LEGISLATIVE COUNCIL

Wednesday, August 16, 1972

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

QUESTIONS

EGGS

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

Leave granted.

The Hon. C. R. STORY: In the Budget which was announced last night in the Commonwealth Parliament, provision is made for assistance to egg producers throughout Australia; that assistance, a once-only type of assistance, will be given provided the whole industry agrees to curb flock numbers. Following that announcement and following the Agricultural Council meeting held recently in Queensland, does the Government intend to introduce a Bill on this matter this session, and does the Government have the assurance of both producer organizations that the majority of their members are happy with the situation?

The Hon. T. M. CASEY: The answer to the first part of the honourable member's question is "Yes"; legislation will be introduced to control egg production in South Australia, as was agreed to at the Agricultural Council meeting. All States have now agreed to the scheme. Western Australia has had controlled egg production for about two years, and New South Wales has passed legislation on this matter. Queensland and South Australia have almost completed drafting their legislation for introduction to their Parliaments, and Victoria has now agreed to a scheme for production control. In the past, Victoria has always been the State that has held out, but its legislation should be forthcoming some time this year. As far as I am aware, the poultry industry in South Australia favours the measure.

WALLAROO BUILDING

The Hon. E. K. RUSSACK: Has the Chief Secretary a reply to my recent question about a building at Wallaroo?

The Hon. A. J. SHARD: The concern of the Wallaroo Branch of the National Trust of South Australia is appreciated, but I regret to state that the property on the corner of Emu Street and Owen Terrace is now required by the Police Department for a longer period than the period of two years that was anticipated in August, 1970. There are two departmental residences at present vacant at Wallaroo. One is the old property at 2 Johns Terrace which is in very poor condition, infested with white ants, badly affected by salt damp and considered by the district public buildings inspector to be uneconomical for further repair. The second residence, on the corner of Emu Street and Owen Terrace, is to be used to house a senior constable who is to be transferred from Port Kenny to Wallaroo on the 20th of this month.

It was the original intention to demolish the old property at 2 Johns Terrace, build a new residence on the same site (next to the station) and vacate the Emu Street property. However, action along these lines was deferred when a survey of the future policing needs of the Kadina-Wallaroo districts established that any additional housing should be provided at Kadina and not Wallaroo; hence the reason for retaining the Emu Street property pending an additional residence being provided at Kadina in 1973 or 1974. I suggest that the National Trust branch consider using the old residence at 2 Johns Terrace as a temporary museum, pending availability of accommodation at Kadina and the vacation of the residence at Emu Street, Wallaroo.

MOTOR CYCLISTS

The Hon. M. B. CAMERON: Has the Minister of Agriculture representing the Minister of Lands a reply from the Minister of Roads and Transport to my question of August 2 concerning motor cycle headlights?

The Hon. T. M. CASEY: The idea of leaving vehicle lights on during the day to attract attention has been studied both here and overseas, but no conclusive evidence has been produced to indicate that it would have any pronounced effect on accidents. Motor cycle accidents in South Australia are predominantly the result of inattention, overtaking without due care, following too closely, and failing to give way. It is unlikely that leaving headlights on would have any significant effect on this type of accident. However, my colleague intends to study closely the effect of the experiment being conducted in New South Wales.

LEAVE OF ABSENCE: HON. A. F. KNEEBONE

The Hon. A. J. SHARD moved:

That three months leave of absence be granted to the Hon. A. F. Kneebone on account of absence overseas on Commonwealth Parliamentary Association business.

Motion carried.

ROAD TRAFFIC ACT AMENDMENT BILL (COMMERCIAL VEHICLES)

The Hon. R. C. DeGARIS (Leader of the Opposition) obtained leave and introduced a Bill for an Act to amend the Road Traffic Act, 1961-1971. Read a first time.

PORT ADELAIDE ZONING

The Hon. C. M. HILL (Central No. 2): I move:

That the regulations made on June 9, 1972, under the Planning and Development Act, 1966-1971, in respect of the Metropolitan Development Plan Corporation of the City of Port Adelaide—Zoning, and laid on the table of this Council on July 18, 1972, be disallowed.

I am not opposed to the Port Adelaide council's ultimately having zoning regulations. Indeed, it is pleasing to see so many councils in the metropolitan area finalizing their zoning regulations at this stage. However, by moving this motion I am using the only machinery at my disposal to raise some queries and points that are relevant to the regulations.

I do not want to get involved with the parties in the general dispute concerning the proposed shopping centre at Queenstown. Honourable members know that there are three principal entities in that dispute: first, the vast and reputable development company known generally as West Lakes; secondly, the equally vast Myer organization; and, thirdly, the local council in that area. I have always believed that, as much as it is reasonable and practical, the State Government and the members of it should leave local government to manage its own affairs within its own area. One should make every endeavour possible to do that in relation to the Port Adelaide council.

Although at times I have wondered what has been happening in relation to the Port Adelaide council, I have always believed that ultimately that council would be able to sort out its problems. I am not, therefore, concerned directly with any of the three parties that are involved. However, I am concerned about the Government's position in relation to the dispute and its decision to lay the Port Adelaide council's regulations on the table of this Council, as it did on July 18, 1972.

At that stage I was perturbed because I had read with interest, and certainly with approval, an announcement by the Government that it had appointed an investigating committee to try to help the three parties to which I have referred with their problems in the area. The Chairman was Mr. D. A. Speechley, of the State Planning Office, and that committee, as I understand the position, was to try to act as an umpire, as it were, in the general dispute, to see whether the Government, by that course of action, could take some part in resolving the problems down there, and ultimately to reach some finality that would be acceptable to all those concerned.

It must have been that while this Government-appointed committee was investigating the matter, looking into the problems to see what could be done, and before its report was finalized or made public, that the Government went ahead and laid these regulations on the table of this Council. I believe quite firmly that the Government, having once appointed the committee and shown its good faith in the matter, should have waited until it heard what the committee said about the regulations. It seems wrong that the regulations should have been approved in Cabinet, in Executive Council, and laid on the table in this Council while the Government's own committee was sitting.

Basically, I am making the point that the Government should have awaited the report of the committee before proceeding and in effect sealing up the whole question of zoning in that region by asking this Council to approve those regulations. That was my initial concern about this matter, and, having given notice that I would take this action, I naturally looked more closely at the whole question.

I then found other material which caused me further concern. I found that the Executive Council approval of the regulations laid on the table was given at an extraordinary or special meeting of the Executive Council. A *Gazette Extraordinary* was printed, dealing solely with this matter. That *Gazette*, of course, is available to the public. Naturally I wondered why the Government would go to the trouble to print a *Gazette Extraordinary* regarding the Port Adelaide regulations.

On the front page of the *Gazette Extraordinary* appears a notation indicating that the Minister of Education was given the right to act at that Executive Council meeting for the Minister of Environment and Conservation, who was ill at that time. The Minister of Education also signed for the Chief Secretary on the front page of this public document. I then wondered whether there had been a full meeting of Ministers at that very extraordinary meeting of the Executive Council.

The Hon. A. J. Shard: You didn't wonder very long, did you?

The Hon. C. M. HILL: It occurred on Friday. Further information was brought to

my notice (I did not have to seek it out) to the effect that the Premier was not present and, I believe, was out of the State. It has been reported to me, too, that the Deputy Premier was not in the city at that time.

The Hon. T. M. Casey: Where was the Chief Secretary?

The Hon. C. M. HILL: Perhaps the Minister could inform me of that. I would like to know.

The Hon. A. J. Shard: If you tell me the date of the *Gazette Extraordinary* I might be able to tell you where I was.

The Hon. C. M. HILL: I do not want to know where the Chief Secretary was, but I should like to know how many Ministers were present when that special meeting of the Executive Council was called. That is what I should like to know.

The Hon. D. H. L. Banfield: It was not the point you were trying to make.

The Hon. C. M. HILL: Yes, it was.

The Hon. D. H. L. Banfield: No, it was not; you would have said where the Chief Secretary was if you had been trying to make that point.

The PRESIDENT: Order!

The Hon. C. M. HILL: I assume the Chief Secretary was not there from what I read on the front of the public document. I am asking the Government whether it would tell me how many Ministers were present at that special meeting of the Executive Council held on Friday, June 9, 1972.

The Hon. A. J. Shard: I was not very far away—only 12,000 miles!

The PRESIDENT: Order!

The Hon. C. M. HILL: It was further brought to my notice in regard to this matter that on that same day and at about the same time an action was taking place in the courts here in Adelaide. Briefly, it seems that that court action involved evidence that was being heard before His Honour Mr. Justice Bright against His Honour's previous granting of an injunction to West Lakes Limited on the general dispute that was taking place at that time.

I understand, too, that His Honour on that occasion, on Friday, June 9, expressed some criticism of the West Lakes Limited's proceedings, and he either dissolved or dismissed (I am not sure of these legal terms) the injunction and granted costs against West Lakes Limited. At that time, I am informed—and in the court information was brought (I believe, by solicitors but it may have been brought by someone else)—Executive Council had just held a special meeting and had passed the regulations. Of course, the party in the dispute in court that had just won its case was promptly informed, there and then, that in effect it did not matter anyway, because the Government had acted in this manner.

If it is true, that indicates that information was taken from the Executive Council meeting, before the publication of the *Gazette Extraordinary*, and was used in that manner. I should like to know who was responsible in Cabinet for that information being taken from the Executive Council, before the printing of the *Gazette*, and given in the courtroom for that purpose. It can become a very serious matter indeed. I do not know whether it infringes the Ministerial oath that is taken, which undoubtedly deals with secrecy.

I have not been able so far to check the wording of that oath but it is a very serious matter, in my view, when that kind of information can leave the Executive Council room before the *Gazette* is printed. We all know that the *Gazette* is the document in which the public is informed of and reads the decisions of Executive Council. It is most unfortunate when something like this happens. With respect, I ask the Government to give me some information on how that leak occurred.

Of course, it goes deeper than that. It must indicate to anyone that the Government was not an independent party in this whole matter. The Government must have been closely involved in the whole question. So, I want an explanation from the Government about the matter. I believe (and I would like to be corrected if I am incorrect) that instructions were given to the Government Printer to work overtime and to give priority to printing this *Gazette Extraordinary* and to have it printed, if possible, on the Friday. I believe that the Government had knowledge of a special council meeting that was to be held in Port Adelaide on that same night, the night of June 9.

Further, I believe that the Government knew that the reason for the meeting was that the Queenstown shopping centre was to be discussed on that Friday night by the council, expecting that during the following week the Government at its normal meeting on the following Tuesday might approve the regulations and that Executive Council at its normal meeting on the Thursday after that Tuesday would probably approve them. So, it seems that there was a tussle developing between the Government and the Port Adelaide council.

I can only accuse the Government of getting involved in that tussle, and I would like to hear the Government's viewpoint on these matters. I do not believe that the Government can claim independence in any way at all.

It seems that the Government's sincerity and good faith must come under question when it has acted in the way I have described, while at the same time in the public arena it has announced that this independent committee has been appointed to look into the whole question.

Regarding the question of whether or not the Government is involved, it has been put to me (and I would like to know whether the Government agrees with this submission) that the Premier had previously assured Mr. K. C. Steele, of the Myer organization, in the presence of Mr. B. Glowrey and Mr. C. Gramp, that he, the Premier, would not interfere in the matter at all. Naturally, the Myer organization was very concerned about the matter.

It has also been put to me that, when the Premier's statement that he would not interfere was put to the Premier and he was asked for some explanation of it, his reply was that he was not in Adelaide on Friday, June 9. That raises the question of whether or not the Executive Council was called together and whether the Executive Council met without the knowledge of the Premier. If that sort of thing can be substantiated in any way at all, it becomes, of course, a very serious matter indeed.

I would like an explanation from the Premier as to whether or not he had made that arrangement with Mr. Steele and, if he had made that arrangement, I would like him to give some further explanation as to why there has been a turnabout. There may be some explanation about which I do not know, but I believe that the public should be informed of the answers. I make it clear that I would like to know whether the Executive Council meeting on that Friday was held without the knowledge of the Premier.

Regarding the question as to whether the Government is involved in this matter, I draw attention to an article in the *Advertiser* on June 10 headed "Port shop centre thwarted". That article states:

The Premier, Mr. Dunstan, denied last night that the Government had tried to thwart the development.

Judging by the date of that article, the "last night" referred to therein was the Friday night or the evening of the day on which the Executive Council meeting was held—the day on which it seems that someone rushed the information into the courts in Victoria Square, and the very night when the Port Adelaide council was trying to sort out its own problems at a previously convened meeting.

The Hon. D. H. L. Banfield: Were you overseas then?

The Hon. C. M. HILL: I am not sure whether I was overseas then.

The Hon. D. H. L. Banfield: Did you bump into the Chief Secretary when you were overseas?

The Hon. C. M. HILL: Yes. I assume, as a result of the interjection, that it may be inferred by honourable members opposite that I am in some way being critical of the Chief Secretary, but I want to say emphatically that I am not being directly personal or directly critical of the Chief Secretary in this matter in any way at all. However, I am concerned about the Government and the Leader of the Government, and I am concerned that the public of South Australia should know what is going on when the Government becomes involved in this matter. I am concerned about a situation where the Leader of the Government says, as is reported in the press, that he denied that the Government had tried to thwart the development at Port Adelaide. Obviously, from the information I have given today, that statement is not correct.

The Hon. D. H. L. Banfield: Why didn't you make it clear where the Chief Secretary was?

The Hon. C. M. HILL: If the honourable member has any other red herrings he would like to draw across the path, he should get them off his chest. An article headed "Government not taking sides on shops centre—Premier" in the *News* of June 13 states:

The Premier, Mr. Dunstan, today denied the Government was taking sides between groups of retailers in the Queenstown shopping centre dispute.

I repeat that that is just not true, and I believe that the public of South Australia, which has been following this dispute, is entitled to some further explanation from the Government. There have been innumerable newspaper articles about the matter. In one such article, dated June 15, a Port Adelaide councillor called for a Royal Commission or a Select Committee inquiry into the matter. In an article dated August 11 the Mayor of Port Adelaide claimed that there was intrigue behind the Port stalemate; that article states:

The Mayor of Port Adelaide (Mr. H. C. R. Marten) yesterday described opposition to the

Queenstown shopping centre as a "business of intrigue".

So, one cannot help concluding that there has been intrigue in this matter. I come back to the point that, by introducing these regulations into this Council and by laying them on the table, the Government is not doing the right thing, because there are questions about which the public still requires answers. Surely the people and the Government need the report of its own committee, under the chairmanship of Mr. Speechley, appointed to investigate this matter. Without that report, I think the Government will be accused of sealing up the matter of zoning. I think it is improper, and that the Government has erred in this respect and should at least wait until it is in possession of the committee's final report.

Again I stress that some of the information supplied to me may be incorrect. I want to be fair about the matter and give the Government an opportunity to answer some of the points I have made and to explain its position. If the Government did that and tried to expedite the committee's report, I think the public of the State would be much happier with the position than it is at present.

The Hon. D. H. L. BANFIELD secured the adjournment of the debate.

CONSTITUTION ACT AMENDMENT BILL (ELECTORAL)

Second reading.

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

That this Bill be now read a second time.

A Bill of this kind cannot be introduced without discussing the role and functions of a second Chamber. In 1966, the association of Secretaries-General of Parliaments published a report on bicameral Parliaments which illustrated clearly the wide variety of Parliamentary institutions that exist in the bicameral system. The British Lord Chancellor, Lord Gardiner, in a paper presented to a Conference of Presiding Officers in Ottawa on September 9, 1969, said:

The variety is indeed so great that one might well be tempted to think that no general conclusions at all could be drawn about the form and uses of a second Chamber. On closer examination, however, it gradually becomes clear that second Chambers can be classified, according to their method of appointment, in two ways. First, there are those that are, in the main, nominated like the Canadian Senate and the British House of Lords; though in the latter we still have the distinctive feature of hereditary peers, which most of us think is no longer defensible in the modern worlds. Secondly, there is the much larger group of second Chambers which are based on election, whether direct or indirect, and often linked in some way with regional or local government, or with a Federal system. Here the United States, Australia and Germany are obvious examples, and there are, of course, many variants with which I need not deal in detail.

Lord Gardiner details two main ways in which an Upper House can be formed, but under these two headings there is still a great variety. The Australian States originally displayed a similar diversity in the structures of their Upper Houses. Before continuing to discuss the methods of selection for those people to serve in second Chambers, we need to understand the role and functions required of a second Chamber because, unless we understand the role and functions we require the House to fulfil, it is not possible to structure the House correctly, so the method of selection is unquestionably tied to the role and function of the second Chamber. This question has been dealt with by many authorities. Walter Bagehot in 1867 thought that, and I quote from page 135 of *The English Constitution,* as follows:

If we had an ideal House of Commons perfectly representing the nation, always moderate, never passionate, abounding in men of leisure, never omitting the slow and steady forms necessary for good consideration, it is certain that we should not need a higher Chamber. The work would be done so well that we should not want anyone to overlook or revise it.

Therefore, in Bagehot's view the House of Lords has value as a revising Chamber with some powers of delay; but at pages 136 and 137 he added:

It is incredibly difficult to get a revising assembly, because it is difficult to find a class of respected revisers. (*op. cit.* p. 136-7.)

The two most important conferences in this century (the Bryce Conference of 1917 and the all-Party conference of 1968) were in close agreement on the functions of a second Chamber. The Bryce report lists such functions as follows:

1. The examination and revision of Bills brought from the House of Commons . . .
2. The initiation of Bills dealing with subjects of a comparatively non-controversial character . . .
3. The interposition of so much delay (and no more) in the passing of a Bill into law as may be needed to enable the opinion of the nation to be adequately expressed upon it . . .
4. Full and free discussion of large and important questions . . .

In 1950, the Australian Senate appointed a Select Committee to consider and report on

the Constitution Alteration (Avoidance of Double Dissolution Deadlocks) Bill. This committee comprised the following Senators: Senator Arnold, Senator Ashley, Senator Courtice, Senator Finlay, Senator McKenna, Senator Nash, and Senator Sheehan. It is interesting to note that all were Australian Labor Party Senators. I quote paragraph 109 of their report, as follows:

Turning to the Senate's function as a House of Review, this function is a universally accepted role of a second Chamber. The necessity for a second Chamber "reviewing or suspending measures that the Lower House has rushed through in an hour of fervour or passion" is the verdict of history throughout the world. To quote the words of that distinguished nineteenth century writer John Stuart Mill, as follows:

> A majority in a single Assembly, when it has assumed a permanent character—when composed of the same persons habitually acting together, and always assured of victory in their own House—easily becomes despotic and overweening, if released from the necessity of considering whether its acts will be concurred in by another constituent authority. The same reason which induced the Romans to have two consuls, makes it desirable there should be two Chambers: that neither of them may be exposed to the corrupting influence of undivided power, even for the space of a single year.

The passage of time since those words were written has done nothing to lessen their force. It is interesting to place on record that the Federal Constitution of Western Germany of 1949 saw the adoption of the principle of the bicameral system of democratic Government, with the Upper House, representing the member States, constituted in such a way that it is given certain rights of objection against a Bill passed by the Lower House. In a document prepared in 1953, the Hon. Sir Collier Cudmore, M.L.C., makes the following points:

(1) Athens and Rome, the great empires of the ancient world, both had second Chambers.

(2) France, Germany, Switzerland, Austria, Spain, Italy, Hungary, Portugal, the Netherlands, Belgium, and even Turkey, in modern times, all adopted the bicameral system.

(3) England, under Cromwell, America after the War of Independence, and France after the Revolution, all tried a single Chamber, and all came back to a bicameral system.

(4) Cromwell, in his first enthusiasm in 1649, abolished the House of Lords. After eight years the people asked:

> That Your Highness will for the future be pleased to call Parliaments consisting of two Houses. (*Humble Petition and Advice,* 1657.)

Cromwell himself, in recommending the revival of the second Chamber, said:

> By the proceedings of this Parliament, you see they stand in need of a check and balancing power. I tell you that unless you have some such thing as a balance we cannot be safe.

(5) Canada, the Australian Commonwealth, and the South African Union, after fullest consideration of all systems, were unanimous in adopting bicameral Legislatures.

(6) The Hon. C. C. Kingston consistently advocated the abolition of the Legislative Council, but towards the end of his Parliamentary career said:

> In the Legislative Council democracy has nothing to fear and much to be thankful for.

(7) The world, by a sober and considered and unanimous verdict, has affirmed its belief in the necessity of a second Chamber. (Marriott—*Second Chambers.*)

Sir Collier Cudmore listed the functions as follows:

(1) Its main purpose is to review all legislation passed by the Lower House. In other words, "the next morning look" in the hope of saving the State and the taxpayer from loss and preventing other ill-effects of hasty legislation. Bills are usually discussed in the Assembly in a strong Party atmosphere and not on the merits of the measure.

(2) A watchful and efficient Legislative Council is a safeguard of the people's rights. The second is the only guard against revolutionary legislation on the one hand or reactionary legislation on the other. A Government with a large majority in the Assembly may adopt a policy for which it has no mandate from the electors, and such a policy may involve the confiscation of the liberties of the people or of their property.

(3) By the fact that half the Council remains in at each election, the State is assured that legislation introduced on a popular wave of feeling will be reviewed by members not elected on that wave. This is a vital safeguard against hasty or hysterical legislation.

(4) The purpose of the second Chamber is not to confer rights on any section of the community but to provide extra safety and additional security for the rights of the people as a whole. The Legislative Council has powers of revision without powers of control. It is amenable to permanent public sentiment, but not to hasty Party opinion. The Upper Chamber is a bulwark against revolution but is not a barrier to reform.

(5) The Legislative Council safeguards the independence of the judges, Auditor-General, and the Public Service Commissioner. These officers act as a check on Governments and on maladministration. They would, however, be subject to dismissal by any corrupt Government were it not for the fact that the Constitution provides that they cannot be dismissed without a resolution of both Houses of Parliament.

(6) The Legislative Council ensures that the electors will have the last say. It exercises the discretion of delay in regard to extreme legislation and, if it quarrels with the Assembly, the Government has the remedy of applying to the people for direct authority.

In the United States of America the single-House system was tried for a time by Pennsylvania, Georgia and Vermont, all of which gave it up. With the exception of Nebraska, all the 50 States now have the two-House system. The report of the Pennsylvanian Legislature, which caused the return of the bicameral system, states:

The supreme legislative power vested in one House is in this respect materially defective:

(i) because, if it should happen that a prevailing faction in that one House was desirous of enacting unjust and tyrannical laws, there is no check on their proceedings;

(ii) because uncontrolled power of legislatures will always enable the body possessing it to usurp both the judicial and the executive authority, in which case no remedy would remain to the people but by revolution.

In *Commentaries on the American Constitution*, Mr. Justice Story, after pointing out that the American Constitution adopted the exercise of legislative power by two definite and independent branches, said:

The advantages of this division are, in the first place, that it interposes a great check upon undue hasty and oppressive legislation. In the next place it interposes a barrier against the strong propensity of all public bodies to accumulate all power, patronage and influence in their hands. In the next place, it operates indirectly to retard, if not wholly to prevent, the success of the efforts of a few popular leaders by their combination and intrigue in a single body, unconnected with the public good. In the next place it secures a deliberate review of the same measures.

He also pointed out the great advantage of deliberate review of the measures of one House by another. Lord Bryce, in his work entitled *The American Commonwealth*, wrote:

The need for two Chambers is deemed an axiom of political science being based on the belief that the innate tendency of an Assembly to become hasty, tyrannical and corrupt needs to be checked by the co-existence by another House of equal authority.

In a recent contribution to the *Parliamentarian*, the journal of the Parliaments of the Commonwealth, the Rt. Hon. Lord Shepherd, P.C., Deputy Leader of the Opposition, House of Lords, said:

The power, influence, and authority of the Government and the Executive have increased very considerably during this century, due to the increased complexity of financial and industrial problems and the demands of the British people for a more equitable distribution of the national wealth. It is, therefore, essential that Parliament should examine its institutions and procedures to ensure that its own power and authority should develop correspondingly in order to provide the necessary checks and control which are essential, if Parliamentary democracy is to have any real meaning or permanence.

In recent years there has been an increasing concentration of power and influence within the Government and Executive by the creation of departments such as Trade and Industry, Defence, and the Environment. There has been a marked increase in the use of delegated and subsidiary legislation. The volume and complexity of legislation have also increased. It must be frankly said that Parliamentary control and scrutiny have been weakened and not, as they should have been, strengthened.

Dealing with the functions of the second Chamber, Lord Shepherd continued by saying that the first function of the second Chamber was similar to those of the House of Commons (except in regard to finance) in initiating and passing legislation, approving subordinate legislation, and the general scrutiny of the actions of the Executive. Dealing with the possibilities of reform of the House of Lords, Lord Shepherd said:

To solve these problems, some would favour a remedy which would abolish the House of Lords altogether, or alternatively would strip it so radically of its powers and functions that the House of Commons would become in effect the sole organ of Parliamentary Government. To adopt a system of single-Chamber Government would, however, be contrary to the practice of every other Parliamentary democracy which has to legislate for a large population. More important, the case for two-Chamber Government in this country has been strengthened since the end of the Second World War by the growth in the volume and complexity of legislation, and also by the increase in the activity and power of the Executive and in its use of subordinate legislation. Moreover, abolition of the second Chamber would subject the House of Commons to severe strain, and paradoxically would result in less procedural flexibility and speed because of the need to guard against the overhasty passage of legislation.

Some would leave the House as it is, but with no powers at all. The Lords would become merely a debating chamber so that, in effect, Parliament would become unicameral. Some would deal with composition by having membership arising from some form of election. This has many attractions. But whatever system of election was adopted, the second Chamber would inevitably become a rival to the House of Commons. A second Chamber that could claim a mandate could well claim a status equal to the Commons with a real risk of it eventually seeking a superior position as is illustrated in the relations of the Senate and Congress in the United States. It would violate the central principle of the British Parliamentary system, that the Government stands or falls in the House of Commons.

One suggestion was that the reformed House should consist solely of members nominated for the life of one Parliament. The Party

composition of the House of Lords in each Parliament would then be arranged broadly to reflect the balance of Parties in the Lower House. The main attraction of this proposal is that without recourse to elections it would remove the permanent majority for a single party and would replace it by an assured majority for the Government of the day; but this attraction is more than outweighed by the reduction in the independence of the individual Peer and of the House as a whole, which the change would inevitably bring with it. A House composed in this way would, in effect, reproduce the composition of the House of Commons and reflect its opinions and decisions; it would, therefore, be incapable of carrying out effectively the complementary functions which the reformed second Chamber should perform. Further, if members of the House of Lords were appointed afresh after each general election, powers of patronage would inevitably be greatly increased, since, in order to be reselected, a Peer would have to remain acceptable to the Party managers. Under the present system a Peer, having once become a Peer, cannot be deprived of his seat in the House.

If membership were by nomination and there were to be a genuine degree of independence, then membership should not be for the Parliament but either for life or to a retirement age or some fixed tenure of office, say 10 years.

Independence is vital but it is essential that, if the House is to retain real powers, the Government of the day should, nevertheless, have reasonable expectation that it can carry out its legislative programme. So it is entitled to obtain, should it be required, a small majority over the other political Parties, leaving the balance to be held by genuine cross-bench opinion.

Lord Shepherd concluded his article by saying:

The United Kingdom requires an effective two-Chamber Parliament. To be effective, both Houses will be required to look at their functions and procedures and to seek ways of removing unnecessary duplication of effort so that each can perform its functions more efficiently than now.

This view is also strongly held by members of the Liberal and Country League.

The Hon. D. H. L. Banfield: What about the members of the Liberal Movement? Is it held by those members, too?

The Hon. R. C. DeGARIS: I think the Hon. Mr. Banfield would be more conversant with their views than I.

The Hon. A. J. Shard: That would be one of the truest statements you have ever made.

The Hon. R. C. DeGARIS: Also writing in the *Parliamentarian,* Canadian Senator, the Hon. John H. Connolly, P.C., O.B.E., Q.C., wrote:

The quality of debate and the work of the Senate are both dependent upon the calibre of its personnel. How best to assure the availability of competent people will always be the subject of debate. Canada is a Federal State. Its regions are vast. Their problems are diverse in the extreme. The attitudes of its people to national policies are equally diverse.

Should the Upper House be abolished, as the ideological Socialist demands? Or should Canada continue to rely upon the wisdom of the ages and the practice of the great democracies of the West? Canada is still a young country—small in population, rich in potential for social, economic, and demographic growth. Of course, short of revolution, the consent of the Senate is required for any alteration of its constitutional status. Can Canada afford to jettison the traditional Parliamentary structure? And would Canada be wise if it did so?

Should the provinces or even the municipalities have a power of appointment or of nomination to the Federal authority? Would balkanization be considered a threat to the Federal Parliament if junior legislators shared some such power? Would such methods of appointment best assure the introduction of the best possible appointees? Assuming that the Federal authority continues to appoint, should the political experience of nominees on the Federal, provincial, or municipal level be given more weight? Should Party allegiance have any part in the appointment? What of ethnic, cultural, religious, linguistic considerations? What of professional, business, and educational expertise, or experience in the labour field? To what level should opposition Parties be allowed to shrink? What of appointments for a term; and for what term? All of these considerations are factors of reform. It may not be overstating the case to say that there has been reform in the Senate for the past quarter-century. The evidence of the change of pace, of plans carried out, especially in recent years, is in the record. It may not be radical enough for some, but what there has been is the work of the Senators themselves.

There is no evident, well-founded demand that Senators be selected by direct election. The Canadian view of this appears to be that the direct election of the Senate ultimately would establish the body as a rival of the Commons in all matters, including fiscal issues.

Senator Connolly concluded his article by saying:

Of second Chambers, Morley wrote: "Cromwell and his Parliament set foot on this *pons asinorum* of democracy without suspicion of its dangers . . . like small reformers, since Cromwell had never decided to make his Lords strong or weak; strong enough to curb the Commons, yet weak enough for the Commons to curb them." The same problem has plagued Canadian political scientists and politicians. Changes will come to the Senate. Most of them will be called reform. Powers, tenure, method of appointment, all will be under scrutiny. Egalitarians will urge abolition or election. But the Government of the day must approach reform with a high sense of responsibility and a clear understanding of the traditions and value of the Parliamentary system.

Of this system Churchill once said, "Parliament is not the best arrangement for the governance of men. But it is the best so far devised."

The views I have quoted cover only a few of the contributions made over many years on the role and structure of a second Chamber. The quotations are from people of diverse political beliefs as well as political scientists with international reputations.

Whilst other quotes could be made from many others who have written on this question, the function and role of the Upper House can be based broadly on these views. In our Parliamentary system a correctly structured Upper House, that is, a second Chamber structured so that it is able to fulfil its correct role, is one of the most important parts of the modern Parliamentary system.

The second Chamber must be different from the Lower House, and cannot be a pale reflection of it. It must be the fundamental aim to have an Upper House that has the ability to act independently of the dominant Party machines in the Lower House. This independence has been evident in my opinion in the Legislative Council under its present structure, and there are many of us (both past and present members) who have striven to achieve this goal.

In South Australia these purposes have been achieved by using a different franchise for the Legislative Council, and this has been able to ensure an important difference, that of voluntary enrolment, and this in turn has had some effect on the second important difference, voluntary voting. This has produced a House, which, in my opinion, has fulfilled with distinction its role in the bicameral system of Parliament, even though attacks have been made upon it, usually by people who seek to broaden their own power base, or those who only see democratic institutions from one restricted viewpoint.

With the variety of ways that Upper Houses can be structured on different lines to the House of Assembly, many people who seek change have not been prepared to give the matter deep study. Many advocate today that the only franchise that is acceptable is to have the same franchise as the House of Assembly, but that is as far as they are prepared to go: the same franchise on any terms. It is interesting that, in the countries and States where nominated Upper Houses exist, the Lower House generally opposes any proposed change to an elected Upper House because of the fear of greater competition to the authority of the Lower House. I have previously quoted the views of Lord Shepherd, the Labor Party Deputy Leader of the House of Lords, and Senator Connolly, from Canada, on this point.

The scene in the United States of America, where the Senate has achieved a more powerful role than the Congress, is worthy of study. This position should not be allowed to develop, and is contrary to the thinking of most authorities on the bicameral systems. As Lord Shepherd said, it violates the central principle of the British Parliamentary system that the Government stands or falls on the Lower House. The same franchise for an Upper House will bring about a situation where the Upper House can claim a mandate from the people just as validly as the Lower House claims a mandate at the present time! It is reasonable to assume that the same franchise without other processes will increase the chances of confrontation between the two Houses. I see the role of the Upper House more as that of a partner and being complementary to the Lower House—not one of assuming the role of the Lower House.

With the same franchise for the Upper House, several important facets of the present structure will be lost, and the Council could not only become a probable direct competitor but also lose its traditional independence of the Party machines operating in the House of Assembly. In New South Wales, although it has a nominated Upper House, these problems are largely overcome by a 12-year term, one quarter of the Council retiring each three years. This tends to prevent the pressures of the Party machines on the member by virtue of the fact that many in the Council do not have to worry about re-endorsement, so their attitudes become more independent because of this fact. It is unfortunate that over many years the A.L.P. has pursued a policy of abolition of all Upper Chambers, although recently this policy has changed to abolition provided a referendum is held approving such abolition.

It is unfortunate also that the Party to which I belong, the philosophy of which expresses a belief in the bicameral system with the Upper House as a true House of Review, has been unable over the past few years to agree on a policy consistent with its principles and beliefs. It is a simple task to adopt policies that would destroy the effectiveness of the second Chamber, if not destroy it completely. Some blame must also rest with Parliament itself in not seeking an all-Party conference, as occurred in Great Britain in 1968. After thorough

research, the L.C.L. general meeting of delegates agreed unanimously to adopt a policy based on the same franchise as the House of Assembly, using the proportional representation voting system. At this stage, I pay my tribute to those who, under pressure, refused to accept any unresearched policy which, in their opinion, would have destroyed the Upper House as an effective House of Review. Having reached broad agreement in the L.C.L., it is now our role to seek the agreement of the Government to these proposals.

At least, I hope that the Government may be prepared to discuss the whole question on a co-operative basis, so that we can produce an Upper House which satisfies the demands being made but which at the same time is capable of fulfilling its role effectively. The proposals the Bill makes are only one set of variations of so many acceptable ways of structuring a second Chamber. I hope that the Government would be prepared to discuss the matter freely and frankly with us, if necessary even to the point of suggesting some all-party conference, similar to the all-party conference in Great Britain. There is available a considerable amount of material from many conference papers, stemming mainly from Commonwealth Parliamentary Association conferences, upon which we can draw. The options open to us are, in the broad sense (1) a nominated Council (2) an elected Council, or (3) a part-elected, part-nominated Council. From these broad headings stem many other matters, some of which have been referred to previously. It is certain that, if the same franchise is the only accepted principle, there is only one method of election that can be recommended—multiple-member electorates with an effective system of proportional representation.

As the House of Assembly is already using the single-member electorate system, the correct alternative must be multiple-member districts with proportional representation to give the maximum variation from the House of Assembly. The next decision to be made is the number of districts and the boundaries. One method is to have an election similar to the Senate—over the whole of the State at the one time. This has several draw-backs, amongst which is the size of the voting paper for each election, unless the term of members is to be extended or elections occur at more frequent intervals than every three years. The method recommended uses the present boundary of the metropolitan area (as defined by the 1969 Electoral Commission) and divides the State into two districts. This allows the best use to be made of the proportional representation system, with a voting paper that is not unreasonable. Regional representation in the second Chamber also is reasonably assured.

The experts in the proportional representation system of voting recommend that the ideal number of candidates to be returned on that basis is seven. A Tasmanian Parliamentary paper, compiled by G. Howatt, M.A., sets out the arguments clearly for seven being the ideal number to be elected under a proportional representation system. Howatt dismisses three-member electorates as being quite unsatisfactory and details the reasons for this conclusion. He states that in five-member electorates the shortcomings of the three-member electorates from the viewpoint of principle apply in a lesser degree to five-member electorates, and claims that the seven-member electorate system supplies a much truer and more reliable result. Under the proposed two-district system, to give effect to this concept the Council would have to increase its members to 28. This, I believe, is not warranted, although the second Chamber in South Australia has the smallest number of members, with the exception of Tasmania, which has 19. A strong case can be made for an increase from the present 20 members to 24, bearing in mind that, as a general rule, the Australian concept is for an Upper House to be not less than half the number of the Lower House. As the Lower House has increased its numbers to 47, it seems reasonable to increase the Upper House number to 24.

This would allow the distribution of seven and five, alternately, for election in the two districts proposed. The next variation that needs to be examined is in relation to compulsory and voluntary voting and compulsory and voluntary enrolment. Over the period of South Australian history, the Upper House has rejected compulsory voting as having any part in a democratic system. When the House of Assembly in 1942 decided unanimously to impose compulsion on the electors of South Australia, the Upper House took the view that the unanimity of the House of Assembly should be respected, but only for that House. The Upper House's view was overwhelmingly in favour of voluntary voting. So the position is that in the House of Assembly the voting for those enrolled is compulsory, but the voting for those enrolled on the Council roll is voluntary.

The Hon. D. H. L. Banfield: Is that an amendment that was put in by this Council in that year?

The Hon. R. C. DeGARIS: The Bill was introduced in 1942. As far as I recall (and the Hon. Mr. Banfield may like to look up the record and correct me afterwards if I am wrong) the original Bill provided for compulsory voting for both Houses. This Council took the view that it should respect the unanimity of the House of Assembly as regards voting for its own House, but not for this Council. That is the position. In South Australia, enrolment for both the House of Assembly and the Legislative Council is still voluntary but, because administratively the State adopts the Commonwealth roll on which enrolment is compulsory, both enrolment and voting are for all practical purposes, compulsory in the House of Assembly. The only truly voluntary roll is the Legislative Council roll, and this exists because of the different franchise. To preserve this essential variation from the Lower House, the Bill proposes that the election for the Upper House should be held on a separate day from the House of Assembly election day. If a second Chamber is to fulfil its proper role and the demands are for an identical franchise, it is reasonable that the elections be separate, because the issues before the public in choosing a Government are entirely different from the issues in the selection of members to serve in a second Chamber.

The Hon. D. H. L. Banfield: How would this work in other places?

The Hon. R. C. DeGARIS: We are not dealing with other places. As a matter of fact, in the Commonwealth sphere, it is possible, as the honourable member knows, for an election to be on a separate day for each House; indeed, that has been the practice for some time.

The Hon. D. H. L. Banfield: It will not be possible to be on the same day now; under your Bill, that is not allowed.

The Hon. R. C. DeGARIS: That is so. I make the point again that, in my opinion, if we are looking at the Upper House issues and if we are going to have an elected Upper House, the issues before the people for that House and the issues concerning the House of Assembly should be entirely different issues before the public in the selection of members for the House of Review. These are two entirely different situations.

The Hon. D. H. L. Banfield: The other States do not agree with you.

The Hon. T. M. Casey: The two Houses are both Party Houses.

The Hon. R. C. DeGARIS: The Minister of Agriculture would know as well as I do that this Council over very many years has fulfilled the role of an effective House of Review; it has fulfilled that role probably more effectively than has any other Upper House in Australia and probably as effectively as has any other Upper House in the world. It is not very difficult to differ from the Minister on this point. Nevertheless, let me examine the record of this Council. In the last session about 137 Bills came before the Council, six of which failed: of that number, three failed in this Council; one failed in the House of Assembly; the Government itself withdrew one; and the other lapsed. Of 266 amendments moved in this Council, the Government accepted 200 without any argument or difficulty, and on most of the other amendments some compromise was reached. In the personal view of many members of the Minister's own Party, this Council has performed its function extremely well over the last two years. New members, who have come into this Parliament brainwashed with the idea of abolition, have said that in their opinion the work of this Council in the last two years has completely changed their minds on the question of abolition.

Considerable thought has been given to the question of casual vacancies. After long consideration the matter has been left with no alteration from the present system, but I emphasize that under proportional representation the filling of a casual vacancy by the by-election method is not entirely satisfactory. There are two ways of overcoming this difficulty, both of which have been given consideration. We could, first, adopt the Hare-Clark system of proportional representation voting, or, secondly, allow the Council itself to nominate the replacement or replacements, with some direction given in the Constitution.

These alternatives to the proposed system in the Bill are mentioned here for the information of the Council, in the knowledge that this question will be raised in the debate. The system proposed in this Bill really leaves things as they are in this respect in the Constitution Act—that is, a casual vacancy is to be filled by the by-election method. The question of franchise is not included in the Bill, because in the Governor's Speech the Government indicated that it intended introducing in the House of Assembly a Bill providing for the

same franchise for the Upper House as that existing in the House of Assembly. This Bill is complementary to the proposed Government Bill.

I now turn to the clauses of the Bill. Clauses 1 and 2 are formal. In order for this legislation to be submitted for Royal Assent, there is a need to submit the Bill for approval by the electors for the House of Assembly, pursuant to section 10a of the Constitution Act. Clause 3 contains definitions of "periodical election" and "periodical retirement". It is necessary to use these expressions in the new clauses dealing with retirements and elections.

Clause 4 increases the number of members of the Council to 24. The increase will be put into effect at the first election after the Bill is assented to. Clause 5 contains provisions for altering the Council districts, by reducing the number from five to two, and assigning new names to the districts. The proposed names are the Metropolitan District and the Country District. The composition of these districts is set out in the schedule, the effect of which is that the Metropolitan District includes all the Assembly districts that were within the metropolitan area as defined by the 1969 State Electoral Commission. The new Country District will comprise the remainder of the State.

The Hon. D. H. L. Banfield: What about the number of electors in the Metropolitan District and the Country District?

The Hon. R. C. DeGARIS: The disparity is not as great as that which applies elsewhere.

The Hon. D. H. L. Banfield: How do you regard a ratio of 2½ to one? A while ago you said that you were keeping to South Australia. Try to keep to South Australia now! Be fair!

The Hon. R. C. DeGARIS: The honourable member has asked me to be fair, and I shall be fair. There has been an argument in this Parliament over many years on this rather futile question of one vote one value, to which the honourable member referred. We could go into a long discussion on this matter, but I do not intend to do that now. In every Bill that the Government has introduced it has recognized that the far-flung areas of this State cannot operate with the same number of electors as the number that the metropolitan districts have. The Government Bill of 1965 recognized this point.

The Hon. D. H. L. Banfield: To what extent?

The Hon. R. C. DeGARIS: I cannot answer that, because the Government did not include that point in its Bill; all it said was that in the future it would decide what the loading would be. The Hon. Mr. Banfield cannot get out of his mind that he is loyal only to the Australian Labor Party. There is a need to structure the Upper House in such a way that the dominant Party machines in the Assembly do not have the strong influence that they have in the Assembly. By using proportional representation we can cater for both the following views: first, the question of adequate representation for country areas and, secondly, the idea of one vote one value. Under proportional representation it does not matter how many people represent a district; the ultimate result is the same. Therefore, in this scheme we can cater for the viewpoint of the Hon. Mr. Banfield and also the view of those who believe that the far-flung areas of the State deserve greater representation.

The Hon. D. H. L. Banfield: Give us some idea of what you call equality of representation.

The Hon. R. C. DeGARIS: In using the proportional representation system, numbers are quite irrelevant; the proportion will remain exactly the same. I suggest that the honourable member go to the Electoral Office and find out what he wants to know.

The Hon. D. H. L. Banfield: It is about 2½ to one: that is what you are advocating.

The Hon. R. C. DeGARIS: I have answered that point already. Clause 6 is a consequential amendment upon the proposed introduction of proportional representation. Clause 7 contains the provisions for introducing a proposed new system of retirement of members, and also the proposed scheme for making the changeover from the present system to the requirements of the new system. The clause provides for the periodical retirement of members after the Bill is passed; two members from each district will retire, as at present. The continuing members of Central District No. 1 and No. 2 will become members representing the Metropolitan District, and the continuing members of Midland, Southern and Northern Districts will represent the Country District.

At the first elections, eight members will be elected to build up the representation of the Metropolitan District to 12, and six will be elected for the Country District, to bring that district to the same strength. Thus the Council will then consist of 24 members. At the next general election five members from the

Metropolitan District and seven members from the Country District will retire, and at subsequent elections the retirements will be arranged so as to maintain in each district an alternate retirement of five and seven members at successive elections. Clauses 8 and 9 are consequential amendments arising from the proposed introduction of proportional representation. Clause 10 repeals section 19, which sets out the existing provisions for Council districts; it is no longer required in view of the other provisions of the Bill. Clause 11 deals with the method of counting the votes at a Council election, other than a by-election; that is to say, it introduces the system of proportional representation.

The details of the proportional representation system are set out in a schedule and follow substantially the rules for counting votes in Senate elections, as set out in the Commonwealth Electoral Act. It also provides that some provisions of the State Electoral Act will not apply to Council elections. By-elections for a single vacancy will be conducted on the system of preferential voting as in the State Electoral Act. Under the present law, every Assembly district is a division of a Council district. It is possible that under the new system it may be convenient to combine two or more Assembly districts as a division of a Council district; clause 12 will enable this to be done. Clause 13 amends the section of the principal Act dealing with deadlocks. The Act at present provides that deadlocks can be dealt with by electing additional members or a double dissolution, and for retirements after a double dissolution or increase of members in groups of two in each district.

Because of the proposal in the Bill that Legislative Council members shall retire in groups of five or seven it is necessary to alter section 41, as obviously retirements in groups of two would disturb the proposed new system. Clause 14 provides that Council elections are not to be held on the same day as an Assembly election, an election for either House of the Commonwealth Parliament, or a State or Commonwealth referendum. Clause 15 inserts in the Constitution Act a definition of the new Council districts. Clause 16 inserts in the principal Act a schedule of rules for conducting Council elections in accordance with the concept of proportional representation.

The Hon. A. J. SHARD secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (HOMOSEXUALITY)

Adjourned debate on second reading.

(Continued from August 2. Page 473.)

The Hon. V. G. SPRINGETT (Southern): Throughout history, civilizations and empires have sustained themselves by making laws and by establishing moral codes. If those laws were removed, society would become a ready prey to anarchy and even to revolution. If we remove the moral struts, society would readily sink to subhuman levels. Differing societies have enacted laws to suit the requirements of their own differing periods, based on the needs and general well-being of those being provided for.

True, the average person in a free and democratic society is not worried by the laws to which he is subjected. I suppose it is true to say that he is not conversant with many of them, because his personal standards of behaviour are such that he is not brought into contact with authority or into conflict with it. Authoritarian systems of government, which rule by oppression, bear much more heavily and consciously on the citizen but, in a normal society such as ours, we recognize that man has certain fundamental freedoms and rights. But there is one right we often forget that is his and entirely his: the right to be let alone. Every man has a right to be let alone.

The subject of sexual behaviour is a vast one about which successive authors have written volumes. There is, I venture to suggest, nothing more personal, intimate and private than the physical relationship that exists between two persons within the privacy of their own home. Yet at the same time nothing is more blatantly exploited, crudely publicized, cheapened and degraded for monetary gain than this same intimate act. When thoughts and feelings of sexuality are entertained, almost exclusively we think of it as a heterosexual act; it is taken for granted that it is heterosexual.

This is true on an individual personal level, and it is equally true when the subject is considered for mass commercialization. By heterosexuality as all honourable members know, we mean the relationship between two members of the opposite sex. We regard this as normal, even though it may not always be legal. Heterosexuality is the basis on which we have built our society and our acceptable sexual structure. There are, however, two other main classifications which, although involving minorities, cannot be ignored.

They cannot be ignored, if only because they exist—certainly not when they represent, as they do, large minorities. The first group, known as bisexuals, experience sexual attraction toward members of their own as well as members of the opposite sex. The other group, known as homosexuals, have a propensity for persons of their own sex. As the present law, both legal and moral, stands today, heterosexuality is permitted and blessed within the framework of marriage, although even in that state the law can be and is broken.

Outside marriage, heterosexuality runs legal risks for one or both parties. Homosexuality, when related to male persons, is always an offence against the existing law. Bisexual relationships are heterosexual when opposite partners are involved, and may then be legal, of course. But when both partners are of the same sex the act is a homosexual one and, therefore, illegal. In other words, bisexuality can lead to actions of legality or illegality. Most authorities agree that the most widespread deviation from so-called normal sexual behaviour is what has been called "the love which dare not tell its name": homosexuality.

How long has homosexuality existed and how widespread is it? At one time, it was thought to be related only to the human species. However, experts throughout the ages have noted and studied homosexual tendencies and practices in creatures such as reptiles, birds and higher mammals. Aristotle himself recorded such observations, for instance, and similar recordings have been made down through the centuries right to the present time, including modern work by peoeple such as Professor Solly Zuckerman, who was Professor of Anatomy at Oxford University. As far as the human race is concerned, homosexuality has been recognized since the most remote times. During the times, for instance, of the Egyptian supremacy there were two homosexual gods, Horus and Set, Horus being the son of Osiris and Isis.

Many Orientals are known to indulge in this practice and numerous writers and historical figures have not been averse to their affinity for this practice becoming known publicly. Anyone who has travelled in the Middle East would certainly be aware of the frequency of homosexuality in that part of the world. At the same time, among Mohammedan communities bisexuality, including as it does a homosexual component, indicates that an extensive practice must exist throughout the world.

Western civilization, to which we belong, with its emphasis upon Christian morality, has tended to emphasize as its fundamental the belief in and an acceptance of heterosexuality. Even so, authorities and students of sexual problems suggest that up to (and some even say in excess of) 5 per cent of people in our social environs are practising homosexuals. I am not even debating these figures. However, I suggest that a much lower percentage than 5 per cent would still be a large enough minority for it to be recognized as something more than a deviant few of society.

People reared in our Western culture, for instance, generally speaking have it fixed in their minds that any variation from heterosexuality is certainly anti-social, if not evil. Broadly speaking, when discussing this subject (and until recently it was very much taboo) folk tended to dismiss the subject and practice as a crime, a sin, or a disease. As the law stands at present in South Australia, a crime it most certainly is, since it is on the Statute Book as such. As judged by our culture, many look upon it as a sin, almost too offensive to be given recognition as an entity. There are others so repelled by the idea of this practice that they think about it and accept it as the expression of a diseased personality.

How completely illogical we as a society surely are when we say that female homosexuality is not a crime but that male homosexuality is. Accepting as we do the practice of heterosexuality as being our cultural standard, homosexuality must surely either be wrong for both sexes or wrong for neither. Is it not true that women have it every time over men in this connection? Women's Liberation, please note! Surely, what is wrong for one should logically be wrong for the other or, conversely, what is not wrong for one should not be wrong for the other. Most of us, by the pattern of our sex life, affirm our belief in heterosexuality, and, in doing so, we emphasize our personal disapproval of sexual practices between adults of the same sex—even consenting adults. Yet I ask myself why this is so. Is it because, fundamentally, we link the actual relationship with the sole purpose of procreation? Obviously, that is a situation that demands a product of both sexes, but if the sole purpose of sexual relationship is reproduction and nothing else, should not intercourse at any other time, even within the framework of marriage, be wrong?

There is a minority of homosexual people who are such because they have in their genetic structure something which sets them

on their chosen path and causes them to seek the relationships they do. In most cases, however, their environment has nurtured and developed a tendency so that by the time they have reached young adult life they have accepted this as their own fixed way of sexual expression.

Notwithstanding this, there are comparatively few cases who, with sufficient desire, cannot be helped to turn towards heterosexuality. Naturally, it is easiest for those who are only partially involved (in other words, who are bisexual) to turn to a different pattern. When dealing with what are termed social problems, practically everyone in our community has preconceived ideas. In consequence, people are willing to declaim with authority. They tend to be less willing to listen, investigate and learn, but pass their judgment. How many people in the community who have firmly-held convictions on the subject of homosexuality have taken the trouble to form their judgments against a background of what a homosexual is, what he must accept, and how he fits into society?

What is a homosexual? I suggest that he is a complete person of a special kind. He is not, as is so often thought, an average person who indulges in aberrant sexual practices. He is an entity. What is his build and physique? He varies from the extremely rugged to the delicately developed, yet most people think in terms of the fragile end of the spectrum. What type of work does he seek? Bearing in mind the extent of the homosexual population, he is found in practically any and every trade and profession and in every branch of commerce and industry. True, certain jobs that require above average gentleness and personal service attract a higher proportion of homosexuals than do, say, heavy manual trades.

What must a homosexual accept? First, he must accept that he is different sexually and emotionally from the average, and often against his wishes and will. He must accept that his emotions and inner forces place him apart and, at the moment, always outside the law when he gives expression to his normal emotions. He may want to change; he may not. Indeed, often he cannot. I wonder how many of us really like being different from the mass of society. Do we like being the butt of jokesters because of a defect in our physique or personality?

I well recall many years ago talking to a patient in a large hospital. This man was a confirmed homosexual. He was pleading to be removed from the ward block where he was under care and be transferred to the women's wing of the hospital. This was a serious request. He was finding his all-male environment painful—even unbearable. "The women will not worry me; I am not interested in them, but this is hell", he said. Of course, his request was not granted. Such a request, if granted, would not have solved his problem, and the effect on the heterosexual women had to be considered.

Little enough has been done for these folk up to the present. How does the homosexual fit into society? He holds down his job as reasonably as most other folk. He breaks no more laws than the rest of the population (his homosexuality excepted, of course). The danger he might create for juveniles is an important point, but experts throughout the world mostly agree that those who seek homosexual relationships with adults seldom turn to children and since, in this Bill, minors are safeguarded, the passage of the Bill is quite unlikely to encourage disinterested homosexuals to turn from what would become their normal legal practices to commit offences against children that are punishable by law.

I suggest that the power and the influence of the publicity media have affected the degree to which this problem, like most other human problems, has become enlarged. I suggest this Bill is before us not entirely, but perhaps almost entirely, because of the publicity given to certain events which had their climax recently on the banks of the Torrens River. Quite naturally, the press latched on to those happenings and the public has been made aware of the social human problem which exists and which surely can be ignored no longer. We have been compelled to recognize that a considerable number of people for whom we are legislatively responsible have inner forces which differ from those of the majority of us. The needs of these people surely have to be considered. To withhold this fact is denying the right of what, within the makeup of these people, is normal, even if it is distasteful to us.

Believing as we do in the freedom of the individual within the law, how far should society say "thou shalt not" so long as his method of living and behaviour has no ill effect upon society as a whole? Every man has a right to close friendships within groups of his own choosing. He has rights to solitude, to anonymity, and to reserve from unwanted intrusion. This Bill introduces a

recognition of the right of a group of individuals to live one part of their private lives as they wish, whether it be by choice, or in response to a strong physical urge, or just natural inclination.

One of the burdens carried by all homosexuals always has been the excessive risk of being the victim of blackmail. A former Lord Chancellor of England was impressed by the fact that nearly 90 per cent of blackmail cases in one year were those in which the person being blackmailed had been guilty of homosexual practices with another adult person. Risk of blackmail will not be removed by this Bill (assuming it is passed by both Houses and becomes law in due course). It will, however, make it possible for persons to seek official aid without running the risk, as they do now, of having to confess and be punished for their homosexuality.

I was struck very forcibly by one case mentioned in the Wolfenden report. Two men had consorted regularly in private in a flat for some seven years. One man then began to blackmail the other. The blackmail victim went to the police. Both were charged with committing sexual offences and both were sent to gaol. Both were first offenders, and the blackmail was not taken into consideration.

Would this Bill, as an Act, reduce homosexuality? I do not see how it could. Since we do not know the full extent of the condition, all we can say is that certainly it should decrease conniving and make life a little less burdensome for these people. The whole subject has a sordid air, associated as it is with clandestine meetings in public lavatories, back alleys, risking blackmail, surrounded by a sense of guilt, embarrassment, and even shame, as is so often the case. Should these people, acting within a firm framework to safeguard others from risk, especially children, not have the right to live their lives free from the strictures of the majority who obviously do not follow the same pattern?

There are few large cities in the world which do not have areas wherein the commerce of sexuality is conducted. Following the Wolfenden report in Britain and the passing of the Act which removed open prostitution from the streets of London, the actual conduct of the business has not been wiped out. It has persisted by other means, through other channels, and some of these channels are even more objectionable to outside folk, to the majority of ordinary citizens, than those previously existing.

Homosexuality is not necessarily equated with male prostitution, although in large cities the latter certainly exists. This Bill is not designed for their benefit. The gathering of groups for erotic purposes surely is proscribed within this Bill by limiting it to not more than two adults, mutually consenting and behaving in private. It further (and rightly) provides for the protection of minors, and I emphasize again the importance of this point. It is essential never to under-estimate the need to protect minors.

Whether the misfortune of homosexuality should be disapproved of is one matter; whether it should be illegal is surely another. My experience over the years has been that there are very few people outside of those directly involved who would approve of the practice, but I believe most sincerely that there are large numbers of people who, following mature consideration of the whole subject, have come to the conclusion that we should recognize the problem for what it is, safeguard the remainder of society, especially children, and give the people involved the chance to live free from fear of the law. Because I feel along those lines I have no option but to say that I support the Bill, although naturally I shall follow with interest the speeches, comments and views of other honourable members.

The Hon. F. J. POTTER (Central No. 2): I, too, support the second reading of this Bill, although I do not want to speak at great length on it this afternoon. I congratulate the Hon. Mr. Hill on bringing this subject before the Legislature, and also on the very carefully researched speech he gave in this Chamber in moving the second reading. I congratulate, too, the Hon. Mr. Springett on the care and attention he has given to the Bill and to the speech in which he has shown honourable members the various facets of this very difficult problem, because this is not an easy matter to deal with. Even if it is obvious to honourable members and members of the public that some amendment of the law in this day and age is necessary, exactly what form the amendment should take and whether it would have sufficient community support are difficult matters to resolve. I will deal with them briefly in a few moments.

This Bill is an amendment to an existing law that has been with us on our Statute Books, in one form or another, since the reign of King Henry VIII, the Statute being introduced in the year 1553. Prior to that

date, all homosexual offences had been dealt with under English law (the system of law that we know here in this country) by the Ecclesiastical Courts, and they were treated by those courts as offences against the law of God, and not against the law of man. So, since 1553, when they became statutory offences, they have remained as such for all these years. It is beyond dispute that, if we were enacting now, in 1972, legislation on this matter for the first time, we would not be prepared to enact it in the form that was favoured in 1553. It is highly unlikely that we would even get around to legislating at all about homosexuality in 1972. So, just because we have had a law couched in wide and prohibitive terms for over 400 years, there is no reason why we should support it in those same terms in 1972, particularly in view of present-day attitudes and knowledge.

I make the point, which has already been made forcibly by the Hon. Mr. Hill, that homosexuality is really a moral issue, dealt with originally, as I have said, by the Ecclesiastical Courts, just as other types of conduct such as adultery, fornication, and deviate sexual behaviour between consenting persons are all moral issues. The present law, insofar as it prohibits all kinds of homosexual behaviour, does nothing to strengthen morality. In support of that, I submit that one reason why it does not is the one mentioned by the Hon. Mr. Springett—the invasion of a person's privacy. It is well established in our law that any sexual behaviour (I suppose any behaviour, really) that does not violate the rights of other people and does not outrage or offend against public order and public decency should not be subject to the criminal law. The administration and policing of this law constitutes an unwarranted invasion of a person's right to privacy.

My second point is that the law, as I see it, at the moment is inequitable (the point has already been made by other honourable members) because it punishes people who are not wholly responsible for their condition and, for that reason, are not wholly responsible for their actions. In the present administration and policing of the law, the actual selection of people who are brought to trial before the courts for homosexual offences operates largely by chance, because it is only those unfortunate victims whose conduct somehow is brought to the attention of the authorities who are brought before the courts.

The Hon. D. H. L. Banfield: Doesn't that apply to all cases coming before the courts?

The Hon. F. J. POTTER: No. I am talking about the commission of offences in private. In those circumstances, it is purely a matter of chance. At least, if there is some public offence against decency, there is some risk of bringing down the law on one's shoulders. That is a risk one has to take, and is a risk that will still have to be taken even if this Bill becomes law. However, my point is that it is by pure chance that victims are found as far as private conduct is concerned. I think, too, that the law as it has existed for all these years imposes hopelessly impossible standards of conduct and behaviour upon these people, who are not wholly responsible for their condition, because one must consider the wide range of homosexual practices. It is unfortunate that, when people talk about homosexuality, their minds seem automatically to go to one particular objectionable (to them) act; but there is a whole range of homosexual practices and it seems to me that it is impossible to impose upon an individual who has these tendencies the standard of conduct that he must never at any time indulge in any kind of homosexual behaviour, or he will be guilty of a crime. It is because of this impossible standard that the whole issue has been driven underground in the past.

My third point is that the change proposed in this Bill will provide some standards of behaviour that the community can reasonably expect to be adhered to by people who may have homosexual tendencies. I remind honourable members that it is not a crime, of course, in our community to be a homosexual or, for that matter, a mentally retarded person: it is a crime under the Statute only to commit any kind of homosexual act. All that this Bill does is to remove the criminal sanctions on the conduct that takes place between two consenting male adults in private. That conduct is still, of course, in the very broad sense sinful and unlawful, even though it be no longer a crime. It is sinful because most people who have religious beliefs and most churches would still categorize it as sinful. It is still unlawful because no status of any kind is conferred upon any persons who wish to live in that way of life. There are no rights or obligations that can flow in any way from that conduct between two consenting male people.

The actual terms of the Bill are along the lines of the English legislation. I have read

and heard some suggestions that perhaps the form of the Bill goes a bit too far. As I said earlier, I think that this is a difficult matter. When this Bill reaches the Committee stage (and I hope it will reach that stage) we will have to consider it very carefully. Up to the present I have not really seen anything that expresses in a better way what we want to do in this legislation. The English legislation appears to have worked satisfactorily in that country, and no difficulties have arisen. As the Hon. Mr. Springett pointed out, the Bill will not cure all the evils associated with this matter. There may be some difficulties about what we mean by the word "privacy", but it seems to me that, unless some better form of words can be used to express what we want to express, the form of the English legislation is perfectly satisfactory.

I said earlier that the question of community support for this Bill is also a matter of which we, as legislators, must take cognizance. Frankly, I do not know what the community support for this Bill may be; I have no way of finding out, and I really believe that no other honourable member can satisfactorily and completely find out what the majority of people in the community think about the Bill. I can only say that the overwhelming proportion of the correspondence I have received so far favours the Bill, although I believe that perhaps quite a number of the persons who have written favouring the Bill have not really given deep consideration to all the elements of the problem. However, it is certainly true that in the community at large today there is a much more knowledgeable acceptance of behaviour of one kind or another that would never have been countenanced some years ago.

I believe, too, that generally the churches, most of which have examined this problem in great detail, have come down on the side of believing that some relaxation of the law along the lines proposed in this Bill is necessary, not only from the viewpoint of the individual affected by the present law but also from the viewpoint of enhancing the general reputation of the law itself. I do not believe that one needs to say very much more about this matter. There is a tremendous amount of literature of one kind or another that one can read, and I hope that all honourable members will take the opportunity of acquainting themselves with some of that literature. A tremendous amount of work was done by the Wolfenden committee, which sat for a long time and produced a very important report. Of course, that committee was not unanimous on every aspect of its inquiry. I believe that this Bill will enhance the general reputation of the law in this State and will set a standard of behaviour for homosexuals that they can reasonably be expected by this community to live up to. If the Bill can do that, it deserves the support of all honourable members, and I support it.

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

SUPPLY BILL (No. 2)

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

INDUSTRIAL CODE AMENDMENT BILL

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

STOCK FOODS ACT AMENDMENT BILL

Read a third time and passed.

ROAD TRAFFIC ACT AMENDMENT BILL (SAFETY)

Adjourned debate on second reading.

(Continued from August 15. Page 697.)

The Hon. C. M. HILL (Central No. 2): I support this Bill, which makes a series of amendments to the principal Act. It is quite understandable that periodically we must amend the principal Act, because there are continuing changes in the whole question of road traffic control and road safety. However, I would like further information on some matters raised in the Minister's second reading explanation, because I believe that all honourable members must be made fully aware of the meaning behind the changes the Government proposes in this measure. The Minister said that the Bill results from recommendations from the Government Committee on Road Safety and from decisions at the national level, namely, at the Australian Road Transport Advisory Council. The Government Committee on Road Safety, also known as the Pak Poy committee, brought down a report which I have always held to be a splendid document, and it is pleasing to see that the Government is pursuing a plan to follow up the recommendations in that report.

Also in regard to the Australian Road Transport Advisory Council, I think we now accept that the more uniformity we can introduce throughout Australia in all matters related to vehicular traffic the better. It has in the past been an amazing situation where we have had different traffic codes, traffic laws and rules applying in different States when so much

interstate vehicular traffic has been evident. For motorists to go across a State border, then to be confronted by a different set of traffic laws than those applying in the State from which they came, is confusing and frustrating. This problem is gradually being overcome by the regular meetings of Ministers of Transport in each State with the Commonwealth Minister in the Australian Road Transport Advisory Council, and we are seeing more uniformity and common sense applying in this whole area.

The Bill furthers this trend in the interests of the motorists, the State and the nation generally. I shall refer to the heading on which I wish to comment and on which, in some cases, I should like more information from the Minister in his ultimate reply on the second reading or in Committee. The Bill deals with the question of new amendments relating to the existing weights of buses. We must be extremely careful as to the preferential treatment the Government might give, through the Road Traffic Board, to buses owned by the Municipal Tramways Trust.

There have been some rumours (and as far as I am concerned, they remain rumours until they have been refuted) that the trust has buses it is finding difficult to sell because they are wider than the regulation width of road vehicles. These buses were purchased and used by the trust, with the special approval, I understand, of the Road Traffic Board. I have no quibble with that point but, if it is true that they cannot be sold now and that the reason is that they do not comply, and that the new owners cannot expect to obtain special permits because of their width, a public utility such as the trust might lose severely over the transaction.

I again emphasize that this talk may only be rumour, but I should like to know the full story. In the Bill, we are dealing with a situation in which the trust will be given special consideration because of axle weights that do not come within the regulations or the Act. If that situation exists, as I explained in regard to the width of secondhand buses now advertised for disposal and no longer required by the trust, I can foresee that the current buses or newly-acquired buses might encounter the same difficulty in ultimate disposal. So I urge extreme care when special consideration is given to vehicles owned by a public utility.

The Bill also deals with the question of temporary parking zones. I should like more explanation of what is meant by "temporary parking zones" and how in practice the Government intends to apply this system of giving special permits for them. Does it mean, for example, that certain owners of buildings will be given space in front of their buildings in the streets for the owners of the buildings to have special parking facilities not given to other members of the public?

Is it intended that some utility such as the M.T.T. is to obtain these zones? If that is the case, where does the Government expect them to be established? Would they be at the various termini of the routes or at the end of each M.T.T. section so that the vehicles could remain in special bays for longer than the usual stopping period for such buses? Because of the restrictions on parking, and the limited space available on our roadways and, in particular, the expense that this road surface and road construction takes from the public purse, the question of temporary parking zones must be looked at closely.

The next point I raise is the important matter that, under the Bill, the Road Traffic Board is being given for the first time overall responsibility for the installation of traffic control devices. The definition of traffic control devices, which is widened in the legislation, is at present a very wide one. The definition of "traffic control devices" in the Act states:

(*a*) any traffic lights, signal, stop sign, give way sign, sign indicating a speed limit, barrier line, line or mark to regulate or guide traffic, pedestrian crossing, safety island, safety zone, traffic island, roundabout or dividing strip; and

(*b*) any other sign, signal, device, mark or structure the purpose of which is to regulate traffic and which is of a class declared by proclamation to be traffic control devices within the meaning of this Act:

The definition states that any mark on any roadway prescribed by proclamation comes within the scope of the definition; so it can be very wide indeed. Overall control and responsibility for all these items, including markings on the road, is being given to the Road Traffic Board. The board has been criticized from time to time, but I have always held it in high regard.

I have high respect for those public servants who are members of the board, particularly for the Executive Engineer (Mr. Crinion), for the work and dedication he applies in his quite exacting and sometimes difficult task as the senior staff officer on the board. As the number of cars on our roads increases, as problems applying to road safety increase, and as the whole aspect of road environment changes from the one of a few years ago (when we had narrow bitumen roads and not much

else) to the modern freeways of today, so the need for an expert board to have overall responsibility becomes apparent. I do not oppose this measure to give this responsibility to the board.

I am pleased to see that the maintenance and installation costs of traffic control devices have been apportioned in the Bill. Indeed, they have been apportioned most fairly. Previously, councils have had to pay for the costs of school crossings in their district but, if this Bill passes in its present form, the total cost will not in future have to be borne by them.

Under the Bill, if the road traffic device is on a road that is under the control of the Commissioner of Highways, the Commissioner will bear two-thirds of the cost and the council will be asked to bear the remaining one-third of the cost. Alternatively, if a device at, say, a school crossing is on a road under the control of the council, that council will bear two-thirds of its cost and the Commissioner will bear the remaining one-third. This fair proposal that the Government is putting up will indeed help local government.

I have already referred to the axle weight of vehicles. I now come to the next point that deals with signs known as symbolic signs, which will be seen for the first time on our roads in future and which will be made legal by this legislation. These symbolic signs are a product of the United Nations convention on road signs and, undoubtedly, they must be something to which the Government has properly agreed on a national basis to install in South Australia. Would the Minister be kind enough to place on the notice board illustrations of these signs so that honourable members can see them before this legislation is finally passed?

I stress again that more explanation needs to be given regarding temporary parking zones. I refer now to the inspectors who are to be appointed in future and who are to be permitted to place defect notices on vehicles that in their opinion should be removed either permanently or temporarily from the road. I could not ascertain from the Minister's explanation who these inspectors will be or under which department it is intended they will operate.

I have heard from time to time that the Police Department finds it difficult, when policing this legislation, to place defect notices on vehicles because of the limited number of policemen available and the amount of time they are required to spend on other matters. I have appreciated this point when it has been mentioned.

Those in authority have the right not only to place defect notices on vehicles in the street but also to go into used car yards and order, in effect, that certain repairs and improvements be effected to vehicles. The Government is now going to give this right to inspectors. However, from my reading of the Bill, I cannot see what the Government intends to do regarding the appointment of such inspectors. The Council ought to know what are the Government's intentions regarding the appointment of such officers before the Government agrees to their being given this duty.

The last point I wish to make regarding the second reading explanation relates to clause 23, in his explanation of which the Minister referred to clause 33. That must be a typographical error; the Minister should have referred to clause 13. I should have thought the Minister would notice that as he read his second reading explanation yesterday.

Clause 3 refers to the definition of "traffic control device", which is being widened even further. Although I realize that honourable members will be making their own reviews of the measure, I mention this matter because it will be of interest to them: the clause provides, in effect, that any structure can be proclaimed to be a traffic control device. One would take it that the structure would be some form of traffic island or traffic guide at intersections or on or near roadways. However, this is a wide power indeed and, if the Council passes that provision, it will put its trust in the Road Traffic Board to act in good sense and in all reasonableness in relation to this matter.

The Hon. T. M. Casey: I think you said before that they are very capable people.

The Hon. C. M. HILL: Yes, I said that previously, and I repeat it: they are very capable people. Indeed, I compliment them now even more than I did earlier. If this provision is passed, it must be accepted with much responsibility. Clause 13 deals with the need for signals to be given within sufficient time so as to give a reasonable warning to persons who may be affected by signals in such manoeuvres as sudden braking or decreases in speed, the making of "U" turns, and so on.

This aspect has always intrigued me. When motorists are faced with the possibility of an immediate collision, they do not have sufficient time to look in their rear vision mirror and give reasonable warning to drivers

travelling close behind them. If this change is implemented, I imagine that this provision will be carried out with good sense and reasonableness.

Clause 16 deals with the changes in traffic control in relation to ferries. I know that this is of much interest to the Hon. Mr. Story. The previous Government was, as the Minister said yesterday, involved in the setting-up of this committee by the Commissioner of Highways to examine the overall question of ferries, following a most unfortunate accident, when a ferry sank on the Murray River.

There is indeed a need for a close watch to be kept on the general policing and control of ferries and of traffic that uses those ferries. Because of the great weight that some semi-trailers and other large vehicles now carry, this is far more important in these days than it was in years gone by. Because of this factor, an imbalance can occur on a ferry unless the man in charge is capable and highly skilled in the distribution of vehicles on his ferry.

The Government intends to allow another officer to guide vehicles on to ferries so that in effect two men will be authorized to control vehicular traffic using ferries. I hope the Government will see that notices are displayed pointing out the responsibilities of ferry officers as well as the responsibility of drivers, under the new law, to give information such as weight of vehicles, and so on, to ferry operators.

The Hon. R. A. Geddes: Do you think it is wise that the words suggested are that the ferry operator "may" request information of the driver of the vehicle? The word "may" is used throughout.

The Hon. C. M. HILL: I imagine it is intended to mean that if the man in charge of the ferry believes that he can make his own estimate, then he need not approach the driver and ask for this information. In due course, as we all know, most ferry operators become highly skilled in making such estimates. They work only the one ferry and, at many places, similar kinds of heavy vehicles frequently use the ferries.

In some areas ferries are used by drivers of heavy interstate transports, and operators in the Murray River districts, for example, could well become accustomed to carrying trucks laden with fruit and produce. There is some discretion given to the man in charge of the ferry either to seek the information or to judge it for himself.

I am concerned that some commercial drivers are very independent people. I do not criticize them for that; rather, I admire them for their independence, but I know some are very jealous of the whole question of vehicle weights and do not want to tell too many people their estimates of those weights. I do not want to see any possibility of an unfortunate situation in which a ferry man, acting under the law, demands such information from a driver, an argument ensues, and the situation becomes aggravated.

A notice displayed on the ferry could prevent such a situation. It is not unusual for notices to be installed in prominent positions on public facilities. It is a small point, but it might lead to a better liaison between ferry operators and drivers, and it could be a very wise public relations measure to help the department and the Government.

Clause 17 deals with the repeal of certain sections and the insertion of new sections, one of which covers equipment such as windscreen wipers and windscreen washers. The new section 137 to be inserted covers rear vision mirrors. I should like to know whether drivers of vehicles will be required immediately to install extra windscreen wipers (for example, a second windscreen wiper) or, more particularly, whether any drivers will be required to provide windscreen washers or side mirrors for rear vision (in other words, the rear vision mirror that goes outside the driver's door or to either side of the front bonnet of the car). If such changes are contemplated in the relatively near future, considerable publicity must be given to them so that members of the public know what to expect and have time to equip their cars with these facilities.

The Hon. L. R. Hart: What is the definition of a windscreen wiper?

The Hon. C. M. HILL: I do not know whether it is covered in the Act. Section 5 of the parent Act deals with definitions, and I cannot see it defined. I must leave it to the honourable member to take the matter up when he speaks to the Bill, or perhaps if he speaks privately to the Minister such information would be available readily.

Clause 22 is extremely important, dealing as it does with the whole question of seat belts, a subject which raised considerable discussion in this Chamber when legislation covering seat belts was introduced. The clause covering seat belts is being repealed, in effect, and a new clause inserted, the intention of which is to simplify the matter. This is being

done in good faith by the Government because of some points raised in Parliament. While it is intended to simplify, I find it rather difficult to understand the exact wording.

I have referred the matter to two people more expert than I in interpreting difficult clauses relating to road traffic and I have been assured that the present wording in both cases (from lines 19 to 24) is in order. However, I still think that perhaps a clearer picture might be painted by way of an amendment so that a layman reading the new legislation could grasp the exact meaning of it, and so that the courts would have less difficulty in interpreting the measure. That matter can be canvassed further and will be looked at fully before the Bill reaches the final stages.

I commend the Government for keeping up to date with measures regarding road traffic. I am sorry it has not seen fit as yet to bring forward legislation regarding alcohol and driving, but the Minister said yesterday that that matter was under review and he hoped the Government would bring down a Bill later in this session. It is proper that our road traffic laws should be updated from time to time, and the Government is doing that in this measure, which I support.

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

TEXTILE PRODUCTS DESCRIPTION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from August 15. Page 697.)

The Hon. C. R. STORY (Midland): I support this measure, which is one of the shortest Bills I have ever dealt with. It has three clauses, only one of which is operative, but it has vast ramifications in the matter of textile products descriptions. The Hon. Mr. Geddes has raised in this Chamber recently the matter of proper marking of various types of textiles, particularly wool. In his second reading explanation, the Minister set out for the convenience of honourable members that portion of the Act that is to be amended. It concerns the definition of "textile product", the first part of which is:

(*a*) woven, knitted or felted materials manufactured from fibre.

The definition of "fibre" is given in the definition section of the original Act of 1953, and again in the amending Act of 1968. The definition of "textile product" continues as follows:

(*b*) tops, yarns, threads and lace;

(*c*) articles of wearing apparel manufactured in whole or in part of such materials, but not including linings, interlinings, or trimmings forming part of such articles;

(*d*) carpets of all kinds.

I think we have all accepted over the years that Commonwealth legislation in this regard has been useful, for it has given protection to and laid down standards for such things as woollen garments. We appreciate that that is most necessary, but there is always some smart person about, and a loophole has been found in this legislation. The loophole concerns "articles of wearing apparel". They are the operative words in paragraph (*c*) which states, "articles of wearing apparel manufactured in whole or in part of such materials . . .". The words to be struck out are "of wearing apparel" because, whilst people in the manufacturing business are mostly honest, there are some who are not and some articles that are not actually used as wearing apparel have been unbranded or branded incorrectly. As a result these words "of wearing apparel" have had to be deleted from the definition so that everything manufactured from fibre must have a proper label on it.

The Hon. D. H. L. Banfield: What about woollen blankets that are sold under a certain name?

The Hon. C. R. STORY: That would not quite come within this category; that would come more under advertising legislation.

The Hon. A. J. Shard: Misrepresentation.

The Hon. C. R. STORY: Yes, misrepresentation.

The Hon. D. H. L. Banfield: But it is a type of fibre that is used.

The Hon. C. R. STORY: Yes, but that would involve using a brand name in a slightly distorted form to give the impression of being 100 per cent wool or at least pure wool, as defined in the original legislation of 1953, section 6 (1) of which was amended in 1968 by the insertion of paragraph (*da*). It is important that all fibres are properly defined by the labelling. Section 6 (1) of the Act of 1953 provides:

(*a*) It shall be written in English in clearly legible characters;

(*b*) it shall be attached to the product in the prescribed manner or, if none is prescribed, it shall be printed or stamped on, or woven into, the product, or securely attached to the product;

(*c*) it shall be conspicuously placed so as to be clearly visible and shall be applied to the prescribed part or parts (if any) of the product;

(*d*) if the product contains ninety-five per centum or more by weight of wool, it shall include either the expression "Pure Wool" or the expression "All Wool".

The wording of paragraph (*d*) is the result of an amendment made in 1968. That is an excellent precaution. When this Parliament passed the necessary legislation to enable an approved wool mark or symbol to be used, we left it in the hands of the Wool Board to decide what it considered to be a proper level of wool content for the use of the wool mark; but that still does not cut across the path of anything prescribed under the Textile Products Description Act of 1968, to be amended by the Act of 1972. I wholeheartedly support this Bill because I am sure we must protect not only wool, for we can probably develop in some parts of this country, as we have already done, such fibres as angora, and there is no reason why in some parts of Australia we should not have practically all-wool fibres of the animal nature mentioned in the categories of the 1953 definition. There is no reason why, if the Wool Board decides that a small percentage of synthetics must be used in order to make the necessary blend that will marry in with wool or other fibres to make the material more readily saleable, we should not support that. I support the Bill and commend the Minister for introducing it.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Interpretation."

The Hon. R. A. GEDDES: I listened with interest to what the honourable Mr. Story said just now, especially when he referred to the problem of branding textiles. The Minister will remember the question I asked in this Council last week about a word that sounded like "Onkaparinga" but was spelt slightly differently. The worst part of that advertisement was the fact that on the label the material was advertised as "100 per cent lambs wool". I have also noticed in shops labels bearing the words "100 per cent wool", "pure wool", or "100 per cent lambswool". If one lifts up the label, one finds underneath the words "This is made of a blend of synthetics", and there is no wool at all in the garment, although it is wearing apparel.

I realize that we in Australia may be a little one-eyed in relation to wool, but my argument applies also to the cotton and silk industries, where the natural fibres are being threatened by the bad advertising habits of some people. Can the Minister say whether the Government is willing to look further into the question of unfair advertising of wearing apparel, particularly in connection with natural fibres?

The Hon. T. M. CASEY (Minister of Agriculture): I shall take action in connection with a related matter raised by the honourable member the other day, and I hope that the company involved in South Australia takes it up, too. It is essential that people be protected along the lines suggested by the honourable member. They should be made aware of the types of article they are buying. If people are hoodwinked by faulty advertising, those responsible should be brought to heel.

Clause passed.

Title passed.

Bill reported without amendment. Committee's report adopted.

CONSTITUTION ACT AMENDMENT BILL (OATH)

Adjourned debate on second reading.

(Continued from August 15. Page 698.)

The Hon. E. K. RUSSACK (Midland): When responsible Government was introduced into South Australia in 1857 the wording of the oath of allegiance that was used in the House of Commons was adopted as the oath in this Parliament. The wording was applicable to the 1850's and, as the Chief Secretary's second reading explanation suggests, it reflected the storm and stress in religious and political thought and sought to safeguard the Throne against the machinations of its suspected foes. In 1868 the Promissory Oaths Act provided a new wording for the oath in England; the wording is very similar, if not identical, to that provided in this Bill. The present oath spells out details applicable to the period in which it was originated; however, the version provided in this Bill has the same meaning but is more concise. The new version is written in good English and is understandable. The wording of the oath in the Bill calls for loyalty to Her Majesty according to law. I cannot understand one point in the first sentence of the Chief Secretary's second reading explanation; that sentence is as follows:

> This short Bill, which is, in terms, self-explanatory, seeks to change the form of the oath, prescribed by section 42 of the Constitution Act, 1934, as amended, to a somewhat shorter and less archaic one.

I do not know whether that sentence implies that the oath in the Bill is still archaic; that could be so, but I do not know why. I sincerely believe that it is necessary for us to

pledge our loyalty to the reigning Sovereign, to respect the law, to seek God's help to carry out our responsibilities, and to express our agreement to carry out those responsibilities to the best of our ability. I do not think it matters so much how this is expressed as long as it is expressed; it is certainly necessary for a member to accept his responsibilities and acknowledge his loyalty in a dignified ceremony. Because an oath was accepted in the House of Commons in 1868, because a similar oath was accepted in the Commonwealth Parliament, and because I believe that the oath provided in this Bill will be taken in a dignified ceremony in this place and will have an enduring impression on the one taking the oath, I have no objection to the Bill and I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Oath of allegiance."

The Hon. Sir ARTHUR RYMILL: The present section 42 of the Constitution Act provides that archaic oath with which we are all so familiar and which normally adds a considerable amount of gaiety to the proceedings of the opening day. It contains the words "All this I do swear without any equivocation, mental evasion, or secret reservation." Those words do not appear in this new, simple and rather dignified oath. It seems to me that a member could take the oath with a secret reservation, so that he might not really feel bound by the oath.

The Hon. A. J. SHARD (Chief Secretary): A gentleman described by the Hon. Sir Arthur Rymill could possibly do what the honourable member described, but I hope that such a person will never be elected to Parliament.

Clause passed.

Title passed.

Bill, reported without amendment. Committee's report adopted.

PUBLIC PURPOSES LOAN BILL

Adjourned debate on second reading.

(Continued from August 15. Page 707.)

The Hon. R. C. DeGARIS (Leader of the Opposition): I support the second reading. The Australian Loan Council in this financial year has supported a total programme of about $982,000,000 for all State works and services, including housing, and this is slightly over 10 per cent higher than last year. Actually, over the original allocation last year the increase is from $860,000,000 total programme to $982,000,000, an increase of about $122,000,000, or 14 per cent. A supplementary allocation in February of $32,000,000 was made in favour of the States, so the 10 per cent increase is actually over the total moneys applied last year and a 14 per cent increase over the original allocation last year.

The financial arangement arrived at by the Commonwealth and States, in conference, deserves some comment, and I have commented on this previously, but the change in the Commonwealth's attitude towards the States in the last two years has been quite dramatic. Many of the criticisms of the Commonwealth's attitude toward the States have been made, I believe, for political gain, and not altogether based on the true situation. The more realistic attitude adopted by the Commonwealth over the last two years should be applauded by the States.

The composition of the new funds also deserves some scrutiny. About $100,000,000 of the $134,000,000 allocated to South Australia is by way of Loan, subject to interest and sinking fund payments, and $34,000,000 is by way of grant, free of interest and not subject to repayment. Therefore, of the total funds available in the coming financial year for the State of $134,000,000, over 25 per cent is by way of grant. These changes, negotiated in February, 1970, will continue to have a significant effect on the revenue Budget of the State.

Together with repayments and recoveries, the total Loan programme for the ensuing financial year will amount to almost $160,000,000, which is a record for the State and which compares with the $141,000,000 last financial year, or an increase of about $19,000,000. The statement made in the second reading explanation by the Chief Secretary that the policies to be followed by the Government carry with it the virtual certainty of revenue deficits must be viewed with some alarm. I hope that my comments on this matter will be reasonable, as I do not wish any of them to be interpreted as being other than fair.

Even yesterday the Premier referred to his disappointment that sales tax on consumer goods was not alleviated in the Commonwealth Budget. However, at the same time the announcement was made that South Australia would continue to have revenue deficits in the foreseeable future. In South Australia we have seen an increase in State taxation of about

25 per cent in the past two years in an attempt to bring the State's income in balance with State expenditure. The increase in taxation inflicted by the State is directed largely at the very areas in which the Premier criticizes the Commonwealth for not offering some reduction. I do not wish to discuss the Commonwealth Budget. Nevertheless, I draw honourable members' attention to the fact that the Government expects revenue deficits to continue beyond 1972-73, which can only be attributed to the financial policies the Government intends to follow.

As I said previously, the Commonwealth's approach to the State's financial situation over the past two years deserves commendation. The change has been dramatic, and this has all been detailed in the Council over the last two years. I have no doubt that in the future there will be continuing changes in this relationship. Nevertheless, we should give credit to the Commonwealth for its change in attitude towards the States' finances. The prime responsibility for the forecasted future deficit contained in the second reading explanation must rest to a great degree on the shoulders of the Treasurer.

I turn now to some of the specific Loan fund allocations, first, to the heading "Public Parks, $300,000". About two years ago a special land tax was levied in the metropolitan area to produce, I think, about $600,000 for the provision of recreation areas in the metropolitan area. About $300,000 has been made available from general revenue to the Planning and Development Fund for this purpose and about $300,000 has been made available for grants to councils for the same purpose. The amount approved to councils but not yet claimed is about $333,000, so it appears from the second reading explanation that about $300,000 will be allocated from Loan funds for this purpose. I am not sure of the position, but it appears to me that the Government has approved of grants to councils of up to $333,000 for the purpose of acquiring public parks and, to balance that situation, the Government is taking about $300,000 from Loan allocations for this purpose. I do not know whether this allocation is for parks to service only the metropolitan area or for the purchase of public parks throughout the State. Perhaps the Chief Secretary may be able to expand on this matter.

The Hon. A. J. Shard: I will obtain a report.

The Hon. R. C. DeGARIS: I thank the Chief Secretary for that information. I would be perturbed if this $300,000 was being allocated for only one purpose: to subsidize metropolitan councils in the purchase of parks for the city area.

The Hon. A. J. Shard: I think it is more than that: it is to supplement the whole thing.

The Hon. R. C. DeGARIS: I thank the Chief Secretary for that interjection. It concerns me that Loan funds could be used for this purpose. I turn now to the allocation of $3,200,000 for afforestation and timber milling, which is $200,000 higher than it was last year. There appears to be a reduction in the sum being made available for expansion of existing plantation areas. This year, $860,000 is being made available for preparing land, extending new plantations and improving existing plantations. Last year, the allocation was $500,000 for forest expansion and $775,000 for the preparation of new land. It appears from these figures that the Government intends to reduce plantings in South Australia in this financial year.

I do not criticize this, because we in South Australia must recognize that we have over the years done remarkably well in the provision of man-made forests. Indeed, our record is much better than that of any other State in Australia, and much credit must go to those people who have for many years foreseen the possibility that South Australia would be in some difficulty in meeting its timber needs and who have adopted policies to encourage in South Australia the wonderful development that we have seen in the area of softwood plantings.

This reduction probably holds the key to the rather unwarranted attack that was made on Dr. Forbes in the South-East press recently. I have directed several questions on this matter to the Minister of Agriculture. The criticism levelled by several people leaves much to be desired. From reading the Loan Estimates, it appears that the Government, because of its own decision to reduce plantings in South Australia, produced a situation under the forestry agreement that affected South Australia more than it did any other State. Then, to find a scapegoat for the Government's decision, the blame was shifted on to the Commonwealth Government. This is unfair, and I object strongly to these political tactics used in the press to place personal blame for this situation on Dr. Forbes, when most of the blame (if we are seeking to sheet home the blame to anyone) must lie with this State's Minister of Agriculture, because this was an agreement of the Forestry Council.

I refer again to the need to seek a scheme to encourage private plantings in South Australia. Although I could refer to speeches on this matter that I have made since 1964, I do not want to repeat what I have said many times before. I do not believe there is a simple answer to this matter of encouraging private plantings in South Australia; it is indeed a complex matter. In Victoria there is a scheme of assistance to enable primary producers to plant some of their land to softwood production. I do not believe this scheme would be of much value in South Australia. Although the Victorian scheme has many defects, at least that State is attempting to do something about the problem. South Australia's situation is entirely different from that of Victoria. It is possible and practicable, however, to design a scheme for the South-East and the Adelaide Hills—the two areas that are capable to some extent of developing private forests.

The Hon. L. R. Hart: Particularly the watershed areas.

The Hon. R. C. DeGARIS: I agree, and particularly in areas where it is not attractive to the Woods and Forests Department to continue its development. I draw the analogy in this way: there are many areas capable of growing softwoods more economically than for any other purpose for which it can be used. However, because of difficulties in financing and the length of time one must wait for a crop return, it is not an attractive proposition for a private landholder. I am convinced that we could enlarge our softwood plantings in this State by many thousands of acres with a concentrated attack on this problem and the development of a scheme that would encourage this type of land usage.

I am sorry that over the years this matter has been argued in this Council we have not come up with a scheme to assist in this regard. There should be a full-scale inquiry (which is so urgently needed) to design such a scheme. Indeed, on many occasions I have considered that even a Select Committee of this Council could fulfil an important role in designing plans that would benefit this State's economy. The returns from softwod plantings would, over a 40-year rotation period, be much higher than those from the use to which much land is now being put. When we realize that we still import from overseas $200,000,000 worth of softwoods, we can see the tremendous market that is available in our own country for this type of production.

Further, the demand for softwoods will increase and per capita consumption of softwood products in Australia is running at about 25 per cent of the average consumption in America. If one examines the development of certain industries, the changes that are taking place are obvious. The woodpulp industry will grow considerably in Australia. Once more, I ask the Council and the Government to take some notice of this situation. We should, where possible, assist and encourage the development of softwood plantings on private land in South Australia.

I turn now to the heading "Fishing havens and foreshore improvements", the allocation to which is reduced from that of last year. One industry that is assuming greater importance each year in South Australia is the fishing industry which, over the years, has struggled in many areas with inadequate facilities. One can only regret that its allocation has been reduced this year. I pay tribute to the pioneers of the fishing industry in this State for the work they have done and for the standard the industry has reached over the years.

The allocation for Government buildings has been increased by about $12,000,000. I am not complaining about that, except to point out that it is a very large increase. The allocation for hospitals rose from $12,000,000 to $14,000,000 of which $3,650,000 is earmarked for the Flinders Medical Centre. South Australians will be able to take a great deal of pride in the development of that centre. I have heard the Chief Secretary say on many occasions that he does not consider health a political matter. When the public fully understands the philosophy behind the development of the centre it will be proud that our State has taken, I think, the lead in the world in this type of medical centre.

The Hon. A. J. Shard: There is one other.

The Hon. R. C. DeGARIS: Yes, and I think it will be found (not that I wish to take any credit for this) that the actual direction the centre took in its development was changed after an inspection was made of that other centre in 1968 by the present Director-General.

The Hon. A. J. Shard: The one I am referring to is very good.

The Hon. R. C. DeGARIS: I entirely agree. The concept behind the Flinders Medical Centre is the most advanced in Australia regarding the training of medical personnel. I think the Chief Secretary would agree with me there.

The Hon. A. J. Shard: I would think that is so.

The Hon. R. C. DeGARIS: I am pleased that the concept of this centre will place greater stress on questions of community health. From this will stem greater reliance in the area of community medicine on the health team performing its function to produce the most efficient health services in any community. I fully support the entire concept behind this medical centre, and I hope that in time to come that concept will not change.

The sum to be spent on school buildings has been increased by $4,000,000 and on other Government buildings by $6,000,000, a rise of 100 per cent on the figure for the last financial year. In the Loan Estimates the expenditure of only about $3,500,000 of the $11,000,000 has been detailed, and there seems to be a fair gap between the sum detailed and that allocated for other Government buildings.

Only one other matter should be drawn to the attention of the Council at this stage, and that concerns the sum of $500,000 to be spent on transport research. We are told that a contribution of $500,000 is proposed in the year 1972-73 towards a programme of research and development relating to public passenger transport. I do not think anyone objects to the Government undertaking such research, but I question the need to use Loan funds for the purpose. These are moneys borrowed for capital works and I am always concerned when I see these funds used for purposes such as this.

I will say no more about it. Other members may wish to do more research on it, but when one sees a sum such as $500,000 from Loan funds devoted to research the attention of the Council should be drawn to it. The money for all such matters should be drawn from general revenue. Research is not a purpose for which Loan funds should be used.

The Loan Estimates contain many other matters upon which one could comment, but I conclude by again commending the Commonwealth Government for its attitude towards the finances of the State over the past two years. I do not think enough has been said about this. We still appear to be in an era where the States complain, usually for political means, or to try to drag more out of the Commonwealth, but the attitude of the Commonwealth over the past two years towards the States has been more than realistic. The transfer to the States of pay-roll tax—

The Hon. A. J. Shard: You are talking about all States?

The Hon. R. C. DeGARIS: Yes.

The Hon. A. J. Shard: Sometimes you have said "State" and other times "States". Do you mean every State or just one?

The Hon. R. C. DeGARIS: I am making the point very clearly that not enough praise has been given to the Commonwealth for the change in its attitude that has taken place regarding the financial situation of the States. The matters to which I have referred include the question of pay-roll tax being transferred to the States—

The Hon. A. J. Shard: I do not quarrel with what you are arguing. I thought you were speaking of this State only.

The Hon. R. C. DeGARIS: Perhaps I could comment that over the past 12 months this State has been probably more critical of the Commonwealth than any other. Whether that would be right or not I do not know, but I assume it would be. I have referred to one comment (when the Minister of Agriculture was not in the Chamber) where I think an approach was not quite fair to a certain Commonwealth attitude. However, I support the second reading.

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

ADJOURNMENT

At 5.48 p.m. the Council adjourned until Thursday, August 17, at 2.15 p.m.