or to disallow them in their entirety; it cannot select those provisions in the by-laws that it considers to be sound and allow them to pass, while disallowing the few provisions that it believes go too far. I believe that Parliament should look for some way whereby that unfortunate situation can be avoided. I realize that we have the advantage of a report from the Joint Committee on Subordinate Legislation, which usually bases its recommendation on evidence presented to it. However, that committee is fairly heavily worked, and it does not always receive the information that comes to us at a later stage. I wonder whether the Government would be willing to consider amending the by-laws before a vote is taken on this motion.

From memory, I believe that the Hon. Mr. Kemp said that under the by-laws no water could be stored, diverted or held without a permit. If one applies that to the whole of the Adelaide Hills, one can see what tremendous difficulties are involved. It will mean that even a small diversion from a very minor dam will require a permit. I agree with the honourable member that minor water storages, which can be defined, should be permitted without the need for a permit from the Minister. It is somewhat disturbing that an appeal lies only to the Town Planner who, after all, is a public servant under Executive control. Indeed, in this matter (and I stand to be corrected here) he would be influenced by the opinions of the Engineering and Water Supply Department and the Public Health Department.

The Hon. H. K. Kemp: He has got to take directions.

The Hon. R. C. DeGARIS: I do not go as far as to say that; however, he would be influenced by those departments. I therefore strongly protest that there is no independent effective appeal. I entirely agree that, in view of some of the poultry establishments and piggeries in the watershed area, some controls must be exercised. I have seen some rather shocking things happening. I do not know whether the Hon. Mr. Kemp mentioned this matter, but the sewage from some schools goes directly into the catchment areas. I certainly agree that this aspect of pollution of our water supply should be cleaned up. However, surely a person who is established and is forced by Government direction to move has a strong case for some form of compensation to be payable to enable him to readjust in a new environment. Honourable members do not intend that all the regulations be disallowed: they believe that most of them are required urgently. Will the Minister of Agriculture therefore give some undertaking that the regulations may be amended along these lines so that they can be permitted to come into force?

The Hon. F. J. POTTER (Central No. 2): I had not intended to speak in this debate. However, having listened to other honourable members, it seems to me that perhaps we are under a misapprehension about this matter. First, it has been said that we must disallow the whole of these by-laws in order to achieve what, principally, the Hon. Mr. Kemp wanted to achieve, namely, the disallowance of the regulation dealing with the obstruction of water courses. I have taken the trouble to examine the by-laws, which are all separate, and there is nothing to prevent this Council's disallowing by-law No. 55, which deals with the obstruction of water courses, and leaving intact the other by-laws dealing with the pollution question.

The provision dealing with the pollution aspect, which was raised by the Hon. Mr. Russack, clearly states that the owner or occupier of any cowshed or cowyard, poultry shed or poultry yard, stable or stockyard existing at the time these by-laws come into force shall be entitled to continue and maintain such cowshed or cowyard, poultry shed or poultry yard, stable or stockyard, provided that it is not relocated elsewhere within the prescribed zone 1. Consequently, it seems to me that the question of compensation arises only where there is a removal from that zone. There is no interference with existing structures or an existing business, which is an aspect that all the members should consider further.

I think the problem of objectionable matter, which was dealt with by the Hon. Mr. Kemp, could safely be taken care of. I should like to hear what the Minister says in reply. If necessary, I will move an amendment to the motion to provide that by-law No. 55 be disallowed. However, I may not have to do so if the Minister is willing to assure the Council that he will examine the matters which honourable members have raised. These matters should be considered in the light of the points to which I have referred.

The Hon. T. M. CASEY (Minister of Agriculture): I have listened with interest

to what honourable members have said on this important matter. I was particularly interested to hear what the Hon. Mr. DeGaris said, because he was on the right track. The grounds on which the Hon. Mr. Kemp made the statement he made appear to be that by-law 55 (*a*) is aimed not at pollution but at preventing persons from constructing dams within watersheds, and that this aspect was not mentioned in the details put before the Joint Committee on Subordinate Legislation.

The facts are that no alteration has been made to the by-laws that were considered by the committee. Their format is unaltered from that submitted and published in the *Government Gazette*. The committee was, as is normal, supplied with a statement that explained the by-laws. A copy of that statement is available if honourable members would like to see it. The statement does not analyse each clause in detail but does present the basis of the overall policy.

There are two principal matters that should be emphasized. The first is that the by-laws introduce no new power (and this is the crux of the problem and may overcome honourable members' difficulties in this respect) that did not exist previously in relation to dams or other water course obstructions. Section 63 (1) of the Waterworks Act provides:

After any stream or supply of water has been diverted, impounded, or taken by the Minister, under the authority of this Act, every person who illegally, or without authority of the Minister, diverts or takes any water supplying or flowing into the stream or source of supply so diverted, impounded, or taken by the Minister, or who does any unlawful act whereby any such stream or supply of water may be diverted or diminished in quantity, or injured in quality or purity, and who does not immediately repair the injury done by him, on being required by the Minister, so as to restore such stream or supply of water to the state in which it was before such unlawful act, shall be liable to a penalty not exceeding $40 for every day during which the said supply of water is diverted, or diminished, or injured by reason of any act done by, or by the authority of such person.

This power of the Minister provides control over both the quality and quantity of water flowing into Government water catchments. The second point is that the by-laws made on December 9, 1971, together with the recent amendments to the Act, will be taken by the public as embracing all necessary measures and factors that they will be expected to observe in relation to pollution or water quality control. If the existing power were not mentioned the by-laws would be incomplete. It has therefore been placed in these by-laws to emphasize that it exists, and this again is in accordance with the recent amendment to the Act, which provides in section 10 that the Minister may make by-laws for regulating, controlling or prohibiting the obstruction or diversion of any stream within any watershed or watershed zone.

The whole of the by-laws, as was made clear in the statement to the committee, were framed so as to result in minimum interference with existing activities whilst still preventing undesirable new activities. This particularly applies to by-law 55, as it has no reference to existing activities. It cannot be too strongly emphasized that dams and other such obstructions can have a very significant effect on the quality of water entering water supply storages. The Minister is charged with the duty of obtaining and utilizing water from proclaimed watersheds under his control for the best use and benefit as public water supplies He must therefore be fully informed at all times of any proposals which could affect this responsibility in any way whatsoever. In the past, this information has not necessarily been available, and it is the objective of by-law 55 to ensure that it is forthcoming in the future.

The need for such action has become necessary because of the following: (*a*) Relatively large impoundments may now be constructed with ease and within a short space of time. Storages constructed on unsuitable sites subject to land slip, frequently poorly compacted and with little regard to hydraulic consideration, present a serious threat to water quality of major storages. In one instance at Basket Range such a dam was washed away, with the result that water of extremely high mud and silt content entered Hope Valley reservoir. This turbid water eventually reached the distribution system giving rise to water of an unacceptable degree of turbidity, which originated numerous consumer complaints. (*b*) The Engineering and Water Supply Department is at present carrying out, at considerable cost and effort, a hydrological survey on the metropolitan Adelaide watershed in order to determine the quantity and quality of water derived therefrom and the effects of rural activities, urbanization and other practices on this water. The construction of water impoundments in these areas and without the knowledge of the Minister could modify the results and possibly result in the acquisition of misleading data. (*c*) Small impoundments in the watersheds are

frequently breeding sources or nurseries for undesirable algae, and in fact the Engineering and Water Supply Department is constantly called upon to give advice to owners and occupiers of land on these aspects. Treatment for taste and odour-producing algae such as *synura* has at times been shown to be due to these private impoundments infecting the major sources. Prior knowledge of these foci of infection would have enabled treatment to be given at a fraction of the actual cost ultimately involved. (*d*) Such algal infestations and mud and silt from dam failures increase the cost of water treatment in the form of copper sulphate and chlorine.

The primary object of these by-laws is to ensure the safety and acceptability of water supplies under the control of the Minister of Works. By-law 55 is but one precise aspect of this important responsibility. As the committee was advised, the present measures are purely holding measures whilst long-term solutions to our problems in all pollutional areas are found. Investigations are still being undertaken and at this stage it would be impossible to say to what extent this or any other presently permitted activity should be permitted to continue, and further measures may well be necessary in the future.

That is a comprehensive answer to the honourable member's query and other queries posed by other honourable members. When we analyse exactly what is contained in that reply, we can see it is most necessary that the Minister be informed of these storages in the Adelaide Hills. As a practical farmer, I know the value of storages on properties. When people own properties in the Adelaide Hills, they have a big responsibility to ensure that the details of any storages they construct are conveyed to the Minister and his approval is granted, in the interests of the water supply for the whole metropolitan area. I ask the Council not to disallow these by-laws.

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

BUILDERS LICENSING REGULATIONS

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

(For wording of motion, see page 860.)
(Continued from March 22. Page 4098.)

The Hon. A. J. SHARD (Chief Secretary): When I asked leave of the Council to continue my remarks today, I promised to do two things, namely, make available files relating to the Dale Building Company Proprietary Limited and inform the Council of the Government's views on proposed amendments prepared by a committee convened by Mr. C. W. Branson, of the Chamber of Manufactures. As to the first matter, I referred to the fact that Dale Building Company Proprietary Limited had lodged an appeal against the cancellation of its general builder's licence and that although the matter could not be further discussed because it was *sub judice*, I was prepared to make files available as soon as possible in order to refute claims made by the director of that company. I now inform honourable members that the appeal was withdrawn and I am, therefore, free to release four files relating to the company. These are first, BLB 83/71, which contains departmental correspondence and reports concerning two houses at 446 and 447 Commercial Road, Seaford, in the District Council of Noarlunga's area, plus material from the District Council of Tea Tree Gully. Honourable members should particularly note the signed statement of Mr. J. F. B. Golding, a building inspector employed by the District Council of Noarlunga, that on or about September 23, 1971, he telephoned the Builders Licensing Board requesting an inspection. Mr. Golding had earlier allowed the builder more than two months to comply with his requests to remedy bad building work. The statement by the company's director that in the first instance the board's inspector asked for a complaint to be lodged is untrue. The council was probably asked subsequently, on September 23, 1971, to put its oral complaint in writing as this is a very necessary standard practice.

The second file is BLB 133/71, containing the evidence taken at the board of inquiry and exhibits. There is a joint memorandum from the engineer and builder (also an engineer), who are members of the board. They specially inspected two houses at the request of the director of the company. The finding of the board should also be noted. The third file is BLB 141/71 which, although it relates to Dale Building Company Proprietary Limited, was not considered at the board of inquiry. It should be noted that in a letter dated February 10, 1972, Mr. Colthorpe was asked what he could do to assist, and on March 13, 1972, the Secretary of the board pointed out that the company could still undertake maintenance without a general builder's licence provided the value did not exceed $250.

The fourth file, BLB 76/72, refers to yet another complaint regarding building work carried out by Dale Building Company Proprietary

Limited. The board offered to pursue the matter if the company succeeded in its appeal. True, when in the area, inspectors have visited the two partly completed houses at Noarlunga, but this does not mean that the director is being victimized. The visits have been made to keeep the board informed of the current situation in readiness for the appeal and to ascertain whether the faults have been rectified.

I turn now to the matter of suggested amendments to the regulations. The Builders Licensing Board has reported to the Minister of Development and Mines on the suggestions, and the Government sees no objection to increasing the period allowed for notification of changes of director, changes of address or adoption of a business name from 14 days to one month. Agreement can therefore be given to the first three requests to amend regulations 11, 12 and 13. Regulation 17 (1) requiring licensees to furnish the board on demand with details of the names and addresses of all persons working on their behalf is considered necessary, and the board opposes the suggested deletion that would inhibit the functioning of the board.

The powers of the board under section 20 of the Act, which were suggested as an alternative source, relate to boards of inquiry at which legal representation usually has been arranged. Boards of inquiry are commissioned only as a last resort after prolonged investigation, and information is required sooner. It is possible under regulation 17 (1) to follow up bad workmanship by a particular subcontractor. Because the board can get this information, it is possible in some cases merely to warn the subcontractor and avoid a formal board of inquiry that may prove expensive to the builder as well as to the board. The board considers that, if this regulation is disallowed it will be seriously handicapped in its efforts to provide a reasonably quick and informal service to the community. The Government therefore believes that regulation 17 should stand.

The remaining requests submitted for consideration relate to amendments to forms which have been in use for a year, except for a few days. Experience has shown that, whereas occasional objection is made to the provision of necessary financial information, the other questions reviewed by the committee seem to be accepted without quibbling by the public. The questions relating to the average number of men directly employed and the percentage of work carried out by subcontractors are contained in several forms. They are first schedule forms 1, 2 and 3 (applications by an individual, body corporate and partnership). These questions are valuable in assessing the quality of experience of applicants. Now that most builders have been licensed, applications will come mostly from persons from overseas or from other States (or in the case of applications for general licences, from the ranks of restricted builders). If the board is to assess the applicant's suitability, details of work carried out in the past and the degree of his involvement are cogent factors.

The alleged statements by Labor Party spokesmen on eliminating subcontracting are not binding on the board. The Builders Licensing Board is an independent body appointed to administer the Act, and the views of a political Party are not necessarily those of the board. The question relating to financial standing and the provision of a balance sheet in the case of companies appears in the three application forms for licences (first schedule forms 1, 2 and 3) and also in the three application forms for renewal of licences (second schedule forms 1, 2 and 3). No fixed financial ratios are used in deciding whether applicants should be licensed. Each application is treated on its merits by the board. The board is required under sections 15 (2) (*b*) and 16 (2) (*b*) to satisfy itself that each applicant is a "fit and proper person" to hold a licence, and financial standing is indubitably a factor, particularly in view of the industry's history of financial instability. It is illogical of the committee to consider that the board can seek information on bankruptcies and past insolvencies under the "fit and proper person" clause but not to have power to seek other relevant financial details.

The provision of a balance sheet is of the utmost importance, as limited liability companies have been an avenue used by unscrupulous builders in the past. The board has refused to license a number of companies until further capital or guarantees have been arranged. The provision of financial information each time an application for renewal is made is necessary to ensure that licensees remain "fit and proper persons" to hold a licence, just as drivers are required to disclose impairments each time a driver's licence is renewed. We come now to the question in the form filled out by directors or partners of bodies corporate or partnerships, as the case may be, when the

first application is submitted to the board; this is question 3, first schedule form 4 "Convictions for dishonesty, fraud, etc."

In response to requests to alter the original regulations, the requirement to disclose all convictions was reduced to disclosure of convictions for dishonesty, fraud, etc. At the time, this was said to be acceptable. The further request is unacceptable to the board, which is required under the Act to ensure both licensees (section 15 (2) (*b*) and section 16 (2) (*b*)) and unlicensed directors or partners (section 15 (3) (*a*) and section 16 (3) (*a*)) are persons of good character and repute. Surely the proponents of the amendments do not stand by their view that the board should take into account past bankruptcies (as suggested on page 3 of their scheduled amendments) and set out in question 2 of the form we are now discussing but disregard past convictions for dishonesty and fraud. On the same form is the requirement numbered 4 "References as to character".

The board is required, as explained above, to establish "good character and repute" in applicants, directors and partners and the only way the board may do this is to seek information on relevant convictions and require the production of references. The requirement certainly does not go beyond the scope of the Act. The remaining suggested amendment relates to first schedule form 5 (a character testimonial), wherein the referee is invited to give his reasons for endorsing an application. The words involved are "by reason of the following". The Government would be willing to alter this form, as requested. It is considered that a space could be left and a footnote added to the effect that the referee is at liberty to add any further information he wishes. It is pointed out that, in some cases where doubt has existed, licences have been granted on the basis of information given by referees.

In conclusion, the licensing of builders has now been in operation for almost a year and members have had an opportunity to consider the actual working of the system. There have been no significant teething troubles in the day-to-day operations. Three particular cases have been mentioned in this debate and I believe the board has been able to demonstrate that they have each been carried through to a logical and just conclusion. Much useful assistance has been given to members of the public, who now have an authority to whom they can appeal when confronted with poor building work which builders have refused to rectify. Whilst I do not suggest that the fact that these regulations have been operating successfully for almost a year presents the House with a *fait accompli,* I do submit that no misuse of the powers and questions set out in these regulations has been demonstrated, nor is there any reason to suspect that the board will misuse its powers in the future. One might well say that "proof of the pudding has been in the eating". The Government is prepared to make immediately the amendments requested to regulations 11, 12 and 13 and to amend the form relating to character testimonials (first schedule form 5), but this should be done by an amending regulation rather than disallowance of all these regulations, which were laid on the table of this Council on April 8, 1971, which have operated for almost a year, and which honourable members have been debating since August 18, 1971.

The Hon. E. K. RUSSACK secured the adjournment of the debate.

LICENSING ACT AMENDMENT BILL (GENERAL)

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

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

That this Bill be now read a second time.

The present Licensing Act has been in operation for over four years. We have now had time to assess the impact of the innovations that it introduced into the laws governing the sale and consumption of liquor. The Act has in fact generally worked very well. The adverse social consequences that some feared would result from the introduction of extended trading hours have not materialized. In general, a more civilized pattern of drinking has emerged. However, continuing experience with the Act has disclosed certain areas in which its operation may be improved and in which further relaxation of the restrictions on drinking may be made without adverse consequences. The present Bill is designed to make improvements in these areas. The Bill lays a good deal of emphasis on the promotion of tourism. In this connection, it provides that the Minister in charge of tourism may declare any premises or proposed premises to be a prescribed tourist hotel. Such a declaration is to be made only where the service to be provided will be of exceptionally high standard and will have a material effect upon the tourist industry. Where such a declaration is made the hotel is not subject to the

objections that may, in the normal course, be made to the grant of a full publican's licence and the court may authorize the licensee to sell liquor up to 3 o'clock in the morning. It should be noted that objections may still be made to the grant of a licence in respect of such premises by the Superintendent of Licensed Premises.

The Bill makes an amendment to section 15 of the principal Act which deals with the grant of licences in national parks and national pleasure resorts. At present the lessee of the chalet in the Wilpena National Pleasure Resort holds a limited publican's licence. There is a substantial demand from campers in the area for liquor. This demand cannot be properly met because of the restricted nature of the licence. It is felt that the special circumstances require a special kind of licence and accordingly the Bill permits the court to grant a licence and "tailor" its provisions to the requirements of the area.

The Bill also provides that special licences may be granted to the Commonwealth Railways Commissioner and to authorities engaging in construction works so that the needs of the workers engaged in areas in which liquor cannot be readily obtained from licensed outlets can be adequately supplied. It provides for a special licence to permit the sale of liquor at the Cornish Festival. The committee promoting this festival has decided to proceed with the festival over the Labor Day weekend. The major activities will be at Kadina on Sunday, October 8, 1972. It is hoped that this festival may become an annual event. The licence will be similar in nature to that which is issued to the Barossa Valley Vintage Festival Committee.

The Bill extends the hours during which liquor may be served in hotel dining-rooms and in restaurants to 1.30 in the morning. Corresponding amendments have been made also in respect of dining-rooms in motels and premises to which a wine licence applies. These changes result from recommendations made by the South Australian Restaurant Association. The Bill reduces to 2*l* the minimum quantity of wine or brandy that may be sold on any one occasion by the holder of a vigneron's licence.

The Bill makes significant amendments to the provisions of the principal Act relating to clubs. Many licensed clubs do not require the full licensing hours stipulated by the principal Act. The Bill empowers the court to modify these trading hours to suit the requirements of the particular club. It empowers the court to "tailor" a club's trading hours to the needs of the members of the particular club. Important changes are also made in the provisions relating to club permits. A permit may, under the provisions of the new Act, be granted to any club that has been in existence for 12 months. At present only those clubs that were in existence at the commencement of the principal Act are entitled to permits. Some clubs have used permits to engage in trading that is far more extensive than is regarded as appropriate to this kind of authority. The Bill provides that, where the annual sales of liquor realize more than $15,000, the club must change to a club licence. In such cases the club will seek a club licence. Finally, the Bill enables a visitor who has been properly introduced to a club by a member to pay for drinks bought in the presence of the member. The existing restriction has proved to be impossible of enforcement.

The Bill introduces an important principle into the provision of the principal Act relating to restaurant licences. Many small restaurants are run by the members of a single family. Where this is the case, it is fair that the restaurateur and his family should have one day's respite in each week from the obligation to keep the restaurant open. Accordingly, the Bill provides that the court shall, upon the application of a restaurateur, permit him to close the restaurant on one day in each week. The day is to be specified by the court, and the court may require as a condition of the exemption that notice be given to avoid public confusion and inconvenience. The provisions relating to theatre licences which at present only apply to theatres in which "live" entertainments are performed have been extended by the Bill. In future licences may be given in respect of cinemas where appropriate facilities for the sale and consumption of liquor exist.

The Bill enables a publican who has been invited by the organizers of an entertainment to operate a booth permit to pay over a proportion of his receipts to the organizers. At present the organizers charge the publican a fee, but it cannot be related to the proceeds of the liquor sold. It is felt that the organizers of functions for which a publican operates a booth permit should, in appropriate cases, be entitled to charge a fee based upon the receipts from the sale of the liquor. The Bill enables the court to grant to the holder of a

full publican's licence, a limited publican's licence, or a restaurant licence a permit entitling the licensee to sell and supply liquor for consumption in outdoor areas defined by the court. Under this provision the boulevard restaurant that has been such a success in this year's Festival of Arts may become a feature of the South Australian way of life.

The Bill deals with many other procedural and administrative matters which I shall explain in proceeding through the clauses of the Bill. The provisions of the Bill are as follows: Clauses 1, 2 and 3 are formal. Clause 4 amends section 4 of the principal Act. The definition of "liquor" is amended by striking out the present phrase stipulating the level of alcohol that is required if a liquid is to constitute "liquor" for the purposes of the Act. The old provisions relating to "proof spirit" do not accord with modern analytical methods and the amendment accordingly provides that a liquid constitutes "liquor" if it contains more than 1.15 per cent alcohol by volume at 20° Celsius. The definitions are also amended to deal with the appointment of an assistant superintendent of licensed premises and to make provision for metric conversion. Clause 5 strikes out subsections that have now exhausted their original purpose. Clause 6 converts the "5-gallon" licence into a "20-litre" licence.

Clause 7 provides for the grant of a special licence to the Wilpena Chalet. Clause 8 provides for the grant of special licences to the Commonwealth Railways Commissioner and to authorities engaged in large mining and construction projects. Clause 9 provides for the grant of a special licence in respect of the Cornish Festival. Clause 10 deals with the conditions of a full publican's licence. The hours for supplying liquor to those taking meals or substantial food in the dining room are extended to 1.30 a.m. The special provision enabling a prescribed tourist hotel to trade up to 3 a.m. is also included in this amendment. Clause 11 deals with the conditions of a limited publican's licence. The hours for supplying liquor in the dining-room are amended in the same way as is proposed in relation to a full publican's licence. Clause 12 makes a metric conversion.

Clause 13 amends the provision relating to wine licences. The hours for supplying liquor to those taking meals or substantial food in the premises are extended to 1.30 a.m. Clauses 14 and 15 make metric conversions. Clause 16 reduces to 2*l* the minimum quantity of liquor to be sold in pursuance of a vigneron's licences. It also makes a number of drafting amendments to section 26. Clause 17 enables the court to "tailor" the hours of trading permissible under a club licence to the needs of the particular club. Clause 18 makes a metric conversion. Clause 19 provides for the conversion of "5-gallon" licences into "20-litre" licences.

Clause 20 enables a restaurateur to obtain permission to close his restaurant for one day in each week. The hours during which liquor may be supplied to those taking meals and substantial food in the restaurant are extended to 1.30 a.m. Clause 21 enables the court to grant theatre licences to cinemas. Clause 22 does away with a special provision relating to the duration of a packet licence which is not regarded as necessary or desirable. Clause 23 makes a metric conversion. Clause 24 enables the court to give an applicant for the transfer of a licence some latitude in the time in which he must furnish a return of the purchases of liquor made by him for the purpose of adjusting licence fees. Clause 25 makes amendments relating to metric conversion.

Clause 26 enables the court to permit an objection to be made at any time before the determination of an application. It also permits a person to object where he does not oppose the actual grant of a licence but considers that it should be granted subject to certain conditions. It permits amendments of objections. Clause 27 enables an objector in effect to "plead the general issue", that is to say, to allege that the circumstances of the applicant's case do not justify the grant of the licence. Clause 28 makes it clear that objections to significant changes to licensed premises may be made on grounds set out in section 48 or on any other grounds that the court may allow. Clause 29 provides for a fine of 10 per centum where a licence fee is overdue for more than 14 days. Clause 30 increases the fee payable upon an application to transfer a licence and provides for 21 days' notice to be given instead of 14 days' notice as at present.

Clause 31 makes a corresponding amendment to section 52 of the principal Act which deals with the transfer of a licence upon sale of the licensed premises. Clause 32 provides that a publican may, with the approval of the court, agree to pay a proportion of his receipts obtained on the sale of liquor under a booth certificate to the promoters of the entertainment at which the liquor is sold. Clause 33 enables

the holder of a full publican's licence, a limited publican's licence or a restaurant licence to obtain a permit for the sale of liquor in outdoor areas.

Clause 34 enables licensees of a kind referred to in the preceding clause to obtain special permits for the sale of liquor in the licensed premises on special occasions. This will enable them to trade for extended hours on new year's eve and other special occasions. No more than six permits are to be granted in any period of 12 months in respect of the same licensed premises. Clause 35 enables any club that has been in existence for at least 12 months to obtain a club permit. Where the turnover in liquor exceeds $15,000 a year the club must seek a licence. Clause 36 makes corresponding amendments to section 67a of the principal Act which enables a club to seek a permit for keeping liquor supplied by its own members upon the premises.

Clause 37 makes a metric conversion. Clause 38 expands the powers of the court to cancel or suspend a certificate or permit. Clause 39 repeals section 84 of the principal Act. This section requires the clerk to publish notice of all applications in the *Gazette*. This unnecessarily duplicates other provisions. Notices of the grant of licences and permits are given in the *Gazette* each week pursuant to section 50. Notice of applications is given pursuant to section 41.

Clause 40 enables the court to suspend a licence. This power may be desirable where alterations are being made to licensed premises or where other circumstances arise that prevent proper service to the public for limited periods. Clause 41 removes the provision preventing a visitor from paying for alcoholic drinks in clubs. At the same time the regulatory provisions are tightened by requiring that the member introducing a visitor to a club must insert the name of the visitor in a book kept for the purpose and sign against his name. Clause 42 is a consequential amendment.

Clause 43 provides that the court must approve the manager of a licensed club. Clauses 44 and 45 make consequential amendments. Clause 46 enables those responsible for the management of a club to be charged where offences against the Licensing Act are committed in club premises. Clause 47 deals with the notice to be displayed by the holder of a wine licence. It also makes a metric conversion. Clause 48 makes a metric conversion. Clause 49 amends the provision of the principal Act relating to the sale of liquor to under-aged persons. Where an offence is committed the licensee as well as the barman is to be guilty of an offence unless he can show that he exercised proper diligence to prevent the commission of the offence.

Clause 50 makes a metric conversion. Clause 51 amends the provision relating to wine tasting. A reference to 21 years is removed and replaced with a reference to 18 years. The amendment was missed when the principal Act was amended by the Age of Majority Act. Clause 52 provides for the appointment of an Assistant Superintendent of Licensed Premises. Clause 53 empowers the Minister of Tourism to declare premises or intended premises to be a prescribed tourist hotel. Clauses 54 and 55 contain evidentiary provisions.

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

MOTOR VEHICLES ACT AMENDMENT BILL (LICENCES)

The House of Assembly intimated that it had agreed to the Legislative Council's amendment No. 2, but had disagreed to amendment No. 1.

Consideration in Committee.

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

That the Council do not insist on its amendment No. 1.

The reason given by the other place for disagreeing to the amendment (because it would be prejudicial to road safety) reflects the view I expressed when the amendment was previously considered by this place. The Government still believes that it is not in the interests of road safety for people under the age of 18 years to drive the types of vehicle covered under licence classifications Nos. 2 and 3.

The Hon. E. K. RUSSACK: I still believe that it is necessary in some circumstances for 16-year-olds and 17-year-olds to be allowed to drive the vehicles involved. Of course, it would be absolutely necessary for such people, before gaining the licence classification, to show ability to drive articulated vehicles. However, I am particularly concerned about the need of young people to drive vehicles weighing more than 35cwt. and vehicles with trailers. In the rural areas it is invaluable during harvest time if these people are allowed to drive such vehicles. Most young people on farming properties are capable of driving vehicles, and it will cause much hardship if they are not

allowed to deliver wheat to silos. A young person could possibly be denied employment because of his inability to obtain a licence until he reached the age of 18 years. Therefore, it is necessary that the Council's amendment be insisted on, especially because of the hardship that could be created in many instances.

The Hon. M. B. CAMERON: I support what the Hon. Mr. Russack has said. Earlier it was argued that persons of this age should not be allowed to drive heavy vehicles on the road because of the dangers that would be involved. However, the owners of such vehicles will have to decide whether or not the person involved is capable of handling the vehicle. I have not heard anything to make me change my mind on this matter, and I certainly do not see any reason for so doing in the schedule that was returned from another place. The amendment should therefore be insisted upon.

The Hon. C. R. STORY: I supported what the Hon. Mr. Russack said previously, and I agree entirely with what he and other honourable members have said today. This matter should not be taken lightly, as many people have proved over many years that they are capable of driving a motor vehicle at the age of 16 years. No statistics have been provided to show that persons between 16 years and 18 years are less able to drive vehicles of this type than those between the ages of 58 years and 65 years. There is no discrimination at all until 70 years of age. We should not arbitrarily say that persons who have undergone a proper test, who have been selected by a fairly responsible firm (or, more particularly, by a widowed mother who is trying to run a farm), or who, although perhaps not strong enough to carry out normal farm duties, are capable of driving a truck to a silo and waiting there in a queue, are not qualified to drive such vehicles.

If everyone was able to obtain a licence as a result of the amendment, I would oppose it. However, that is not the case, as the persons to whom I have referred must undergo a special test in order to qualify. If the Government will reconsider its attitude, I am sure some honourable members will review their stand regarding certain types of heavy vehicle within this category. If the amendment is not insisted upon, the provision will be too confined. As serious hardship could be created if persons between the ages of 16 years and 18 years are not permitted to drive the normal type of farm or delivery vehicle, I consider that the amendment should be insisted upon.

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 (12)—The Hons. M. B. Cameron, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, L. R. Hart, H. K. Kemp, F. J. Potter, E. K. Russack (teller), Sir Arthur Rymill, V. G. Springett, C. R. Story, and A. M. Whyte.

Majority of 8 for the Noes.

Motion thus negatived.

ADELAIDE FESTIVAL CENTRE TRUST ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 28. Page 4298.)

The Hon. Sir ARTHUR RYMILL (Central No. 2): I support the Bill. In his second reading explanation the Minister said that, although the principal Act had been passed only recently, it had been found already to be insufficient in, I suppose, a minor way, but there is also the major matter of expenditure. It was said in the second reading explanation that, if the trust needed power to go outside its own land, that was allotted to it under the Act we passed last year, to provide access to the area of the festival centre. That is a fairly technical sort of amendment because I have no doubt that in the Act passed last year most of us would have anticipated that the trust would need to do this and would need power to do it, and I would regard it more as a drafting amendment than anything else.

The second power is fairly wide, inasmuch as it sets out to give the trust powers in relation to the reinstatement of buildings, and so on, on land other than land vested in it. Clause 2 provides that the trust may construct and provide on such land:

such buildings, works and conveniences, the construction and provision of which—

and these are the important words—

—in the opinion of the trust is necessary or desirable to secure to the trust the full and convenient use of land vested in the trust or which may be vested in the trust.

That, of course, applies under the subsection (1*a*) power in relation to land not vested and not to be vested in the trust. I know from personal experience that one of these matters relates to the removal of the sound shell (probably better known as the *Advertiser*

Sound Shell) and kiosk. The kiosk has been due for replacement or removal anyhow, because it has had a fairly good life. That applies also to the Railways Institute building.

I think it has always been understood that the Railways Institute would have to be accommodated elsewhere and that expense would have to be incurred to give the institute something comparable elsewhere. It will probably transpire that it will get something better than it is giving up, and much more modern premises. I do not know what will happen to the kiosk. Since it was erected, the City Council has erected kiosks in other park lands. I do not know what the Government's plans are for the possible relocation of this kiosk. These are the words of the second reading explanation—"the removal and possible relocation of the Elder Park sound shell and kiosk". I happened to be the Lord Mayor of Adelaide when that generous gift of the sound shell was made by the *Advertiser* newspaper to the City of Adelaide; I was the person who received the sound shell on behalf of the City Council. Since then, it has been a valuable asset to the city. It was successfully designed (I think Sir James Irwin was responsible for it) and has fulfilled its function, but it has not lived its full life.

Apparently, it is necessary to demolish it, too, because of a sewer that will go where it is situated. I had hoped it would be saved and had thought there might be some alternative route for the sewer, because the sound shell faces away from the festival hall and on any advice I have had it would not interfere acoustically with anything taking place in the hall. As far as aesthetics and appearance are concerned, it would have needed only something minor to be done to the back of the shell, which would not have been visible previously and therefore the architect would not have had to worry about it when designing the sound shell. I hope the Government will be able to see its way clear to build another sound shell somewhere else, possibly using the steel structure of the present sound shell, which is still as good as anything that could be designed today. I understand that at least the steel structure would be useful. I hope the Government will be able to find a suitable location somewhere else and build another sound shell.

We have marvellous park lands, which are becoming more and more appreciated as the City Council develops them more and more. Many sites would be suitable but, if the sound shell is to be relocated, it would be important not to put it somewhere merely for the sake of putting it somewhere but to put it somewhere where it will be as useful and as well situated as it has been in Elder Park. I hope this will happen, because the Government is appreciating the fact that more outdoor activity can take place, such as outdoor cafes for the serving of drinks, and so on. It is important in the life of a city of the size of Adelaide that there be provision for something from which instrumental music, singing, and so on, can be successfully produced for the benefit of large masses of people on some of our beautiful summer afternoons and evenings. I know there is nothing in this Bill to oblige the Government to do this and I do not propose to advocate that the Government should be obliged to do it.

The Hon. A. J. Shard: Correct me if I am wrong, but I think someone from the *Advertiser* said that the sound shell should be situated somewhere in the park lands east of its present position.

The Hon. Sir ARTHUR RYMILL: I do not think that is correct.

The Hon. C. R. Story: In Botanic Park.

The Hon. Sir ARTHUR RYMILL: I know the Government would be sympathetic to this idea; it is only a question of money. There is no possible reason why anything obliging the Government to do this should be put in the Bill, because it is the Government's matter and the Government would probably have to find the money, which is not always easy these days. I commend the sound shell as being an important part of city life, something from which literally (I say "literally") hundreds of thousands of people have derived enjoyment over the years.

The Hon. A. J. Shard: It would run into millions of people over the years.

The Hon. Sir ARTHUR RYMILL: Yes, but probably the same people over and over again. I would say that several hundred thousand different people have derived enjoyment from it, and millions of people in total, taking into account all the performances there—for instance, Carols by Candlelight, a classic example, where 70,000 people or more at a time have derived immense pleasure from this very fine gift to the people of the city. With those words, I indicate again that I support the Bill and that I do not intend to move any amendments.

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

SOUTH AUSTRALIAN FILM CORPORATION BILL

Adjourned debate on second reading.

(Continued from March 28. Page 4290.)

The Hon. F. J. POTTER (Central No. 2): This measure puzzles me slightly, particularly when I consider some of the Minister's remarks in his second reading explanation and the terms of the Bill itself. I do not think it is clear from the Minister's explanation exactly what are the Government's intentions in establishing the South Australian Film Corporation, because that is really what the Bill fundamentally does. The Minister said that the main area of activity would be the undertaking of film production and the provision of a film library service.

When one studies the Minister's remarks, I think another aspect of proposed activity also looms rather large, namely, film distribution; indeed, I think that almost becomes one of the most important proposals for the new corporation. It is not difficult to go along with the idea that a film library and film service should be established. One would have thought that that could be done anyway without the establishment of a corporation, but the idea here is much more grandiose than that, because the Bill states that the corporation will engage in film production.

Later in his explanation the Minister said that it was not intended that the corporation would be an actual film-maker but that it would undertake the supervisory function of film production. It seems to me that in some respects this does not clearly indicate exactly what is proposed. I do not really know how the Government could undertake film production yet not undertake the role of film-maker; frankly, that does not seem to me to line up. So, in some ways, there seems to be double-talk in this matter.

All I wish to say about film-making or film production (whichever term one likes to use) is that, from the little I know about it, it is costly to produce first-class films. I wonder exactly how much this corporation, if it is to undertake this role, will provide a sink down which large sums of money will flow before a concrete result will follow. The corporation would be dealing in artistic productions of one kind or another. Even the ordinary commercial film that advertises a product of one kind or another sets out the work of a Government activity or publicizes tourism in South Australia, requires artistic people who know their craft in order to produce a good product.

I suppose that hundreds of films are produced in Australia in any one year which do not get more than two or three screenings and which forever languish on the shelf and gather dust in some repository. I think we may find that considerable public money will have to be invested before we obtain a good result. One can never be sure, having regard to the need for high artistic talents, what will be the final result anyway.

When I read the Minister's explanation I could not but be impressed by his emphasis on distribution. He said that we needed a centralized film centre to remedy weaknesses in the production and distribution of Government-sponsored films; that was his first point. The Minister also said that the current need for films in the Government sector greatly exceeded the number actually produced, and that only two tourist films each year were made in South Australia. I agree with the Minister's next remark, as follows:

> If good films can be produced here, there are vast markets into which they could easily be introduced.

This, again, emphasizes distribution. The Minister continued:

> Free national theatre distribution can be obtained for quality 35 mm documentaries.

I agree, provided that they are of high quality but, if they are not, the likely distribution would be virtually nil. The Minister continued:

> Colour 16 mm films of good aesthetic quality should find their way into national and international markets.

Again, this emphasizes the distribution aspect. Later he said:

> Within Australia there are established distributors in other States with access to oversea documentary libraries.

Ultimately (and here we are raising our sights very high) he can even envisage local films winning festival prizes. We all know how good a film must be to win some of these international festival competitions.

The Hon. T. M. Casey: Some films produced in Australia have won prizes.

The Hon. F. J. POTTER: I am not aware of any film actually produced in South Australia winning a prize.

The Hon. T. M. Casey: Produced in Australia.

The Hon. F. J. POTTER: There may have been one or two but it is only a small percentage of the large number of films produced from that source.

The Hon. T. M. Casey: They were not necessarily produced to be entered in the film festival.

The Hon. F. J. POTTER: No; there are certain classes in a film festival, and I know that one or two films have won prizes in a certain class. Some of these prize-winning films have come from the Commonwealth Film Unit, which has developed a high reputation in its work. It is a unit which was set up by the Commonwealth Government and in which a large sum of Commonwealth money has been invested. Again, the Minister was emphasizing that, if the film was good, distribution facilities would be available not only in Australia but elsewhere. Finally the Minister said:

The corporation will undertake the supervisory function of production and, just as importantly, will be an effective distributor.

In his fairly short explanation before he explained the clauses of the Bill, the Minister was trying to emphasize the Government's desire to make films of the highest possible quality and to make sure that those films were properly and effectively distributed. Those two aspects he emphasized throughout his explanation.

The mystery about the Bill is that, when one considers what the Minister said and then turns to the Bill, one cannot see how, under the terms of the Bill, the people who are going to be engaged, either as members of the corporation or, more importantly, of the advisory board, are in any way closely related to these two important functions. The corporation is to consist of three members, a director and two other persons appointed on the recommendation of the Minister, one of whom is to be nominated by the Minister of Education. I have not much quarrel with the constitution of the corporation, which is small in number.

Probably the director will be a highly qualified man in his field, and no doubt it will be his responsibility to make the important decisions. However, the advisory board is to consist of seven members. One is to be appointed on the recommendation of the Minister of Education, one is to represent the Australian Broadcasting Commission, one is to represent commercial television, one is to represent the universities of South Australia, one is to represent industry and commerce, one is to represent the arts, and one is to represent the Public Service. That is a queer collection of people, if I may say so, to be engaged in the highly artistic advisory capacity of making films.

The amazing thing is that, with all the emphasis the Minister has placed on the distribution of films, not one person is to be appointed from among film distributors. I should think that on the advisory board we need someone very actively and strongly connected with the distribution of films, yet instead we have someone to represent the Public Service. How the Public Service could possibly usurp the position which I think should go to someone, say, from the Film Distributors Association, I fail to see. Consequently, this aspect of the Bill puzzles me greatly.

I have no objection to this measure, except that I fear we may be embarking on something that will cost a large sum of money by the time we have finished. It would be a wonderful thing for South Australia if we could find here people with sufficient artistic talents to produce films of high quality. True, there is a great shortage of first-class films, and films would be very quickly snapped up by distributors if they were really good. The whole trouble is that it is difficult to find suitable distributors interested in films, because many films are of such low artistic standard.

Films produced for commercial purposes, where the commercial side has only been mildly introduced, such as advertising of, say, international airlines, or films which deal with that type of activity and which branch out to depict tourist activities and ways of life in other countries, can often be excellent films, of interest to any distributor, who would be happy to arrange their showing free of charge because of the excellent quality. Unless this is done, however, and unless we have someone on the advisory board with at least some knowledge of the problems of film distribution, we may very well be struggling along with a somewhat odd advisory body, some of the members of which will have had some experience while others will have had hardly any experience at all.

The Minister must carefully select the members of the advisory board from the sources mentioned, and I strongly advise the addition of someone from the Film Distributors Association who might be able to do something to assist the corporation in reaching the very high goals set. I support the second reading, but in the Committee stage I should like to give some consideration to the composition of the advisory board.

The Hon. M. B. CAMERON (Southern): I think that all people will favour the Bill basically, but there are several points with which I am not fully conversant. I know that within Australia is a remarkable amount of talent as yet untapped, and it is unfortunate to see this talent going overseas and gaining oversea recognition; very rarely do these talents come to fulfilment within this country.

The purpose of the Bill (to weld together all the film units in the State in one body) is excellent. However, the financial portions of the Bill puzzle me most. It seems that we are giving an open cheque to the corporation, and the only real opportunity of curtailing the corporation's expenditure lies with the Treasurer. The functions of the corporation are set out in clause 10, but no indication is given of how much each of those functions will cost; we are not told how much it will cost to provide library and other services and facilities relating to films and their screening.

I subscribe to the Hon. Mr. Potter's viewpoint that there is not enough in this Bill connected with the distribution side of the film industry. There should be someone on the board who is conversant with that side of the industry, because it is the most important side. A thousand films a year may be made, but money may be lost on each of them if the distribution is not properly handled. This is the section of the industry that probably needs to be the most efficient, because it is through distribution that money will come back to the corporation, the Government, and the people. This should be regarded as a public investment, not a means of spending public money. Whilst it is necessary to promote South Australia and its way of life, it is also important to ensure that at least the financial angle is carefully looked at so that there is a reasonable return for the money outlaid. Clearly, the Government and the people should eventually look for a profiit from the investment or at least a complete return of capital. The Hon. Mr. Potter perhaps stated the idea behind the Bill when he said that the Commonwealth film unit had made films that had gained international recognition.

The Hon. T. M. Casey: I believe that other people, too, have produced films that have gained international recognition.

The Hon. M. B. CAMERON: That is so, but at least it shows that it can happen under Government auspices, and it is to its credit that the Commonwealth film unit has achieved such recognition. It is probably a good reason for forming a film corporation in this State. No doubt South Australians will wish the corporation every success. However, I believe that the financial angle should be explained more clearly. I do not think the Minister would have introduced the Bill without carefully examining that angle. I shall be interested to hear more details later. I support the Bill and I support its motivation.

The Hon. H. K. KEMP (Southern): A large sum is at present being wasted as a result of duplication of filming work for comparatively minor purposes in different Government departments. We have an excellent film unit in the Tourist Bureau. Its work, which has been accepted exceedingly well overseas, is to be highly commended.

However, a bad mistake has been made, as this good work has not been properly distributed; nor has it found anything like the recognition it deserves. At present, there is a film unit at the Tourist Bureau, and two or three other departments are interested in making films. These departments need such a unit to enable them properly to perform their function.

An aspect that will attract the attention of the Minister of Agriculture is the urgent need for films relating to agricultural extension. At present, the Agriculture Department is letting these people down completely, as the only promotional films that reach the agricultural community are usually edged towards the sale of agricultural chemicals or products of that nature. There is a real need for a high-quality film unit within our Public Service. I ask leave to conclude my remarks.

Leave granted; debate adjourned.

STATUTES AMENDMENT (JUDGES' SALARIES) BILL

Adjourned debate on second reading.

(Continued from March 28. Page 4292.)

The Hon. R. C. DeGARIS (Leader of the Opposition): I express my deep concern and, I am sure, the deep concern of the majority of the community about the huge salary increases that this Bill grants. I thoroughly agree with the remarks of the Hon. Mr. Potter about this matter. In saying that, I do not mean any criticism of the Judiciary in any way. However, recently a Bill was passed granting free, non-contributory pensions to Supreme Court judges, and those pensions were

later extended to members of the Industrial Commission, the Local and District Criminal Court, and the Licensing Court. More recently such pensions were extended to the Solicitor-General. During their retirement those members of the Judiciary and the Solicitor-General will be paid half their former salaries. When the Bill granting free pensions to those people was before this Council, it was stated that the granting of those pensions was in lieu of a salary increase, yet only a few months later we are faced with this Bill, granting vast salary increases to the Judiciary.

I fully realize that this is a money Bill and that it does exactly what the Chief Secretary's second reading explanation says it will do. Nevertheless, I register my concern at the size of the salary increases. For some time I have adopted the policy with a money Bill that, if it carries out the Government's intentions stated in the second reading explanation, we should not amend it. However, if it does not carry out the precise intention stated, we should have the right to amend it so that it fits in with what has been said about the measure. However, there are no grounds for such an amendment here, because the second reading explanation fits in with the Bill's contents.

I am quite sure that the concern I have expressed is widespread in the community. I hope this debate will be adjourned until next Tuesday so that Cabinet can be informed of the attitude of honourable members; as a result, Cabinet may re-examine the Bill. If on Tuesday Cabinet is adamant that the Bill will have to pass, I shall have no alternative to voting for it. However, I believe we should draw the Government's attention to our concern and the concern of so many people in the community.

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

POLICE REGULATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 28. Page 4295.)

The Hon. R. C. DeGARIS (Leader of the Opposition): At the beginning of his second reading explanation the Chief Secretary said:

The purpose of this Bill is to vest the ultimate responsibility for the control of the Police Force in Executive Government. In proposing this measure I cannot do better than refer to the report of the Royal Commissioner appointed to inquire into the moratorium demonstration held in September, 1970.

I, too, intend to refer to the Royal Commissioner's report and the evidence taken before him. I have gone through these very carefully and taken from them extracts that I should like to read to the Council. They are as follows:

Chapter 2—Causes of discontent:

Page 11, line 4. It would be a mistake to regard the confrontation on September 18 between demonstrators and police as being also a confrontation between people opposing and people supporting the Vietnam war.

Page 13, line 5. If the group itself is violent, a time may come for it to be banned or put under rigid control—not because of the beliefs of it's members but because of their conduct. It would, however, be an extreme and in my opinion usually unjustifiable action by executive authority to prohibit a non-violent and in the main a law abiding group from marching through the streets, merely because a potentially violent intolerant group might attack the first group and cause a public disturbance. This does not mean that executive directions may not from time to time be required to separate the marches of incompatible groups in time and space. Nor does it mean that such groups have no responsibility to co-operate sufficiently with the executive authority.

Page 13, line 31. This is the accepted view in both the United Kingdom and the United States of America.

Chapter 3—Present state of the law:

Page 19, line 16. However, the right to hold a procession is not an absolute right, but a right which can only be exercised reasonably. If the mode of use of the highway is unreasonable, those participating in the procession will be guilty of the common law misdemeanour of public nuisance.

Page 22, line 2. Mr. Justice Bright refers to the provisions of section 669 of the Local Government Act, which provides for the regulation and prohibition of processions. This Act says nothing about the legality or illegality of processions.

Page 28, line 12. Test of Nuisance. The test of whether there has been such a nuisance turns or the degree of obstruction created on the highways. It is no defence that there is sufficient alternative passage space on the highway for the passers-by, or that no person is actually obstructed. So it is that any use whatever of a public highway, however reasonable and convenient to the general public it may be, is a nuisance if it interferes with the basic right of passage.

Page 29, line 23. The reasoning of the courts appears to be that the offence is not the offence of obstructing the passage of any particular person along the highway, but is the offence of obstructing the highway itself.

Pages 34-49. Relates to the history of section 59 of the Police Offences Act.

Page 39, line 3. Extracts from *S.A. Parliamentary Debates*, House of Assembly, 1929. Submissions by the Attorney-General.

> If the policeman is ultimately to become the officer who is to have control and maintain order in the streets, why object to giving him power in this instance?

. . . It comes to the question in whom shall the ultimate authority rest? . . . If there is a conflict as to whose directions shall prevail, you cannot have one man giving directions one way and another giving directions in another. I must stand by the clause as printed, as I think the Commissioner of Police is the best authority when there is a conflict.

Page 40, line 4. Relates to section 60 of the Police Offences Act.

Page 41, line 18. Most other Australian States hace provisions similar to section 59 of the Police Offences Act, as it appears in its original form.

Page 46, line 14. It is the duty of a police officer to prevent apprehended breaches of the peace, and the courts have given the police wide powers to interfere when they consider a breach of the peace is likely to occur.

Page 75, line 7. Relates to the Police Regulation Act and the appointment of the Commissioner of Police.

Page 77, line 10. Relates to the responsibility of the Commissioner to the Governor.

Page 77, line 23. Relates to the power of the Chief Secretary.

Page 78, line 3. I do not think that a regulation made under section 22 could superimpose Ministerial control over the Commissioner. The words "subject to this Act" in section 21 do not, to me, suggest the possibility of such a derogation.

Page 84, line 16. Extract from *Regina v. Commissioner of Police of the Metropolis*. The chief function of the police is to enforce the law. . . . In my judgment the police owe the public a clear legal duty to enforce the law. . . . Of course, the police have a wide discretion as to whether or not they will prosecute in any particular case.

Page 85, line 1. It is only within the limits of a proper exercise of discretion that there can be any question of Ministerial or other non-statutory directive to the police as to the way in which they shall perform their duty.

Chapter 4—Organization for the September moratorium in Adelaide:

Page 123, line 23. On April 20, there was a meeting of the general committee of the C.P.V. Professor B. H. Medlin made a report concerning relations with the police, and is recorded in the minutes as saying that the V.M.C. would notify the police of all events on the V.M.C. programmes as publicized.

Page 124, line 15. The police were not advised of the details, although they were aware that a demonstration was planned.

Page 125, line 23. The behaviour of the police on this day is agreed on all sides to have been exemplary.

Page 126, line 2. I must now refer to the May moratorium march in Melbourne. This was held on May 8. It was preceded by effective and complete communication between the police and Dr. J. F. Cairns, M.H.R.

Pages 133 and 134. Reference to July 4 incident involving stone throwing and injury to police.

Page 134, line 20. That conduct clearly indicated that the police might reasonably expect that there might be some violent or potentially violent persons in an anti-war demonstration.

Page 144, line 10. At about the end of the first week in September, the Acting Premier, the Hon. J. D. Corcoran, was reported in the *Advertiser* as having said that he did not consider that people should sit down at a busy intersection and that he expected moratorium organizers to advise police in advance of their time table, and it would then be up to the police to deal with the matter.

Page 145, line 19. Reference to a recommendation put to a meeting of the co-ordinating committee held on September 8. "That there should be an immediate cessation of police propaganda on the moratorium and to that end a deputation be sent immediately to see McKinna and Calder. The deputation to be Arnold Medlin, and Combe. The police to be informed that we will occupy an intersection for two hours. (This recommendation put to V.M.C. meeting on September 8 and carried.)

Page 147, line 13. It is proper to say that no-one who gave evidence before me, including members of the co-ordinating committee, was able to point to any written material which could fairly be described as police propaganda against the moratorium.

Pages 153-157. Exchange of letters between Arnold and the Commissioner of Police. The final letter from Arnold indicates a sit-in on the way back when it in fact occurred on the way up.

Page 157. Relates to an exchange of views between the Commissioner and the Premier.

Page 158, line 16. Mr. Millhouse asked: Will you back the police? The Hon. D. A. Dunstan: There is no question of the Government's not backing the police in maintaining peace and order. The Government has never suggested that it should do anything else.

Page 161. Letter from Commissioner of Police to Chief Secretary.

Page 167, line 20. (Referring to Melbourne demonstration.) But Dr. Cairns, its leader, had never allowed the thread of communication between himself and the police to snap. There was a mutual respect and confidence between him and the senior police officers.

Page 168, line 7. It is interesting to speculate on the relevance of that scene for Adelaide. If Professor Medlin and Mr. Arnold, when they became aware that a physical clash (whether justified or not) was imminent, had paid due regard to the risks and dangers to which their group of demonstrators was subject, perhaps they might have sought out the police, obtained a few minutes grace, endeavoured to regain control of the group, and led it out of the intersection and up to Victoria Square. There could have been a pause at the square for speeches and a triumphant and non-violent march back to Elder Park. That would have carried into effect the salient features of the planned demonstration, it would have satisfied most of the marchers, and it would perhaps have had a useful message for the watching crowds.

Chapter 5—Police Plans:

Page 170, line 1. Extensive, long-considered and expensive arrangements and plans were made by the police.

Page 175, line 19. It is abundantly clear that the failure of the organizers of the march

to communicate fully with the police greatly increased the difficulty of the police task.

Page 177, line 20. (Deployment of personnel.) The stationing of a considerable number of police at various points of the proposed route was partly necessitated by lack of full reliable information in police hands.

Page 178, line 16. Failure of organizers to communicate with police at the intersection heightened the confusion.

Page 178, line 22. The estimated total cost occasioned to the police in terms of paid overtime by the putting into effect of the police plans was $3,873.00.

Page 179, line 7. In the first place there are not in existence at the City Watch House enough cells to comfortably house the numbers arrested or enough blankets to go round. The Commissioner is not to be blamed for this. Undoubtedly the police thought and acted in the belief that, after a few arrests had been made, the main body of demonstrators would disperse.

Chapter 6—Facts of the Demonstration:

Page 183, line 1. The marchers were also instructed not to obey police directions but only the directions of the marshalls who were to accompany the march.

Page 186, line 18. Professor Medlin accepts the responsibility for having stopped the march.

Page 193, line 17. Reference to abuse to police.

Page 194, line 1. Deriding police is no longer the fun that it used to be, because nowadays so many of the deriders are not seeking to reduce the pompousness and increase the humility of individual policemen, but to destroy the ability of the Police Force as a whole to preserve the public peace.

Page 198, line 10. The only persons who alleged or who associated themselves with an allegation of general police brutality chose not to give evidence.

Page 198, line 18. . . . it is to be remembered that no firearms were carried by the police and no batons were drawn at any time. Measured against the degree of force applied by police against demonstrators in some countries, that in itself indicates a moderate attitude by the South Australian Police Force.

Page 199, line 6. There were in fact a few instances given in evidence where less force could have been used: but I find it significant that so few instances were alleged and that the degree of excessive force was so small.

Page 200, line 1. Many of the allegations are disproved on the whole of the evidence. As to some others the state of the evidence does not enable me to make a positive finding.

Page 200, line 10. As a counter to the last paragraph I must also mention that 17 police officers sustained physical injuries.

Chapter 7—Problems relating to Demonstrations:

Page 206, line 10. If the group practising civil disobedience of this sort also fails to co-operate with the executive authority, it increases its risk of colliding with that authority. And, in my view, it cannot expect that the executive authority will assume that all members of the group will practise complete non-violence even if a majority of the group may genuinely proclaim an abhorrence of violence.

If one puts aside, for the moment, specific enactments relating to the activities of such groups and looks at the proper purpose of any such enactments, one must surely conclude that those enactments should emphasize positive rights of citizens and therefore be designed not to repress freedom but to secure the maximum degree of freedom of movement and expression on the part of every citizen which is consistent with the continued existence of similar rights in other citizens.

Page 209, line 17. In my opinion, therefore, it is reasonable to require that a group proposing to demonstrate by means of a demonstration involving the use of the public streets should co-operate with some authority and sufficiently communicate its plans.

Page 210, line 18. Organizers of demonstrations ought, therefore, if they value the safety of the demonstrators, to communicate with the police so as to be sure of sufficient protection. To regard the police as one of the objects of a demonstration, a body to be confronted rather than a protective force, seems to me to be highly dangerous as well as being unreasonable.

Page 212, line 24. No group, however dedicated, however convinced of the justice of the cause, has a right to insist that the city come to a halt, that is to say that the citizens be prevented from carrying out their lawful desires. The Vietnam moratorium campaign cannot claim to do this as a matter of right any more than any other group.

Chapter 8—Problems relating to communications:

Page 224, line 14. It follows that usually a large demonstration results from much detailed planning. There is plenty of opportunity to establish communication with the police in such a case as part of the planning.

Page 224, line 19. The September moratorium march was affected by several factors which increased its difficulty. I think that lack of full co-operation with the police was the most adverse factor.

Page 225 line 2. The march was intended to "stop the nation to stop the war." The key word was "disrupt'. Here I believe that the organizers reached an unfortunate decision. They regarded full communication with the police as tending to lessen the disruption.

Page 225, Line 17. The May moratorium march in Adelaide was an example of how well a march can go if full communication with the police is established.

Page 226, line 11. The initial breakdown in communication in the September moratorium march was between march organizers and the police. For this breakdown the organizers were responsible: it was a deliberate policy on their part.

Page 232, line 4. . . . and I believe that the whole demonstration did little or nothing to achieve its only legitimate purpose, which was to shorten the war in Vietnam.

Chapter 9—Problems relating to police and selective law enforcement:

Page 239, line 25. There are limits to the inconvenience which a group can be permitted to inflict on the general public and those in charge of essential services. This is one area in which a demonstrating group cannot be allowed to set its own standards of what is reasonable.

Page 240, line 12. The Police Force has some independence of operation under the Police Regulation Act but it is still a part of executive operation.

Page 242, line 21. Reference to 1962 Royal Commission on the Police, U.K.

I believe that that report is concerned, in the main, with the question whether a national police force should be established and NOT with control of that force, if established.

Page 243, line 3. . . . and if an ill-disposed government were to come into office, it would without doubt seize control of the police however they might be organized. (Extract from the 1962 Commission).

Chapter 10—Recommendations:

Page 247, line 2. Sections 58, 59 and 60 of the Police Offences Act need further consideration. Section 58 applied reasonably is probably sufficient on its own in all cases in which no other serious offence such as assault.

See pages 87 and 88. Dealing with the right of assembly and the Universal Declaration of Human Rights.

I am sorry to have taken so much time going through all those references. I have taken from the evidence given before the Royal Commission every relevant piece of evidence relating to the measures we have already passed and sections 58, 59 and 60 of the Police Offences Act. If one examines this evidence one will see that there is nothing that shows any reason why the present situation should change. No blame whatsoever is placed on the Commissioner of Police who, as the man in charge, has a right to make his own decisions; indeed, the evidence completely absolves the Police Force from any blame at all. Again, I quote from the submissions of the Attorney-General in 1929 (and I believe that this still stands), as follows:

If the policeman is ultimately to become the officer who is to have control and maintain order in the streets, why object to giving him the power in this instance? . . . It comes to the question in whom shall the ultimate authority rest? . . . If there is a conflict as to whose directions shall prevail, you cannot have one man giving directions one way and another giving directions in another. I must stand by the clause as printed, as I think the Commissioner of Police is the best authority when there is a conflict . . .

As regards the moratorium, there was a conflict not only in regard to the demonstration but in the mind of the Government itself, and I do not intend to deal with that. But if the Government had Executive control, or could have taken it out of the Commissioner's hands, I wonder what the result of the demonstration would have been and what the finding of the Royal Commission would have been? There was conflict within the Government, and that was clearly seen by all people. I wonder, if some points of view in the Government had reigned supreme, what would have been the result on moratorium day? As the Commission has reported, little blame was placed on the Police Force.

In taking this matter a step further, the only evidence given to the Commission to suggest that this move now before us was necessary was given by the Premier. He has a right to his own opinion (and no-one would deny that) and also to express it. But in reading the whole of the evidence and the report, this is the only evidence I can find to support such a change as we have before us. I stress again that if the Executive had had the power to dictate to the Commissioner of Police, what would have been the result of that demonstration? I believe that the point made by the Attorney-General in 1929 is still valid.

In the situation that occurred at that demonstration, how could the decisions have been made by an Executive remote from the actual scene? Would there have been any police in the intersection at all? We do not know, but only one man could make a decision at a time like that, namely, the commander in the field. He is the only one who could make a logical decision, and to hand the power over to an Executive in these circumstances is ridiculous. In my opinion, the Commissioner of Police should remain exactly as he is at present: responsible under his Act for law and order. If the Government is not satisfied with the way the Commissioner is handling things, it is Parliament that should decide the matter. I place the Commissioner in exactly the same position as the Auditor-General and the Judiciary: he should be beyond interference and control by the Executive.

The Hon. L. R. Hart: Do you think that's what the Government believes?

The Hon. R. C. DeGARIS: I think it probably does now. Government members have been listening to me for some time.

The Hon. D. H. L. Banfield: You're not very convincing.

The Hon. R. C. DeGARIS: I could make it more convincing if you would like to hear

more home truths about the matter. Having gone through the moratorium report and given all the references, if any other honourable member wishes to refer to it he need not read the whole of the report but go to the various sections for his information. I have made a study of the recent horrid things that have occurred in Canada and, although it may not be directly related to the Bill, the lesson to be learnt from this situation should be learnt quickly. Honourable members may draw their own conclusions. The *Sydney Morning Herald* dated September 18, 1970, in an article dealing with the permissive new look, quotes the Canadian Minister of Justice and Attorney-General under the heading "Police power of arrest over-used". The article states:

"Democratic Governments ultimately depend not on police power, but on community acceptance. I have always felt that police have over-used the power of arrest." This viewpoint was expressed by the Canadian Minister of Justice and Attorney-General, Mr. John Turner, on his arrival in Sydney yesterday. Mr. Turner contended that even more community freedom was needed.

Can anyone disagree with that point? We always stress the question of the maximum freedom within the community. The article continues:

The proposed Arrest and Bail Reform Bill would soon curtail the arresting powers of the Canadian Police Force, he said. And in order to safeguard privacy, legislation was going through to stop "general snooping"—wire-tapping, misuse of data processing and even brainwashing. "In any country, the relationship between the citizens and the State is crucial," he said. "In Canada, we believe in the widest range possible for dissent—whether it be picketing, public meetings, sharp speech-making or student manifestations. But I am talking about peaceful dissent that guards the rights of others—not violence."

Mr. Turner, in Australia as leader of 17 Canadian delegates to the Commonwealth Parliamentary Association Conference in Canberra from October 2 to October 9, said Canada was not an "uptight," troubled country, although law reform and community freedom were really vital issues. He denounced "arrogant and autocratic forms of Government". He said the pressing question in Canada at present was "how far should criminal sanction go in interfering with personal life style?"

Last year, Mr. Turner was instrumental in developing the omnibus Criminal Code Reviews Act. This legislation removed prison sentences for homosexual acts and allowed therapeutic abortions. But it also tightened legislation by introducing the breath-analysis test for drivers. Mr. Turner said Canada lacked the two most inflammatory issues which incited protest in America—Vietnam and racial issues. Mr. Turner believes the Australian conference will be particularly useful. Because of Britain's proposed entry into the European Economic Community, Canada "was now looking more to the Pacific", he said.

Later, Mr. Turner said (and this article is in *The Australian*):

Canada's breezy, progressive Minister of Justice, Mr. John Turner, is in Australia "to pick brains and swipe ideas." The ardent law reformer, who steered Canada's criminal code revision Bill through the House, maintains: "The world's problems are all contagious—no one is isolated any more, and no-one has a monopoly on wisdom any more."

He then dealt with his views on the question of law reform, and this is quite impressive to read. Members may recall the spate of kidnappings that occurred in Canada, the rise of the Q.L.F., and the murders that took place, and gradually one finds that the police did not have sufficient powers to handle the situation. I do not intend to go through this whole thing, but I have it all documented here: "Execution deadline goes. Still hope"; one will remember that James Cross was kidnapped. Some 14 or so people were kidnapped in a very short period. "Mass arrests in Canada. Trudeau invokes emergency power". One must be progressive: it seems to be the done thing today. But it is useless being progressive if this produces a situation where the police do not have sufficient power to protect the community against this sort of thing. The power of the police in Canada was reduced to a point where Trudeau had to move in and almost invoke war-time powers to control the situation that developed, because the police had insufficient power.

I have dealt with this matter very shortly, but to me it is the most important point in this whole issue. In conclusion, I want to deal with the matter of the Police Force in South Australia, but I ask leave to continue my remarks.

Leave granted; debate adjourned.

SOUTH AUSTRALIAN THEATRE COMPANY BILL

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

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

That this Bill be now read a second time.

The South Australian Theatre Company was established in 1965 by the Elizabethan Theatre Trust, whose policy was at that time to develop State drama companies in capital cities throughout Australia. The company was funded by the Elizabethan Theatre Trust which disbursed

moneys paid to it by State and Commonwealth Governments and interested private individuals and organizations. The company's broad aims were to provide in Adelaide regular theatre performances of a high professional standard, and to develop to the stage at which it could perform some of the functions of a repertory theatre company, which would include extended seasons during which a variety of plays were performed continuously. This is a pattern of regional theatre activity which has achieved remarkable success, especially in Great Britain.

In 1968 the Commonwealth Government formed the Australian Council for the Arts as its subsidizing body for the performing arts in Australia. Since then, the South Australian Theatre Company has been funded by direct grants from the council and has continued to be subsidized by the Elizabethan Theatre Trust, which the South Australian Government has been financially supporting since 1965. The South Australian Theatre Company was incorporated in 1969, and has retained the broad aims and objectives to which I referred previously.

Prior to 1970 it was funded by the Australian Council for the Arts, the Elizabethan Theatre Trust, and box office receipts, with a portion of the State Government's grants to the Elizabethan Theatre Trust being returned to the South Australian Theatre Company. In the 1970-71 State Budget, provision was made to fund the company directly to allow it to expand its staff and widen its range of activities so as to maintain a comparable standard with other State drama companies which were being steadily subsidized by their respective State Governments. This meant that in addition to the State grant of $10,000 in 1970-71, the company received $45,000 from the Australian Council for the Arts, and $14,700 from the Elizabethan Theatre Trust, which included moneys for the sharing of salaries of three company-trust officials.

In the 1971-72 State Budget a provision of $25,000 was made for the company. For the same period it secured $60,000 from the Australian Council for the Arts, and $20,000 from the Elizabethan Theatre Trust, including the same provision for the sharing of staff. In its election policy, the Government announced that in addition to expanding a skilled industry base and tourist facilities in South Australia, it was its intention to maintain Adelaide's pre-eminent position as Australia's arts festival city and in line with this, it promised completion of the performing arts centre, which is now under way on the banks of the Torrens. It also promised the creation of a statutory body to undertake the aims and objectives of the present South Australian Theatre Company, with that body's home to be in the new performing arts centre.

The Government promised this not only because such a theatre organization in such a performing arts facility is an important adjunct to its total tourist planning, but also because, together with Governments throughout the world and in Australia, it believes that an effective performing arts centre is as necessary to a developed capital city as are public libraries, art galleries, museums or a State symphony orchestra. Therefore, on taking office, investigations were put in hand and a State Government officer appointed to the South Australian Theatre Company's board, to enable a smooth transition to be effected. Discussions have also been held with the board of the present company, and it has indicated its co-operation and support of the proposals now before the House. I believe that the Bill ensures that the South Australian Theatre Company will be able to realize its full potential as an outstanding professional drama company, capable of achieving national significance.

To consider the Bill in some detail: Clauses 1 and 3 are formal. Clause 4 sets out the definitions necessary for the purposes of the measure. Clause 5 formally establishes the South Australian Theatre Company as a body corporate and clause 6 vests the management of the body corporate in a "board of governors" of whom three shall be appointed by the Governor, two shall be elected by the subscribers to the company and one shall be elected by the creative personnel engaged by the company. Clause 7 is a usual provision in measures of this nature and ensures that the holding of office of governor on the board will not disqualify a person from holding any other office under the Crown.

Clauses 8 and 9 are fairly standard provisions and provide for removal from office of a Governor and the vacation in office of a governor. Clause 10 is the usual provision providing for meetings and quorums at meetings. Clause 11 provides for the remuneration of governors of the company. Clause 12 provides for the delegation of the powers of the board to any two governors and clause 13 provides for the exercising by the chairman or presiding governor of a casting vote in the event of equality of votes at a meeting. Clause 14 guards against the possibility of

invalid acts of the board due to some later discovered defect in the appointment of a governor or due to any vacancy in office of a governor and is, again, a fairly standard provision.

Clause 15 provides that governors of the company shall not, as such, be subject to the Public Service Act. Clause 16 provides for declarations of matters in which governors of the company have a financial interest but at subclause (2) provides certain exemptions in the case of elected governors of the board. Clause 17 provides for the company constituted by this Act to take over and absorb the present South Australian Theatre Company. Clause 18 sets out in some detail the powers and functions of the company and clause 19 permits the company, with the consent of the appropriate authorities, to make use of the service of officers of the public service. Clause 20 sets out the terms and conditions of service of employees of the company.

Clause 21 provides for the appointment of an artistic director and for the Minister to approve the terms and conditions of his employment. Clause 22 provides for an appointment of a secretary to the board. Clause 23 provides for the establishment of the company of players who are the creative personnel of the company. Clauses 24 and 25 provide for the election of one governor of the board by the company of players. Clause 26 sets out the obligations of the company to keep proper accounts and provides for the audit of those accounts by the Auditor-General. Clause 27 authorizes the company to borrow money with the consent of the Treasurer and at subclause (2) provides that a Government guarantee may be provided for the repayment of borrowings under this section.

Clause 28 provides for the funds of the company and the investment of moneys not immediately required by the company. Clause 29 provides for proper control of expenditure by the company. Clause 30 provides formal protection for the governors of the company in respect of acts done by them in that capacity. Clause 31 provides for the making of annual reports by the company and for Parliamentary scrutiny of the reports. Clause 32 gives certain exemption from succession and gift duty in respect of gifts to the company and exempts the company from stamp duty on its own transactions. Clause 33 provides for offences against the Act to be tried summarily. Clause 34 provides for an appropriate regulation making power and in particular provides for subscribers to the company and for the election of governors by these subscribers. This Bill has been considered and approved by a Select Committee in another place.

The Hon. R. A. GEDDES secured the adjournment of the debate.

METROPOLITAN TAXI-CAB ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 28. Page 4263.)

The Hon. Sir ARTHUR RYMILL (Central No. 2): I rise to support the second reading of this Bill, which could be said to deal with two separate matters. The first is the constitution of the board, and I shall deal with that at this stage. At present the Metropolitan Taxi-Cab Board consists of 12 members, four of whom are appointed by the Adelaide City Council, four on the nomination of the Local Government Association, two by the Taxi-Cab Operators Association, one by the Taxi Owner-Driver section of the Transport Workers Union, and one of whom shall be the Commissioner of Police or an officer of the Police Force. The Bill reduces the number of members elected by the Adelaide City Council from four to two and it reduces the number of members nominated by the Local Government Association from four to one. However, since seven metropolitan councils are not members of that association, another member will be nominated by the Minister as being a person who has knowledge of and experience in matters relating to local government. The rest of the membership of the board will remain unchanged.

I have been informed by representatives of the Adelaide City Council that they are reconciled to this Bill's being passed. When I was Lord Mayor I was a member of the taxi-cab committee appointed by the then Government to investigate the taxi-cab industry. I always thought that a 12-member board was unnecessarily large, and I believe that the reduction in membership to eight members is reasonable. I am doubtful about the value of clause 6, which makes the board subject to the control of the Minister; if the board is to be subject to the Minister's direction, I wonder why there is to be a board at all. I support the second reading.

The Hon. R. C. DeGARIS (Leader of the Opposition): The Bill provides that after the appointed day the number of board members will be reduced from 12 to eight, the number of local government representatives being

reduced from eight to four. I do not know that councils are completely happy about that situation, but I think they accept it, and I therefore have no complaint about the provision. Clause 6 is the only clause about which I have misgivings. It provides that the board will be subject to the control of the Minister. Recently a Bill before this Council provided that the Transport Council Board would be subject to the control of the Minister, but the Council took the view that that board should be independent. I realize that the Transport Control Board is somewhat different from the Taxi-Cab Board in that the Transport Control Board has to make decisions as between private operators and Government-operated services. Nevertheless, I strongly disagree with the Government's tendency to take over a board and place it under Ministerial direction. It is a principle that I cannot accept. Having opposed the clause that would have given the Minister control over the Transport Control Board, I must oppose clause 6 of this Bill. However, I point out that my case for striking out clause 6 is not as strong as was my case in connection with the clause that sought to place the Transport Control Board under Ministerial control. I support the second reading.

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

INDUSTRIAL CODE AMENDMENT BILL (TRADING HOURS)

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

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

No. 1. Page 2, line 4 (clause 4)—Leave out "12.30 p.m." and insert "11.30 a.m.".

No. 2. Page 2, line 15 (clause 4)—Leave out "12.30 p.m." and insert "11.30 a.m.".

No. 3. Page 2, line 20 (clause 4)—Leave out "12.30 p.m. and insert "11.30 a.m.".

No. 4. Page 3, lines 1 to 15 (clause 5)—Leave out paragraphs (*a*) and (*b*) and insert new paragraphs (*a*) and (*b*) as follows:—

"(*a*) in the case of such shop assistants other than hairdressers, shall cease no later than the hour of 5.30 p.m. Mondays to Thursdays inclusive, the hour of 9 p.m. on Fridays and the hour of 11.30 a.m. on Saturdays and no shop assistant shall be required to work in such ordinary hours on more than five consecutive days in any one week and more than 80 hours in any period of two consecutive weeks;

and

(*b*) in the case of shop assistants being hairdressers, shall cease no later than the hour of 6 p.m. Mondays to Thursdays inclusive, the hour of 9 p.m. on Fridays and the hour of 12.30 p.m. on Saturdays and no shop assistant shall be required to work in such ordinary time on more than five consecutive days in any one week, and more than 80 hours in any period of two consecutive weeks."

Consideration in Committee.

Amendments Nos. 1 *to* 3:

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

That the Council do not insist on its amendments Nos. 1 to 3.

These amendments have the effect of changing the hours in which a shop can remain open on a Saturday. They seek closing at 11.30 a.m., instead of 12.30 p.m. as in the Bill. Yesterday I said that, instead of the non-exempted shops being required to close at 12.30 p.m. at the latest on Saturdays, they would be required, under this amendment, to close at 11.30 a.m. There is nothing to prevent the big stores doing as they do now and closing at 11.30 a.m. There is nothing to prevent them from closing all day on a Saturday, but the Bill as drafted provides that if they open on Saturday they should close by 12.30 p.m. The Government's proposal was amended by the Council.

Although the big stores close at 11.30 a.m., it is possible to buy similar goods at smaller shops until 12.30 p.m. I said yesterday that this is the way in which some small shops gathered a few crumbs from the table of the big stores. People who cannot get to the big stores by 11.30 a.m. can buy the same article from a smaller shop until 12.30 p.m. The handyman can go to a hardware store for his requirements until 12.30 p.m. I thought this was satisfactory.

The Committee divided on the motion:

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

Noes (11)—The Hons. M. B. Cameron, M. B. Dawkins, R. C. DeGaris (teller), R. A. Geddes, L. R. Hart, H. K. Kemp, F. J. Potter, E. K. Russack, Sir Arthur Rymill, V. G. Springett, and C. R. Story.

Majority of 6 for the Noes.

Motion thus negatived.

Amendment No. 4:

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

That the Council do not insist on its amendment.

Because one of the Government members inquired at the Industrial Commission, I can now say that the statements I made last night were justified. The information gained from those inquiries was that a person, to get overtime rates for work on Friday night or Saturday morning, would have to work on the sixth day of the week or for more than 80 hours in a fortnight. So, a person could work any number of hours, provided he finished by 9 p.m., and he would not get overtime, because ordinary hours would be involved. The provision does not even give a starting time. How many hours could the person work on a Friday? Going to extremes, I suggest that the person could start at one minute past midnight on Friday morning and work until 9 p.m., and he would not get any overtime, provided he had not worked more than 80 hours in a fortnight.

The Hon. R. C. DeGaris: That is stretching it.

The Hon. A. F. KNEEBONE: That is what is provided for. Whoever drafted this proposal does not know much about industrial matters. The wording of the provision is completely wrong. I pointed this out last night and I checked to see whether I was correct. This provision is no good as it stands, and I ask the Committee not to make itself look foolish by insisting on the amendment.

The Hon. D. H. L. BANFIELD: I support what the Minister has said, as this amendment takes away from employees something that they already have. Under this proposal, any hours worked after 5.30 p.m. on Fridays or on Saturdays become ordinary hours, and shop assistants will not be entitled to any extra pay therefor. At present, the award provides that, when the provisions of the Early Closing Act are suspended to enable late night trading to occur at Christmas time, employees who work beyond 5.30 p.m. shall be paid at time and three quarters for such work. However, if this amendment is carried, they will not receive an extra cent for their work, unless they have worked more than 80 hours in a fortnight. Surely, we are not going to foist this provision on the industry. The court will not be able to fix an overtime rate, although a penalty rate could be awarded, as has happened in the past in relation to Saturday morning work. However, it could not exceed the 25 per cent loading. As this provision takes away from employees something that they already have, I ask the Committee not to insist on its amendment.

The Hon. F. J. POTTER: As honourable members know, it is a standard principle of the Industrial Court that it will award overtime or penalty rates for any work in excess of eight hours in one day; surely, nobody would argue with that. Therefore, the fantastic example that was given of someone starting work at midnight on the Friday and working right through does not make sense, because that person would then be working 21 consecutive hours. I cannot conceive of anyone working for that long.

The Hon. A. F. Kneebone: Isn't the Committee making itself look foolish by passing this provision?

The Hon. F. J. POTTER: No, because overtime or penalty rates will be awarded after the first eight hours worked.

The Hon. D. H. L. Banfield: Not if a person has not worked 80 hours in the fortnight.

The Hon. F. J. POTTER: An attempt is being made to equate shopping hours with working hours, which is not possible. This amendment will enable the greatest flexibility; once someone works for more than eight hours, penalty rates will be paid. In any event, I expect that the matter will be handled by a consent award and that it will not have to go to the court for a battle, with appeals being lodged because of the possibility of insufficient penalty rates being awarded for Friday evening work. No shop assistant will be required to work in ordinary hours more than five consecutive days in any week or more than 80 hours in any fortnight. The Committee should therefore insist on its amendment.

The Hon. A. F. KNEEBONE: Although generally people will do what is expected of them, some people go astray and do not do so; there has been much evidence of this recently. I realize that some honourable members who support the amendment have spoken in good faith. However, although (as the Hon. Mr. Potter said) agreement could be reached on this matter, that agreement could be appealed against. Although a shopkeeper may be a member of the R.T.A. today, he may not be a member of that organization tomorrow and would not, therefore, feel compelled to follow an agreement entered into by that organization. Also, there are many people outside of organizations such as this who will be given an opportunity by this provision to appeal against any award.

The Hon. D. H. L. Banfield: In the public interest, the Chamber of Manufactures or the Chamber of Commerce would do it like steam.

The Hon. A. F. KNEEBONE: Even though an individual employer has not wanted to do so, organizations such as these have done so in what they have considered to be the best interests of their other members. There is nothing to stop them from appealing against any agreement that is reached. Representatives of the R.T.A. have said that they will give up to a 50 per cent loading for any extra time worked. However, what is to stop anyone from saying that an award is not in the public interest because it is giving something to certain people that will flow through to other industries? That is the sort of thing about which I am concerned. How silly we would look if we put provisions of this nature into industrial legislation! I know the Opposition has the numbers in this Chamber and that later we shall probably go into conference, although I am not advocating that that should happen. I want what the Government has put into the Bill and I am asking honourable members to support it.

The Hon. R. C. DeGARIS: If I thought for one moment that the amendments moved by the Hon. Mr. Potter would do what the Minister thinks they would, I would not support them; but the advice we have taken from people who understand these things—the Hon. Mr. Potter, who has some knowledge of the Industrial Court, and other lawyers—does not bear out what the Minister says.

The Hon. D. H. L. Banfield: Tell us why it cannot be done.

The Hon. R. C. DeGARIS: I am not an industrial advocate but I know that what the Minister and the Hon. Mr. Banfield have said does not apply. If members of the Government like to go out and talk to the shop assistants, the small retail shopkeepers, the chain store people, the retail traders and people working in departmental stores, they will find they overwhelmingly support the concept embraced by the Hon. Mr. Potter's amendments, if we interpret their intention correctly, as I think we do.

The Hon. C. R. STORY: I join with other honourable members in supporting what the Leader has said: if I thought the amendments would not achieve what we believe they do, I, too, would yield to considering further amendments or to having another look at the matter; but all the industrial brains are not on the side of the Government. There are other people in the community well versed in these matters. The Hon. Mr. Potter gave much thought to them; he did not rely solely on his own ability as a lawyer. He sought outside assistance, including that of people who probably on occasions have appeared as advocates for unions. I am informed that the amendments are in a proper industrial form, they are properly drawn and they do what we believe they should do. When the Minister, his colleagues and the eminent Queen's Counsel who are members of Cabinet study these things thoroughly and examine them with their industrial officers, keeping politics out of it, they will find that this is a very good amendment, which they will be happy to accept.

The Hon. D. H. L. BANFIELD: Honourable members opposite do not want to take the advice of people with knowledge of industrial tribunals. There are members in this Chamber with an aggregate of 75 years experience in industrial matters. However, we did not rely on our accumulated experience in considering this Bill: we went to people who have to hand down decisions. They said, "Give us this and our hands are tied; we would not be able to do as has been suggested, make a consent award, because of people outside." We should go to people who have to deal with this matter. We are not attempting to pull the wool over people's eyes; we are merely trying to get the facts. It has been said that a consent award can be made, but that would not stop an individual who was not a member of the Retail Traders Association from appealing. If something had been granted that was outside the normal court award, the appeal would have to be upheld. It takes only one person to appeal against a consent award to upset it. We cannot rely on what some people may want to do out of the goodness of their hearts. We made our investigations and did not rely only on Queen's Counsel in another place. We took it to the people who handle these matters every day of the week.

The Hon. F. J. POTTER: I cannot agree with the honourable member who has just resumed his seat that the fact that one individual can appeal against a consent award upsets the award. That is not so. The honourable member is reasoning that, because someone appeals, the court is bound to uphold the appeal, that the thing is a *fait accompli.* Members of the Government side have said, "We trust the Retail Traders Association up to a point but we cannot trust it completely."

The Hon. D. H. L. Banfield: We said, "Do not take a chance with them."

The Hon. F. J. POTTER: Very well; in effect, the honourable member has said, "We

do not really trust the employers; we do not really know that someone from outside will not appeal, and we do not trust the court."

The Hon. D. H. L. Banfield: We trust the court, but they can appeal against the court's decision.

The Hon. F. J. POTTER: The Hon. Mr. Banfield referred to the court's hands being tied. I have not heard at all how the court's hands are tied. The honourable member knows that the court has jurisdiction to make awards and is not constrained in any way in the percentage it awards for overtime payments.

The Hon. A. J. Shard: The courts are restricted.

The Hon. F. J. POTTER: No. There is no legislation providing that they can grant only 25 per cent. An example was given of Friday night work at Christmas time, but the employees then got time and three-quarters. The honourable member is now really saying, "We might not get any more than time and a quarter." Nothing further that we could hear from the Government benches would lead me to believe that there was anything wrong with this amendment.

The Hon. C. R. STORY: An interesting interjection was made by the Minister in charge of the Bill with regard to a week of five eight-hour days.

The Hon. A. F. Kneebone: A 5-day week.

The Hon. C. R. STORY: Is the Government prepared to accept that position and would it be acceptable to the people with whom the Government has been negotiating for a long time? What the amendment does is to bring the parties together, because the Government has failed to bring them to a point where uniformity can be achieved. Honourable members have worked extremely hard, with great assistance by the Hon. Mr. Potter, but what the Minister is now trying to introduce into the debate is an 8-hour 5-day week.

The Hon. A. F. Kneebone: You suggested that you might offer it to us.

The Hon. C. R. STORY: The Minister said that it would be acceptable, but he would be back to square one. The Minister knows as well as I that the trade union movement, not the Government, would not accept that position because other things would be added to it.

The Hon. A. M. WHYTE: The conflict seems to revolve around the ordinary hours question. The Minister's remarks and his opposition to the amendment made sense up to a point. Can the Minister say whether overtime should be paid for time worked outside ordinary hours? Is that the sole point of the argument?

The Hon. A. F. Kneebone: Ordinary hours covers all the hours the shops are likely to be open.

The Hon. A. M. WHYTE: As it is an important but confusing issue, what does the Government want?

The Hon. A. F. KNEEBONE: Apparently, I was mistaken. I said previously, by interjection, in effect, "You put in 8 hours a day 5 days a week, making a 40-hour week." That is what we are looking for and it was nearly offered to us at one stage, but the honourable member hedged when he saw that I was enthusiastic about it. These are the present conditions: the maximum number of ordinary hours to be worked in order to entitle an employee to a weekly wage shall be 40 in any one week and shall not exceed 8 hours in any one day. The hours to be worked are between 8.30 a.m. and 5.30 p.m., and eight hours is worked within that period. That is the spread of hours which goes into most awards, but that is not being done here: ordinary time is being laid down. I cannot impress the Opposition, although I have tried to educate some of its members on industrial matters. Three Government members in this Council have had about 70 years experience of industrial advocacy, so we know something about the subject.

The Committee divided on the motion:

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

Noes (10)—The Hons. M. B. Dawkins, R. C. DeGaris, R. A. Geddes, L. R. Hart, H. K. Kemp, F. J. Potter (teller), E. K. Russack, Sir Arthur Rymill, V. G. Springett, and C. R. Story.

Majority of 5 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 7.45 p.m., at which it would be represented by the Hons. D. H. L. Banfield, R. C. DeGaris, L. R. Hart, A. F. Kneebone, and F. J. Potter.

At 7.45 p.m. the managers proceeded to the conference, the sitting of the Council being suspended. They returned at 1.5 a.m.

The Hon. A. F. KNEEBONE (Minister of Lands): I have to report that no agreement was reached at the conference.

The PRESIDENT: As no recommendation from the conference has been made to the Legislative Council, pursuant to Standing Order No. 338 the Legislative Council must resolve either not to further insist on its requirements or to lay the Bill aside.

The Hon. A. F. KNEEBONE: In view of what has happened, I move:

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

I was most disappointed that no agreement could be reached and, without casting any reflections on this Council, I say that every attempt was made to reach some compromise in this matter, but unfortunately the managers for this Council (of whom I was one; I was the leader for the Council) would not compromise on the amendments made by the Legislative Council. Honourable members are well aware of my feelings about these amendments, because I have made them abundantly clear in the last two days. I have expressed what I thought was right about what should be done and what I was sure was the correct interpretation of these amendments. The Government could not possibly accept the amendments that were so widely drawn.

During the discussions at the conference, a compromise was considered. I appreciate the attempt made by the managers of another place to reach some compromise. In my view the compromise suggested would have covered the situation that this Council wanted to be covered: it was to provide that there would be room within the amendments to the Industrial Code to provide for various types of arrangement to cover the conditions and hours of work in respect of extending shopping hours in this State. Various arguments were adduced against that by the managers for the Council. One objection to the proposed compromise was that, if we inserted in a Bill of this kind a provision for working conditions for an industry and a provision stipulating that a certain rate of pay should apply as a penalty rate, it would have wide ramifications throughout industry in South Australia.

The Hon. R. C. DeGaris: In Australia.

The Hon. A. F. KNEEBONE: I think the Leader said, "In Australia". When it was asked what industries would be affected, several were mentioned. It was said that this legislation could affect restaurant people, people who worked in cafes, and so forth. I and people who work in industry know full well that people working in those industries operate under conditions that far exceed what is proposed for the shop assistants. I do not think that anyone could point to an industry in South Australia that could be affected to any great degree by this legislation. After all is said and done, this is a special provision to cover a special circumstance. I know what was being suggested by the retail traders and the employers in the industry: that this proposed compromise would be acceptable to the employers. However, the proposal does not go as far as the Government, the unions, and the employees want to go; but it was a proposed compromise. Yet it was refused and rejected.

The Hon. C. R. Story: What about the shoppers?

The Hon. A. F. KNEEBONE: This compromise would cover the needs of the shoppers and would not increase the cost to the industry any more than was absolutely necessary. It provides that the shop assistants would get fair working conditions and that the public would get extended shopping hours. I am sure the public would agree that the proposals put forward were reasonable.

The Hon. C. R. Story: What about the traders?

The Hon. A. F. KNEEBONE: These amendments, which the Legislative Council has insisted on and which I am asking it not to insist on, are so widely framed that anything can happen. Yesterday afternoon I made a statement about this and I was ridiculed because I made it, but it was a correct assessment of what these amendments would do. They provide for ordinary hours that extend from midnight until 5.30 on four days of the week, from midnight to 9 o'clock on the Friday night, and from midnight on Friday until 11 o'clock Saturday morning. They would be the ordinary hours within the industry.

The Hon. C. R. Story: That is the opinion of the Minister.

The Hon. A. F. KNEEBONE: That is the opinion of the Minister and of many industrial advocates in South Australia. The matter has been tested, and these amendments have been found to be wrong.

The Hon. C. R. Story: That is in your opinion.

The Hon. A. J. Shard: You keep quiet.

The PRESIDENT: Order!

The Hon. A. F. KNEEBONE: I am telling honourable members how the amendments can be interpreted.

The Hon. C. R. Story: That is the opinion of the Minister.

The PRESIDENT: Order!

The Hon. A. F. KNEEBONE: I will ignore the interjection. It is my opinion and the opinion of many other people who have had experience of industrial matters, as I have had. It is all very well for honourable members to say, "All right, but by agreement with people something will come out of it." They also say, "The commission will probably provide such and such." I have grown up in industry and know that workers expect things to be laid down in awards and agreements. One provides awards and agreements that go so far and no further; one does not make wide and open provisions. This has been as a result of what the trade union movement has had to put up with through the years to achieve the conditions that it now has. This has forced the movement to the position where it must see things in writing or it does not believe it could happen, because it has had so many disillusionments over the years. I know the general attitude of the Chamber. I am not denigrating this place, but the attitude of honourable members is that if one asks for something for the trade unions they always take the attitude that they will fight it every inch of the way.

Honourable members in this debate have said they are thinking of the worker. I should like to see them take the amendment to the worker, show it to him, and promise him that if it does not work out in the way honourable members think it might work out they will come back in July when Parliament next meets and attempt to amend it. If that is the only assurance that members opposite can give, I am not very happy about it. I am sure that, if the Government were to accept such an amendment, not only the members of the trade union movement in the State but many other people would say that it was about time that this Government gave up if that is the kind of legislation it is prepared to accept in this day and age. I only hope that even at this late stage honourable members will listen to me for once in regard to industrial matters and not insist on the amendment.

The Hon. F. J. POTTER (Central No. 2): As one of the managers for the Council who attended the conference, I wish to say that we had very long discussions lasting over many hours. We considered very carefully the full implications of this legislation. Since I have been in this Chamber I have never had a more difficult matter with which to deal than this Bill, which poses some very intricate problems on which I know that other honourable members have worked for hours because of their intricacy. What is being attempted in this legislation, for the first time in Australia, is to put in an Act of Parliament, or to attempt to put down in so many words, industrial conditions. This says, in effect, what will be the hours worked and the wages received for those hours by people employed as shop assistants.

The Hon. A. F. Kneebone: What about the New South Wales and Victorian position?

The Hon. F. J. POTTER: A combination of the two was being attempted for the first time in the Bill. It is an attempt to have the Legislature ursurp the function of the Industrial Courts and Commissions of this country, which they have exercised for a long time. If there is nothing more true, it is that the Industrial Commission has, by its granting of awards and consenting to industrial agreements, established a very intricate system involving checks and balances throughout the various industries in this country. Here, in relation to these shop assistants the Government has attempted to usurp the court's function and to take away from it a right to determine what shall be certain loadings for work after certain hours.

The Hon. D. H. L. Banfield: Your amendments suggest hours in the first place.

The Hon. F. J. POTTER: They merely provide the starting point, and everything else in the amendments would be left to the court. That is one of the things that we said was wrong with this legislation when it first came before us. Clause 5 was an attempt to spell out matters in a very unsatisfactory way, which I think we proved to the Government. Ultimately the Government was prepared to accept that it was done in a very ineffective way.

The Hon. A. F. Kneebone: Not in an attempt to compromise?

The Hon. F. J. POTTER: No. The original draft of the Bill was an ineffective and ill-considered way to attempt to settle the difficulty that arose over shopping hours. We said (and other honourable members supported me in the second reading debate) that we felt that anything done in this legislation in connection with this industry would have great repercussions outside the Legislature and would have ramifications the end of which we could not possibly foresee if this legislation was allowed to pass, because the Industrial Commission would have before it applications from

other sections of industry wanting to receive the same kind of treatment the Government was seeking to give to the shop assistants.

The Hon. A. F. Kneebone: Which award?

The Hon. F. J. POTTER: I can mention many of them. It will, in effect, mean that there will be applications for variations of the awards. Thousands of people are working in ordinary hours over all kinds of days of the week, and they get only certain percentages or penalty rates for that work, depending on the rates fixed by the court. The man who is employed under the metal trades award and who is on permanent night work gets only a 30 per cent loading for that work.

The Hon. A. F. Kneebone: Every day in the week?

The Hon. F. J. POTTER: Yes, that is the extent of his loading. This must be left to the court. Here the Government wanted to impose a 50 per cent loading in favour of shop assistants for Friday night and Saturday morning work.

The Hon. D. H. L. Banfield: You said that you agreed with that.

The Hon. F. J. POTTER: I have no quarrel with what the Government wanted to get for the shop assistants in this State. In one sense I do not care whether the shop assistants receive a 50 per cent loading or a 100 per cent loading. I am upset not at what the Government wants to do but at the way that it wants to do it, because it would be usurping the functions of the court to do so. It is no secret that there would have been no difficulty under the terms of my amendment for shop assistants to achieve a 50 per cent loading for Friday night work. They would have received that without any trouble.

The Hon. R. C. DeGaris: They might have got more.

The Hon. F. J. POTTER: Yes, and they would have got at least that much.

The Hon. D. H. L. Banfield: How do you know that?

The Hon. F. J. POTTER: They would have got it because the employers offered it. In any event, they would have got it had they been prepared to go to the court, because it is an established principle of the court that it will award a 50 per cent loading for work done after eight hours in any day.

The Hon. A. F. Kneebone: Did all employers offer it?

The Hon. F. J. POTTER: The principal employers, who employ the greatest percentage of workers in this industry, offered it without any strings attached.

The Hon. A. F. Kneebone: What about the others?

The Hon. F. J. POTTER: The amendment would have allowed great flexibility. Others could have got it from the court and, once it was established by agreement, it would have created a precedent that the court would be bound to follow.

The Hon. A. J. Shard: How would the bloke who challenged the agreement have got on?

The Hon. F. J. POTTER: No-one can challenge an industrial agreement—

The Hon. D. H. L. Banfield: That's rot, and you know it.

The Hon. F. J. POTTER: —because it is registered in the court. I challenge the Minister to tell me how that could be done. Although one may be able to challenge a consent award, one cannot challenge a consent agreement.

The Hon. D. H. L. Banfield: It has to be an award.

The Hon. F. J. POTTER: No, it does not have to be.

The PRESIDENT: Order! Continued interruptions are distinctly out of order. I do not want to be put in the position of embarrassing any honourable member. However, I insist that there be order in this debate.

The Hon. F. J. POTTER: It is evident to me that from this point on a calculated attempt will be made by Government members to pull the wool over the eyes of the people of this State and to blame this Council for not doing the right thing by the shop assistants. I completely refute that suggestion. Under the terms of my amendment, which was accepted by the Council, there would have been great flexibility, and shop assistants in this State would have received more pay for less work. The truth of the matter is that the Government wants to use this matter as a catalyst that will have far wider ramifications throughout industry. Once these conditions were put down in legislative form, we would not be able to foresee the ultimate industrial result.

The Hon. A. F. Kneebone: That is not so.

The Hon. F. J. POTTER: I suggest that industrial strife would have arisen quickly in this State, and immediate demands would have been made by those employed in other industries to obtain exactly the same conditions.

The Hon. D. H. L. Banfield: They would not ask for reductions in their conditions.

The Hon. F. J. POTTER: They certainly would not, but they would ask for the same combination of hours and extra overtime rates,

because it is the combination of the two that we must consider. The managers from this Council examined all possible alternatives during the conference, and considered as deeply as they could any suggested compromises. True, suggestions were made which would have been substantially acceptable to most employers and which would probably have provided a reasonably satisfactory solution to this problem for shop assistants. However, that compromise involved including in legislation these terms and conditions and, once that happened, it would have been easy for other sections of the industry to submit to the court that, because the Legislature had laid down these provisions in relation to one industry, it could not be challenged and, therefore, that those conditions should be applied by the court to other industries. The Industrial Commission is responsible for determining the industrial conditions of workers in industry and, indeed, workers generally in the State. Why should this Government want to remove that function from the court, which is exactly what a compromise would have involved? The amendment would not have had this effect; it allowed the greatest flexibility, and an application could have been made to the Industrial Commission to lay down certain terms and conditions. I am sure all honourable members know what those terms and conditions would have been. It would not have been necessary for one to go to the court in this respect; these conditions could have been obtained by industrial agreement, and no amount of talking can change that fact. I urge honourable members to vote against the motion.

The Hon. R. C. DeGARIS (Leader of the Opposition): I do not think I can do justice to this matter as well as the Hon. Mr. Potter has done. Although it is not the normal procedure, matters before the conference have been discussed. I agree with the Hon. Mr. Potter that it is a far more intricate job than I have faced for some time to sort out this legislation. I congratulate the Hon. Mr. Potter on the amount of work he has done, and I believe he found the correct solution.

I said during my speech in the second reading debate that three sections of the community had to be considered in this matter. I said, first, that 9 o'clock closing should not come into force at the expense of shop assistants; secondly, that we had to assure the general public that the introduction of 9 o'clock closing would not increase prices unduly; and, thirdly, that we had to consider those in the retail trade. I said, also, that possibly the first group to be considered was the consuming public. The Government Bill was not wanted by any sections of the community. However, that is not quite right; one group of shops would have been happy with the Government's plan. The vast majority of people in the community who are concerned with this matter did not want the Government's plan. By our research we found without any shadow of doubt that, if 9 o'clock closing was to be introduced, three separate plans were involved from which various people in the retail trade and among shop assistants would like to choose. We began by considering a choice of these three matters. This became an extremely difficult problem on which we worked for a long time. Finally we came down with the Hon. Mr. Potter's amendment. I agree with the Hon. Mr. Potter that this amendment has been wrongly interpreted by the Minister. Although the Minister does not agree with what I am saying, I am just as genuine about this matter as he is. I have checked this with people who have been involved in industrial work, and they assure me that what the Hon. Mr. Potter says is exactly right.

The Hon. A. J. Shard: He said two different things.

The Hon. R. C. DeGARIS: No, he did not. He said the same tonight as he said previously.

The Hon. A. J. Shard: He did not. Last night he said a court could do it, but tonight he referred to an industrial agreement.

The Hon. F. J. Potter: No, I didn't. I said that either could.

The Hon. D. H. L. Banfield: Last night you said that an agreement could not be challenged, but this evening you said that an award could not be challenged.

The PRESIDENT: Order!

The Hon. R. C. DeGARIS: It appears perfectly obvious to me that the Trades and Labor Council has insisted on a certain line. It has said that it wants certain provisions adopted and, as the Hon. Mr. Potter has pointed out, what it wants would have wide ramifications throughout the whole community. This would not only affect the cost of the consuming public and the retail trade but it is almost certain that there would also be a rapid escalation of costs inside the community, because we are writing into this Bill the actual award conditions, and this is entirely the field of the court.

The Hon. D. H. L. Banfield: You did that in your amendment. You set the hours, but

you are now saying that is the job of the court.

The Hon. R. C. DeGARIS: The Hon. Mr. Banfield can have his say in a moment. I have checked this matter with a number of legal people involved in the industrial field, and they have said that they believe that what the Government proposes would be extremely bad practice. I believe that all of us are disappointed that no agreement could be reached. Other matters put up by way of compromise are extremely difficult to deal with, and I will not touch on them. Nevertheless, we are all disappointed that no agreement could be reached. As the Minister said, many attempts were made to reach agreement. I do not like being difficult at conferences. If I can find an area whereby I can make a compromise, I usually take that course. However, the compromise suggested was so dangerous that I decided it was better to leave things as they were. We have expressed freely what we believe is right in this matter. I am sure that if the Hon. Mr. Potter's amendment had been agreed to, we would have had a situation in which Friday night shopping could be introduced with the greatest satisfaction to shop assistants, and with complete satisfaction to all the groups of traders and the public, but the Government was not interested in accepting this.

The Hon. D. H. L. Banfield: That's wrong, and you know it, because you know well that the proposal the Government put up included the things you said.

The Hon. R. C. DeGARIS: I realize that.

The Hon. D. H. L. Banfield: Don't say the Government wouldn't accept it.

The Hon. R. C. DeGARIS: I think that has all been explained. I do not think the honourable member has quite caught on to the situation.

The Hon. D. H. L. Banfield: You said the Government wouldn't accept it.

The Hon. R. C. DeGARIS: I know that it is simple to put the Government's point of view on this; it is far more difficult to understand what we are saying. Yet, if one examines the matter closely, one finds that what the Legislative Council has done is right. Where shall we stand? Are we to be afraid of doing what is right simply because of a threat, or should we stand by the principle, knowing that what we say is right? That is the position. The argument has been advanced that whenever something is done for the workers this Chamber objects. I am sorry the Minister said that, because I think he knows me well enough to realize that that is not my attitude. Our job here is to attempt to legislate for the good of the whole community. I earnestly believe that we did this in the present case, and I believe the Government has rejected our proposal.

There is one bright side to all this. If the motion is defeated, it will mean that we are getting back to the democratic position whereby the public will have what it voted for some 12 months ago in a referendum. While all the argument has gone on, this has been the thing we have overlooked. I did not desire this position to be reached, but the House of Assembly, without opposition, agreed to the Bill to provide for 9 o'clock closing, although there was some argument in that Chamber about the provisions of the Government's Bill. Therefore, we had to accept the position that it was the general wish to agree to 9 o'clock closing. Nevertheless, a referendum was held, and the fact that the Government acted on that referendum is to its credit. I think we are now back to the situation as expressed by the public at that referendum.

The Hon. C. R. STORY (Midland): Having listened with much attention to the managers, I can only conclude that the Government must be terribly happy at this stage that agreement could not be reached at this conference. It must give the Government a certain amount of consolation, as it put this question to the people. At the referendum, people seemed to vote against the idea of Friday night shopping, although people in outer areas were in favour of it. It seems to me that the Government changes its views quickly if it can get enough headlines, and that is what the Government has done in this case. It has found itself in deep trouble with its industrial wing.

The Hon. A. F. Kneebone: Not as much trouble as you are in with the Liberal Movement!

The Hon. C. R. STORY: The Government has done many things recently as a result of enough noise being made. When enough noise is made, the Government will bend, wheel and deal. The present situation is that the Government has been unable to agree to what I consider has been a reasonable compromise. What was offered would be a much better deal for the workers.

The Hon. D. H. L. Banfield: What would you know about industrial matters?

The Hon. C. R. STORY: Not being employed by someone who fought for me, I have had to make my own living by my own individuality. I have made a living and have

come into this place as an elected member. I have been here for 18 years, and have been supported by people who also made a living. I have not been put here as a stooge, or as someone with any background of trade unionism or anything else.

The Hon. A. F. KNEEBONE: Mr. President, I object to that statement made in regard to members on this side. I take it as a personal slight on members on this side who, because of their background in industrial matters, have been elected by the people.

The Hon. A. J. Shard: He implied that we didn't work.

The Hon. A. F. KNEEBONE: I ask that the remark be withdrawn.

The Hon. A. J. SHARD: Mr. President, I rise on a point of order. I came in here as an elected member, and I take strong exception to the statement that members on this side come in here as someone's stooge. I ask that that statement be withdrawn.

The Hon. C. R. STORY: Mr. President—

The Hon. A. J. SHARD: Mr. President, I take strong exception to being called a stooge, and I ask that the honourable member withdraw that remark.

The PRESIDENT: I ask that the Hon. Mr. Kneebone put in writing the words to which he objects. I did not hear the Hon. Mr. Story call anyone a stooge. The words objected to are that the Hon. Mr. Story was not elected as a stooge. This could be considered as a reflection, and I ask the Hon. Mr. Story to withdraw.

The Hon. C. R. STORY: Mr. President, I withdraw with pleasure.

The PRESIDENT: The Hon. Mr. Story.

The Hon. C. R. STORY: Mr. President, going on from where I left off, when I was so rudely interrupted—

The Hon. A. J. SHARD: I object to the statement made by the Hon. Mr. Story that he was rudely interrupted. If he was rudely interrupted, he caused it by his own rudeness.

The PRESIDENT: I think the objection is upheld.

The Hon. C. R. STORY: Continuing where I left off, I said that I was elected as a representative of the people: I was not elected by any pressure group, and I continue to say exactly what I was saying when I left off, although it may be in different phraseology. However, that does not detract from what I wish to say in this matter. The Hon. Mr. Potter moved certain amendments to the Bill, and I played some part in assisting him in that regard and in lobbying in the matter. Having canvassed this matter carefully, I believe that these amendments were accepted by the great majority of people in the industry. I say that sincerely, and it is not my wish to have any confrontation with the Chief Secretary or, indeed, with the Minister in charge of this Bill.

I firmly believe that the amendments are acceptable in the main to the people involved in the whole matter relating to shopping hours. If what has been proposed is completely rejected (and it seems that the Chief Secretary and the Government wish it to be rejected), we come back to the original jumble. Indeed, I think the Government wants us to do this. I think the Legislative Council adopted an extremely responsible attitude in trying to put a stop to what has been happening over many years, including the period when I was Minister in a Government. I think that the Hon. Mr. Potter's amendments, together with other suggestions made at the conference, would have solved many problems. However, the Government seems to be under the influence of some outside body.

Indeed, knowing the three members who occupy the Government front bench in this Chamber, I know that they are normally amenable to reason. However, at present they are not the least amenable to reason, and here I include their back-bench member, the Hon. Mr. Banfield.

The Hon. D. H. L. Banfield: How do you know? I haven't spoken yet.

The Hon. C. R. STORY: Indeed, I can always tell what the Hon. Mr. Banfield thinks, by the urbane look on his face. I believe that an outside influence is the reason why the attempts by this Chamber to reach a compromise have been rejected. I think that after four or five weeks, when the people have had time to settle down, and when the various media, at the instigation of certain people, have had time to abuse the Legislative Council, the Hon. Mr. Potter's amendments will be appreciated. The Chief Secretary has challenged me on various points of order, which are technical and drawn in various ways, but I believe we have attempted to give the people of South Australia reasonable shopping hours. It must not be forgotten that the people in the outer suburban areas enjoy shopping hours that they like, require and demand by their vote. It was the Government of this day that forced upon the people of South Australia in the metropolitan area (not throughout the State, but within the Adelaide metropolitan area as defined in the Act) a poll. Only a very few

people were ever prosecuted for not voting in that poll, but the people of Elizabeth, Gawler, Tea Tree Gully and other areas who really required, and were delighted to have, this sort of shopping were denied it because this Government forced us into this situation.

The Government has got itself on to the hook and is now trying to get the Legislative Council to get it off the hook. The Government is finding it extremely hard at the moment to get itself off the hook. Members on this side have given it every possible opportunity of doing that; we have allowed the public, the shop assistants and the people engaged in industry of every type, by these amendments, to help the Government get itself off the hook. We have also tried to give people in the metropolitan area a decent shopping arrangement, but the Government has refused it.

The Hon. D. H. L. BANFIELD (Central No. 1): The Hon. Mr. DeGaris said that, if we rejected the motion moved by the Minister (that we do not insist on our amendments), we would be back to the referendum. Let us consider the referendum for a moment. It was held and the Government acted on the result of it. I have already said that the first ones to rock the boat were members of the Liberal and Country League through their deposed Leader in another place. He was at that time backed up by his Party colleagues. If the result of that referendum was to be upset, it would be upset because of the actions of members of the L.C.L. The deposed Leader was supported by members who are now in the new Liberal Movement (whatever that means), but the other few members claim that they are the Liberal Opposition in another place. I know it is a bit complicated but that is the position with the L.C.L. That Party has its complications.

I am surprised at the Hon. Mr. Potter, who I thought knew something about industrial matters. Yesterday he tried to tell us that a consent award could not be appealed against, whereas this evening he has shifted his ground and we now find that, if there is an industrial agreement by consent, that cannot be appealed against. If there is not an industrial agreement, the piece of paper that must be buried is called the Shop Conciliation Committee Award, brought down by the Industrial Commission. Any award made by this conciliation committee can be appealed against, and it can be appealed against by anyone, whether inside or outside the Retail Traders Association. The Hon. Mr. Potter said this evening that there could be no appeal.

The Hon. F. J. Potter: No effective appeal.

The Hon. D. H. L. BANFIELD: The honourable member said there could not be any appeal against an award, but it could be effective because this Bill is loaded with ordinary hours beyond 5.30 p.m. If the court granted the 50 per cent, as the honourable member suggested could be granted by agreement in this award, it is obvious it would be appealed against, if 50 per cent was to be loaded on to the ordinary hours. The Hon. Mr. Potter also said that under the Bill Parliament was usurping the functions of the court and for that reason we must reject it; but this Bill contains an amendment setting down the ordinary hours that the court must adopt. Surely if the Bill meant that Parliament was usurping the functions of the court, so was the Hon. Mr. Potter's amendment, because it was telling the court what were to be and what were not to be the ordinary hours of work for shop assistants. There is that inconsistency.

The honourable member also said that in no other State in Australia had legislation laid down conditions for industry. Did he tell us about the Stevedoring Act introduced by the Commonwealth Government, which laid down conditions? Did he tell us about the 40-hour week introduced by the New South Wales Government? And so I could go on. I have given two instances. I asked the Hon. Mr. Potter to give me two instances of where this Bill would upset other awards: he did not give me one. I can give him two instances of where legislation has already given directions to the court. What is wrong with legislation outlining to the court Parliament's desires? We do it every day. We set penalties by which the court can be guided. What is wrong with legislation that does that? There is nothing wrong; it is accepted here day in and day out but, because in this case it affects workers, we cannot tamper with it. Honourable members opposite are up in arms against the workers, but we cannot tamper with the court under those conditions.

Why not? We do it in the case of other measures, and we can do it under this one. The Hon. Mr. Potter and the Hon. Mr. DeGaris have mentioned certain things that happened in the conference. They said that the amendments provided for conditions that would have suited everyone. The Hon. Mr. DeGaris agreed with me, by way of interjection, that the managers from another place did their best to secure a compromise; they

gave everything for which he and the Hon. Mr. Potter asked. It was said, "If we go to court we shall get 50 per cent." They also wanted the position where the stores could work on a roster system. The managers in another place agreed to just this in an amendment, as the Hon. Mr. Potter knows. It is also known that everything the Retail Traders Association said would be workable would be included in this proposed compromise by the managers from another place. But because it was written into the Bill that a roster system could be worked (which the R.T.A. wanted), and because it would tell the court that time worked after 5.30 p.m. on Friday was to carry a 50 per cent penalty (which the Hon. Mr. Potter said would be agreed to by the court by way of consent because the compromise said that this was what it would be) is no reason to knock it back! Obviously, Opposition members have been in consultation with the R.T.A., and we know that the R.T.A. accepts the principles laid down by the compromise offered by the managers from another place. The Hon. Mr. Potter knows that, and he does not deny it. Who is behind the Opposition, which will not let the compromise amendment go through, as suggested by the managers from another place? Obviously, some faceless men outside the R.T.A. who are obviously pushing honourable members opposite when these are the very things the R.T.A. has asked for. The Hon. Mr. Potter suggested that the amendment was moved as a compromise by another place, but it has been rejected because it has been put in writing. Why must we object to that if we agree to these conditions?

The Hon. F. J. Potter: Not in the Bill.

The Hon. D. H. L. BANFIELD: Because something will be in a Bill that the R.T.A. and the Government has agreed to. The Hon. Mr. Potter said that the court agreed, but it will be thrown out because it is in the Bill. It gives what everyone wants. There is no logic in that. The Hon. Mr. Potter said that his amendment would allow the court to give overtime rates for hours after 5.30 p.m. on Friday, but that is incorrect. Once we have set ordinary hours, they will be up to 9 p.m. on Friday night. We would tell the court that anything up to 9 p.m. is in ordinary time, and it could not set overtime rates for it, but could give only a penalty rate. The court could not go as far as an overtime rate for ordinary hours. It is equally true that if the court attempted to give the equivalent of the overtime rate in ordinary hours there would be a flood of appeals to the court, and the Hon. Mr. Potter knows that the appeals would be upheld. The Hon. Mr. Potter is the legal brains, but there is some excuse for the Hon. Mr. DeGaris and the Hon. Mr. Story.

The Hon. F. J. Potter: In this place one must have more than knowledge: one must have judgment.

The Hon. D. H. L. BANFIELD: Yes, and one must be able to say what the law of the land is, too. The Hon. Mr. Potter knows that appeals could be lodged and that overtime rates cannot apply in ordinary time. His amendment provided only for ordinary time for Friday night and Saturday morning; he cannot deny that, because it is in the Council's amendment. I suggest that, if we are honest about this matter and that if we want Friday night shopping (and it has been suggested by both sides and by the press that the public demands Friday night shopping), we must accept the motion moved by the Minister and not insist on the amendment.

The Hon. L. R. HART (Midland): I wanted a satisfactory conclusion in respect of the proposed extended shopping hours as much as did any member of the Government and, indeed, I do not apologize for the fact that the Liberal Party also favours the extension of shopping hours to include Friday night. The managers of the conference made every effort to reach a satisfactory conclusion. We tried our best to help the Government resolve the situation in which it found itself, but every alternative we examined contained a set of conditions we believed would have serious ramifications throughout the industry, not only in South Australia but throughout the Commonwealth. The Hon. Mr. Potter has made this abundantly clear. What we should realize is that extended shopping hours exist in New South Wales and Victoria—not exactly the same in each State, because there are variations.

New South Wales has had extended shopping hours for some time, but not similar to those provided for in the Bill. It has what has become known as the roster system, which is based on a four-week period, but I understand that in April this period will be reduced to three weeks. On March 20, at a general meeting of the New South Wales Shop Assistants Union held in Sydney, a vote was taken on extended shopping hours. Although about 600 people attended the meeting, only 12 members of the union voted against what is known as the roster system. So the shop assistants of New South Wales, having tried the roster system, were willing to vote unanimously in favour of it.

The amendments moved by the Hon. Mr. Potter contained many benefits. I believe the Government would have liked to accept the amendments moved by the Hon. Mr. Potter, but the problem was that the Government has no trust in industrial agreements arrived at between employers and employees. The Government will not trust these groups to come together to reach a mutual agreement that can be registered in the court, nor does it seem to trust the court itself. The Hon. Mr. Banfield said that there must be some ulterior motive for our non-acceptance of the Government's amendment, but there is no ulterior motive. It was easy to accommodate the wishes of the R.T.A., the customers' wishes and the shop assistants' wishes, which were accommodated in every proposal put forward, but there were ramifications that would have had a serious effect on the country's economy. The amendments moved by the Hon. Mr. Potter provided for 17 per cent more leisure time than exists under the present arrangement. It can be seen in any survey that is taken that most shop assistants are interested in leisure time. The amendment also provided for 12 per cent connected leisure time and gave shop assistants more money. Despite this, the Government said that it could not accept it. Indeed, it said that the unions could not accept it; the Minister said that earlier this evening.

I appreciate the difficulty that the Government faces in relation to the unions. However, honourable members must also appreciate the difficulties that the whole economy of this country would experience if this Bill was passed in the form desired by the Government. It is indeed unfortunate that this situation has arisen, as everyone wanted a satisfactory conclusion to be achieved. Unfortunately, however, we have in office in this State a Government that is apparently directed from some outside source. Appreciating these difficulties, Opposition members have tried to extricate the Government from them. As the Hon. Mr. Story said, we tried to get the Government off the hook. However, that appeared to be impossible. Now, the Government must return to its masters and say, "We are sorry; we could not get the conditions you wanted. We are forced into the situation of having to drop the Bill." This is indeed a most unfortunate situation, which I regret.

I am sure that, if the Government is honest, it will not criticize the Liberal Party or anyone else. It should criticize those who placed it in the invidious position of having nowhere to move and no form of compromise to make. Although I regret the situation that has developed, I can see no alternative to it.

The Hon. C. M. HILL (Central No. 2): I oppose the motion, and make it clear that I support the principle of Friday night shopping. The problem that has arisen is one of machinery. All the points for and against the argument have been referred to during the debate, and I can add nothing to them. The principle that has developed is whether Parliament should lay down the conditions involved in the matter or whether the Industrial Commission should do so.

The Hon. A. J. Shard: Do you couple conditions with salaries?

The Hon. C. M. HILL: I am using the word in the very broad sense. I do not want to go into detail, as much as has already been said in this respect. I have no doubt that one should turn to the Industrial Commission in a matter of this kind. I strongly believe that all honourable members who oppose and vote against the motion believe in the principle of Friday night shopping. Government members have referred to the L.C.L. I am proud that the policy of the L.C.L. on this matter favours Friday night shopping. Indeed, the L.C.L. initiated moves on Friday night shopping, which has led to this debate. The leadership on the whole question—

The Hon. A. F. Kneebone: What happened when you were in power?

The Hon. C. M. HILL: It happened when the Liberal Government was in office. Government members can interject as much as they like. However, the Liberal Government initiated this legislation, and it still favours it. The only problem preventing its introduction is this machinery matter of whether the Industrial Commission is to be thrown to the wind.

The Hon. D. H. L. Banfield: Why did you lay down the hours in your amendment?

The Hon. C. M. HILL: The honourable member has done a good job tonight of trying to confuse this issue. Indeed, he has interjected more than has any other member.

The Hon. R. C. DeGaris: We only laid down when the shops had to close.

The Hon. C. M HILL: That is so. However, that is returning to detail. Whether the Council wants to go over details at this late hour is, I suppose, for honourable members to decide. As far as I am concerned, all points have been made for and against the matter. I respect and believe in the Industrial Commission.

The Hon. R. C. DeGaris: And I think you would also respect the views of the Hon. Mr. Potter regarding his amendment.

The Hon. C. M. HILL: Since I have been in this Chamber, I do not think I have ever heard the Hon. Mr. Potter speak as well as he did tonight. All honourable members appreciate his knowledge of this matter and, indeed, his very deep knowledge of industrial matters generally. When the Hon. Mr. Potter was speaking, honourable members heard by interjection all the red herrings that could possibly have been pulled out of the hat to try to confuse them. However, this Council makes broader and wiser decisions than those that are hurriedly arrived at as a result of red herrings being drawn across the path. If this Council defeats the motion, it does not mean that it opposes Friday night shopping. In fact, no honourable member who has spoken in the debate has opposed the principle of Friday night shopping.

The Hon. F. J. Potter: They are only opposed to usurping the jurisdiction of the Industrial Commission.

The Hon. C. M. HILL: That is correct, but honourable members opposite should be the champions of the Industrial Commission. If they are not, let them get up and say so.

The Hon. D. H. L. Banfield: You were looking after the employers in a speech you made previously.

The Hon. C. M. HILL: I have tried to look after all sections of the community, and that is what my Party does, too. Government members cannot make that claim, because Opposition members know who are the real masters of Government members. The honourable member would have to admit that. The Premier was reported in the press last week as having said words to the effect that this is what the union wants. It is a matter not of what the people want but of what the Government's masters want.

The Hon. R. C. DeGaris: It is not what the shop assistants want, either. They are the people directly involved.

The Hon. C. M. HILL: I return to the main point that, in voting against the motion, I do not oppose Friday night shopping. The members in this Chamber who will vote against the motion support the principle of Friday night shopping. My Party supports Friday night shopping.

The Hon. A. J. SHARD (Chief Secretary): What I said last evening about this matter appears to have convinced the Hon. Mr. Potter, because he has changed his attitude. The Hon. Mr. Potter's amendment was as follows:

In the case of such shop assistants other than hairdressers, shall cease no later than the hour of 5.30 p.m. Mondays to Thurdays inclusive, the hour of 9 p.m. on Fridays and the hour of 11.30 a.m. on Saturdays, and no shop assistant shall be required to work in such ordinary hours on more than five consecutive days . . .

That is the kernel of the dispute. Let me make it abundantly clear that the court has no jurisdiction to award a penalty rate for ordinary hours that have been specified in an Act of Parliament. The Hon. Mr. Potter said that the court had the power to make an agreement.

The Hon. F. J. Potter: Not the court, the parties.

The Hon. A. J. SHARD: Yes, but the honourable member said last night that the court could do this. It cannot.

The Hon. F. J. Potter: The court can award any loading it likes. Just because we specify ordinary hours, that does not mean ordinary rates of pay.

The Hon. A. J. SHARD: I am saying that it does.

The Hon. F. J. Potter: That is a red herring you have tried to drag across the issue.

The Hon. A. J. SHARD: The Hon. Mr. Potter has changed his ground. He was careful not to refer to the court or the commission; he spoke about an industrial agreement. I know that no-one can challenge an industrial agreement. If the court makes an award contrary to its ambit, one person can appeal. If the Retail Traders Association, sincere as it may be, came to an industrial agreement providing for the payment of a 50 per cent loading, another section of employers could refuse to sign the agreement. Therefore, one section would have the penalty rate and another would not have it. I have been a trade unionist all my life, and I want to see employees protected. We are not prepared to go back to the trade union movement and say that Parliament has included the provision relating to ordinary hours but has made no provision whereby penalty rates can be paid.

The Hon. F. J. Potter: Do you mean to say that the court cannot award penalty rates or loadings on ordinary hours?

The Hon. A. J. SHARD: Not on ordinary hours as fixed by Act of Parliament.

The Hon. F. J. Potter: The court awards penalty rates and loadings for ordinary hours.

The Hon. A. J. SHARD: The honourable member is so sure.

The Hon. F. J. Potter: There are hundreds of awards to that effect.

The Hon. A. J. SHARD: The honourable member should not get excited. Can he name one award where Parliament has laid down ordinary hours and where the commission has fixed penalty rates on those hours?

The Hon. F. J. Potter: It has never been done; this is the first time.

The Hon. A. J. SHARD: That is why I say it cannot be done.

The Hon. C. M. Hill: This has never been done before.

The Hon. A. J. SHARD: It has been done on ordinary hours when there has been no Act of Parliament specifying it.

The Hon. F. J. Potter: You are saying that, just because Parliament includes it, it cannot be done?

The Hon. A. J. SHARD: Yes.

The Hon. F. J. Potter: That is absolute rubbish.

The Hon. A. J. SHARD: The honourable member should check this out, as we have done. I have been told that this is the point on which the conference broke down. If the managers were sincere in wanting to achieve something that the public wants, there was nothing to prevent them from writing something into the Bill that would go along with the provision for fixing ordinary hours in the Hon. Mr. Potter's amendment. Although I was not at the conference, I believe that this is the point on which it broke down. The Hon. Mr. Hill talked about conditions, but he should have referred to salaries. If it is fair enough for the Bill to lay down working hours, it is fair enough for it to refer to what the commission or court can do in providing penalty rates. I am not prepared to tell the trade union movement that we will stipulate in the Bill ordinary hours but that we will place the question of penalties for those hours in jeopardy. The Opposition has had control of this House of Review for some time. In this case, the Government of the day overwhelmingly wants a certain course taken. People outside will say that this is another occasion where the Government has been frustrated by the Legislative Council from achieving what it believes to be its correct policy.

Over the years, I have seen various nails placed in the coffin of this place, and honourable members opposite are bringing about its destruction. This is another nail in its coffin, and the public will not accept what is being done. They will say that the Government of the day has the right to govern and that a House of Review (or a House of independent members, as they call themselves) has no right to upset what the Government wants. The only point involved in this issue, as I have been told by the managers (and I accept that what they say is true), is that there is written into the Bill a protection to ensure that employees receive the 50 per cent loading. I do not think that this is a sufficient ground on which the Council should reject this motion.

The Hon. E. K. RUSSACK (Midland): I have listened with great interest to the debate, and there are certain things I cannot understand. In regard to the 40 hours a week worked at present, there is a penalty rate of 25 per cent for those who work on a Saturday morning.

The Hon. R. C. DeGaris: That's right.

The Hon. E. K. RUSSACK: As I understand it, the Government wishes to provide in the legislation certain conditions that will set a precedent in relation to overtime rates, penalty rates, and loadings. In addition, it is proposed that all Friday night and Saturday morning work be undertaken at overtime rates, instead of on the basis of a loading or penalty rate. As I understand the position, bearing in mind the remarks of the Hon. Mr. Potter, who has an extensive knowledge in the professional and legal field, I am certain that this would set a precedent not only in the State but throughout the Commonwealth. I point out that under our amendments employees would work 40 hours a week on average (80 hours a fortnight) and that overtime would apply after 80 hours.

I understand that, at the Governor's pleasure, the restrictions that apply on early closing are lifted during the Christmas period so that, in effect, no legislation applies during that period, although employees receive overtime rates. The award is one of a conciliation committee comprising union officials, employees, and employer members of the Retail Traders Association, all of whom have agreed on a 50 per cent loading. That award would not go before the commission, and it could not be appealed against by others. Under the Bill, it would be necessary to apply for the introduction of an overtime system, and it could take the Industrial Commission six to eight weeks to decide the matter. This could cause great inconvenience to the employees and everyone concerned, and it would be contrary to a long-established principle of the commission that the employer has a say in the running of his business; it would involve an arbitrary decision by the

commission. Therefore, there would be delays and difficulties if the Government's Bill became law. Summarizing, I consider that the main point is that the Government wishes to include certain provisions in the legislation that would set a precedent throughout the Commonwealth, and I cannot support the motion.

The Hon. M. B. DAWKINS (Midland): I cannot support the motion. The Liberal and Country Party is in favour of Friday night shopping, and it is to be regretted that we are in the present position.

The Hon. C. R. Story: The Government has put us in this position.

The Hon. M. B. DAWKINS: I agree. I heard the Minister tonight depart from custom. It is normal to return from a conference and to say that it was conducted amicably and that the managers from this place did their best, although no decision may have been reached. However, the Minister came back and criticized members of this Chamber, saying that our attitude was wrong and that we were against effecting any improvements for the worker. The Minister was fairly thin-skinned, and so was his colleague, when the Hon. Mr. Story said something to which they disagreed. They smartly got up and objected. I object just as strongly to the Minister's comment that members of this Chamber are against the worker, because that statement is untrue and unfair.

I was surprised to hear the Minister make that comment, because I usually regard him as a fair person. I think it should be pointed out that, under the amendments, there is an opportunity for staff to work one full day of overtime every second Monday and one half day of overtime every second Saturday. There is an opportunity to work two-thirds of a day of overtime each week, and that is more than applies at present. It should be pointed out also that the national policy of the Federal Executive of the Shop Assistants Union (the policy was decided at a meeting held in Canberra, I think last October) is for a two-week roster, and this is precisely what we wish to provide. Indeed, I think it is precisely what the Government was thinking of providing until a month ago, when it was told that it could not do so. The Government now wants to do something in direct opposition to the national policy of the Shop Assistants Union for a two-week roster. I have here a copy of a letter, addressed to the Minister of Labour and Industry, as follows:

Dear Mr. Minister, I confirm the undertaking given yesterday by Mr. Ian Hayward, President, on behalf of this association in relation to time worked by shop assistants employed under the Shop Conciliation Committee Award on Fridays after 5.30 p.m. If the Government adopts the proposals made by us to you yesterday, this association will not oppose, in the Industrial Commission, provision for a loading of 50 per cent on wages paid for ordinary time worked on Fridays after 5.30 p.m. when late Friday shopping is introduced in the greater Adelaide metropolitan area.

That letter is signed by the Secretary of the Retail Traders Association (Mr. G. A. MacDonald). I find the Minister's reasons for rejecting the well thought out amendments of the Hon. Mr. Potter quite unconvincing, and I cannot support the motion.

The Hon. A. F. KNEEBONE (Minister of Lands): I shall endeavour to answer some misleading statements. First, I have been criticized for returning from the conference and stating that proposals were put up by another place that were not accepted by the managers of this Council.

The Hon. C. R. Story: Who criticized you?

The Hon. A. F. KNEEBONE: The honourable member who has just resumed his seat and the Hon. Mr. Hart. They referred slightingly to me because I came back and told the truth about what had happened at the conference.

The Hon. M. B. Dawkins: You made allegations that were not true.

The Hon. A. F. KNEEBONE: The Hon. Mr. Hart said that every endeavour was made to reach a compromise on this matter.

The Hon. L. R. Hart: I stand by that, too.

The Hon. A. F. KNEEBONE: I defy any manager from this Council to refer to a compromise that he suggested on this matter; I defy him to state any compromise that was put up from this Council. On this occasion, Mr. President, there are no interjections. Not one compromise was suggested by the managers from this Council. When the managers from another place heard of the objections that the managers from this Council had to the Government's proposals (the first one being that the Government had a starting time in the Bill) they compromised and struck it out. Then the managers from this Chamber said, "Your proposal does not allow for a roster." What did the managers from another place do? They went away and drafted a compromise that did provide for a roster system. I have it here in my hand.

The Hon. F. J. Potter: Only under certain conditions.

The Hon. A. F. KNEEBONE: The objection in that case was that the managers from

another place had the audacity to insert in the compromise a provision for a 50 per cent loading for the Friday nights. The managers from this Council said it was provided for.

The Hon. R. C. DeGaris: That is right.

The Hon. A. F. KNEEBONE: It was not provided for in the Council's amendments. I defy any honourable member to show me a provision in the amendment as it left this place containing a reference to a 50 per cent loading. There was nothing in the Bill about that.

The Hon. F. J. Potter: That is the nub of the problem, isn't it?

The Hon. A. F. KNEEBONE: Time and again I have referred to this provision of ordinary time within the spread of hours set out. The spread of hours must be from midnight to the ordinary finishing time, according to the amendment, on that day: it is 5.30 p.m. from Monday to Thursday and 9 p.m. on Friday. It is stipulated by the Council's amendment that that is ordinary time. I am talking now about the amendment, not about anything entered into in an agreement. I have entered into agreements with people about their working conditions, and those agreements covered only people who were parties to the agreements. If we do not get everyone into an agreement or if we do not get an award roping in the whole industry, we have no control over the people not covered by the agreement. Everyone must be roped in, which means that we must go to every employer in the State and, if he does not agree with these hours, we must reach an agreement with him. That means agreement after agreement after agreement, and it is only some sections of the industry that are prepared to pay a 50 per cent loading. So let us not get confused. Honourable members know—

The Hon. R. C. DeGaris: Know what?

The Hon. A. F. KNEEBONE: They say, "For heaven's sake, do not put industrial conditions into legislation", but what about the historic New South Wales hours case, which reduced the working hours for people in that State? It was followed by every other State in the Commonwealth. Is not that industrial legislation?

The Hon. L. R. Hart: We put hours into this Bill.

The Hon. A. J. Shard: How about putting some pay into it?

The Hon. A. F. KNEEBONE: In another measure we stipulate the salaries for the senior public servants of the State. What do we do with the Public Service? We have a Public Service Act covering all the industrial conditions for people employed by the State Public Service. As a matter of fact, the honourable member who moved these amendments was once a prominent member of the Public Service Association and argued for conditions to be put into legislation. What is he doing now? How can he justify what he is doing?

The Hon. F. J. Potter: Nothing was put into legislation.

The Hon. A. F. KNEEBONE: That is not true. The honourable member was an executive of the Public Service Association, so he knows. He comes here and talks with his tongue in his cheek. The Leader said, by interjection, "Everyone in the industry agrees with the amendments." Really! That is not what I heard from the industry. It has been said that in New South Wales they agreed to a roster system. Let me tell honourable members that they could not work a system in New South Wales that was not a roster system. In that State people can work for only one night in the week. How can legislation be provided for only one night in the week? They must have a roster system, because one man has one night and his next door neighbour has another night. Who in the industry wants leisure time on the basis that if he takes leisure time he makes it up with overtime? Ask the employees what they think about it.

The Hon. L. R. Hart: That is what I did.

The Hon. A. F. KNEEBONE: It is all very well for the honourable member to say it is all right about leisure time. He goes to the employees in the industry and says, "How would you like more time off?" Of course they would like more time off. I would like more time off myself; anyone would like more time off. Honourable members would rather throw this Bill out.

The Hon. C. M. Hill: No! No!

The Hon. F. J. Potter: No.

The Hon. A. F. KNEEBONE: They were given everything they wanted, but they refused to compromise.

The Hon. C. M. Hill: You said "honourable members"; you did not say "honourable members at the conference".

The Hon. A. F. KNEEBONE: The honourable member was not there to see the abject failure of the managers of this place to propose any sort of compromise. They said, "We are not in favour of legislation governing conditions for workers; we will throw the whole thing out rather than agree to a compromise."

The Hon. F. J. Potter: Rubbish!

The Hon. A. F. KNEEBONE: Well, members opposite are doing that, just because of a principle. The mover of the amendments must agree that he was a party to legislation years ago that provided for working conditions for public servants. I have done my best to convince people that the actions they are taking are totally irresponsible, despite the fact that they say they are responsible. They say that they want increased shopping hours, yet they are not prepared to agree to a principle that has existed in legislation for as long as I can remember. That was the position in the days of Judge Higgins. In the early days of this century we had working conditions in legislation. How do members opposite think the Labor Party came into existence? Advocates for the workers fought hard for the workers' conditions, and they realized that the only way by which they could improve them in this country was to get Labor Party candidates elected to Parliament and have legislation passed to improve the workers' conditions. That has gone on since about 1904, yet honourable members say that we must not include working conditions for workers in the legislation.

The Council divided on the motion:

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

Noes (9)—The Hons. M. B. Dawkins, R. C. DeGaris, R. A. Geddes, L. R. Hart, C. M. Hill, F. J. Potter (teller), E. K. Russack, V. G. Springett, and C. R. Story.

Pair—Aye—The Hon. M. B. Cameron. No—The Hon. G. J. Gilfillan.

The PRESIDENT: There are five Ayes and 9 Noes. The Bill is laid aside.

ADJOURNMENT

At 3.2 a.m. the Council adjourned until Tuesday, April 4, at 2.15 p.m.