LEGISLATIVE COUNCIL

Wednesday, October 11, 1972

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

QUESTIONS

ADELAIDE CUP

The Hon. R. C. DeGARIS: I seek leave to make a brief explanation prior to directing a question to the Chief Secretary.

Leave granted.

The Hon. R. C. DeGARIS: The Federated Chambers of Commerce of South Australia, representing country chambers of commerce, has conducted a survey amongst the 36 members of the country chambers on the question of whether country areas should be involved in the Adelaide Cup Day holiday. It was found that they were overwhelmingly in favour of the holiday being observed only in the metropolitan area. Has this matter been drawn to the attention of the Government; if so, will the Government give consideration to the views of the country chambers of commerce?

The Hon. A. J. SHARD: To the best of my knowledge this matter has not been drawn officially to the notice of the Government. I read something in the press about it, I think, but now that the Leader has raised the question I will draw it to the attention of my colleagues in Cabinet and bring down a report as soon as possible.

ABATTOIR

The Hon. L. R. HART: I understand the Minister of Agriculture has a reply to my question of August 30 regarding abattoir charges.

The Hon. T. M. CASEY: The General Manager of the Metropolitan and Export Abattoirs Board has furnished me with the following report:

The possible effects of the decision were considered by the board at its meeting held on September 11, 1972, but as the actual cost of the benefits to employees cannot be determined until certain items of the decision are clarified by the Industrial Commission the board has not made any move to increase slaughtering charges.

WOOL PRICES

The Hon. R. A. GEDDES: I desire to direct a question to the Chief Secretary, representing the Minister in charge of consumer protection, and I ask leave to make a short statement.

Leave granted.

The Hon. R. A. GEDDES: Many comments have appeared in the press in the past few weeks about the high prices paid for wool at auction throughout the Commonwealth. People are most perturbed to hear that garment manufacturers are predicting rises in the price of woollen garments, resulting in unfair costs to the consumers. As there has been a steady rise in wool prices in the past two months, I believe if there is to be a price rise to the consumer there should be some reflection in the trade now. Will the Chief Secretary therefore ask the Commissioner for Prices and Consumer Affairs (formerly known as the Prices Commissioner) to give the Council the cost of woollen goods at about this time last year when the price of wool was about 33c a kilo, and also at today's price, when it is about 330c a kilo? In this way, honourable members can see whether there has been a marked rise in the cost of woollen goods because of the auction system.

The Hon. A. J. SHARD: I do not know whether records of various prices have been kept from year to year, unless a specific inquiry has been made in relation to a certain commodity. However, I will certainly direct the honourable member's question to the Premier, under whose control this department comes, and bring down a reply as soon as possible.

SCUBA DIVING

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

Leave granted.

The Hon. H. K. KEMP: I direct my question to the Chief Secretary because I am not certain to which Minister it should be directed. It relates to the tragedy that occurred in the Mount Gambier district at the weekend. when the lives of three scuba divers were lost in a sink hole. The first part of my question relates to the bravery of Mr. Mac Lawrie, of Port Adelaide, who recovered the bodies of the victims. There should be some recognition of the bravery, skill and determination of this man, who entered the cavern in complete darkness and recovered the bodies of those lost.

The second part of my question relates to the attempt to prevent recurrences of such tragedies. For some reason, it has become an exciting adventure for scuba divers to explore the intriguing cave system that exists below water in the South-East. Although in this case a very experienced diver (one with, I believe, 20 years experience) was involved, this triple tragedy still occurred, despite the expertise with which the man to whom I have referred

was undoubtedly endowed. It seems that for further diving in this country certain minimum precautions ought to be laid down so that, when entering such a system, a fully-qualified diver must be standing by. It could also be laid down that no-one should enter the unknown, tortuous tunnels that exist in these sink holes without at least having a recovery cord or line and, if one penetrates any distance into the cavern system, there must be an elementary telephone communication with that lifeline. Although I am not sure who would be the responsible Minister in this case, I pray that such precautions are legislated for as soon as possible.

The Hon. A. J. SHARD: Regarding the first part of the honourable member's question, matters of this type are usually dealt with by the Chief Secretary's Department. Usually, someone writes to the department, drawing its attention to a certain event. In this case, I ask the honourable member to give the details to me so that some recognition can be made of it. If the honourable member will let me have it in writing, I will see what can be done. As far as the second part of the honourable member's question is concerned, I am just as deeply shocked as most people are, but I do not know whether legislation could prevent such a tragedy happening. I do not want to talk about it, but anyone who read about this tragedy must come to the conclusion that it was largely the result of human error. To my mind, no legislation will prevent people doing these things nor will it dissuade people who want to do something extraordinary for the thrill, excitement or pleasure of doing it. However, now that the question has been asked, I do not mind bringing it to the attention of my Cabinet colleagues. As far as I am concerned myself, I just want to stay around. I could give other probable reasons why people do these things, but I do not really know. If people want to take risks like this, they will, no matter what legislation we pass. We cannot stop the adventurous side of a human being who wants to do these things.

MINISTERIAL STATEMENT: CITRUS INDUSTRY

The Hon. T. M. CASEY (Minister of Agriculture): I seek leave to make a statement.

Leave granted.

The Hon. T. M. CASEY: Yesterday, the Hon. Mr. Cameron asked me a question about the statement he had heard over the air attributed to the member for Chaffey in another place (Mr. Curren) about a poll that Mr. Curren intended to conduct throughout the River areas in respect of the future of the citrus industry in those areas. Whilst I indicated to the honourable member yesterday that I did not know of any circular that had been prepared by Mr. Curren, I assure honourable members that I have been well aware, over the past few months, of the interest that Mr. Curren has shown in the citrus industry of South Australia. As the New South Wales and Victorian Governments are now contemplating forming citrus boards in those States, it seems feasible that South Australia should fall into line with both New South Wales and Victoria. The draft of the statement that Mr. Curren will issue (which he has not yet finally compiled) I have seen this morning. Naturally, I am concerned about the citrus industry and I compliment Mr. Curren on the stand he is taking on this important matter. I assure honourable members that what Mr. Curren is doing has the full backing of the Government.

PUBLIC WORKS COMMITTEE REPORTS

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

Forensic Sciences Building,
Hillcrest Hospital Admission Unit,
Port Augusta Hospital Redevelopment (Stage III).

LEAVE OF ABSENCE: HON. SIR ARTHUR RYMILL

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

That two weeks leave of absence be granted to the Hon. Sir Arthur Rymill on account of ill health.

Motion carried.

MEADOWS ZONING

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

That the Metropolitan Development Plan District Council of Meadows planning regulations—Zoning, made under the Planning and Development Act, 1966-1971, on July 6, 1972, and laid on the table of this Council on July 18, 1972, be disallowed.

(Continued from October 4. Page 1786.)

The Hon. V. G. SPRINGETT (Southern): The regulations deal with an irregularly shaped piece of land that is part of the buffer zone that has been planned to ensure that the land between the area of the Meadows District

Council on the one side and the area of the Corporation of the City of Mitcham on the other side remains in a natural, undisturbed state. The land is traversed by the Sturt River and is a beautiful piece of country; it has been in the hands of the Minda Home since 1923. The part on one side of the Sturt River is controlled by the Meadows District Council and the part on the other side is controlled by the Mitcham corporation. The whole area is known as Craigburn. The part on the Mitcham side has been zoned for residential purposes since 1950, but the whole area has been designated as being suitable for special uses—that is, for institutional purposes. Minda Home, of course, comes into that category.

The zoning regulations under consideration would cause a change, in part, from special usage to residential usage. In other words, part of the land now safeguarded by its use as institutional land will become subdivided as residential land. About two-thirds will be left for institutional purposes and about one-third for residential purposes. If we do not preserve the beautiful parts of the countryside near our built-up areas, there will be nothing left for the generations to come. Residential development in the Craigburn area is surely inconsistent with the preservation of our heritage. Consequently, I believe that the area must be left as a buffer zone.

This morning I heard from a lady who has lived in the area for 30 years. In the last few months, since the zoning regulations have been introduced, various types of business premises have been opened adjacent to her home. Almost beside her house one can see a tyre firm, a garage and a store. It seems a mockery that Craigburn should now be threatened with being turned into a residential area instead of being left as a beautiful rural retreat. I firmly believe that it should not be turned into a residential area. Further, since the Government has been closely concerned with this matter, I believe there has been a lack of information from the Government in connection with the matter. I therefore believe that the Government should supply honourable members with more information, and I challenge the Government to contribute to the debate. I support the motion.

The Hon. T. M. CASEY (Minister of Agriculture): I accept the honourable member's challenge.

The Hon. C. M. Hill: You have been forced to your feet at last.

The Hon. T. M. CASEY: I believe that the information I shall give to the Hon. Mr. Springett particularly will cause him to change his mind when he votes on the motion, if it reaches that stage. I could see that, as the honourable member was wavering, a little convincing now might throw him completely into the Government's lap. The Hon. Mr. DeGaris raised two main issues: first, whether the regulations are consistent with the intention and effect of the Metropolitan Development Plan, and secondly, whether the regulations could be held to be legally valid. On the first issue, the Meadows regulations allocated most of the Craigburn land within its council area in an R1 zone, whilst the Mitcham regulations allocated over 40 per cent of the Mitcham portion in a "special uses" zone with the remainder in a rural A zone. Much of the criticism of both sets of regulations has been based on the fact that the 1962 Metropolitan Development Plan allocated Craigburn in a general "special uses" category and development thereof for urban purposes was not envisaged.

In fact, when the Metropolitan Development Plan was prepared, it was understood that the Craigburn property would remain in its present institutional use. The "special uses" category was designed to reflect this type of private open space. It was not intended that the allocation of land in this category should operate, in effect, as a confiscation of development values. In fact, such an intent would have been inconsistent with the law as it stood then in 1962 and, indeed, as it stands today. Section 29 of the repealed Town Planning Act, repeated in section 61 of the Planning and Development Act, provides for the proclamation by the Governor of private land as open space, but only on application of the owner of the land.

The Hon. Mr. DeGaris suggested that in the long term the best solution might be for the land to be acquired. The State Planning Authority is currently considering objections to its proposed regulations, reserving a number of large areas in the metropolitan planning area for future acquisition for public open-space purposes. Before long the authority should be in a position to determine whether, and if so to what extent, it should include land at Craigburn and elsewhere. Whatever may result from this study, the Minda Home Board has assured the Government that, in the extremely unlikely event of Craigburn being sold for subdivisional purposes, 40 per cent of the total area of Craigburn will be provided free of cost to the Government for a recreation area.

It is beyond the financial resources of the authority to consider purchasing the whole property, but it is desirable that the Sturt Gorge and the rugged parts of the property be included in a recreation park at some future date. Ideally, such a park would include the Sturt Gorge extending from Darlington to Coromandel Valley. Between Darlington and the flood control dam, 192 acres has already been transferred by adjoining subdividers to the Government without cost and a further 138 acres is likely to be transferred shortly. In this way, the "buffer" open-space function will be preserved as a principle of the Metropolitan Development Plan.

Advice from the National Parks and Wildlife Service makes it clear that, while it is desirable to preserve the Sturt Gorge and the rugged parts of Craigburn, the remainder of the property is cleared and not significant for national park purposes. While this view exists, and bearing in mind the tremendous costs that would be incurred by the Government's purchasing the area (at least six years total national parks allocation and probably more), the suggestion of the Hon. Mr. DeGaris that the Government should purchase the area cannot be accepted. The Leader drew attention to the pressure on Belair Recreation Park, and the Government agrees that action is necessary to relieve this pressure.

The Government has announced that, in addition to other Hills park purchases, priority is being directed toward the purchase of land at Cherry Gardens for the purpose of reducing Belair visitations. At present 883 acres of an intended 1,300 acres has been acquired at Cherry Gardens in an area most attractive for recreation park development. It should also be remembered that, within the Meadows area, we also have the Cox's Scrub Conservation Park, Mt. Magnificent Conservation Park and Kyeema Conservation Park. In zoning the areas as they have done, the two councils have taken the not unreasonable attitude that the portion of the land which is not physically incapable of development should be treated for zoning purposes the same as adjoining land in other ownerships. To do otherwise would impose a discriminatory basis for valuation of any land which may be acquired for recreational open space purposes.

Regarding the second issue on the validity of the proposed regulations, the opinion of the Solicitor-General was sought on a similar representation by the Nature Conservation Society as to whether the two sets of council zoning regulations could be held to implement the Metropolitan Development Plan. The opinion was supplied well before the Hon. Mr. DeGaris made his speech on this matter but in fact the implications of the various issues raised by Mr. DeGaris were also considered by the Solicitor-General at some length. However, the Solicitor-General came to the conclusion that the contention as to invalidity was not sustainable, and that, in so far as the regulations reduced, even very drastically, the size of the Craigburn Special Use Zone from the area which was obviously contemplated by the authors of the 1962 Metropolitan Development Plan, they did so no more than section 36 of the Planning and Development Act permitted.

In the circumstances, there appears to be no case for disallowing the regulations. It should also be pointed out that disallowance may involve the councils in recommencing the procedure for recommending regulations, including public exhibition, hearing of objections, etc., right from the start. The achieving of regulations in this important and developing part of the metropolitan area would be delayed for many months. The Meadows council, in particular, would be bitterly disappointed at such an outcome following the many years it has taken the council to reach the present stage of operative zoning regulations.

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

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (HOMOSEXUALITY)

Adjourned debate on second reading.

(Continued from October 4. Page 1800.)

The Hon. L. R. HART (Midland): Since seeking leave last week to conclude my remarks, I have received only one letter opposing the views I expressed at that time. The person who wrote that letter expressed concern about the emphasis placed on the seduction of male students by homosexual teachers. I must express my own concern at the prominence given in the press to those remarks, because my reference to this matter in my speech was confined to three lines. I am very well aware that few schoolteachers indulge in this practice, but other groups also have within them practising homosexuals. One that readily comes to mind is the scouting group, the Boy Scouts, and I am sure all honourable members will agree that the law must protect such groups.

Although I have had only one letter opposing my speech and only one letter commending it, many people have come to me expressing their commendation for the stand I took. The

second reading explanation given by the Hon. Mr. Hill was rather a voluminous document, containing many quotations from various reports, but it should be noted that most of these reports were not unanimous reports; indeed, some committees which have examined the homosexual problem have not been able to reach any final conclusion. One such group is the commission set up by the South Australian Conference of the Methodist Church. This commission was quite broadly based and met on 11 different occasions. One may say that is not many times, compared to the Wolfenden committee, which was appointed in 1954 and reached its conclusions, which were not unanimous, in 1957, having met on 62 days.

I spoke at some length on this Bill last week, and I do not intend to speak at length today. Therefore, I will conclude my remarks by reading the conclusions reached by the commission set up by the Methodist Church, as I believe these typify the views of many people in South Australia. The commission says:

As can be seen from the divergence of opinion expressed in this report, the commission reflected the differences of opinion that exist in the Church and community on this matter. Some members of the commission found that their views had to be modified when they studied the problem and discussed it freely with people holding differing views. Others found that the evidence produced confirmed their opinion that there should or should not be a change in the law relating to male homosexual practices. All, however, agreed that not enough is known about the Australian situation regarding male homosexuality with regard to numbers, cause, and treatment that may be desirable and effective. The commission was not equipped to make an investigation of the type required, nor did it have the time.

In the absence of such an inquiry, the commission does not recommend a change in the law, although some changes appeared to all members to be necessary. The commission, however, does make two recommendations:

(i) That Conference urge the Government of South Australia to set up a Royal Commission to inquire into the problem of male homosexuality, with particular (but not exclusive) reference to cause, prevalence, treatments, effects and the relation of the homosexual to the law; and

(ii) That Conference recommends to all members of the Church the study of this problem, particularly from the point of view of the Church's responsibility toward all people, including the homosexual.

Earlier this afternoon I gave notice that, contingently on the Bill being read a second time, I would move that it be referred to a Select Committee. In doing so, I find that I have the support of a very large group of people who constitute the Methodist Conference in South Australia. These people reached this conclusion after having studied the matter in some depth, and after having met specifically for the purpose of studying it. I know that many people in South Australia believe they are not in a position to make a sound decision on this question because they do not have sufficient evidence before them either to support or to reject the legalizing of homosexuality. There is only one way in which this information can be obtained—by a Royal Commission or a Select Committee. Individual members have been approached by groups of people, but those groups were particularly interested in supporting or opposing the homosexual question. However, the thoughts of a large section of the people with neutral views have not been expressed.

I believe that many homosexuals have not been willing to come forward and express their views, but they may be willing to do so before a commission. For that reason, I have suggested that the Bill be referred to a Select Committee. I oppose the second reading but, if it is passed, I will proceed with my suggestion that the matter be referred to such a committee.

The Hon. C. M. HILL (Central No. 2): I explained this Bill in my second reading explanation on August 2. I said then that I supported a group of people known as the Moral Freedom Committee and Association which advocated this social reform. Also, I referred to the public concern that had arisen as a result of the unfortunate death of Dr. Duncan.

I stressed that, if one contended that one represented in Parliament the interests of people above all else, then that must include people everywhere and not certain sections of the community. When we talk of the interests of all people within the South Australian community, we must consider those in all walks of life, those of all ages, those who are strong in mind and body, those who suffer some handicaps and also those who are weak.

I went on to explain that the Bill was a short measure and its main purpose was to alter the criminal law so that consenting males over 21 years committing homosexual acts in private would no longer be committing a criminal offence. I then gave the views and opinions of experts on people behaving in this way.

I pointed out that in countries such as Belgium and France, and elsewhere, too, where the law was rather similar to that proposed

in the Bill, there were no indications of widespread homosexual practices between men. That point must be borne in mind when we consider some of the contentions raised during the debate that the flood gates would be opened here in South Australia if this change were made. The Hon. Mr. Whyte, in his speech, said:

My fear . . . is that it is a broadening, an accepting of something I am not prepared to have publicly flaunted.

The Hon Mr. DeGaris said:

The Bill provides an aura of respectability if the act is committed in private.

The Hon. Mr. Russack said:

These changes go progressively from step to step, and this is the point of which I am fearful in this measure.

The Hon. Mr. Dawkins said:

I am concerned about the many people who could be influenced into this sort of practice . . . . It will make it easier for young lads to be influenced and for those on the borderline to be swung over, on the wrong side, so to speak.

The simple fact is that, in countries where the law is similar to the proposed change, there is no evidence of such increased behaviour; nor is there in Britain, in my view, after five years of change. Indeed, I shall later in this reply list many countries to support this point.

Also, homosexual acts between women, which have never been subject to a criminal sanction, have not resulted in a serious social problem. Why, therefore, should homosexual acts between men result in a flood of moral offences merely because the penal sanction is removed in some circumstances?

Further, as I have said in the second reading explanation, the prevalence of homosexuality seems to be remarkably independent of the state of the law. I also referred on August 2 to the matter of blackmail, and I was pleased to hear some agreement as the debate progressed. The Hon. Mr. Whyte said:

Blackmail and persecution belong to homosexuality . . . What we must do, of course, is to look very closely at the present law to see whether we can write into it something that does protect these people from persecution, blackmail and gaol sentences.

Also, in my earlier speech, I dealt with the Wolfenden report and the principal findings within that report as they applied to this question, and I quoted at some length from speeches during the debates in the House of Lords on this subject, particularly those speeches from leading churchmen such as the late Lord Fisher of Lambeth, the Lord Bishop of London, Lord Soper (speaking for the free churches), and the present Archbishop of Canterbury.

I referred to Earl Arran, whom I suppose one could consider to be the main architect of the change in Britain, to other members of Parliament there, and to the submissions favouring the change in both the House of Commons and the House of Lords. I tried to stress that by introducing the change proposed in the Bill the Legislature was not condoning the behaviour or wishing that society should condone it, but was laying down the principle that, like other sins such as adultery, fornication and homosexual acts between women, the sin of homosexual acts between adult males in private should not be a criminal offence. I do not agree with the contentions made in the debate by the Hon. Mr. Geddes, when he said:

By the Bill, politicians are trying to set up a new moral code and, in this permissive society, people find it easy to accept what is legally right as being morally right.

I am not trying to set up a new moral code. I made my position clear on August 2, and I do so again: morally, I do not condone the practice under discussion. Regarding the acceptance of what is legally right as being morally right, I say that, if we condone a society—our society—that accepts that principle without question, we are a socially mummified community.

Of course, we are not that, and in this modern age we question our laws, we move to improve them, and we must set our own moral codes as individuals. Those codes and the right of choice of one's own moral standards must be respected by the law and by society as a whole.

I have pointed out that major social measures of this kind are appropriate to be raised in second Chambers, where the voice of minority groups should always be heard. Further, this is a substantial minority. My estimate of men who behaved in this manner in South Australia, based on the most conservative percentage from Kinsey, was 14,000 men. This estimate was indeed conservative, and many others vitally interested in this subject would place the figure much higher than that, indeed up to 20,000 or 25,000 men.

I mentioned reports from many of the Adelaide newspapers and from various media that supported the change, and I referred with respect to the opposition which I had encountered, which had come, in some instances, from extreme literalist groups, and I pointed out that today's conditions were so different from

the situation in Biblical times, and that understanding and compassion were greater, also. I referred to the aspects of permissiveness, and tried to explain my views upon it.

Finally, I gave some evidence that the freedom that was given to these people by the Legislature in Britain in 1967 had not been abused or turned into licence. I quoted a former British member of Parliament who said that there had been no public orgies as some had expected there would be; he said also that this follow-on had been one of the lessons learned from the British Act, which, he said, was both humane and progressive. In the debates that have followed that submission, three honourable members have spoken for the measure and eight others have spoken to it, some approving it conditionally while others have refused to support it.

I thank honourable members for their interest in the Bill and for the contributions they have made to it. Honourable members have shown courage in considering this issue, whether or not they have spoken. The Hon. Mr. Springett should be commended for his speech. With his professional medical knowledge and deep concern for this social problem, he provided informed opinion that must have been of benefit to the Council.

In reply, I should like to say that not much argument has been submitted by honourable members who have, to varying degrees, opposed the Bill. I do not criticize them for this because, as in the British Parliament or anywhere else where this subject is discussed by reasonable people, there never are very many opposing arguments presented. The reason for this is that, when one feels very deeply about a subject such as this and when almost everyone has an instinctive aversion to the subject generally, it is very difficult indeed for anyone to put his thoughts into words.

There have been two main points raised and a few individual separate criticisms. I will deal with these matters in a few moments. The main overall issue on which I reply, however, is that many honourable members who have spoken have regarded the Bill, the reason for it and what it is trying to do as being a most complicated, complex, and confusing issue.

Honourable members, and indeed some leading citizens, have said that, the more they have looked into the subject, the more involved it has become to them, and they think there must be some other way to approach this problem. The Hon. Mr. Whyte said:

As so much propaganda has been disseminated and as there are so many advocates for and against the change, I consider that the issue is still as clouded as when the Bill was first introduced.

He called the proposed change "a mammoth task". The Hon. Mr. DeGaris said:

A thorough study of what is needed should be initiated so that legislation guided by principles may be introduced.

The Hon. Mr. Russack said:

Certainly, alterations should be made in certain areas, but at this stage I see a certain amount of confusion.

The Hon. Mr. Gilfillan said:

I believe that a very serious social and mental problem is involved with homosexuality, but the remedy we seek is difficult to define.

The truth of the matter is that, whereas the issue always appears difficult to unravel and impossible to untangle when one first wrestles with this social problem, the opposite situation ultimately emerges. It becomes a simple matter indeed and it hinges, in effect, on only one alteration (and a relatively minor one at that) to the criminal code. It took 10 years of debate to realize this in England. The simplest solution should not be obscure. It most certainly is if one wants to widen one's thinking into all forms of sexual conduct and behaviour, but that is not the object of the Bill at all.

The object of the Bill is simply to acknowledge that under the present law persons have been persecuted and treated unfairly. The present law is unjust and unfair; the present law is unbecoming to a State like South Australia. The Bill endeavours simply to right this wrong, by amending that law so that these people about whom we have been talking are no longer branded as criminals. Lord Arran, in the British Parliament, said:

They are the odd men out—the men with a limp.

That, I think, tends to stress the simplicity with which I should like honourable members to consider this matter at this stage of the debate. I met a homosexual in the interviewing room of this Parliament House. He visited me, not in the normal way that people approach members of Parliament, directly for discussion. A telephone message was left for me to ring someone back and the caller, in turn, relayed the message on to me that this gentleman would like to see me about this Bill.

That is evidence of the furtive life they lead. The gentleman, about 55 to 60 years of age, arrived and told me that he was a homosexual. He told me of his early life when

he studied for years for one of the most respected vocations that man can choose. He told me how, at that stage, he realized he should not accept appointment or promotion because he suffered from his particular failing. Ever since then he has been doing modest tasks; he now is a factory worker, despite his comprehensive education.

He has always refused advancement in his work. He suffers from the common guilt complex with which people of this kind live. Here, in Adelaide, to try to live at peace with himself and the community at large, he and some of his friends make contributions to a fund, from which regular donations are made to charities. He claimed that he was not interested in younger men at all, that he had never been on the Torrens River bank or in other public places, and that he did not associate with or know men who frequented such places. He lived quietly, except that in his mind he knew that the law branded him a criminal. He was one of the 14,000 to whom I referred earlier, or one of perhaps 20,000 or 25,000 here in South Australia.

He brought written credentials with him to prove to me that citizens and institutions held him in high respect. He claimed that taking medical advice or aid would be, in his view, entirely useless to him. He admitted that he had this weakness and had to live with it. He told me of many homosexuals with whom he associated in his ordinary everyday social life. He told me of cases of blackmail. He told me of persecution suffered by some people whom he knew quite well. It was evident from my discussion with him that he was a pitiful, frustrated man.

He was a law-abiding citizen in all respects except for this one problem. He left me and said, "If you can do anything to change the law so that my friends and I are no longer criminals, we will be eternally grateful." The need to assist such a man is not a confused, complicated, or complex challenge. It is a simple issue. This Council has the opportunity to pass this Bill so that that man and others can live right here in Adelaide for the rest of their lives, not only quietly but with dignity and in greater peace.

I was told by one honourable member in the debate that I might have erred on the side of emotion when I introduced this Bill. I do not know how anyone could have listened to that man without feeling emotional. He was pathetic in his sincerity; all he asked was not to be branded as a criminal.

He did not ask society to condone the way he lived. He did not ask me to understand the way he lived, let alone condone it: he simply said, "Mr. Hill, I am not a criminal", and I had to agree. Yet the law, at the present time, makes him just that. That explains the simple alteration of the law I am seeking.

I commend those honourable members who showed compassion towards the people about whom we now talk. The Hon. Mr. Whyte said:

I do not agree that homosexuals should be persecuted. I do not believe there is any point whatever in sending them to gaol.

The Hon. Mr. DeGaris said:

It is reasonable that there be some revision of the law in this regard.

The Hon. Mr. Russack said:

I express sympathy for the many people involved in the situation with which this Bill deals . . . Let me say I have sympathy for people in this situation.

Then, further on in his speech, he said:

I realize that the punishment provided in the principal Act could not be a solution.

The Hon. Mr. Dawkins said:

I am not opposed to some legislation for these people because it is highly important that something should be done for them.

The Hon. Mr. Geddes said:

I am sympathetic to the problems of homosexuals.

The Hon. Mr. Gilfillan said:

I believe that an adult who practises homosexuality in private should not be gaoled.

I thank honourable members for showing that compassion. Almost everyone who has contacted me with some questions about, or objections to, the Bill has shown that same compassion. Compassion is a basic Christian virtue. However, it is not enough to help in this problem. These odd men out, these men with a limp, wait for help on the roadside of life.

People pass down that road and many show compassion, but what is needed is not for compassionate people to pause and then pass them by, but for compassionate people to pause and move across to the other side of the road to attend to them; to attend to them by seeing to it that they are not branded as criminals from this point on; and to open the way for them to come forward and seek medical or psychiatric aid, if they so wish.

That is the action I am asking honourable members to take in this Bill and that is the action for which I have sought support from those people, many of them professed Christians, who have made representations to

me and who are prepared to show understanding and compassion, but who will not don the mantle of the Good Samaritan and go the next necessary step.

I think I have dealt with the various smaller points raised by honourable members. If I have not done so on this occasion, I think the matters have been covered in my opening speech. I must defend the church about which Hon. Mr. Dawkins spoke rather unkindly, and also the minister to whom he referred. The honourable member is entitled to his views, which I respect, but I say that the minister and his church, far from being "woolly" in their thinking, as the honourable member has claimed, are clearly preaching and practising Christianity in today's world, in which so many people are seeking logic, social justice and truth.

The two major points that I mentioned earlier deal, first, with the fears that have been expressed and, secondly, with the general "flood gate" argument, which was also mentioned. In regard to the fears that were expressed about the consequences of this change, I repeat, as I said before, that I respect fully the views that honourable members have stated. Based on experience elsewhere the fears expressed are, generally speaking, unfounded.

It is a somewhat inexact argument that is being put forward. To agree that something is not a crime does not mean that it is not a sin or that you approve of it. To alter the law is not to condone the act. However, as some honourable members have expressed fears for youth if this measure passes, I have placed on file an amendment that assures a minimum sentence of imprisonment if an offence occurs with a person "under age". I have placed other amendments on file, also, in an endeavour to meet the wishes of honourable members and people who have made representations to me.

In regard to the general argument dealing with "flood gates being opened" and the situation getting out of hand here if this change is made, I stress that change has come elsewhere without unfortunate consequences. Surely we are not different from other communities. Laws such as I am trying to repeal in this measure reached the Statute Books when individual liberty meant little. Such laws have been successively cast aside in other societies as they have become more enlightened and as healthier attitudes have prevailed.

Whilst South Australia has the opportunity to lead Australia in this particular social reform, we must recognize that we are far from leaders in the world sphere. I point out that homosexual acts between males in private, above certain ages, are no longer criminal in countries such as Argentina where the age is 22; Belgium, 21; Bulgaria, 21; Canada, 21; China, 16; Czechoslovakia, 18; Denmark, 18; Eastern Germany, 21; England, 21; France, 21; Greece, 17; Hungary, 20; Iceland, 18; Italy, 16; Japan, 13; Luxembourg, 14; the Netherlands, 16; Norway, 21; Sweden, 18; Switzerland, 20; Turkey, 16; Illinois (in the United States of America), 21; and West Germany, 21.

Finally, I mention two points. The first deals with the group of young people who have brought this matter to my notice and have asked for help from all members of Parliament. Honourable members have been bombarded with many submissions and letters during this debate. Indeed, I have received more letters on this subject than I have on any other, and I can recall that the Hon. Mr. Banfield made the same statement when he spoke in the debate.

Of all the material that we have received, the most recent letter to members of Parliament from this same Moral Freedom Committee and Association was one of the simplest yet most telling documents supporting this measure. I want to commend these young people very much indeed. They are not homosexuals; they are young, educated, and intelligent South Australians who are taking a great interest in an extremely important social issue. They are thinkers; they are our leaders of the future. In this last submission they have said:

> We believe one's own moral standards are uniquely personal to oneself, and should not be the concern of one's neighbours or the law. While that is our belief, we do not object to persons attempting to persuade others to their beliefs, but we do not believe persons should use the law to enforce upon others their own particular moral standards.

They say that they believe society should show compassion, should offer help to those who want it, and above all should show initial sincerity by removing the criminal sanctions. They finally point out that it is not true to say that to make legal homosexual practices in private makes them right in most people's eyes. They say that people's moral judgments have little to do with whether or not a particular act is a criminal offence. They say that compassion should be shown to those who need and seek our help and that compassion is not a term of imprisonment. Their article finishes by saying:

We believe that reform of the law as proposed is a positive step towards a better society.

I hope that honourable members will respect the views of these young people and acknowledge that, in this age in which we live in South Australia, it is to the betterment of the community that people do associate themselves and become involved with social issues of this kind. The last point I make deals with the role of this Council. The Hon. Mr. Whyte said in the debate:

It is the role of this Council at any time to take up the cry of people who are being persecuted by others in the community.

The Hon. Mr. DeGaris said:

I emphasize that one of the roles the Council must always fulfil is to see that minority groups in our society have their viewpoints fully expressed in the Council.

I dealt with the matter also in my opening speech. This Council has made a worthwhile and commendable contribution to the Legislature over the years. It has, in the main, due to the need for economic growth being paramount in a relatively young community, concentrated its efforts upon the material and economic issues. But change is coming, and in the future more and more social legislation will be initiated and dealt with here.

Social issues which affect all citizens now loom as important as, if not more important than, economic legislation in the political arena. In this new world, provided this Council withstands the great danger of abolition, the Council must and will show enlightened leadership in all such social matters, affecting as they do the interests of all people in the State. The Second Chamber in the Mother Parliament has initiated and has passed major modern social reforms.

In the proposed social reform before us, we have the opportunity to remove fear from the hearts of men. Whether this Council is capable of such enlightened leadership at this stage in its history I do not know; I trust that it is. If not, I believe that in the future it will be so competent, and in that belief I have complete faith.

The Council divided on the second reading:

Ayes (9)—The Hons. D. H. L. Banfield, M. B. Cameron, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, C. M. Hill (teller), F. J. Potter, A. J. Shard, and V. G. Springett.

Noes (6)—The Hons. T. M. Casey, M. B. Dawkins, L. R. Hart (teller), H. K. Kemp, E. K. Russack, and A. M. Whyte.

Pair—Aye—The Hon. C. R. Story. No—The Hon. Jessie Cooper.

Majority of 3 for the Ayes.

Second reading thus carried.

The Hon. L. R. HART (Midland): I move:

That Standing Orders be so far suspended as to enable me to move that this Bill be referred to a Select Committee.

I have already said why the Bill should be referred to a Select Committee—because innumerable matters have not been discussed or investigated in depth, and these matters are the concern of all sections of the community. The reasons why a person is a homosexual have supporters and opponents. The reason why a person is a homosexual is not sufficiently known to the community or to honourable members to enable them to cast an intelligent vote on this matter. Also, whether a change in the legislation might cause an increase in homosexuality or whether it might eventually bring about a decrease, and whether the removal of the legal restraint would cause more homosexuals to seek treatment are matters that should be investigated. One of the most vital aspects is whether the removal of the legal restraint would cause more homosexuals to seek treatment for their complaint.

It is admitted that homosexuality is a complaint and condition in the human being over which he apparently has little or no control. The type of treatment needed by people suffering from this abnormality, whether the treatment might be the need for more sex education in the community, whether a type of treatment can be given to the person involved, and a number of other matters related to treatment are matters that should be investigated. Perhaps a person does not come forward now because of the fear of blackmail, which has been mentioned on numerous occasions. As many matters need deep investigation, I believe this could be done only by the appointment of a Select Committee. Other countries before introducing similar legislation appointed Select Committees. This evidence is available to honourable members, but this evidence given to Select Committees and Royal Commissions in other countries—

The Hon. C. M. Hill: Can you name some of those countries?

The Hon. L. R. HART: —is about 12 or 15 years old.

The Hon. C. M. Hill: Can you name any of the countries? Canada and West Germany adopted the British legislation.

The PRESIDENT: Order!

The Hon. L. R. HART: That does not mean that we should follow suit. The Wolfenden committee, which began its hearings in 1954, did not bring down its conclusions until 1957; it took three years.

The Hon. C. M. Hill: How long do you think your Select Committee will take?

The PRESIDENT: Order!

The Hon. L. R. HART: It took three years for that committee to reach its conclusions.

The Hon. C. M. Hill: How long do you think your Select Committee will take? You know that Parliament will prorogue in about three weeks time. You're not bold enough to be counted.

The PRESIDENT: Order! If the honourable member is not willing to take notice of the Chair, I will have to take other action.

The Hon. L. R. HART: It took the British committee three years to reach its conclusions, which means that there was a great deal of divergence of opinion in Great Britain at that time, and that divergence of opinion exists in this country now. Therefore, it is necessary that we reach conclusions that will be acceptable to most people in the State, not necessarily the minority. Therefore, I appeal to honourable members to support my move to suspend Standing Orders to enable me to move that this Bill be referred to a Select Committee.

The Council divided on the motion:

Ayes (5)—The Hons. M. B. Dawkins, R. C. DeGaris, L. R. Hart (teller), H. K. Kemp, and E. K. Russack.

Noes (10)—The Hons. D. H. L. Banfield, M. B. Cameron, T. M. Casey, R. A. Geddes, G. J. Gilfillan, C. M. Hill (teller), F. J. Potter, A. J. Shard, V. G. Springett, and A. M. Whyte.

Majority of 5 for the Noes.

Motion thus negatived.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Certain homosexual acts not offences."

The Hon. R. C. DeGARIS: I move in new section 68a to strike out subsection (1) and insert the following subsection:

(1) Where a male person is charged with an offence that consists in the commission of a homosexual act, it shall be a defence for that person to prove that the homosexual act was committed with another male person, in private, and that both he and the other male person consented to the act and had attained the age of twenty-one years.

I do not intend to deal with my amendment at great length, except to say that the Bill has been debated in this Chamber over quite a lengthy period, since early August, admittedly on only one day a week, but nevertheless it has been looked at very closely by every honourable member. One could see a great divergence of views being put forward by honourable members. Like the Hon. Mr. Hill, I congratulate all members who have contributed to the debate. This has been a difficult matter, and for those who have spoken and attempted to analyse the legislation, attempted to seek the opinion of the community, and who have been prepared to speak their views, I have the highest admiration.

The debate has indicated clearly that members view this legislation with sympathy. At the same time there is concern for the implications of the legislation, the provisions for legalizing the act of buggery in certain circumstances. I am persuaded that if we are to make legislative progress we should not legalize the act in certain circumstances, but should provide a defence if certain conditions exist. It is interesting to note that while certain organizations have put forward cases to us on this legislation, the most recent correspondence I have had from some of the outspoken organizations seeking complete freedom in this area has asked me to defeat the Bill. The idea of creating a defence is a procedure that has been adopted in many of our Statutes and it has become quite prominent in legislation before the Council recently.

This approach, in my opinion, makes the Bill more rational. I believe there are only two ways in which to approach the question and only two ways in which the Bill could go. The first is to treat homosexuals in exactly the same way as we treat heterosexuals. The Bill does not do this, thereby producing legislation that, in my opinion, does not appear rational. The second approach is to create a defence to any prosecution if certain conditions exist, and that is the way in which my amendment handles the matter. It produces a defence for a person if the conditions as outlined in the Bill actually occur. The Bill before us says that it shall not be an offence. I preserve the offence but provide a defence. As a Select Committee has not been agreed to by the Council the matter cannot be examined in any future depth, and I believe my approach to the problem is the most rational one.

The CHAIRMAN: The Chief Secretary intends to move an amendment to line 5 of clause 3. It seems that the simple way to avoid any confusion is to deal first with this amendment.

The Hon. A. J. SHARD (Chief Secretary): I intended to seek direction. My amendment is quite simple, and merely provides that wherever the phrase "21 years" occurs we should insert "18 years". Provided I am not denied the right to move that amendment at some time I will be quite happy with whichever course you decide to adopt.

The CHAIRMAN: The honourable Minister certainly will have that right. For the sake of simplicity and to save confusion, the matter will be put in the way decided.

The Hon. R. C. DeGARIS: We could probably find the opinion of the Committee on the amendment of the Chief Secretary when we come to clause 5, which may prevent recommittal.

The Hon. A. J. SHARD: Very well.

The Hon. C. M. HILL: Speaking to the amendment of the Hon. Mr. DeGaris, I must express my view that the Bill in its original form is far better than if it were changed in the manner proposed by the amendment. On the other hand, I realize the existence of a great number of differing views within the Committee, also that one must be to a certain extent willing to compromise. I fear that, with the amendment, the problem will still exist where these people will in effect be hunted down. That was the real basis of what I was trying to avoid if they were living privately.

The Hon. R. C. DeGaris: They are not hunted down now.

The Hon. C. M. HILL: I am not talking about the present position except as regards the law and what would be the position regarding the law if the proposed change made by the amendment should become law. The problem of these people being hunted down by the law, in my view, would still remain. That is what worries me. However, there is certainly some change introduced by this amendment, although I am forced to say that I believe the Bill, in its original form, would be far superior legislation to that proposed.

The Hon. F. J. POTTER: The amendment tackles the problem in quite a different way from the original Bill. I cannot help but draw a comparison between what is now proposed and what, if I remember correctly, was proposed when we were dealing with another ticklish subject, that of abortion. In that case the Bill attempted to remove the question of criminal responsibility or liability from a medical practitioner, provided certain conditions were met. Someone moved an amendment that it would be a defence for the medical practitioner if certain conditions were satisfied.

That is precisely what this amendment does: to provide that it is still an offence, just as it was intended that abortion would still be an offence, but that legal defences will be available provided that certain things can be proved. I remember saying that that would put the medical practitioner involved in an invidious position in that he would be charged with an offence and would have to satisfy a judge and jury that he came within certain allowable conditions that excused him. That is exactly what the Hon. Mr. DeGaris is proposing here.

It still means that any homosexual offenders can be prosecuted, and can find themselves in the witness box before a judge and jury. It is only then that they may be able to satisfy certain conditions and so escape the rigour of the law. I do not think this is a satisfactory method of dealing with this difficult problem. The method that the Bill originally adopted, which was the same method as that suggested by the Wolfenden report and adopted by the British Parliament, is the most satisfactory method of dealing with it. I know that one or two difficulties can be shown to exist. However, there will always be difficulties with this kind of legislation.

I notice that the Hon. Mr. Hill has proposed a redraft of one or two clauses in the Bill, which is a much better way of handling the matter. The amendments he has on file will take care of one or two of the difficulties that were raised earlier in the second reading debate. If this amendment is carried, individuals will still find themselves not relieved of the fear of prosecution. The honourable member has made it clear that only in certain circumstances in the court (if one can prove one's defence) will one be excused.

The Hon. R. C. DeGARIS: The comparison made by the Hon. Mr. Potter is not valid in the circumstances. The Committee is dealing with two entirely different matters. As I pointed out, we have used this procedure of providing a defence in much of our legislation. Abortion was never totally illegal. Even under the Criminal Law Consolidation Act, prior to its being amended, abortions were, quite legally, being performed.

The Hon. F. J. Potter: That was not because of the Statute.

The Hon. R. C. DeGARIS: Yes, it was. If one read the Statute, one would find that it was not totally illegal for an abortion to be performed.

The Hon. A. J. Shard: They were legal under certain conditions.

The Hon. R. C. DeGARIS: That is the very point I am making. A comparison between the two situations is not valid. Also, we have another situation that is extremely interesting. Here we are dealing with a criminal offence, in relation to which it shall be a defence if the act is committed by two people in private. However, if it is committed by three people in private it is a criminal offence. There can be no comparison between the approach in this case and what the Council did in relation to abortion, because there is no common ground on which the two sets of circumstances can be compared.

One must realize that, except for this one area where it is permitted in private (and once again the definition is somewhat difficult) the act of buggery, once it comes out of that area, is still a criminal offence. We go on then to provide that no person shall procure another person. We are dealing with a situation in which I believe there are only two logical approaches: the homosexual is treated the same as a heterosexual and, where the act is committed by two people in private, a defence is being provided. Where such conditions exist, I am certain that no prosecutions will be launched.

Regarding the Hon. Mr. Hill's suggestion that homosexuals could be hounded, I am extremely doubtful that this happens to homosexuals over the age of 21 years who live together. There has been no suggestion in any of the evidence I have heard, or from any of the people with whom I have spoken, that this occurs. I do not think it does. Where offences are committed in places like the Torrens River banks, where a person is under a certain age, or where a complaint has been lodged, prosecutions will be launched. I believe my approach is reasonable, and at least shows that the Council is willing to make certain changes in the law and to examine this matter sympathetically without producing an irrational piece of legislation.

The Hon. A. M. WHYTE: One of the points made by the Hon. Mr. DeGaris in his amendment is the amount of protection that is given to a section of these people who are homosexually inclined and who have been living together for some time. Surely this amendment will protect them from the law. There does not seem to be any evidence that such people, who have been living together for a number of years, have been hounded. However, in case it is possible that this could occur, I believe the amendment will cover the situation.

The Hon. V. G. SPRINGETT: One of the things that has forced itself upon me whilst I have been listening to the debate is the reference made to back streets and the fears that certain people hold, which called forth the sympathy and compassion of all honourable members. If this amendment passes a homosexual could be dragged into the light of day and put into the witness box in public to prove his innocence or to have his guilt proven, as the case may be. Even if I accepted the legalizing aspect of the amendment, it would cut right across the spirit of the Bill.

Amendment carried.

The Hon. R. C. DeGARIS moved:

To strike out new subsection (4).

Amendment carried; clause as amended passed.

Clause 4—"Procuring the commission of buggery."

The Hon. R. C. DeGARIS: I move:

In new section 69a to strike out "the act of buggery or gross indecency may not by reason of section 68a of this Act constitute an offence" and insert "a good defence to a charge relating to that act, or proposed act, of buggery or gross indeceny could be made out under section 68a of this Act".

This is consequential on the previous amendment.

The Hon. F. J. POTTER: I question the use of the word "good" in the amendment. It seems to be a strange use of that word. One either has a defence or one has not. I do not recall "good" being used similarly elsewhere. I am not saying it has not been so used but I do not see the reason for the use of it here. There are no shades of goodness or badness about a defence. I do not know whether the Hon. Mr. DeGaris would be prepared to strike out that word from the amendment.

The Hon. R. C. DeGARIS: I always pay attention to what my legal advisers tell me. One legal adviser has assured me that this is the correct wording for this amendment; now the Hon. Mr. Potter, who is also my legal adviser, says he sees no reason for the inclusion of the word "good". I will check with Parliamentary Counsel to see what he thinks about it.

The Hon. F. J. POTTER: My other point is that the Hon. Mr. Hill proposed a complete repeal of this clause and clause 5, with a redraft of sections 69, 70 and 71 of the principal Act. That redraft has been ably done

and it seems to me that part of it may well have been written into clause 4. I appreciate that the amendment of the Hon. Mr. DeGaris has been taken first but I hope we shall not overlook the extensive and excellent redraft of sections 69, 70 and 71 that I have referred to.

The Hon. R. C. DeGARIS: Parliamentary Counsel assures me that "good defence" is a well-used legal phrase.

Amendment carried.

The Hon. C. M. HILL: Mr. Chairman, I seek guidance on when I should move my amendments to clauses 4 and 5.

The CHAIRMAN: The honourable member should vote against clause 4 as amended, which I will now put to the Committee, and then he can move his amendment in substitution if the clause is defeated.

Clause as amended passed.

Clause 5—"Attempts and indecent assault on males."

The Hon. A. J. SHARD: I move:

In new subsection (3) to strike out "twenty-one" and insert "eighteen".

My reason for this amendment is that 18 years is now the accepted minimum age for adulthood. If we are legislating to protect people of adult age in this Bill, the age should be 18 instead of 21 in this subsection.

The Hon. R. C. DeGARIS: I cannot support this amendment. The reason for choosing the age of 21 was adequately dealt with by the Hon. Mr. Hill in the second reading debate. Those reasons are still valid. Therefore, I shall vote against the amendment.

The Hon. F. J. POTTER: While I have no strong feelings about this matter, I do not think the reason advanced by the Chief Secretary is necessarily the correct reason here. As the Hon. Mr. Hill has said, in Britain the age has been left at 21 in respect of this matter. There are good psychological reasons, as has been explained by the Hon. Mr. Hill, indicating that for this particular type of conduct the years between 18 and 21 represent a very susceptible age. Those three years are years during which a person may not have matured emotionally, and he may be susceptible to certain suggestions that are put to him. I must confess that I do not know sufficient about this aspect to be positive whether I am right or wrong. However, a professional psychologist has submitted that the question of age is not as easy in connection with this matter as it was in connection with the general lowering of the age of majority. The Hon. Mr. Hill's list of the ages of consent in various countries indicates that there may be real substance in the contention.

The Hon. C. M. HILL: I said previously that I might be erring on the side of caution in fixing the age at 21 years, but we all have a responsibility to be as cautious as possible in this matter. I fully appreciate the Chief Secretary's motives: he believes that 18 years should in all legislation be the age separating the under-age classification from the over-age classification.

When the age of majority legislation was before Parliament the Government intended to amend all legislation that referred to the age of 21 years, but there were one or two instances where honourable members thought it might be unwise to reduce the age from 21 years to 18 years—for example, pistol licensing. At that time the Government agreed to one or two exceptions, in connection with which the age was left at 21 years. So, we should be cautious.

In modern times the British Parliament has fixed the age in this matter at 21 years, and the Prime Minister of Canada, in effect, took the British legislation and introduced it into the Canadian Parliament, the age being left at 21 years there. Further, West Germany, France and East Germany have adopted the age of 21 years. Following those fairly good guides, I believe that it would be better to leave the age at 21 years here.

The Hon. F. J. POTTER: When the law was relaxed in the British Parliament, the general age of majority was 21 years. Two or three years later the British Parliament passed legislation reducing the general age of majority from 21 years to 18 years. That legislation amended many Statutes by altering the age of 21 years to 18 years. The relaxation of the laws relating to homosexuality was dealt with in the Sexual Offenders Act, and the age in this connection was deliberately left at 21 years, whereas in another provision, dealing with a heterosexual offence, a reduction was made to 18 years. So, the British Parliament deliberately decided to leave the age in this respect at 21 years.

The Committee divided on the amendment:

Ayes (3)—The Hons. D. H. L. Banfield, T. M. Casey, and A. J. Shard (teller).

Noes (12)—The Hons. M. B. Cameron, M. B. Dawkins, R. C. DeGaris (teller), R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill, H. K. Kemp, F. J. Potter,

E. K. Russack, V. G. Springett, and A. M. Whyte.

Majority of 9 for the Noes.

Amendment thus negatived.

Clause passed.

Title passed.

Bill reported with amendments.

Bill recommitted.

Clauses 1 to 3 passed.

Clause 4—"Procuring the commission of buggery"—reconsidered.

The Hon. C. M. Hill: I move:

To strike out clauses 4 and 5, and insert the following new clause:

4. Sections 69, 70 and 71 of the principal Act are repealed and the following section is enacted and inserted in their place:

69. (1) Subject to section 68a of this Act—

(a) any person who commits buggery, either with a human being or an animal, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeded ten years;

(b) any person who—

(i) attempts to commit buggery either with a human being or an animal;

(ii) assaults any person with intent to commit buggery; or

(iii) indecently assaults any male person

shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding seven years; and

(c) any male person who commits an act of gross indecency with another male person shall be guilty of an offence and liable to be imprisoned for a term not exceeding three years.

(2) No male person under the age of twenty-one years shall be considered capable of consenting to an indecent assault on his person by a male person and no male person under the age of seventeen years shall be considered capable of consenting to an indecent assault on his person by a female person.

(3) Any person who procures or attempts to procure the commission of an act of buggery or gross indecency between two other persons shall (notwithstanding that a good defence to a charge relating to that act or proposed act of buggery or gross indecency could be made out under section 68a of this Act) be guilty of an offence and liable to be imprisoned for a term not exceeding three years.

(4) Any person who solicits with a view to inducing any other person to commit an act of buggery or gross indecency and in so doing causes offence to the person whom he seeks to induce to commit that act, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding three years.

(5) Where a person who is of or above the age of twenty-one years is convicted of an offence under this section and the offence was committed in relation to a person under that age, the convicted person shall be sentenced to a term of imprisonment not less than one-half of the maximum term of imprisonment prescribed by this section.

This long amendment has been moved because of the many representations made since August. It is an endeavour to clear up some of the misunderstandings and problems of interpretation that may have resulted had the original Bill been agreed to. The question of procuring has been split into two aspects: they are set out in new subsections (3) and (4). This was done because there was doubt that the Police Offences Act would be effective and, because people have queried the Bill and sought further clarification of it, I think the amendment clears up the matter. New subsection (5) is self-explanatory and I hope that it will satisfy the people who have understandably expressed concern regarding this matter and that it will be a sufficient deterrent in the circumstances.

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

That the amendment be amended by striking out new section 69 (5).

The redrafting of sections 69, 70 and 71 has much to commend it, but I oppose new subsection (5). I am against the imposition by Statute of minimum sentences except in extremely unusual circumstances. The circumstances relating to this type of offence are likely to be wide and varied. I have clear recollections of this matter being discussed in depth only two or three months ago at a conference I attended in Bermuda of Commonwealth magistrates and judges, when everyone said the imposition of minimum statutory sentences was most objectionable and that it forced magistrates and judges to stoop to all sorts of hanky-panky to try to overcome the problems involved.

It is a matter that should be left to the court. A high penalty is imposed for the original offence; in fact, the existing penalties have not been altered. The whole new section has much to commend it, because it is a sensible and straightforward redrafting and overcomes many difficulties. However, I oppose proposed new subsection (5).

The Hon. C. M. HILL: The problem where youth becomes involved has been expressed to me as being the worst fear of people interested in this Bill. Many fears have been put forward, but this is the greatest and is expressed

with the deepest possible concern by a large number of people. I understand and respect the principle with which the Hon. Mr. Potter is concerned, but I wonder whether it is advisable to let the measure go forward without some evidence to show that the concern expressed by so many people is being reflected by the Legislature and written into the measure.

Whilst a term of imprisonment is imposed by a court, the Parole Board, provided a non-parole period has not been fixed by the court, can reduce the sentence. For those who may think that circumstances exist in which five years might be too severe a penalty, particularly in cases where there might be some doubt that the youth involved in the offence might have been partially to blame (and that is not an impossibility), some elasticity is provided through the machinery of the Parole Board.

I understand the Hon. Mr. Potter's point of view, but I cannot agree that subsection (5) should be omitted, because I feel bound to place in the legislation, wherever possible, amendments which are being initiated through the concern expressed to me by members of the public.

The Hon. D. H. L. BANFIELD: I agree with the sentiments expressed by the Hon. Mr. Potter. If an offence is committed against a man of 20½ years of age, the person committing the offence might not have known that he was under 21 years of age, but under this provision he would receive the same term of imprisonment as if the act had been committed against a boy of 8 years or 10 years. In considering the sentence, the judge would consider the age of the youth against whom the offence was committed and would use his own discretion, but where Parliament has set down a minimum period of five years the question of parole does not enter into it, because the man will be committed to prison for five years. The penalty is too severe when one considers the possible difference in age.

The Hon. F. J. POTTER: The suggestion we hear from time to time in this place that we must spell out things in legislation so that everyone will know the position, and in particular so that the courts and the judges will know what they have to do, is a wrong approach. Magistrates and judges are able and competent to take account of the facts of the case. They do not need to have everything spelled out in legislation as if they were in a kindergarten class. It is part of their whole training to weigh the circumstances. I agree with the Hon. Mr. Hill that, where an offence has been committed against an unwilling minor, that offence must, according to the circumstances of the case, be treated most seriously. I have not the slightest doubt that the courts will treat such a case in that way without having to be told they must do so and without having a minimum penalty imposed. The amendment is a very good one, but I hope subsection (5) will be deleted.

The Hon. F. J. Potter's amendment carried; the Hon. C. M. Hill's amendment as amended carried.

The CHAIRMAN: The question now before the Chair is that clause 4 as printed stand part of the Bill. For the question say "Aye"; against "No". The "Noes" have it.

Clause 4 as printed negatived.

The CHAIRMAN: The question now before the Chair is that clause 4 as amended be agreed to. For the question say "Aye"; against "No". The "Ayes" have it.

Clause 4 as amended passed.

The CHAIRMAN: It will now be necessary to decide whether clause 5, as amended, stand part of the Bill. For the question say "Aye"; against "No". The "Noes" have it.

Clause negatived.

Title passed.

Bill reported with further amendments. Committee's report adopted.

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

That this Bill be now read a third time.

The Council divided on the third reading:

Ayes (8)—The Hons. D. H. L. Banfield, M. B. Cameron, R. C. DeGaris, C. M. Hill (teller), H. K. Kemp, F. J. Potter, A. J. Shard, and V. G. Springett.

Noes (6)—The Hons. T. M. Casey, M. B. Dawkins, R. A. Geddes, L. R. Hart (teller), E. K. Russack, and A. M. Whyte.

Pairs—Ayes—The Hons. G. J. Gilfillan and C. R. Story. Noes—The Hons. Jessie Cooper and Sir Arthur Rymill.

Majority of 2 for the Ayes.

Third reading thus carried.

Bill passed.

MARKETING OF EGGS ACT AMENDMENT BILL

Read a third time and passed.

LEGAL PRACTITIONERS ACT AMENDMENT BILL

Read a third time and passed.

HIGHWAYS ACT AMENDMENT BILL

Read a third time and passed.

CIGARETTES (LABELLING) ACT AMENDMENT BILL

Read a third time and passed.

FRUITGROWING INDUSTRY (ASSISTANCE) BILL

Adjourned debate on second reading.

(Continued from October 3. Page 1714.)

The Hon. H. K. KEMP (Southern): Superficially, this Bill should be welcomed with open arms by all the fruitgrowing community. However, I regret that there must be deep reservations in its acceptance. The Bill enables money made available by the Commonwealth Government to be allocated to fruitgrowers who have surplus production to enable them to remove trees from which there is no market for the fruit they produce.

This position arises chiefly because of the loading that has been imposed on trade in canned and fresh fruit between Australia and its principal markets in Europe. This matter has almost a historical background. When in 1948 I first entered the apple growing industry, the cost of shipping fruit from the Adelaide Hills to the markets of Britain was about $1 or $1.10. It was a charge that we could reasonably sustain because of the prices obtaining in Britain.

Today, the price obtaining for taking one bushel of fruit from the wharves at Port Adelaide, after the cost of getting it there, is $2.43. In addition to that there is the immediate prospect before us of increased freight rates. This means that the Australian fruits have been materially pushed out of their traditional markets in Europe; also, freight increases apply to dried fruit cargoes and canned fruits, too, so there is no longer the possibility of our being able, in Australia, to compete with the fruits grown nearer to our normal markets.

The Hon. R. A. Geddes: Is your $2.43 from the shed to the ship across the wharf?

The Hon. H. K. KEMP: It is from wharf to wharf. To the $2.43 must be added the cost of packing the fruit and buying the can in which it is placed, which amounts to about $1.45, at a conservative estimate, which means that before we can think of getting our fruit exported we must reckon on $2.43 for freight costs plus $1.45 for buying the carton and packing and dispatching it. Then, at the other end, there is a charge of 7s. sterling, which is the cost of taking the fruit from the ship to the market in Britain.

Before there is any possibility of our getting a return here from fresh fruit like apples, the cost in Britain must be about £2 10s. sterling; so there is only a reasonable return to the grower if the price reaches £3 sterling. This makes the wholesale price of fruit too high. It must be about $6 or $7 before the fruitgrower can get anything like the cost of production.

That is the position of the industry, which is now facing violent competition from Northern Italy, which is less than $1 in freight away from the London market. South Africa, which is much closer to Britain than we are as all our exports now have to go via the Cape, has to bear less than half of our freight costs, so we are materially being pushed out of the European markets, those markets that the Australian fruit industry has become accustomed to supply. There are no two ways about it.

Our industry has been designed over the years to develop in order to supply British and European markets as well as our own. No blame can be attached to anyone for this position, except that possibly the British shipowner has been hungrier than he should have been. However, his costs have increased so that the ships cannot be run economically at the old figures. This leaves Australia with a large surplus of nearly all its deciduous fruits that go in cans or are dried or sent fresh to the other side of the world.

To overcome the possibility of gross oversupply in Australia and in view of the fact that we cannot possibly compete with fresh fruit grown in Asia or in Near-Eastern areas, except for a few small luxury centres like Singapore and Hong Kong, we have no hope of placing the several million boxes of apples that are surplus to our requirements in Australia in, for instance, China, where much of our surplus wheat has gone; or in Japan, where in the future we may be able to export some fruit. However, the possibilities are remote because here in Australia we have sundry pests of which other people are scared and because of which strict quarantine barriers are erected.

Latterly, we have seen a curious development in pears and some apples being exported from Australia to North America. That trade looks as though it may develop nicely, but it can apply only to a limited range of fruit because, with modern storage methods, it is certain that fruit can be kept, by one means or another, for supply all the year round.

There are only a few types of fruit, like pears (which have a notoriously short storage period) which are likely to be placed in any

quantity in these large markets in the Northern Hemisphere, which we can still reach at a reasonable cost. The big problem is the increase in freight rates, so we return to the fact that Australia has a large surplus of potential fruit production in the trees, in the vines and in the orchards generally for which there seems to be little prospect of an easy market.

To overcome this problem, after many conferences, a solution was reached: it was that the Commonwealth Government would subsidize the removal of trees that were surplus to requirements in the fruit that could be sold. It was a straightforward agreement that about $500 an acre would be granted to those growers who were willing to remove their trees and undertake other forms of production. It is a straightforward and simple means of reducing production. It has been tested and proved in other parts of the world where similar problems have arisen.

This is the method used in Holland and Belgium, which have similar problems in their fruit industries. It amounts to a grant for the removal of trees. This would apply particularly in respect of pome fruit, but not canned fruit. It would be an important means of relief. It would certainly lead to the removal in our apple industry of many varieties of tree producing a vast amount of fruit, varieties that are now unwanted. In the Adelaide Hills we have an apple growing industry that has developed to the stage where it can supply the market with many types of apple. Of the kinds that have been produced, only a limited quantity is required today, because the quality of so many types is inferior to the selected types in demand.

The price of fruit in South Australia hinges on one variety—the Jonathan, a high quality dessert apple. There are many London Pippin trees and many King David trees remaining, and it is the surplus production from those trees that is largely the centre of the problem. Straight-out grants for removing the trees would go far toward solving the problem. However, to some degree a solution has been provided through the exploitation of alternative uses.

I can proudly say that in South Australia we have found outlets for many types of apple, although at reduced prices—for example, in the production of concentrate juice, canning, and, to a limited extent, drying. We do not receive an exciting return from fruit used for those purposes; it is 60c to 65c a case, or sometimes a little more. The Commonwealth Government has offered this State, with very few strings attached, $500 an acre, where trees are removed.

The Hon. R. A. Geddes: Of any variety?

The Hon. H. K. KEMP: It applies to deciduous fruits, the kinds that go into cans, and apples. It will be a straight-out grant to the State. The Bill enables the State to make use of the grant. It would be immensely valuable, because it would involve sub-marginal blocks and sub-marginal varieties that now flood or fill the outlets that we have been able to find.

Because we ourselves have found these outlets and developed them without any help from the Government, there is still a slight margin in growing the fruit. It is a worry for growers to destroy between 15 per cent and 20 per cent of their crop before it passes the blossom stage. There is so much blossom on the trees that we may strain every market outlet we have to dispose of the crop. So, this Bill should be very highly valued, because it will fill a deep need.

Some weeks ago I, as an apple grower in the Adelaide Hills, received a circular from the Lands Department stating that a tree pull compensation scheme was in prospect, something that we desperately need. I find that the limitations placed upon the grower attempting to use the scheme are absolutely impossible. The following, relating to those who can apply, is an extract from the first page of the introductory section:

The scheme will operate in two types of circumstances:

(*a*) Where farmers who are predominantly horticulturalists are in severe financial difficulties and wish to clear fell their orchards and leave the industry;

(*b*) Where a grower does not have adequate financial resources to remove surplus trees . . .

And those are the only people who can possibly apply. Regarding procedure, the circular says:

Initially the producer will lodge a simple form of application for assessment. The producer may then be required to complete a more detailed statement of production and financial liability.

No-one has any possibility of getting assistance if he is not in dire financial straits and, as I have said, we in the industry have made it impossible for anyone to be in dire financial straits. The circular also says:

As a safeguard against replanting trees, a grower seeking tree removal assistance under the scheme will be required to enter into a contractual agreement with the administering authority whereby in receiving assistance he

will agree not to replant any of the type of fruit trees specified in the agreement, namely, canning peaches and pears, apples and fresh pears on any land owned by him within the next five years.

This means, in the very nature of orchards, that the grower guarantees not to go back into the industry for 10 years. Let us remember that most orchard land is not held in large lots: it is held in very limited patches. In the Murray River irrigation area, orchards operated by soldier settlers are between 15 acres and 25 acres, although some larger areas are held in the older districts.

Most people in the Adelaide Hills have areas that cannot be used for anything except intensive agriculture. The areas could not possibly be used for dairying; areas of between 15 acres and 45 acres are sub-economic units. So the only possibility of farming is to go out of fruitgrowing and into vegetable growing, in which the returns are high. But most of these orchards are in areas where vegetable growing is not successful, because large amounts of irrigation water are required on demand from day to day. It is utterly ridiculous to think of the average block on the Murray River being used for intensive vegetable growing, because it simply cannot be done. A few crops can be grown, but intensive crops, such as lettuce, cauliflower and cabbage, must be watered on demand. This is one of the problems in the Virginia area.

It sounds very nice to have a water supply there that gives so many cusecs an hour, but a valuable crop of vegetables subjected to a hot north wind may have to be watered in the morning and again in the evening. That applies to most of the high return crops that can be grown along the Murray River, the exceptions being tomatoes and potatoes, which are already in over-supply. What would happen to our industries that supply the perishable crops if a great number of people who are expert only in fruitgrowing were to turn to them? Although it may sound easy to grow a crop of vegetables, it is one of the most skilled jobs in agriculture.

I turn now to the actual application form, which details exactly where the block is situated, the name, the hundred, and what is involved. The third page of the application form, which contains the undertaking that must be signed before a justice of the peace or a proclaimed bank manager, states:

In consideration of the Minister of Lands providing assistance, I hereby undertake and agree that I will repay, if required, the amount of all money advanced to me pursuant to this application with interest thereon in accordance with terms fixed by the Minister of Lands.

The money must be repaid, together with any interest laid down by the Minister, but this money has been provided by the Commonwealth Government. The application form also states:

I will execute in his favour all securities and undertakings as he may from time to time require over all or any of my assets, including property, for the purpose of securing to him the due payment of the moneys mentioned in subclause (1). I will not for the next five years plant here or anywhere else any of the type of fruit trees specified by agreement between the Minister of Lands and myself.

The Hon. T. M. Casey: What happens at the end of the five years?

The Hon. H. K. KEMP: He can plant, and five years later he might have a crop.

The Hon. T. M. Casey: What happens to the money that has been lent to him?

The Hon. H. K. KEMP: The money can be recalled at any time the Minister lays down, and the grower must sign over the whole of his assets and his property.

The Hon. T. M. Casey: These regulations have been laid down by the Commonwealth Government: we are only the administrative body.

The Hon. H. K. KEMP: I appreciate that the Labor Government has little sympathy for the man on the land, but this is one of the biggest take-down deals ever to be put before a primary producer. If the scheme were approached in the spirit in which it was put forward, it would be immensely valuable in assisting the Australian fruitgrowing industry, which is in dire distress.

The Hon. T. M. Casey: This is not our scheme.

The Hon. H. K. KEMP: The scheme was initiated by the Commonwealth Government with a grant of money that is to be charged out at any rate of interest the Minister of Lands may require, but no person who is not in dire distress can participate in the scheme.

The Hon. T. M. Casey: That was laid down by the Commonwealth Government.

The Hon. H. K. KEMP: I have had different opinions from Tasmania. A man in dire distress already has all his assets tied up in bank overdraft and mortgage, and the Minister knows that. He must give away the whole of the financial arrangement he has made and pass it over to the Minister of Lands. I hope that people in the fruitgrowing industry will not be placed in the same circumstances in

which people on Kangaroo Island and zone 5 have been placed and where there has been dire distress for a long time because of the completely inhuman administration of what were supposed to be relief and grant schemes to set up men on the land.

We can take great pride in most of our primary industries and, despite the inhuman administration of the legislation that is directed against us, we must keep our heads above water. When this legislation is added to the inroads being made into agriculture by such things as capital taxation, people on the land will be placed in an almost impossible situation. I do not think we should pass this legislation until we have a complete statement from the Commonwealth Government and the State Government regarding the agreement between them. As far as the Commonwealth Government is concerned, it is a straight-out grant for tree removal but, when it comes to the administration of the scheme by the State Government, anyone who takes up the apparently kindly offer will have a rope around his neck from which it is most unlikely he will escape. It can be seen that I have certain reservations about the Bill.

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

INDUSTRIES DEVELOPMENT ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 10. Page 1860.)

The Hon. L. R. HART (Midland): The original Industries Development Act stemmed from the recognition of a need to establish new industries and re-establish and expand existing industries on the cessation of the Second World War. Although the war was still being waged when the principal Act was passed in 1941, it was thought that a great deal of effort would be required if the soldiers who were so magnificently taking their stand for the preservation of liberty and independence in this country were to be gainfully re-employed when peace was declared. Furthermore, the normal means of financing industry in South Australia were restricted when compared to those of Melbourne and Sydney. Industry was often attracted to those cities in preference to Adelaide because of the ease of obtaining finance there.

I understand the South Australian Act was originally modelled on a similar Act of the Queensland Parliament. Thus we have a situation where each State sets out to attract and assist industry. There seems to have developed in recent years a type of competition between the States in attracting industry. This in some ways is rather unfortunate in that the States tend to outbid each other and industry can be in the position of holding the gun at the head of the Government to obtain the terms required. Quite a few viable proprietary companies are able to get Housing Trust assistance for the building of factories on a lease-purchase basis simply because they are private companies, whereas if they were public companies the money would be readily subscribed by a share issue. Notwithstanding this, the Industries Development Act has been of significant benefit to South Australia and most industries assisted have been able to honour their commitments and discharge their obligations with, perhaps, two recent exceptions. Both were industries located in country areas, and one probably would not have been assisted had it not been an old-established country industry.

Although many viable industries are assisted under this Act, some that have been helped could be described as "risk" industries. Under the Bill now before the Council the definition of "industry" has been broadened to encompass a substantial variety of sporting, social and cultural activities which are valuable to the people of the State but which are not carried on for profit. Among these there is no doubt a fair proportion of what one may term "risk" industries. The definition of "industry" in the Bill is rather interesting. Previously the word was not defined, but now we have two definitions, one of "business" and the other of "industry". The definition of "business" is as follows:

> "business" in relation to an industry, includes the carrying on of any activity referred to in the definition of "industry" whether or not that activity is carried on for, or in the expectation of, profit or reward:

and then "industry" is defined as follows:

> "industry" includes any sporting, cultural or social activity whether or not that activity is carried on for, or in the expectation of, profit or reward:

The scope of the Act was recently broadened by a minute from the Treasurer to the effect that he was prepared to consider applications for guarantees under this Act for special projects associated with the catering industry, provided that the catering industry was able to meet certain requirements and conditions laid down in the terms of the guarantee. Conditions under which a guarantee is given in an application of this nature are similar to those written into the principal Act. In the Bill we see quite a departure from these

requirements and one visualizes the committee having some rather difficult decisions to make in what could be a wide variety of applications. In his second reading explanation the Minister said:

Instead of having to report whether or not the business will be profitable, it will be sufficient for the committee charged with the investigation of the matter to report whether or not the business is capable of earning an income sufficient to meet its liabilities and commitments.

In other words, the main responsibility of the committee will be to make sure the business does not sustain a loss; indeed, that is the first essential it must consider now when it is processing applications for assistance.

The final paragraph in the second reading explanation is rather interesting, and one may suspect that this could well be the main purpose of the Bill before us. The Minister says:

Finally, I inform members that it is likely that an application for a guarantee for the repayment of moneys to be borrowed will be made by the South Australian National Football League Incorporated in connection with the development of its proposed new football stadium and headquarters at West Lakes. While the amendments proposed by this Bill will enable such an application to be made by the league, I make it clear that the bringing up of this measure at this time should not be taken as an indication of the view of the Government on the merits of that application. The Government will in this matter, as in every other application under the principal Act—

The Hon. A. J. Shard: I did not say that. That is not my second reading explanation.

The Hon. L. R. HART: That is in the second reading explanation of the Premier in another place.

The Hon. A. J. Shard: Then why not say it is the Premier's? The honourable member has no right to read that, either. He must attribute it to the proper person. I am the Minister in charge of this Bill, and I did not say that.

The Hon. L. R. HART: Then I apologize to the Chief Secretary, but it is somewhat unusual to have a second reading explanation in this Council different from that in the Lower House when no amendments were made to the Bill in another place.

The Hon. A. J. Shard: And it is quite unusual for *Hansard* in another place to be quoted here, too.

The Hon. L. R. HART: Unfortunately, I was not in the Chamber yesterday when the Minister presented his second reading explanation.

The Hon. A. J. Shard: The honourable member is saying I said things which I did not say.

The Hon. L. R. HART: I have not been able to get a "pull" to read. If I have made a mistake, and if the Chief Secretary assures me that the South Australian National Football League was not mentioned in his second reading explanation—

The Hon. A. J. Shard: Here it is. The honourable member may see it.

The Hon. L. R. HART: If I may borrow it—

The Hon. A. J. Shard: The honourable member must not attribute to me something said by someone else.

The Hon. L. R. HART: This undoubtedly makes one even more suspicious: an application may be made by the South Australian National Football League for assistance under this Bill, because it will be competent for that body and, indeed, many other bodies to apply for assistance under the amendments contained in the Bill. Why the Government did not have the courage to state this in the second reading explanation, I cannot say. I merely make the point that the S.A.N.F.L. will undoubtedly apply for assistance.

The Hon. T. M. Casey: Anyone can apply, can't he?

The Hon. L. R. HART: I realize that. I ask (and the Chief Secretary may be able to answer me in due course) whether assistance will be available only by way of guarantee of money borrowed or whether it will be competent for the Housing Trust to enter into agreements to build stands, stadiums, and so on at West Lakes for the S.A.N.F.L. if it should apply for assistance, similar to the manner in which the trust at present builds factories for industry on a lease-purchase basis. It is important for one to know whether, under the provisions of the Housing Improvement Act, the Housing Trust will be able to assist sporting, cultural and other bodies of the type set out in the Bill. It will be interesting to know whether the trust will be able to assist such bodies in a manner similar to that in which it at present assists industry by the construction, renovation and expansion of factories. If it will be able to do so, the trust will possibly assist in the construction of stadiums at West Lakes.

The S.A.N.F.L. will derive some advantage if this occurs, as the conditions imposed and the interest charged on any contract made in these circumstances will probably be more attractive than could be obtained elsewhere. If that is so, one could visualize an application being made under this Act to have Carclew, the magnificent old structure that is being run

by a cultural body, renovated or rebuilt, or assisted in some other way. Also, one could imagine that, if the Aborigines decided that they wanted to develop Wardang Island as a tourist resort, they, too, could approach the Government and apply for assistance to build motels and other similar facilities to make Wardang Island a tourist attraction. Under the Act, it is at present competent for the Government to require an industry to pay commission on any loan that is guaranteed. Section 14 (2) provides as follows:

No such guarantee shall be given unless . . . the person to whom the loan has been or is to be made has agreed to pay to the Treasurer, as consideration for the guarantee, a commission at an agreed rate, not exceeding two per centum per annum, on the amount of the loan for which the guarantee is given . . .

One therefore asks again whether it is likely that the Government will impose this condition on some of the bodies that apply for guarantees.

The Hon. A. J. Shard: Doesn't the Industries Development Committee make a recommendation either for or against an application?

The Hon. L. R. HART: It can make a recommendation to the Government, but the Government is not required to accept that recommendation. Indeed, it could even vary it.

The Hon. A. J. Shard: Can you tell me from your experience how often the Government does not accept its recommendations?

The Hon. L. R. HART: From my experience, the committee has never recommended, nor has the Government applied, this condition. I do not know what has happened in years gone by. However, that is not the point at issue, because the Act has been enlarged. The Government is involved in the guarantee of moneys for different purposes from those which have applied in the past. I wonder whether the Government will in future require commissions to be paid on loans it guarantees that are made to certain non-profit making bodies.

Another condition of a guarantee is that the Treasurer may require to have a nominee on the board of a company. If the Government becomes involved in the building of stadiums and other facilities at West Lakes, will it insist on having a nominee on the S.A.N.F.L. or, if it guarantees a loan to the Kooyonga Golf Club to enable it to build a motel on its links, will the Government want to have a member on the committee of that club?

I believe it would be competent for the Government to require this, as some risks will be associated with guarantees of this nature made in future. It will be difficult to ascertain whether some of these bodies will be able to meet their commitments. They are required not to make a profit but to make only sufficient money to enable them to meet the terms of their contracts. There is a fine dividing line in this respect, and I can imagine the committee's having some difficulty in coming to decisions on applications referred to it. Because of the wide variety and nature of industries and businesses that can apply for guarantees, the committee may well be inundated with applications. I hope that many of these applications will come not only from the metropolitan area but also from country districts—

The Hon. A. J. Shard: I couldn't agree more.

The Hon. L. R. HART: —because there is a need in the country as well as in the city to assist some of the bodies covered in the Bill. Honourable members should closely examine this Bill, on which they could ask certain questions in Committee. I support the second reading.

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

JUVENILE COURTS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 10. Page 1851.)

The Hon. F. J. POTTER (Central No. 2): I support the second reading of this Bill which raises to the age of 10 years the limit for criminal responsibility of a child. In a way, this is an ironic amendment because for a long time, as honourable members know, we have been speaking about reducing to 18 years the age of majority, the age at which one must be regarded as being more responsible and in every way completely responsible; yet, at the other end of the scale, we have decided to raise the age a little and it is only at 10 years of age that one can be regarded as having any responsibility from a criminal liability point of view.

I am heartened by the statistics quoted by the Chief Secretary for the last two years, in which period we know, of course, there has been a considerable increase in prosecutions generally in the Juvenile Court. It appears that in that period of time prosecutions against children between the ages of 8 and 10 have been less than 2 per cent of the total prosecutions—a very small percentage. It does not mean, of course, that in every case children between those ages cannot be dealt with in a

court, because the provisions of the Community Welfare Act dealing with uncontrollability, truancy and neglect will still be able to be invoked against children of those ages.

The system set up under the Juvenile Courts Act, whereby offenders are to be counselled by a panel, may be invoked (although, of course, not compulsorily) in cases where young offenders are detected committing a crime. This matter was examined by a committee in Britain some years ago, and the finding of that committee was to the effect that the age could safely be raised without causing any difficulties. In fact, I think the age has been raised to 10 in Britain as a result of that inquiry. We can safely accept this Bill. It has my support.

Bill read a second time and taken through Committee without amendment. Committee's report adopted.

CONSTITUTION ACT AMENDMENT BILL (COUNCIL)

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

FOOTWEAR REGULATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 10. Page 1858.)

The Hon. F. J. POTTER (Central No. 2): I support the second reading of this Bill. I must confess that what I know about footwear would cover only one page of an exercise book. All I know is that occasionally I buy a pair of shoes that do not quite fit; and, of course, all shoes wear out. It seems to me eminently satisfactory that we should have proper labelling and branding of footwear. That is all that this Bill does. It stems from a recommendation of the Ministers of Labour in all States of the Commonwealth and is really a Bill to give uniformity to the branding of footwear. It is a simple measure and has my support.

Bill read a second time and taken through Committee without amendment. Committee's report adopted.

RIVER TORRENS ACQUISITION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 10. Page 1859.)

The Hon. C. M. HILL (Central No. 2): The Chief Secretary explained this Bill in detail yesterday with his usual conciseness and brevity. I thank him for presenting the material so effectively. It is a short Bill. Apparently, it has become necessary for the top of the Torrens River bank to be more clearly defined by survey when an acquisition is envisaged by the Minister of Works. It appears from experience, after the original Bill was passed in 1970, that the top of the river bank has been difficult to define with the exactness needed for any plans for acquisition purposes. In order that that complete exactness can be fixed and the top of the river bank defined by survey, it is necessary for this amending Bill to be passed. It is an extremely simple Bill and I see no reason why it should be further questioned or debated. Accordingly, I support it.

Bill read a second time and taken through Committee without amendment. Committee's report adopted.

PREVENTION OF POLLUTION OF WATERS BY OIL ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 10. Page 1859.)

The Hon. R. C. DeGARIS (Leader of the Opposition): I support the Bill. Its purpose is to increase the fines that can be imposed for the pollution of waters by oil. This change in the legislation was recommended by the Commonwealth and State Ministers of Marine. I agree with the Chief Secretary's statement that there is no need to emphasize the dangers resulting from pollution of our coasts and waters by oil; it causes not only beach damage and coastal damage but also harm to marine and bird life. What has happened in other parts of the world clearly illustrates the need for strict penalties in connection with this type of pollution. Some remarkable improvements have been made in methods of clearing up oil pollution, and no doubt such methods will become even more efficient in the future. Nevertheless, I believe it is necessary to have high penalties for deliberate oil pollution. The new scale of fines ranges to a maximum of $50,000; this may seem extreme but, when one remembers that large sums can be saved if tankers clean out their tanks at sea and deposit the oil in the sea, one realizes that it is necessary to have high penalties as a deterrent to that type of action. I therefore support the second reading.

Bill read a second time and taken through Committee without amendment. Committee's report adopted.

ADVANCES TO SETTLERS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 10. Page 1860.)

The Hon. A. M. WHYTE (Northern): I support the Bill. The advances to Settlers Fund has operated in one form or another since

about 1908, and the present position is that the fund is vested in the Treasurer; all repayments are made to the Treasurer, and interest on the advances is channelled into general revenue. From time to time the amounts that can be made available to settlers have been increased; the present increase from $9,000 to $10,000 relates to the sum that can be advanced to a settler for the purpose of improving, altering or erecting a dwelling-house. I have no hesitation in supporting that increase, because it will bring this legislation into line with legislation relating to urban areas. Section 7 of the principal Act deals with the advances that can be made to settlers for improvements such as fencing, drainage, permanent water improvements, dams, wells, tanks, or for stocking a holding, discharging a mortgage, or for any other purpose; the maximum advance for any of those purposes is to remain at $6,000. I am sorry that the Government has not seen fit to increase that limit, which has not been increased since 1970. I believe that it should have been brought into line with today's conditions. The sum of $6,000 would not go far for the purposes mentioned. I therefore believe that the Government has overlooked something that could benefit settlers generally. This legislation has never got into a chaotic state, as has some other legislation of this general nature. New section 12a (2*a*) provides:

> The Governor may from time to time by proclamation vary the amount of ten thousand dollars referred to in subsection (2) of this section . . .

I believe that it is wrong in principle that so much provision is made for proclamations. I hope that some day we will see a Government that is more willing to make necessary changes by legislation not proclamation. In view of this, I intend to move to amend the provision so that it will read that the Governor may from time to time by proclamation increase the amount of $10,000. At present, the provision reads "vary", but I should hate to see that amount of authority placed in anyone so that he could decrease the small amount of money made available as a loan, without it coming before Parliament.

The Hon. A. J. Shard: Would it ever be reduced?

The Hon. A. M. WHYTE: I am not taking any chances. Although the amendment has not been circulated, in Committee I will move to strike out "vary" and insert "increase". I support the second reading.

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

ADJOURNMENT

At 5.52 p.m. the Council adjourned until Thursday, October 12, at 2.15 p.m.