LEGISLATIVE COUNCIL

Wednesday, October 25, 1972

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

QUESTIONS

DROUGHT RELIEF

The Hon. R. C. DeGARIS: I seek leave to make a statement prior to asking a question of the Chief Secretary.

Leave granted.

The Hon. R. C. DeGARIS: I direct this question to the Chief Secretary, as Leader of the Government in the Council. The present position in certain parts of the State is critical because of the effect of drought. I think I am correct in saying that, before any Commonwealth assistance can be obtained to alleviate this position, it is necessary for the State Government to spend a specified sum on drought relief. Will the Chief Secretary say whether the State Government is in a position to apply to the Commonwealth Government for financial assistance for drought relief and, if it is, will it apply to the Commonwealth Government for such assistance?

The Hon. T. M. CASEY: I think I can perhaps answer the question better than the Chief Secretary can. At present, the Murray Mallee in South Australia is very much affected by drought, and honourable members have no doubt heard of representations being made by councils in the area to have it declared a drought area. Unfortunately, however, areas are not declared drought areas, because under the Primary Producers Emergency Assistance Act grants can be made to farmers in necessitous circumstances, and this applies to all natural calamities. The present formula under which the State Government works in conjunction with the Commonwealth Government is that the State Government must pay the first $1,500,000 before it can obtain drought relief from the Commonwealth Government. However, there have been instances in which the Commonwealth Government has given financial assistance to the States in major drought conditions. Perhaps some representations can be made to the Commonwealth Government in these extenuating circumstances. This matter is being examined this afternoon: representatives of the respective councils in the Murray Mallee area are, with my concurrence, this afternoon conferring with the Director of Lands, and I hope more information will be available after that meeting. If necessary, representations could be made to the Commonwealth Government by the Treasurer, with whom I will certainly take up the matter.

The Hon. R. C. DeGARIS: I thank the Minister of Agriculture for his reply. Can he say whether the sum of $1,500,000 applies only to South Australia or to all States?

The Hon. T. M. CASEY: Under existing arrangements between the States and the Commonwealth, the situation varies according to the amounts the States have to pay initially before the Commonwealth will provide money on a $1 for $1 basis. I believe the situation is that South Australia has to pay $1,500,000 before the Commonwealth will come to the party on a $1 for $1 basis. This State, I believe, incurs an expenditure of up to $2,500,000 and the Commonwealth takes the burden after that. The New South Wales Government has to pay $5,000,000 before the Commonwealth will come in on a $1 for $1 basis. The initial amounts payable by the other States differ before the Commonwealth will agree to come in on a $1 for $1 basis.

The Hon. C. R. STORY: I seek leave to make a short statement with a view to asking a question of the Acting Minister of Lands.

Leave granted.

The Hon. C. R. STORY: I realize that this question comes within the province of the Minister of Lands. I listened carefully to the reply of the Acting Minister of Lands about the assistance that could be given as drought relief. I am not sure about this matter. Would the Minister like to look again at the reply he gave to the Hon. Mr. DeGaris? He fixed an initial figure of $1,500,000 as being payable by South Australia before any Commonwealth assistance could be given, but it seems to me that on several occasions we have had assistance from the Commonwealth at a figure lower than $1,500,000. Can the Minister say whether there has been some change in formula, has the Commonwealth Government become tougher in its assistance to the State Governments, or has something happened so that we cannot receive any Commonwealth assistance in any crisis until this State has spent $1,500,000 of its own money?

The Hon. T. M. CASEY: I thought that what I said to the Leader was the situation, as far as I knew it. What I said I still stand by: that is the present situation between the Commonwealth and the States. If the honourable member reads the answer I gave the Leader, he will see that I said that in previous droughts the Commonwealth had come to the party as a result of negotiations between the

Treasurer and the Commonwealth. However, over the last six months, under the drought committee set up by the Agriculture Department in conjunction with the Bureau of Agricultural Economics, this matter has been discussed at Agricultural Council meetings several times. A new formula was evolved by the Commonwealth and submitted to the States. It was not acceptable and is still in the melting pot. That was going to be a three-tier scheme between the States and the Commonwealth but, unfortunately, nothing has been done about it so far. I have always adopted the attitude (and I have explained this at Agricultural Council meetings) that drought is the equal responsibility of the Commonwealth and the States. I still stand by that.

The Hon. M. B. CAMERON: I seek leave to make a statement prior to asking a question of the Minister of Agriculture, as Acting Minister of Lands.

Leave granted.

The Hon. M. B. CAMERON: I have listened carefully, as have other honourable members, to the Minister's replies. However, it seems to me that the real problem could be that we do not declare drought areas as such but rely on legislation that exists for other purposes. Could it be that we need legislation and, if so, will the Government consider introducing such legislation so that areas can be declared drought areas, thereby giving us a stronger case to present to the Commonwealth Government for further relief?

The Hon. T. M. CASEY: I do not think it matters whether or not we declare an area to be a drought area. The whole situation revolves around the problem that confronts farmers in different areas. South Australia is a very dry State, and what might be considered dry conditions in one area might be considered good conditions in another area (I refer to the Far North-East and the Far North-West as examples).

The Hon. R. C. DeGaris: It's a question of relativity.

The Hon. T. M. CASEY: That is right. All this is covered. It is a difficult matter, as I said the other day, to define what is a drought area, because the area might cut across hundreds and district council boundaries, particularly those east of the Adelaide Hills. In the circumstances, everything is covered now, and that is why the Government acted several months ago to make fodder available at reduced cartage rates by road and rail to farmers in necessitous circumstances.

WAIKERIE POLICE BUILDING

The Hon. A. M. WHYTE: Can the Chief Secretary say at what stage the police complex for Waikerie is at the moment? Have tenders been called? If not, can he indicate what progress has been made?

The Hon. A. J. SHARD: Speaking purely from memory, I think a contract has been signed. I am not clear on that but I remember something being said about the situation at Waikerie within the last week or so. However, I will have the matter investigated and bring down a reply for the honourable member.

BURNSIDE LAWN REMOVAL

The Hon. C. M. HILL: I seek leave to make a statement prior to asking a question of the Minister representing the Minister of Local Government.

Leave granted.

The Hon. C. M. HILL: There has been considerable publicity in the last couple of days concerning the actions of the Burnside council in taking up lawn or grass on footpath areas in St. Georges, much to the dissatisfaction, apparently, of ratepayers in that district. In the press yesterday one landowner who made a serious allegation against the council was reported to have said:

> The council has tricked us. First, it said it would be about two years before the work was done; then two months, and then, without warning it decided to do it.

The press reports also indicate that there had been some contact by the Local Government Office with the council and, I believe, with ratepayers about this matter. Will the Minister obtain a report on this matter so that one can see whether the council is or is not acting in any way contrary to the good name of local government?

The Hon. T. M. CASEY: I will refer the honourable member's question to my colleague and obtain a report when it is available.

WATER STORAGES

The Hon. M. B. DAWKINS: Has the Minister of Agriculture obtained from the Minister of Works a reply to my question of October 19 regarding water storages in and around the metropolitan area?

The Hon. T. M. CASEY: I must be a good student, because I have obtained a prompt reply. The storage holding in the metropolitan reservoirs is 32,709,000,000gall. out of a total capacity of 41,438,000,000gall. The details are as follows:

	Capacity (million gallons)	Present Storage (million gallons)
Mount Bold	10,440	9,630
Happy Valley	2,804	2,275
Clarendon weir	72	70
Myponga	5,905	5,641
Millbrook	3,647	1,796
Kangaroo Creek	5,370	3,925
Hope Valley	765	614
Thorndon Park	142	122
Barossa	993	822
South Para	11,300	7,814
	41,438	32,709

Pumping with two pumps during off-peak tariff hours is at present occurring on the Mannum-Adelaide main and has been continuous at this rate since the beginning of September, 1972. It is expected that this pumping rate will have to be increased to three pumps by about mid-November, 1972. It is not expected, however, that any on-peak tariff pumping will be necessary this year.

CAMPBELLTOWN SEWERAGE

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

Leave granted.

The Hon. C. M. HILL: Some residents in the city of Campbelltown are very concerned about the need for sewerage installations in Berry Avenue, Carr Crescent, Farmer Street, Thornton Drive, Fry Terrace and Laura Drive. Those streets comprise one region. Can the Minister state when he expects that sewerage will be installed in that region?

The Hon. T. M. CASEY: I shall refer the honourable member's question to my colleague and bring down a reply as soon as it is available.

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 18. Page 2144.)

The Hon. F. J. POTTER (Central No. 2): This matter and the subject matter of the next motion on the Notice Paper were considered by the Joint Committee on Subordinate Legislation, which found some very considerable difficulties. This motion, of course, relates to the action of the Meadows District Council in rezoning some parts of the area occupied by Craigburn, a very fine area of open space that is at present being used as a farm by Minda Home and is obviously one of the most valuable areas near the city. Other speakers in this debate have mentioned some of the difficulties involved, one being that the value of the land as it is at present, without being rezoned for housing purposes, is not sufficient as an asset to the home to enable it to raise money on that security. The question involved is a difficult one. If this piece of country had been owned by any organization other than Minda Home, the possibility of portion of it being rezoned for housing purposes might have been very remote indeed. I do not want to say a great deal about the actual problem involved in rezoning portion of Craigburn, because this is an extremely difficult matter, and without the intervention of the Government in some way, as was suggested by the Hon. Mr. DeGaris who moved the motion, I do not know and I do not think the committee knew, in exactly what way the problem could be tackled.

I want to say something about a very real difficulty the committee has noticed, which is becoming increasingly apparent. Where a council exercises its rights under the Town Planning Act to rezone a certain portion or the whole of its area, and where it goes through the lengthy process required by the Act to prepare a plan, submit it to the Town Planner, finally publish the plan in the district, receive objections thereto, and deal with those objections, that lengthy procedure does not necessarily mean that justice is done to everyone who may have in some way or another objected to the original plan. It is becoming increasingly clear to me that the processes of disallowing or pressing such regulations for disallowance in this Parliament, and using the procedures of the Joint Committee on Subordinate Legislation, are not very appropriate ways to deal with problems arising for individuals as a result of the zoning plan. The time is fast approaching when the Government must look at the possibility of setting up some other procedure whereby people who are not satisfied that they have been given a fair and proper deal by their objection to the council concerning a proposed zoning should have some right of appeal to another and more appropriate tribunal other than having to come before a committee of this

Parliament, and indeed to this Chamber and another place, in an effort to justify their objections.

Parliament is ill equipped to deal with the legal questions that arise. I acknowledge quite freely that the problem involved in the Craigburn redistribution does pose some very knotty legal questions, which I suppose ultimately will have to be resolved by a court before we have finished with the whole matter. I do not think Parliament can be expected to act as a court, and I do not think Parliament and its committees are the appropriate tribunals to deal with objections based on what might be said to be commonsense views of the whole matter, because it seems obvious to me (and it is true to say that it is obvious to members of the committee) that some people coming before the committee have a real claim for a remedy for what they believe to be an unjust zoning plan. The trouble is that the committee can only recommend the disallowance of the whole set of regulations, and Parliament can only disallow the whole set of regulations.

In this case, it would mean that if we admitted there was something we did not like about the zoning regulations we would have to disallow the lot, which would mean that Meadows would return to first base and would have no regulations at all and no interim development powers to hold the position. Therefore, in an attempt to correct one minor injustice that may have been done to one person, we are called upon to perpetrate a huge injustice to hundreds of other people. That seems to me to be a crazy situation; it is the real dilemma that this Council faces.

I hope it will not be long before the Government considers (and I am not so sure that this has not already been done to some extent) setting up some machinery whereby people who are genuinely aggrieved by zoning regulation plans can have a right of appeal. It would not be a bad thing if they were given a right of appeal to the Planning Appeal Board or, for that matter, to the court, because if this was done we would not face the difficulties that we now face on these matters.

I do not want to say much more about the matter, except that I hope the Government will think hard about giving this right of appeal to people who will in the future genuinely want to bring their complaints before a tribunal other than the council in the first instance. The Joint Committee on Subordinate Legislation recommended to this Council that no action should be taken for the disallowance of the regulations now before us.

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

CONSTITUTION ACT AMENDMENT BILL (COUNCIL)

Adjourned debate on second reading.

(Continued from October 18. Page 2146.)

The Hon. D. H. L. BANFIELD (Central No. 1): I have no difficulty in supporting this Bill, the provisions of which have for some time been Labor Party policy. It appears that we now have a fair chance of getting it through because, according to reports I have heard, the Leader of the Opposition and the Leader of the Liberal Movement in another place have given it their blessing and, of course, there is no dissension on the Government's part. There is no doubt, therefore, that this Council will have no difficulty in accepting the legislation in those circumstances, because we know we have the same three groups: the old conservatives, the break-away L.M. group, and the solid Government group.

The Hon. R. C. DeGaris: Especially from the neck up.

The Hon. D. H. L. BANFIELD: At least we are solid. According to the impression of people outside, some members in this Council cannot move from the neck down. It is, therefore, a matter of what impression is gained by the people outside of this Chamber. The Hon. Mr. Hill, when giving his second reading explanation, summed up the Bill well by saying:

> This proposed change overcomes an outdated facet in the State's Constitution; it undoubtedly makes that Constitution more democratic, and a speedy acceptance of this Bill will indicate to the South Australian people that this Council is progressive in its thinking and understanding of the rights of younger people in today's society.

How could any one of us go against such a build-up? We all like to think that we are progressive, and I am sure that this Bill has put some conservative members on the spot. I therefore believe that we will have their support. The principle of this Bill applies in all other States. In relation to Western Australia, section 7 of the Constitution Act Amendment Act, 1889-1972, provides as follows:

> Subject as hereinafter provided, any person who has resided in Western Australia for one year shall be qualified to be elected a member of the Legislative Council if such person is of the full age of 21 years and not subject to any legal incapacity . . .

When that amending Act was passed, 21 years of age was the legal age for voting. This was not altered to 18 years of age when the voting age was lowered. Prior to that, however, one had the right to stand as a member for the Council. It appears that the New South Wales Act lowering the voting age has not yet been proclaimed. However, at least the principle applies that one who is entitled to vote at a Legislative Council election is entitled to be a member of the Legislative Council. Regarding Victoria, section 73 of the Constitution Act Amendment Act, 1958, as amended, provides as follows:

Any natural born or naturalized subject of Her Majesty, who is of the full age of 21 years—

that is the voting age in Victoria—

shall be qualified to be elected a member of the Council.

In relation to Tasmania, section 14 (1) of the Constitution Act, 1934, as amended, provides:

Every person who is an elector, or is entitled under the provisions of the Electoral Act, 1907, to have his name placed on the roll for a division or subdivision, for the House for election as a member of which he is nominated, shall be capable of being elected as a member thereof . . .

In Queensland, which is the most progressive State, there is no Legislative Council, so this does not apply. The principle of a person who is eligible to vote at Legislative Council elections not being able to stand for election as a member is outdated and should have been corrected long ago. If we believe that a person is mature enough to elect a member to this august place, at least we should give him the credit of being sufficiently mature to be elected a member of the Council. The legislation does not mean that a person of 18 years of age will be elected: it merely means that the mature people to whom we have given a vote will have the right to stand for election. As I can see no reason why it should be opposed, I support the Bill.

The Hon. M. B. CAMERON (Southern): I support this Bill. I believe it is up to the electors to decide whom they will send to Parliament. If a person is enrolled as an elector for this Council, he or she should be entitled to stand as a represenative of the people. I am prepared to leave it in the hands of the electors to decide whom they want to enter Parliament. In our society there are clearly many people between the ages of 18 years and 30 years who hold positions of great responsibility. This is not something new—it has happened in the past. I am sure there are honourable members of this Council who, during the Second World War, held positions of great responsibility when they were under the age of 30 years. I do not wish to speak further on this simple Bill. I support the Hon. Mr. Hill's comment that this Bill should have a speedy passage.

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

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (HOMOSEXUALITY)

Consideration in Committee of the House of Assembly's amendments:

No. 1. Clause 3, page 2, lines 1 to 6—Leave out subsection (1) and insert subsections as follows:

(1) Notwithstanding any Act or law to the contrary, it shall not be an offence for a male person to commit a homosexual act with another male person, in private, where both parties are adult and have consented to the commission of that act.

(1a) Notwithstanding any Act or law to the contrary, it shall not be an offence—

(*a*) for a male person to commit an act of buggery with a female person; or

(*b*) for a female person to commit an act of buggery with a male person,

in private, where both parties are adult and have consented to the commission of that act.

No. 2. Clause 3, page 2, line 7—Leave out "A homosexual" and insert "For the purposes of this section, an".

No. 3. Clause 3, page 2, after line 18 insert subsections as follows:

(4) In any proceedings in which it is alleged that a homosexual act committed by male persons constitutes an offence, the burden of proving—

(*a*) that the act was not committed in private;

(*b*) that a party to the act did not consent to the commission thereof;

or

(*c*) that a party to the act was not an adult,

shall rest upon the prosecution.

(5) In any proceedings in which it is alleged that an act of buggery between a male person and a female person constitutes an offence, the burden of proving—

(*a*) that the act was not committed in private;

(*b*) that a party to the act did not consent to the commission thereof;

or

(*c*) that a party to the act was not an adult,

shall rest upon the prosecution.

No. 4. Clause 4, page 3, lines 1 to 5—Leave out subsection (2) and insert subsection as follows:

(2) Unless a male person is an adult, he shall not be considered capable of consenting to an indecent assault on his person by a male person and unless a male person has attained the age of seventeen years he shall not be considered capable of consenting to an indecent assault on his person by a female person.

No. 5. Clause 4, page 3, lines 8 to 10—Leave out "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" and insert "by reason of section 68a of this Act the act or proposed act of buggery or gross indecency may not be unlawful".

No. 6. Clause 4, page 3, lines 16 and 17—Leave out "a misdemeanour and liable to be imprisoned for a term not exceeding three years" and insert in lieu thereof the passage "an offence and liable to a penalty not exceeding two hundred dollars or imprisonment for three months".

No. 7. Clause 4, page 3, after line 17 insert subsection as follows:

(5) Proceedings for an offence against subsection (4) of this section shall be disposed of summarily.

Amendment No. 1:

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

That the House of Assembly's amendment No. 1 be amended by striking out "are adult" wherever occurring and inserting "have attained the age of twenty-one years."

In general terms, this amendment reverts the proposal to the form of my original Bill. The provision came back from another place with 18 years of age being substituted for 21 years of age, which was included in my original proposal. The British legislation provided for 21 years of age, and after that legislation was enacted in Britain the age of majority was reduced to 18 years; but 21 years of age was retained in that Act. So that, in its wisdom, the British Parliament thought it wise to leave the age at 21 years. It is in a spirit of caution that I believe we should insist on the age of 21 years.

I appreciate fully that some honourable members have strong feelings about the age of majority being 18 years and where the age of 18 should be introduced into our general legislative and social areas. However, we should be cautious and not rush into this. Let me restate the position in other countries that have similar legislation. In Argentina the age in this matter is 22, in Belgium 21, in Bulgaria 21, in Canada 21, in China 16, in Czechoslovakia 18, in Denmark 18, in East Germany 21, in Britain 21, in France 21, in Greece 17, in Hungary 20, in Iceland 18, in Italy 16, in Japan 13, in Luxembourg 14, in the Netherlands 16, in Norway 21, in Sweden 18, in Switzerland 20, in Turkey 16, in Illinois (United States of America) 21, and in West Germany 21.

The Hon. A. J. SHARD (Chief Secretary): I oppose the amendment to the amendment. From what I have already said on this point, every honourable member knows where I stand. The age of majority is now 18. The Hon. Mr. Hill has accepted this age in other matters, so I think he should accept it here.

The CHAIRMAN: The question is "That the House of Assembly's amendment No. 1 be agreed to, with the following amendment: To strike out 'are adult' wherever it occurs and insert 'have attained the age of twenty-one years'."

The Hon. Sir ARTHUR RYMILL: Mr. Chairman, the form in which you have put the question makes it difficult for one to vote for the honourable member's amendment who intends to vote against agreeing to the House of Assembly's amendment. I am prepared to vote for the Hon. Mr. Hill's amendment on the basis that it is a step back to where we started from, but I would then propose to vote against the acceptance of the House of Assembly's amendment as amended. That is a perfectly normal course of procedure in this Chamber. Therefore, with your concurrence, I should prefer to see the question put without linking the honourable member's amendment with an acceptance of the House of Assembly's amendment.

The CHAIRMAN: I shall be quite happy to do that. That was how I proposed to put it in the first place but I thought it would simplify matters if I put it the way I did.

The Hon. Sir ARTHUR RYMILL: The procedure I have suggested would give private members a greater latitude to vote on this matter.

The CHAIRMAN: You would like the question put dealing only with the Hon. Mr. Hill's amendment?

The Hon. C. M. HILL: It follows the Hon. Sir Arthur Rymill's point, that he simply wants a vote taken on whether the age should be 18 years or 21 years, and he does not want that vote to be linked with the House of Assembly's amendment.

The Hon. Sir Arthur Rymill: Linked with the acceptance of that amendment.

The Hon. C. M. HILL: If this amendment is carried, the House of Assembly's amendment, as amended by altering the age to 21 years, will have to be put. Is that so?

The CHAIRMAN: Yes.

The Committee divided on the Hon. Mr. Hill's amendment:

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

Noes (5)—The Hons. D. H. L. Banfield, T. M. Casey, A. J. Shard (teller), V. G. Springett, and C. R. Story.

Majority of 8 for the Ayes.

Amendment thus carried.

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

That the House of Assembly's amendment No. 1 as amended be agreed to.

The amendment proposed by the House of Assembly and altered by the amendment just carried is important, because it reverts to the original approach to this problem. I think it is a better approach than the one we decided on previously and, if it is carried, it will mean a much better form of legislation than that which was previously agreed to.

The Hon. R. C. DeGARIS: In the second reading debate and in Committee I said that it was not the right approach to provide that it was not an offence in some circumstances. As I still hold to that view, I do not agree to the amendment.

The Hon. Sir ARTHUR RYMILL: I consider that the Hon. Mr. Hill's amendment improves the House of Assembly's amendment. Although I voted for it, that does not mean that I will vote for the House of Assembly's amendment, but as the Committee may accept the House of Assembly's amendment, I consider it my duty to get it into the form that is closest to my own thinking.

The Committee divided on the motion:

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

Noes (10)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris (teller), R. A. Geddes, G. J. Gilfillan, L. R. Hart, H. K. Kemp, E. K. Russack, Sir Arthur Rymill, and A. M. Whyte.

Majority of 2 for the Noes.

Motion thus negatived.

Amendment No. 2:

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

That the House of Assembly's amendment No. 2 be agreed to.

Amendment No. 2 is consequential on amendment No. 1.

The Hon. R. C. DeGARIS: I take it that we have already dealt with new subsections (1) and (1a)?

The CHAIRMAN: Yes. The amendment now under consideration is as follows:

Clause 3, page 2, line 7—Leave out "A homosexual" and insert "For the purposes of this section, an".

The Hon. F. J. POTTER: The House of Assembly's amendments, which I intend to support anyway, with the alterations proposed by the Hon. Mr. Hill, fall into two categories. Amendments Nos. 2 and 3 are consequential on amendment No. 1; so, it would be a little odd for the next two amendments to be carried in their present form, in view of the fact that amendment No. 1 has been rejected. Further, amendments Nos. 4, 5, 6 and 7 are quite separate and could or could not be accepted by the Committee irrespective of whether it favoured the approach mentioned earlier.

The Hon. C. M. HILL: I entirely agree with the Hon. Mr. Potter. In the light of that, I do not intend to press the vote to a division.

Motion negatived.

Amendment No. 3:

The Hon. C. M. HILL moved:

In the House of Assembly's amendment No. 3 to strike out "was not an adult" wherever occurring in proposed new subsections (4) and (5) and insert in each case "had not attained the age of twenty-one years".

Amendment carried.

The Hon. C. M. HILL moved:

That the House of Assembly's amendment No. 3 as amended be agreed to.

Motion negatived.

Amendment No. 4:

The Hon. C. M. HILL moved:

In the House of Assembly's amendment No. 4 to strike out from proposed new subsection (2) "is an adult" and insert "has attained the age of twenty-one years".

Amendment carried.

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

That the House of Assembly's amendment No. 4 as amended be agreed to.

This amendment improves the wording of new subsection (2).

The Hon. F. J. POTTER: I support the honourable member's submission. The Committee has already accepted this idea, and it is really no more than a rewording of the provision.

The Hon. R. C. DeGARIS: I agree with the Hon. Mr. Hill and the Hon. Mr. Potter.

Motion carried.

Amendment No. 5:

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

That the House of Assembly's amendment No. 5 be disagreed to.

If the Committee is to be consistent and follow through the principle adopted earlier, it would appear to me that this amendment should be disagreed to.

Motion carried.

Amendment No. 6:

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

That the House of Assembly's amendment No. 6 be agreed to.

This amendment deals with the question of one male person soliciting another. Previously the penalties laid down by this Council were severe. To keep some sort of conformity with the Police Offences Act, where penalties for female persons soliciting were nowhere near as severe, the House of Assembly reduced the penalty in this case to something more comparable with the other penalties I have

The Committee divided on the motion:

Ayes (11)—The Hons. D. H. L. Banfield, T. M. Casey, M. B. Cameron, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, C. M. Hill (teller), F. J. Potter, A. J. Shard, V. G. Springett, and C. R. Story.

Noes (7)—The Hons. Jessie Cooper, M. B. Dawkins, L. R. Hart, H. K. Kemp, E. K. Russack, Sir Arthur Rymill (teller), and A. M. Whyte.

Majority of 4 for the Ayes.

Motion thus carried.

Amendment No. 7:

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

That the House of Assembly's amendment No. 7 be agreed to.

It is consequential on the last amendment that the hearing be before a magistrate.

The Hon. F. J. POTTER: I confirm what the Hon. Mr. Hill has said. The Committee having carried the last amendment, it follows that it must carry this one because it is consequential on it and necessary as a result.

The Hon. G. J. GILFILLAN: I agree with the remarks of the Hon. Mr. Potter.

Motion carried.

The following reason for disagreement was adopted:

Because the amendments negate the original concept of the Bill.

Later, the House of Assembly intimated that it did not insist on its amendments Nos. 1 to 3 and 5, and agreed to the Legislative Council's amendment to its amendment No. 4.

LAND AND BUSINESS AGENTS BILL

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

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

That this Bill be now read a second time.

It re-enacts portions of the present Land Agents Act and amends that Act. It also incorporates and amends the provisions of the present Business Agents Act. There are four Acts that deal with the licensing of persons who act as agents in the selling of land or businesses or prepare documents relating to the sale of land. They are as follows: the Auctioneers Act, the Business Agents Act, the Land Agents Act, and provisions in the Real Property Act dealing with the licensing of land brokers. As the functions of all persons licensed or registered under these Acts are to a marked extent interrelated, it has been thought desirable to bring land agents, land salesmen, business agents, business salesmen, and auctioneers of land under the jurisdiction of one board and under one common licensing scheme. It has also been thought desirable to set up a licensing body in respect of land brokers who are at present licensed by the Registrar-General.

The sale of many businesses, including small businesses, involves the transfer of absolute ownership or a leasehold interest in land. The transfer of such interests is intermingled with the purchase of the goodwill and stock-in-trade of the business. At present, business agents are licensed by the Local Court. Land agents who were previously licensed by that court were brought under the jurisdiction of a licensing board in 1955. There is no authority in relation to business agents that may effectively inquire into complaints against the conduct of licensed business agents in their capacity as such agents. It would not be appropriate, nor would it be practicable, for the court to make such inquiries, except when a formal application for a cancellation of the business agent's licence is made. The present Business Agents Act does not provide for any previous experience or knowledge on the part of an applicant. He is merely required to satisfy the court that his character and financial position is such that he is, having regard to the interests of the public, a fit and proper person to carry on business as a business agent.

Negotiations for sale of a business frequently involve complex financial transactions on which purchasers and vendors expect to receive advice

from the business agents engaged. Many business agents are experienced, and are competent, by virtue of that experience, to tender such advice; but having regard to the present licensing provisions, it is open to anyone of good character and satisfactory financial position to obtain a licence. One of the purposes of the Bill is to ensure that business agents who in the future are licensed for the first time shall be required, as are land agents, to have adequate experience and knowledge to perform competently the functions that the public is entitled to expect of them. The Land Agents Board has, in the past, received complaints against the activities of persons licensed under both Acts where it has been unable to act, because it cannot be determined where the agent's duties as a business agent in a particular transaction cease and where his duties as a land agent commence. Both the Land Agents Act and the Business Agents Act require the agent to keep a trust account. Where a person is licensed under both Acts, it is frequently unnecessarily difficult, and sometimes impossible, to determine into which account moneys received by such agents should be paid.

The Bill seeks to bring about a common licensing scheme in relation to land and business agents and auctioneers of land. Such a scheme is in operation in other States and there is an ordinance covering the same object in the Australian Capital Territory. The Bill also provides for a licensing board for land brokers who, as previously mentioned, are at present licensed by the Registrar-General. Although the Registrar-General requires such persons successfully to undertake a course at the Institute of Technology, the only qualification contained in the Real Property Act is that such persons be fit and proper persons to be land brokers. Again, there is no authority having the jurisdiction to undertake investigations into complaints against the conduct of persons licensed as land brokers. Where a person is licensed as a land agent and is also licensed as a land broker, the Land Agents Board has been unable satisfactorily to deal with a complaint concerning a particular transaction because the conduct as a licensed land agent of a person holding both licences cannot be separated from his conduct as a licensed land broker. There are some grounds for holding the view that a person should not be licensed both as a land agent and a land broker. However, the Bill seeks to achieve a compromise between this view and the present situation.

In addition to setting up a common licensing system under a land brokers licensing board, other provisions in the Bill provide for a fund to meet defalcation by land and business agents and land brokers along the lines of the fund recently set up by the Legal Practitioners Act. At present, land agents and salesmen are required to provide a bond of $4,000 against possible defalcations. This amount is grossly inadequate, but a substantially higher amount would involve insurance premiums beyond the financial capacity of many agents. There are other provisions for regulating the making of contracts for the sale of land or businesses and also variations of those provisions of the Land Agents Act and the Business Agents Act that concern the conduct of land and business agents. Auctioneers who simply auction goods and chattels are not affected, but there is no good reason why an auctioneer auctioning land should not be required to be licensed or registered, as in many cases a contract is negotiated by the person conducting an auction immediately after the land being sold has failed to reach the reserve price.

Careful consideration has been given to suggestions of various interested bodies and, although it has not been considered practicable or desirable, by legislation, to deal with all the matters that have been raised, with one exception all the provisions relating to the control of agents meet with the approval of the Real Estate Institute. A considerable proportion of the provisions in this Bill were recommended by the Land Agents Board, which has been charged with the licensing of land agents and the registration of land salesmen for the past 17 years. I will now deal with the provisions of the Bill.

Part I contains saving and transitional provisions, but attention is drawn to provisions which provide that any licence in force under the present Land Agents Act or Business Agents Act before October 1 shall be deemed to be a licence in force under the Bill and that a person licensed as a business salesman under the Business Agents Act immediately before the commencement of the Act shall be deemed to be registered as a salesman under the Bill. This means that a few persons who do not have all the qualifications required for a land agent will become so licensed by virtue of their having held a business agents licence. The number of such persons is, however, relatively few, and it was thought better to permit these persons to continue to carry on as business agents rather than lose their

livelihood or be outside the licensing provisions and the control of the board. With regard to persons registered as business salesmen, their qualifications are similar to those at present required for land salesmen, and it is not thought unreasonable that they should become licensed as registered salesmen of land and businesses under the new Bill. Again, the number of persons affected is small.

Part II deals with the Land and Business Agents Board. The constitution of this board will be similar to the board under the present Land Agents Act and provisions as to quorum, validity of the acts of the board, allowances, etc., will remain as they are at present.

Part III deals with the licensing of agents relating to dealings in land or businesses. These proivsions are similar to those in the existing Land Agents Act. Clause 13 prohibits the carrying on of business or holding out as a licensed land agent without a licence. Clause 14, which provides for applications for licence, follows, as does clause 13, the present provisions of the Land Agents Act. Clause 15 sets out the qualifications that are required of a person to entitle him to hold a licence. They are based, with some modification in relation to the necessity for practical experience, upon the present Land Agents Act, but allow for persons who hold a business agents licence to be licensed under the Bill. Clause 16 provides for a licence to be granted to a corporation. It requires that, in the case of a corporation that did not hold a licence at the commencement of the Act, the persons managing, directing or controlling the affairs of the corporation, should have the same qualifications as those of a licensed agent or registered manager. The board is given power to exempt certain corporations from the requirement that the persons in control of the business are licensed or registered. At present, completely unqualified persons are able to form a proprietary company and engage a registered manager, who is then subject to their control, in order to carry out the corporation's business as a land agent.

Land agents are offering personal services to the public and it is considered reasonable, subject to the exemptions, that those who are able to control the affairs of a corporation holding a licence should have sufficient knowledge and experience in the duties of a land agent to guide the corporation in its business. They should not be permitted by the protection of the corporate body, in effect, to carry on businesses for which they are not qualified. Clauses 17 and 18 deal with the duration and renewal of licences. Clause 19 provides that, where a licensed agent dies, an unlicensed person may, with the consent of the board, carry on the business up to a period of six months in accordance with conditions imposed by the board. Clause 20 provides for the surrender of a licence with the consent of the board.

Part IV provides for the registration of salesmen. Clause 21 provides that a person who is not registered as a manager, who is a person required to have the same qualifications as those of a licensed land agent, shall not serve any person as a salesman or hold himself out as a salesman or act as a salesman unless he is registered. The effect of this is that only a registered salesman and a registered manager may be in employment as a salesman engaged in negotiating dealings in land or businesses. This clause follows the present Land Agents Act.

Clause 22 provides, as do the present Land Agents and Business Agents Acts, that a person shall not employ any unregistered salesman. The clause also provides that, unless the board considers that special circumstances exist, no person shall employ a salesman in his business except on the basis that the salesman is employed full time in that business. The clause exempts from this latter provision any salesman employed part-time within a period of 12 months after the commencement of the Act, and also permits the indefinite continuation of employment of a salesman employed on a part-time basis where he was so employed by a land agent immediately before the commencement of the Act and he continues in that employment.

This provision is designed gradually to phase out the present practice of agents nominally employing large numbers of salesmen who, because of the spasmodic nature of their activities, obtain little or no practical experience or knowledge. It has been found in some instances that there has been conflict between the agent and the so-called salesman as to whether or not the salesman is in the employ of the agent. This part-time employment frequently involves lack of any supervision by an agent over salesmen. The Land Agents Board has investigated several cases where part-time salesmen, quite inexperienced, were left to their own devices by the agent and obviously were quite unsupervised in the conduct of difficult negotiations with prospective purchasers.

Clause 24 re-enacts section 39 of the present Land Agents Act. It continues to exempt

stock and station agents from the requirement that all employees of a branch office should be registered as salesmen or managers. Clause 25 provides for the mode of application for registration to be made by a salesman. Clause 26 provides for the qualifications for registration of a salesman. At present, the only requirement is that a person should be a fit and proper person. The purpose of this clause is gradually to require that persons who apply to be registered as salesmen shall have sufficient knowledge in order properly to cary out their functions. The duties of a salesman are often crucial in the negotiations for sale and purchase of land. It is the salesman who communicates with the purchaser, shows him the property and usually writes up the contract note, which is ultimately signed by the purchaser and the vendor. It is the salesman who communicates any offers from the purchaser to the vendor, and frequently it is only when a contract has become binding on both parties that the land agent, or business agent, the employer of the salesman, becomes aware of it. It is regarded as essential that the qualifications for salesmen should be upgraded and that the requirement to be registered is that such a person shall not only be a fit and proper person but that he has passed such examinations or obtained such educational qualifications as may be prescribed.

The Bill exempts from educational requirements any person who was registered as a land salesman under the Land Agents Act or licensed as a business salesman under the Business Agents Act immediately before the Bill comes into effect. It is thought that this adequately preserves the rights of persons holding an existing registration and, although, as previously pointed out, it is perhaps giving a business salesman some advantage that he did not previously have, it is only reasonable that such persons who could, in most instances, by application to the existing Land Agents Board now be registered as land salesmen should have their position preserved. It also exempts from the educational requirement any person who, within 10 years before the date of his application, was registered as a salesman or registered as a manager under the Land Agents Act before the commencement of the Act contained in this Bill or held a business agent's licence under the Business Agents Act. Clauses 27 and 28 provide for renewal of registration as a land salesman. Both these clauses are in similar terms to the existing Land Agents and Business Agents Acts.

Clause 29 provides that a salesman may surrender his certificate of registration. It also provides that, while he is not in the service of an agent, his registration is suspended. Both these provisions are contained in the existing Land Agents Act. This clause requires that a registered salesman shall give notice to the board of the commencement or termination of his employment. This provision is contained in the existing land agents regulations, but it is considered sufficently important to incorporate it in the Bill as its requirements have, in the past, frequently not been observed, the usual excuse being ignorance.

Part V deals with nomination and registration of managers whom a licensed corporation is required to have in its service and actual control of the business conducted in pursuance of the corporation's land agent's licence. Clause 30, in addition to providing for the control of its business by a registered manager, also provides that a licensed land agent, not being a corporation, whose usual place of residence is outside the State, must have a registered manager in control of his business. Subclause (3) of clause 30 exempts from the requirement to nominate a registered manager during a period of one month after the happening of certain events. Other provisions in the clause are evidentiary, dealing with the usual place of residence within the State of a person and a prohibition upon remuneration to a registered manager who is not in the service of a licensed agent.

This clause substantially follows the existing provisions in the Land Agents Act but the last-mentioned provision relating to remuneration has been considered necessary because of the practice of licensed land agents paying commission to registered managers not in their employ. This has been found to be most unsatisfactory as a registered manager may nominally be in the employment of several agents, a practice that may give rise to conflict of interests against the interests both of the public and of the agents themselves.

Subclause (6) of clause 30 provides for a manager to be employed full time. This is directed against the case of one registered manager being nominally in the employment of several persons or corporations who are licensed as land agents. This practice has been observed where unqualified persons promote a proprietary company, become directors of it and obtain a land agent's licence in respect of that company. Although there has in the past been the requirement that they must employ

a registered manager, it has been found that a licensed land broker, for example, who is also a registered manager is nominally appointed as registered manager, but in fact he plays no part in the business and carries on some other business or is engaged in other employment. In addition, it has been found that such a person is the nominated registered manager of more than one corporation holding a land agent's licence. This situation is most undesirable. Subclause (7) of clause 30 is complementary to subclause (5).

Clause 31 provides for the mode of application for registration as a manager. Clause 32 provides for the qualifications required for a person entitled to be registered as a manager. Those qualifications are similar to those provided for by clause 15 in relation to land agents' licences. As has been previously pointed out, a registered manager stands in relation to a corporation, or a land agent whose usual place of residence is outside of the State, in the place of the person holding a licence. Clauses 33 and 34 provide for duration of registration and for renewal. Clause 35 provides for surrender and suspension of registration of a manager whilst not in the service of an agent. It also provides for notification to the board of the commencement or termination of employment.

Part VI deals with the conduct of the business of an agent. Clause 36 requires a licensed agent, within 14 days after commencing or ceasing to carry on business, to give to the Secretary of the board notice in writing of that fact. Clause 37 provides for an agent to have a registered office for service of notices at the registered office, and for registration and for giving notice of situation and change of situation of a registered office. Clause 38 provides for registered branch offices, and follows the existing provisions in the Land Agents Act. Clause 39 requires the agent to exhibit a notice as to his name, the fact that he is a licensed land agent, and the name or style under which he carries on business. It also provides for notification to the board of alteration of the name or style under which he carries on business.

Clauses 36, 37, 38 and 39 substantially follow the existing provisions in the Land Agents Act. Clause 40 provides for a licensed land agent to keep prescribed particulars of employees engaged in his business and to produce the record of those particulars. This provision has been found necessary because of the occasions on which land salesmen have failed to notify the board, as required by the existing regulations, of their change in employment or ceasing to be employed and also because in some instances, as has previously been pointed out, agents, through failure to keep proper records, have not been able to inform the board whether or not certain salesmen were employed by them. A number of agents nominally employ more than 20 to 30 salesmen on a commission-only basis.

Clause 41 prohibits the publication by licensed agents of advertisements that do not state the name of the licensed agent, his address and the fact that he is a licensed agent. It also prohibits a registered manager or salesman from advertising except in the name of the licensed agent by whom he is employed. The clause further requires that a person shall not advertise any transaction relating to the sale or disposal of a business without the consent in writing of the owner of the land or business. This clause has its counterpart in the existing Land Agents Act.

Clause 42 requires an agent, on demand or, in any event, within two months after the receipt by the agent of moneys in respect of any transaction, to render to the person for whom he has acted as agent an account setting out particulars of such moneys and of their application. Substantially similar provisions are contained in the present Land Agents Act and Business Agents Act. Clause 43 makes it an offence to render false accounts and is similar in terms to provisions contained in the Land Agents Act. Clause 44 provides that an agent shall supply to any person who has signed an offer, contract or agreement relating to a transaction that has been negotiated by the agent a copy of such document. This provision is considered to be necessary because of the difficulty sometimes experienced by purchasers, and even vendors for whom the land agent has been acting, in obtaining a copy of the documents that they have signed.

Clause 45 requires an agent to obtain an authority in writing before acting on behalf of any person in the sale of any land or business. At present a land agent is required to obtain an authority in writing before advertising any land for sale but there have been instances where agents have purported to offer a property for sale (other than by advertising) without the instructions or consent of the owner of that property, causing unwarranted embarrassment to the owner.

Clause 46 first provides that a licensed agent must not have any direct or indirect interest in the purchase of any land or business that he is commissioned to sell, unless he has previously

informed his principal of his interest and the principal has authorized him to act. Secondly, it provides that a registered manager, salesman or other person in the employment of a licensed agent must not have any interest in the purchase of any land or business that the agent has been commisisoned to sell unless the agent has so informed the principal and the principal has authorized the agent in writing to act on his behalf. This provision does not affect a licensed agent or other persons in his employ when acting in respect of any interest which arises merely as an agent. It is further provided that an agent, salesman or registered manager who acts in contravention of the section, in addition to being liable to a penalty, may be ordered to pay over to the principal, who is usually the vendor, any profit that he has made, or is likely to have made, from the purchase. Furthermore, the licensed agent is not to be entitled to receive any commission where the agent or any employee has been found to have an interest and has not disclosed that fact to the principal and obtained his consent to the agent acting in the transaction, notwithsanding that interest.

The Land Agents Board, in investigating complaints against agents, has taken the view that it is improper conduct on the part of the agent not to disclose an insterest in the purchase of land which he has been commissioned to sell. However, this view is not widely known amongst agents and it has been thought better to make specific legislative provision so that there will be no doubt of the duties of persons engaged in selling land and businesses, and also to provide for the protection of persons where an agent has acted in contravention of this clause. The practice of land agents, who have been commissioned to sell a property, of inserting a name of a nominal purchaser in the contract and then proceeding to have the land transferred to themselves or to a company in which they have an interest, has come to notice for many years but has increased substantially lately. There have been instances where the agent, or his employee, has clearly acted to the detriment of the vendor for whom he is acting. The vendor ought to be able to expect the agent to use his best endeavours to obtain a proper price for the land or business being sold. The agent should not, under a cloak of secrecy, obtain what has sometimes been a very substantial profit for himself.

Clause 47 prohibits a licensed agent from paying any part of the commission, to which he is entitled as agent, to any person other than to a licensed agent or to a registered manager or registered salesman. There have been a number of cases in which a licensed land agent has permitted his licence to be used as a front by persons not, in fact, employed by him, particularly registered salesmen over whom he has no actual control. Substantially similar provisions are contained in the existing Land Agents Act.

Part VII deals with the licensing of land brokers who are at present, as has been adverted to, licensed by the Registrar-General. Clause 48 contains definitions. Clause 49 sets up a Land Brokers Licensing Board and provides for it to be constituted of five members, one of whom is to be a legal practitioner of not less than seven years standing and one of whom is to be a licensed land broker. This clause follows substantially the constitution of boards under the provisions of the present Land Agents Act and the Land Valuers Licensing Act.

Clause 50 provides for term of office and removal of members of the board. Clause 51 provides for the procedure of the board. Clause 52 contains the usual provisions as to validity of the acts of the board and the immunity of its members. Clause 53 provides for allowances to members of the board. Clause 54 permits the board to obtain legal assistance. Clause 55 prohibits a person carrying on business or holding himself out as a land broker unless he is licensed but, following the present situation, this does not prohibit a legal practitioner carrying out work in the practice of his profession.

Clause 56 provides for applications for licences. Clause 57 sets out the qualifications that are required for a person to be entitled to a licence as a land broker. Any person at present licensed as a land broker will automatically be entitled to receive a licence if he is still regarded as being a fit and proper person. The clause also preserves the rights of persons who have qualified for licences under the present legislation but do not, in fact, hold licences. Under the Bill, applicants for licences will have to hold prescribed qualifications which will be based on the present qualifications that, in practice, applicants are required to obtain before the Registrar-General will issue a land broker's licence. Clauses 58 and 59 deal with the term and renewal of brokers' licences. Clause 60 enables a licensed land broker to surrender his licence with the consent of the Land Brokers Licensing Board.

Clause 61 prohibits a person, for fee or reward, from preparing instruments relating to any dealing with land unless he is a legal

practitioner or licensed land broker. This clause is along the lines of a similar provision in the present Land Agents Act. It will be noted that, in addition to the present provisions of the Land Agents Act, by subclause (2) the vendor's agent and a licensed land broker or a legal practitioner, or any other person in the employment of the vendor's agent, is prohibited from preparing any instrument (for example, a transfer) relating to the sale of any land by that vendor. However, pursuant to subclause (3), this does not prevent a solicitor or a licensed land broker who has been in the continuous employment of the agent from September 1, 1972, from preparing such a document. Subclause (4) prohibits an agent from procuring or attempting to procure the execution of a document whereby any specifically or generally prescribed person is requested or authorized to prepare any transfer, mortgage or other instrument. Subclause (5) makes void any clause in or appended to a contract whereby any person is requested or authorized to prepare any instrument in connection with the transaction to which the contract relates. This is designed to prevent touting for business on behalf of land brokers or solicitors and to make it more probable that the purchaser will engage a broker or solicitor of his own choice.

This clause makes a substantial change in the present conveyancing arrangements in South Australia. At the present time, instruments relating to a Real Property Act transaction may be prepared by either a solicitor or a licensed land broker. The legal costs are paid by the purchaser, who is entitled to expect to have his interests in the matter protected. Very often, however, the land agent who is handling the sale obtains the purchaser's signature to an authority for a named land broker to prepare the documents. All too often this land broker turns out to be an employee of the land agent. A charge is made for the documents of about the amount which would be charged by a solicitor for the same work, but the land agent collects the fee. The land broker has an irreconcilable conflict of duty. The purchaser is entitled to have some protection for the fee which he has paid and, in particular, to have independent advice about any traps in the transaction and about whether he should proceed to settle. The land broker, however, must serve the interests of his employer, the land agent, whose interest it is to have the settlement proceed so that he may earn his commission. All too often the transactions find their way to solicitors or to members of Parliament after the damage has been done. It becomes clear that, had the purchaser had independent advice, the settlement would never have taken place. No-one should be placed in the situation in which the land broker now finds himself. This clause is designed to ensure that a land broker is not placed in that position.

The Bill is designed to establish land broking as a semi-professional calling with independence, status and security. It will have its own licensing and disciplinary authority with the appropriate protections and rights of appeal. There has never been in the past any machinery for the investigation of complaints or the conduct of proper inquiries into the conduct of land brokers. There are proper trust account and audit provisions appropriate to such a calling. The severance of the tie with the land agents will provide the opportunity for the development of a clearer sense of responsibility to the parties to the transaction and, in particular, to the purchaser. Ethical principles and standards of conduct suitable to the calling will be developed and will be underpinned by the surveillance of the Land Brokers Board. In this way there will be established by degrees a semi-professional, independent body of land-broking practitioners capable of providing the public with a genuine freedom of choice about whether to engage a solicitor or a land broker for the preparation of documents relating to Real Property Act transactions.

The provisions of the Real Property Act which at preasent deal with the licensing of brokers and the regulation of fees for Real Property Act work will be repealed in a subsequent Bill. Regulations will be made under the Real Property Act fixing maximum fees which may be charged for Real Property Act work, whether performed by land brokers or solicitors. The fees will be fixed at the rates currently charged by both land brokers and solicitors for this work. Suggestions that the provisions of this Bill would somehow increase the costs of Real Property Act work to the purchaser can therefore be seen to be completely false.

Part VIII, which concerns trust accounts and the consolidated interest fund, has as its purpose the setting up of a fund in lieu of the present fidelity bond system to protect persons who suffer from misappropriations or defalcations by agents or brokers. In the following comments relating to this Part references to an agent include references to a land broker.

Clause 62 is formal. Clause 63 follows in substance the provisions of the present Land Agents Act and the Business Agents Act. It requires an agent to pay into a trust account all moneys received by him in his capacity as an agent and prohibits him from withdrawing money except for the purpose of completing the transaction in the course of which the moneys were received. The agent is required to keep a full and accurate account of all trust moneys and to keep them separately and at all times properly written up so that they can be conveniently and properly audited at any time.

Clause 64 gives protection to banks and is in similar terms to an existing provision in the Land Agents Act and the Business Agents Act. Clause 65 provides for the establishment by an agent of an interest-bearing account. An agent must, on or before each first day of July commencing on July 1, 1973, invest in an interest-bearing trust security the prescribed proportion of the lowest balance of all moneys in his trust account during the previous 12 months and in each period of 12 months thereafter invest such further sums as may be necessary, so that the total amount so invested is not less than the proportion prescribed of the lowest aggregate of the balance of the amount invested and the balance of his trust account during that period.

The proportion of the trust account moneys that is to be invested is one-half, or such lesser proportion as may be prescribed by regulation, of the lowest aggregate of the balance of the account during the previous 12 months. Moneys invested in the interest-bearing trust security must be payable on demand so that, in the event of the moneys in the trust account being, because of the investment of the prescribed proportion in interest-bearing trust securities, insufficient to satisfy claims upon the trust moneys, the agent may draw on the trust security for the purpose of satisfying all claims. These provisions are along somewhat similar lines to those applying to legal practitioners, except that the agent is responsible for all investment in the interest-bearing trust security which must be repayable on demand.

Clause 66 requires an agent to pay to the board all interest that has accrued to an interest-bearing trust security during the preceding 12 months. Where, for any reason, an interest-bearing trust security is realized, the agent is to pay to the board forthwith all interest that has accrued. The board must pay all moneys paid to it into the consolidated interest fund which may be invested in the usual authorized trustee investments. Interest derived from such investments also goes into the consolidated interest fund. Because the consolidated interest fund will not for some time build up to an amount sufficient to meet defalcations by agents, agents will be required, pursuant to clause 5 (9) of the Bill, to pay an annual sum of $20 during the period which intervenes before the consolidated interest fund is considered to be sufficient. This amount is less than the usual annual premium which agents at present pay to insurers for a fidelity bond of $4,000.

Clause 67 exempts from liability the board or an agent for any acts which are done in compliance with Part VIII. Clause 68 refers to fiduciary defaults on the part of agents and empowers the consolidated interest fund to be applied for the purpose of compensating persons who suffer pecuniary loss from a default on the part of an agent. In cases where an agent has made payment to a person in compensation for loss and the board is satisfied that the agent acted honestly and reasonably, and that it is just and reasonable to do so, the board may accept a claim from the agent in respect of that payment by him. The consolidated interest fund is only to be applied in respect of defaults occurring after the commencement of the Act. Clause 69 provides the manner in which the board shall deal with claims. Clause 70 empowers a person who has suffered pecuniary loss in consequence of a fiduciary default by an agent to take action in the Supreme Court to establish whether or not he has a valid claim in the event of the board's disallowing it.

Clause 71 empowers the board to call for documents relevant to any claim. Clause 72 provides that the amount of a claim shall not exceed the actual pecuniary loss suffered by a person less any amount that he has or may be reasonably expected to receive otherwise than from the consolidated interest fund. A person whose claim has not been settled within 12 months from the day on which it has been lodged is entitled to interest at the rate of 5 per cent from the expiration of that 12 months. After the board has fixed a day by which claims must be brought in respect of fiduciary defaults by a particular agent, the amount of claims upon the consolidated interest fund is not to exceed more than 10 per cent or such other proportion as may be prescribed of the balance of the consolidated interest fund. The clause further provides for the board to apportion the amount available between various claimants, if that amount is not sufficient to satisfy

all claims in full, and further, the clause provides that, with the approval of the Minister, the board may make further subsequent payments to any person whose claim is not satisfied in full.

It is pointed out that, at present, the only moneys available to satisfy claims against a land agent who has defaulted are, apart from any moneys or assets which he may, himself, have available, the amount of his fidelity bond, which is $4,000. This has, more often than not, proved to be insufficient to meet claims for misappropriation. Clauses 73 and 74 enable the board, where any payment has been made out of the fund, to recover that amount from any person who is liable for the default. Clause 75 provides for payment out of the consolidated interest fund of the cost of administering that fund and for moneys recovered by the board to be paid into that fund. Clause 76 requires the board to keep proper accounts of all moneys and to have those accounts audited at least once in every calendar year by the Auditor-General.

Part IX, which relates to investigations and inquiries, deals with the powers of the Land and Business Agents Board in relation to matters affecting land and business agents and the Land Brokers Licensing Board in relation to matters affecting land brokers. The powers of each board are similar. Clause 78 provides that the board may, on the application of any person, or of its own motion, inquire into the conduct of any person licensed or registered under the proposed legislation. The clause provides by subclause (3), the cases in which the board may take disciplinary action and by subclause (2) empowers the board, where proper cause exists for disciplinary action, to reprimand, impose a fine not exceeding $100 or cancel the licence or registration. Apart from the imposition of a fine, these provisions follow the present scheme of the Land Agents Act. It has been thought appropriate to empower the board to impose a fine, because there are a number of cases which, being more serious than simply calling for a reprimand, are not sufficiently serious to justify the cancellation of a licence or registration.

Clause 79 provides that the board shall give, to the person licensed or registered who is affected by an inquiry, notice of the time and place when the inquiry is to be conducted and gives such person an opportunity to call or give evidence or to examine or cross-examine witnesses and to make submissions to the board. This follows the present procedure set out in the Land Agents Act. Clause 80 gives the board power to summons witnesses to give evidence or produce documents and to answer relevant questions, and provides that failure to comply with the lawful requirements of the board shall be an offence punishable in a court of summary jurisdiction. This provision has its counterpart in the present Land Agents Act. Clause 81 gives the board power to make an order as to costs of an inquiry and provides for the recovery in a court of summary jurisdiction of a fine or costs ordered. Clause 82 gives a right of appeal to the Supreme Court against any order of the board. Clause 83 empowers the board or the Supreme Court where an appeal has been instituted to suspend the operation of the order of the board. Clause 84 empowers the board to request the Commissioner of Police to make investigations. Clause 85 gives the board power to authorize a person to inspect books, accounts, documents, etc., and to make copies thereof. Clauses 81 to 85 are similar provisions to those already in the Land Agents Act.

Part X deals with contracts for the sale of land or businesses. Clause 86, which deals with obligations in relation to offering vacant subdivided land for sale, has its counterpart in section 66 of the Land Agents Act. Clause 87, which renders voidable a contract into which a person was induced to enter by unreasonable persuasion on the part of a vendor, has its couuterpart in the present Lands Agents Act. Clause 88 provides for a cooling-off period. The purchaser may, not later than two clear business days after the contract, or document which may become a contract, has been executed by the vendor or the purchaser, whichever is the later, rescind the contract.

It also provides that no deposit or other moneys shall be received until the period for rescission has expired. To the ordinary man in the street, the purchase of land or a house property is usually the biggest financial transaction which he enters into during the course of his life. Even where no undue persuasion is used, a salesman will sometimes use every reasonable means of encouragement to persuade potential purchasers to buy a property and forthwith to sign an offer or contract to purchase. Many contracts are so signed immediately after the purchaser has inspected a property and without any proper opportunity for reflecting on the financial consequences to him of so signing, or to investigate or check the title as to identity of the land or to

receive advice about the condition of the property. The clause will not apply in relation to persons who, generally speaking, are qualified to look after their own interests. Where the purchaser is a body corporate, or an agent, or registered manager, or registered salesman, a licensed land broker or legal practitioner, he will not have the benefit of the provision. Again, where the purchaser, before executing the contract, has received independent legal advice in relation to the purchase of the land or business, he will not have the benefit of the provision.

With regard to auction sales, it would be impracticable for the cooling-off period to be applied. The holding of an auction is usually made known some time before it occurs. The salesman is not involved in inducing a particular person to buy as he is in the case of a sale by private treaty. The purchaser usually has ample opportunity to consider the nature of the transaction and his financial and other responsibilities if, at the subsequent auction, he is the successful bidder. Clause 89, in effect, provides for the abolition of instalment purchase contracts, except that an amount by way of deposit may be paid in a lump sum or in not more than two instalments towards the purchase price before the day of settlement. There has, unfortunately, been a number of instances where instalment contracts (that is, where the purchaser does not obtain title until he has paid the full price in a considerable number of instalments over a period of years) have been entered into very much to the detriment of the purchaser. Although it is possible for the purchaser to enter a caveat on the title, in fact many purchasers do not realize that they have this right and many others simply refrain from doing so.

Consequently, although the purchaser may have paid almost the whole of the purchase price, his name does not appear on the title and the original vendor can deal with the land without the knowledge of the purchaser. Instances have occurred where the vendor has mortgaged many allotments of land sold on instalment contracts. He has failed to keep up the mortgage payments and the mortgagee has exercised his rights and sold the land. The original purchaser has thus lost both the money he has paid and the land which he was purchasing. Clause 90 provides that, before any document which is intended to constitute a contract or part thereof for the sale of any land or business is executed by the purchaser, the vendor shall annex to that document a statement signed by or on behalf of the vendor containing particulars of mortgages, charges and prescribed encumbrances affecting the land or business which is the subject of the sale and also particulars of all mortgages, charges and prescribed encumbrances that are not to be discharged or satisfied on or before the date of settlement.

In the event of circumstances arising where it is impracticable for the vendor to annex the statement, he is required to serve it personally or by registered post at least 24 hours before the contract is executed so as to become binding on the purchaser. In addition, an agent shall, before presenting to a purchaser for execution any document that is intended to constitute a contract, make all prescribed inquiries and do all such things as may be reasonable to obtain particulars of all mortgages, charges and encumbrances which are prescribed and which affect the land or business which is the subject of the proposed sale as have been ascertained after reasonable inquiry. If a purchaser suffers loss by non-compliance with the provisions of this section he may apply to a court for an order awarding such damages as in the opinion of the court may be necessary to compensate him for his loss arising from the default, or, alternatively, it may make an order voiding the contract and such other orders as may be necessary to restore the parties to their respective positions. It is a defence to such proceedings that failure to comply with this section arose notwithstanding that the person alleged to be in default exercised reasonable diligence to ensure that such requirements were complied with.

At present it is usual to refer in contracts to any registered mortgages or encumbrances which affect the land, the subject of the sale. There are, however, a number of other orders and charges which can affect the land and which are not required to be registered on the title. In some instances, these would be known only to the vendor and the purchaser would have no easy way of ascertaining whether or not they exist. It is intended that the prescribed encumbrances should only relate to matters of which the vendor knows, or ought to know, and it is pointed out that the agent is responsible only to disclose mortgages, charges and prescribed encumbrances as have been ascertained after he has made the prescribed and other reasonable inquiries.

This clause serves a very important purpose. It is well known that the system of conveyancing in South Australia differs very materially

from the traditional English system and from the system obtaining in the other States. In the other States, the parties are referred to solicitors at a relatively early stage in the transaction. The agent finds a purchaser, brings the parties together, and negotiates the terms of the transaction. The parties then go to their solicitors for formal contract documents to be prepared and exchanged. During this process, the vendor and purchaser are represented by different solicitors whose duty it is to protect the interests of their respective clients. Generally speaking, the solicitor for the purchaser will satisfy himself by requisitions to the vendor's solicitor that there is no encumbrance or restriction on the use and enjoyment of the premises, before settlement takes place. This conveyancing system provides the maximum protection to the parties and minimizes the danger in particular of the purchaser paying out his money and acquiring a defective title or a title which is affected by some restriction as to use or enjoyment.

For this protection, however, the parties have to pay fees which are substantially higher than the fees payable on a land transaction in South Australia. The South Australian system is much simpler and cheaper but, unfortunately, does not provide the protections which exist where both parties are represented by solicitors. In South Australia the land agent tends to carry the transaction through to the stage at which the Real Property Act instruments must be prepared. These are then prepared by a land broker or solicitor who not infrequently acts for both parties. The system is inexpensive but the protections given by the more formal and elaborate system of having the parties separately represented and by the exchange of requisitions are lost. Certain of the provisions of this Bill are designed to endeavour to give the public of South Australia more of the protections which are enjoyed under the more formal conveyancing system without the loss of the economies inherent in the South Australian system.

This clause is an important provision in this regard. It seeks to protect the purchaser against the danger of paying for land which is subject to encumbrances or restrictions that affect its value and utility. As there is no separate representation of the parties and no requisitions in most cases, it is thought to achieve this result by imposing on the land agent an obligation to take reasonable steps to ascertain the existence of such encumbrances and restrictions and to disclose them to the purchaser. It is intended to prescribe by regulation certain inquiries which must be made by the land agent in order to discharge his duty. It is believed that the provisions of this clause will greatly reduce the number of cases in which purchasers suffer loss, and often crippling loss, as a result of paying the purchase price for a house or other real estate, only to find when it is too late that the title is defective or the land is subject to encumbrances or restrictions which greatly reduce its value.

I come now to Part XI. Clause 91 provides for the keeping of registers, which is in accordance with the present legislation. Clause 92 provides for the publication of lists of licensed and registered persons under the Act and provides for evidentiary matters. Clause 93 provides for proceedings by or against the board. Clause 94 is an evidentiary provision. Clause 95 prohibits a person's being simultaneously licensed and registered as a salesman or a manager under this Act, or being simultaneously registered both as a salesman and a manager under the Act. The responsibilities and obligations of managers, as such, and salesmen are quite distinct and it would be inconsistent with the responsibilities of a manager for him to be also registered at the same time as a salesman and be nominally responsible to a manager. This clause will not prevent a manager acting as a salesman, as he does now.

Clause 96 gives a court power to cancel or reprimand a licensed or registered person or the director or manager of a body corporate who is a licensed land agent. Similar provisions are contained in the present Land Agents Act. Clause 97 makes it an offence to make a false representation in connection with the acquisition or disposal of any land or business. Many of the complaints regarding licensed land agents, registered salesmen, licensed business agents and registered business salesmen under the existing legislation relate to false representations made. Such representations have been made usually with the intention of inducing a person to buy the land or business. In some cases the representation has been found to have been made by the vendors of the land or business, and it is considered reasonable that not only persons licensed and registered but also other persons who are involved in the acquisition or disposal of any land or business should be subject to the prohibition.

Clause 98 provides that a person who desires to sell a small business shall, before the contract or agreement for the sale of the business is signed or a deposit is paid, give to the intending purchaser a statement in the prescribed form containing prescribed particulars

in relation to the business. A "small business" means any business that is to be sold for less than $30,000 or such other amount as may be prescribed. If a statement is not given, or it omits any material or particular or is false or inaccurate, any contract or agreement for the sale of the business shall be voidable at the option of the purchaser for a period and until the expiration of one month after the purchaser obtains possession of the business. There has been a considerable number of cases where misrepresentations have been made as to the turnover of small businesses. Inspection of the books has failed to reveal a misrepresentation of the true position. It is not until after the purchaser has entered into possession and has had time to assess and see for himself the actual turnover that the misrepresentation comes to his notice. The provisions of this clause should protect purchasers against the unscrupulous or careless vendor but will not affect the honest person who is disposing of a small business.

Clause 99 extends liability of a corporation for offences against the Act to directors and other persons in control of the affairs of the corporation, unless they prove that they did not consent to or have prior knowledge of the commission of the offence, and also imputes to the corporation intention or knowledge of any officer or servant of the corporation. Clause 100 extends liability for an offence against the Act on the part of one member of the partnership to other members of the partnership, unless they prove that they did not have prior knowledge of the commission of the offence or did not consent to it. Clause 101 is procedural.

Clause 102 provides that, where a person who is licensed or registered under the Act has been reprimanded on three occasions within a period of five years, his licence or registration shall be cancelled. There is a similar provision in the existing Land Agents Act. Clause 103 preserves the usual civil remedies that a person may have against an agent. Clause 104 prohibits contracting out of liability in respect of misrepresentation. There is a clause to a similar effect in the existing Land Agents Act. Clause 105 provides for service of documents under the Act. Clause 106 is the usual financial provision. Clause 107 empowers the Government to make regulations for the purposes of the Act. It is along the lines of the present regulation-making powers in the Land Agents Act, and it adds a power to prescribe a code of conduct to be observed by persons licensed or registered under the Act.

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

PUBLIC ACCOUNTS COMMITTEE BILL

Adjourned debate on second reading.

(Continued from October 18. Page 2145.)

The Hon. G. J. GILFILLAN (Northern): I thank honourable members for the consideration they have given to this Bill, which was introduced in another place by a private member, who asked me to handle it on his behalf in this Chamber. I also thank the Government for its consideration in the handling of private members' business in what has been a busy session, and the Chief Secretary for the consideration he showed me today. I cannot say much in reply that has not already been said. However, I reiterate that there is a growing awareness among members of Parliament and the public that the costs of financing the State are becoming alarming and that any move that can be made towards containing those costs in areas where they may be excessive can only be a move in the right direction. I should like now to refer to a small portion of a paper delivered to a Parliamentary seminar in London, which I attended earlier this year. It is as follows:

> There was a strong tradition of seeking value for money from Government departments and this was much encouraged by the committee's close links with the Comptroller and Auditor-General. The committee took evidence from the accounting officers of the various Government departments and published its comments and recommendations in a report in July or August. The Government replied to this in a Treasury minute which appeared about three months after the report, and the House debated both documents. Thus, the Public Accounts Committee was involved in a continuing dialogue with the Government about the course of financial policy and events.

I refer to that short extract because this type of committee is performing a valuable function in many Parliaments in the British Commonwealth. Many of the delegates attending the seminar showed an intense interest in the paper presented; this is amply illustrated by the number of questions asked. I urge the Council to accept this legislation.

Bill read a second time.

In Committee.

Clauses 1 to 11 passed.

Clause 12—"Secretary and officers."

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

To strike out "Speaker of the House of Assembly, appoint from the staff of that House" and insert "Committee, appoint".

This fits into the normal concept of the appointment of staff to a committee.

A. J. SHARD (Chief Secretary): The effect of this amendment is that the committee will appoint its secretary in the same way as the Public Works Standing Committee appoints its Secretary. I offer no objection to this amendment. The Government accepts it.

The Hon. G. J. GILFILLAN: I, too, raise no objection to this amendment. It can be argued, perhaps strongly, that the proposed committee will be a committee of the House of Assembly and that, therefore, its secretary should be under the direction of the Clerk of the House of Assembly. I am a member of the Public Works Standing Committee and have seen how that committee conducts its affairs. I have also noted the independence of its Secretary. If this committee is to be really valuable, its secretary will probably be needed on a full-time basis. Therefore, he should have the maximum possible independence.

Amendment carried; clause as amended passed.

Remaining clauses (13 to 16) and title passed.

Bill read a third time and passed.

JUSTICES ACT AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

This Bill, which amends the principal Act, the Justices Act, 1921, as amended, provides for certain kinds of simple offences (which have an industrial flavour or an industrial connotation) to be declared to be "industrial offences". At the option of either of the parties to proceedings for an "industrial offence" as declared, it will be possible to have those proceedings heard before an industrial magistrate. Honourable members will recall that in 1969 a provision was inserted in the Industrial Code providing for the creation of the office of an industrial magistrate who would have the powers of a special magistrate under the Justices Act and who would be a person experienced in dealing with matters of an industrial nature.

For some time now, by an administrative arrangement, the present Industrial Magistrate has heard and determined almost all complaints for breaches of industrial awards that were set down for hearing at the Adelaide Magistrate's Court. This arrangement seems to have worked well. In the view of the Government, with the proposed substantial repeal of the Industrial Code and its replacement by a new Industrial Conciliation and Arbitration Act, the time is ripe for some formalization of the present arrangements and an extension of these arrangements into a somewhat wider area.

However, I would make it quite clear that the right conferred on the parties to proceedings, to which it is proposed this Bill shall apply, is dependent on the election of either of them. It is not the intention of the Government that parties residing some distance from Adelaide should be put to the possible expense of inconvenience of proceeding before an industrial magistrate if, in all the circumstances, they feel that the matter can conveniently be heard and determined under the Justices Act in the ordinary way. I would also emphasize that, apart from the background and experience of the magistrate seized of the matter, the proceedings under the arrangements proposed by this Bill will, in all but one other respect, be proceedings conducted under the Justices Act in the usual manner. The sole difference in procedure is that an appeal in respect of a decision in an industrial offence will lie to the Industrial Court of South Australia instead of to the Supreme Court.

Clauses 1 and 2 are formal. Clause 3 sets out definitions of "industrial magistrate" and "the Industrial Court", which are self-explanatory, and also provides a definition of an "industrial offence". Clause 4 by the insertion of a new section 4a in the principal Act gives the Governor power to declare any simple offence to be an industrial offence. In the nature of things, the offences declared will be those that possess some industrial connotation. Clause 5 inserts new section 43a in the principal Act, the effect of which is to give either the complainant or the defendant the right to have proceedings in relation to an "industrial offence" as defined heard before an industrial magistrate. If neither of the parties to the proceedings exercises its option in this matter, the matter will be heard and determined in the ordinary manner.

Clause 6 amends section 162 of the principal Act and provides that any point of law reserved by the court seized of proceedings for an "industrial offence" will be reserved for argument before the Industrial Court of South Australia rather than before the Supreme Court, as this forum seems to be the more appropriate one. Clause 7 amends section 163 of the principal Act and provides that an appeal from a decision of the magistrate's court in relation to an "industrial offence" will lie to the Industrial Court rather than to the Supreme Court.

The amendments proposed by this clause are similar in intent to the proviso inserted in section 163 of the principal Act in 1923, which was related to appeals in proceedings under the Industrial Code, 1920. This proviso is, of course, repealed by paragraph (*b*) of this clause as such proceedings for offences under the proposed industrial conciliation and arbitration legislation will most certainly be proceedings in relation to industrial offences.

The Hon. F. J. POTTER secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (ARBITRATION)

Second reading.

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

That this Bill be now read a second time.

It makes two formal amendments to the principal Act, the Criminal Law Consolidation Act, consequential on the introduction of the Industrial Conciliation and Arbitration Bill, 1972. Clauses 1 and 2 are formal. Clause 3 amends section 260 of the principal Act by substituting for the somewhat archaic expression "a trade dispute between master and servant" the more modern expression "an industrial dispute as defined in the Industrial Conciliation and Arbitration Act, 1972".

Section 260 of the principal Act, which has existed undisturbed for not less than 35 years, provides in effect that certain agreements entered into to do or procure an act in contemplation or furtherance of a trade dispute will not be punishable as a conspiracy if such an act, if committed by one person, would not be punishable by imprisonment. No change in the principle expresed in this section is contemplated by this amendment. Clause 4 merely alters a reference to the Industrial Code, 1967, to read as a reference to the Industrial Conciliation and Arbitration Act, 1972.

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

LOWER RIVER BROUGHTON IRRIGATION TRUST ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 24. Page 2276.)

The Hon. E. K. RUSSACK (Midland): I support the second reading. The Broughton River, which empties into Spencer Gulf just below Port Pirie, runs from the higher ground in the east through flats. Occasionally the river floods, although it may happen only once or twice a year; perhaps, on average, only once a year. In areas along the river, pumping is carried out for irrigation purposes. It was obvious some years ago that the need to control irrigation existed in order to ensure a fair allocation of water from the river. In 1938, an Act known as the Lower River Broughton Irrigation Trust Act was passed, which provided for a trust to be formed for the administration of irrigation in the lower Broughton River area.

In 1940, the principal Act was amended to allow certain money to be lent to the trust by Parliament. The sole purpose of the present Bill is to update the legislation to allow for the metric system and for decimal currency. In addition, the Bill provides that the age of those who can vote in a poll concerned with the irrigation trust is reduced from 21 years to 18 years. Other provisions enable people, who, because of illness and other causes are unable to go to the poll, to vote by proxy. In his second reading explanation the Minister said that clauses 2 to 5 effected simple decimal currency conversions. I have gone through the Bill and consider that all these proposals are in order, with the exception that, in the case of section 86, there may have been an oversight, because the Bill provides for the conversion of acres to hectares. Section 86 (2) provides:

> After an assessment of ratable value has been made the rate shall be of an amount fixed by the trust for each pound of the ratable value of the land in the district.

As "pound" should be amended to allow for decimal currency, perhaps the Minister will study this change. The change of "acre" to "hectare" has no application as regards the rates, but merely changes the area of measurement.

The Hon. D. H. L. Banfield: What's the difference between "hectare" and "acre"?

The Hon. E. K. RUSSACK: I thought the honourable member would ask that question, so I have looked it up: a hectare consists of 2.471 acres.

The Hon. R. C. DeGaris: How many acres in a hectare?

The Hon. E. K. RUSSACK: I know that, too: .405. Clause 10 (*a*) states:

> Section 115 of the principal Act is amended: (*a*) by striking out from subsection (1) the passage "twenty-one years" and inserting in lieu thereof the passage "eighteen years".

The Bill also provides that a person who is ill or who resides more than 20 miles from a polling booth may vote by proxy; here, the distance in miles is converted to kilometres, namely, 30

km, which is equal to 18.64 miles. Therefore, one does not have to live as far away as previously from the polling booth in order to cast a proxy vote.

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

METROPOLITAN AND EXPORT ABATTOIRS ACT AMENDMENT BILL

In Committee.

(Continued from October 24. Page 2288.)

Clauses 9 to 11 passed.

Clause 12—"Repeal of sections 15, 16, 19, 20 and 21 of principal Act."

The Hon. C. R. STORY: By repealing sections 15, 16, 19, 20 and 21 of the principal Act we are cutting out the whole of the regulations that exist and we are also cutting out the sinews of war in connection with the abattoir. Yesterday, when the Minister said very glibly that it was just a matter of changing the name and other tiny fragments, we had a typical example of the Minister not knowing what was in legislation; or, he apparently wanted to give the impression that the situation was different from what it really was. Honourable members should carefully consider this clause, because it relates to the teeth of the existing legislation. I do not oppose the clause: I merely point out what the Minister is really doing, because he has not seemed to understand what is happening.

Clause passed.

Clause 13 passed.

Clause 14—"Quorum and Chairman."

The Hon. C. R. STORY moved:

To strike out "three" and insert "two".

The Hon. T. M. CASEY (Minister of Agriculture): This amendment is consequential on an amendment that the Committee rejected yesterday. I therefore ask the Committee to reject this amendment.

Amendment negatived; clause passed.

Clause 15 passed.

Clause 16—"Delegation."

The Hon. L. R. HART: Can the Minister explain why it is necessary for the corporation to be able to delegate any of its powers to any person? It seems to be a very wide delegation of power. Section 25 of the principal Act provides:

The board may, from time to time, appoint a committee or committees of its members, and may delegate to any such committee any of its powers and duties under this Act which it thinks fit.

We are now going further than delegating power to subcommittees: we are delegating power to any person. The Minister evidently has in mind some aspects of the legislation that may make necessary such delegation of power. I am unable to find such a blanket delegation of power in any other Act.

The Hon. T. M. CASEY: Legislation has previously been dealt with by this place that has provided for the delegation of power. Such delegation is common in corporations of this nature. Since this is a managerial corporation, there will be times when it will want to draw on the skills of others. Section 24 of the Public Service Act provides:

(1) The board may, by writing under the hand of each Commissioner, delegate to any Commissioner, officer, temporary officer or person any of the powers or functions of the board under this Act (except this power of delegation) so that the delegated powers or functions may be exercised by the delegate with respect to the matters or class of matters specified, or the place or locality defined, in the instrument of delegation.

The Hon. L. R. HART: I am not sure whether the Public Service Act is relevant to this situation. Can the Minister say why it is necessary to have the provision in this Bill? He must have something in mind. I am merely asking the Minister to explain why it is necessary to have it.

The Hon. T. M. CASEY: It could be used by the management at some future time. I do not know when that time would be opportune, but it is there in case it is required. It is a very good provision to have, so that if experts must be called in at any time they may be called. It is usual for a board of management to delegate these powers to someone outside who is competent to do the job.

Clause passed.

Clauses 17 to 21 passed.

Clause 22—"Powers of Corporation to contribute to superannuation funds."

The Hon. C. R. STORY: Since he has taken over this Bill, can the Minister say what is the actual rate of superannuation at the abattoir in comparison with any other award issued in South Australia to any other similar body?

The Hon. T. M. CASEY: I could not give the answer to that question. I am willing to get the information for the honourable member and let him have it.

The Hon. C. R. STORY: I venture an opinion that the superannuation the Minister is dealing with here is a tremendously high figure. When he brings such a Bill into this Council and takes it under his own wing, which

it is virtually not his province to do, the Minister should know the answers. This legislation really does not belong to the Government, unless I read it wrongly. Perhaps it will belong to the Government after the passing of the Bill, but it does not do so at the moment; it belongs to the people who have contributed over the years to the work of the abattoir.

The superannuation fund has been a bone of contention, and is a very heavy load for the abattoir to bear. Putting it quite frankly, the man who started work on £1 a week at the abattoir 47 years ago and contributed at that figure has had several terms of long service leave during that period, and finishes up with a retiring allowance equivalent to what he is earning at the date of his retirement. That is not written into any other trade union legislation that I know of, and it is certainly not written into the legislation applying to members of Parliament. I query that, because it seems that we are perpetuating this situation. The Minister has made it abundantly clear that he does not want any part of the old deal, but wants a new clean-look board. If he is to have that, he should tidy up some of the matters dealing with superannuation, annual leave, absenteeism, and other similar things. Then we would be getting a new look. At the moment I can only see that we reduce the board by a few people; otherwise I cannot see where the new look comes in. I am quite happy to listen to the Minister.

The Hon. T. M. CASEY: I shall quote from the Act:

(1) The board may, with the approval of the Treasurer, make an arrangement with any public authority for or with respect to any of the following matters:

(*a*) Granting rights to any employees or employees of a class of employees of the public authority to contribute to the fund;

At present the board is contributing to the fund, and this will simply mean that the corporation will be contributing to it.

The Hon. C. R. Story: What is the Minister quoting from?

The Hon. T. M. CASEY: The Superannuation Act, 1969.

The Hon. C. R. STORY: Are the employees of the abattoir under the Superannuation Act, 1969, or are they under their own Act and have they been, for a considerable time, under regulations promulgated from time to time and under conditions adjusted by conciliation? The Minister could be slightly confused in using the book to which he has just referred in relation to superannuation at the Gepps Cross abattoir.

The Hon. T. M. CASEY: I do not think it matters very much whether they are under a different scheme. The board now pays into the superannuation fund, and this clause merely provides that the corporation will pay into that fund.

Clause passed.

Clause 23—"Travelling expenses."

The Hon. C. R. STORY: We had some difficulty yesterday about this matter when dealing with the number of members on the board. I presume these travelling expenses will be allocated to all board members. My objective yesterday was to reduce the board from six persons to three, with the idea of getting better management. However, there is more to it than that. At present the abattoir provides a prestige motor car for the Chairman of the board, together with a driver, whenever the Chairman happens to be on official duties, which could be at any time he visits the abattoir. The car is sent for him, he is picked up and taken there or to any social engagement in which he may be involved as a result of his being Chairman of the board. My object was to try to cut some of the costs.

The Minister made quite a fetish of the fact, in speaking yesterday, that it is predicted that the amount paid out will be much reduced because we are reducing the size of the board. If we reduced the board to three and did the normal things that companies do we would not pay nearly so much in travelling expenses. I do not know what amount is provided for travelling expenses. If the six members are to be drawn from all parts of the State, it will cost much money.

The Hon. A. M. Whyte: That will not happen. They are all going to be experts from the metropolitan area.

The Hon. C. R. STORY: I know where they will come from: they will all be members of the Public Service and will be paid twice. I refer to the situation regarding the Citrus Organization Committee. If the fees paid to the members of that committee were examined, the levy on each case of fruit would be not 10c but 5c. Yet the Minister still says that it would be good for the corporation to comprise six members.

The Hon. D. H. L. Banfield: The Council said that yesterday, on a vote.

The Hon. C. R. STORY: The Minister said it. The honourable member does not seem to appreciate that the Minister will recommit the Bill, and the Committee could disagree with

him on other clauses. I merely make the point that travelling expenses are costly and that, the more people there are involved, the more costly travelling expenses can become.

Clause passed.

Clauses 24 to 36 passed.

Clause 37—"Date of establishment of Metropolitan and Export Abattoirs Board."

The CHAIRMAN: There is a drafting alteration in this clause: to strike out "the" after "passage". That correction will be made at the table.

Clause passed.

Clause 38—"Transfer to board of certain rights and powers."

The CHAIRMAN: There is also a drafting alteration in this clause: in paragraph (*a*) to strike out "(*n*)" and insert "(*a*)". That correction will also be made at the table.

Clause passed.

Clauses 39 and 40 passed.

Clause 41—"Sole right of Corporation to slaughter meat."

The Hon. T. M. CASEY: I move:

In paragraph (*b*) to strike out "and (3)" and insert "(3) and (4)".

This is a drafting correction.

The Hon. L. R. HART: This is one clause that concerns me. There is a committee known as the operational committee of the Meat Board of S.A., the function of which is to advise the Manager of the Government Produce Department, who is charged with the responsibility of regulating the export kill at the abattoir, particularly during periods of excess supply, especially in drought periods. This committee is set up under section 50 (4) of the Act, which the Minister is seeking to strike out. During periods of drought, as we are experiencing at present, it is necessary to regulate the supply of lambs into the abattoir because, if supplies are not regulated, lambs from later districts could enter the abattoirs ahead of those from earlier districts, which should, for obvious reasons, have priority in the kill. The operational committee advises the Government Produce Department in which priority lambs should enter the works. Will the Minister say whether the operational committee is to disappear, whether its functions are to be curtailed, or whether it is to be catered for in a different way?

The Hon. T. M. CASEY: I assure the honourable member that a type of operational committee will have to exist at the abattoir in order to do the things about which the honourable member is concerned and, indeed, about which I am concerned, because there are periods of over-production during the year when stock entering the abattoir must be reduced. This can easily be done with management consulting with stock firms and those vitally interested in the matter. I assure the honourable member that this will be done. He need not therefore have any fears in this respect.

The Hon. L. R. HART: It is kind of the Minister to assure me that this will be done, but he is deleting from the Act a provision that gives the Manager of the Government Produce Department certain powers. In future, how is this officer to be given these powers?

The Hon. T. M. Casey: Let me explain it.

The Hon. L. R. HART: I will listen to the Minister if he can explain how these powers will be delegated.

The Hon. T. M. CASEY: We are the only State and this is the only abattoir in Australia where we deal through a Government Produce Department. It is time we did away with this sort of thing in South Australia to streamline the whole operation. It is not necessary that the General Manager of the Government Produce Department should handle all meat for export; it is not done like that anywhere else in Australia. I have spoken to exporters who say, "We do it in every other State; why not here?" I agree with them: it is not necessary for this to be controlled by the General Manager of the Government Produce Department. His being Chairman of the operations committee does not mean that the functions of that committee will cease to exist. I have already given the honourable member my assurance that that will not be the case. This can be done by the management of the corporation at the abattoir. Its officers will liaise with the stock firms. The honourable member can be sure that this will be done. It is the only way in which to bring any stock to the abattoir during glut periods. There must be co-operation between the corporation and the stock firms, which know exactly where the stock is. There should be a liaison along those lines.

The Hon. C. R. STORY: I do not know whether I heard the Minister correctly but I seemed to gather from what he said that, unless the General Manager of the Government Produce Department said it was all right, one could not export any lambs or anything at all from the metropolitan and export abattoir.

The Hon. T. M. CASEY: I did not say that at all. I said that the General Manager of the Government Produce Department would handle exports at a particular time. I said

that he does both things: he exports meat from this State and he does it on behalf of the exporters. That was his previous function when he handled all the fresh fruit exports that used to go through the Government Produce Department.

The Hon. C. R. STORY: The Minister has a shallow understanding of his portfolio. The only thing that the General Manager of the Government Produce Department does is to handle anything consigned through him for export.

The Hon. T. M. Casey: That is right.

The Hon. C. R. STORY: The Minister has twice said (and I shall be able to check it precisely because it will be recorded in *Hansard*) that, unless the General Manager of the Government Produce Department has okayed it—

The Hon. T. M. Casey: I did not say that at all. I said that, if people want to export meat through the Government Produce Department, it is the same procedure as it was with fruit. If anyone wants to put fruit through the Government Produce Department—

The Hon. C. R. STORY: Now the Minister has changed his foot: he is often kicking with the left foot.

The Hon. T. M. Casey: You referred to the citrus board; what are you talking about?

The Hon. C. R. STORY: We should get the whole matter quite clear because the Hon. Mr. Hart referred to the General Manager of the Government Produce Department, who acts as chairman of a remote and quite illegal body (if I may say so) although it is a good functional committee in this State—the South Australian Meat Board, which has in later times been called the operations committee. That arose out of a situation in 1934; we had a meat board then in this State. The Hon. Mr. Hart asked the Minister a question, and the Minister fobbed him off with an answer that I do not think is correct, because the General Manager of the Government Produce Department has nothing to do with anyone who wants to export, other than people who want to export through his department. It is not as the Minister said earlier—and I have not the slightest doubt about what he said. The only times in the last five or six years that the Government Produce Department has done any exporting directly have been fairly disastrous.

The Hon. T. M. Casey: It arranges all the shipping, does it not?

The Hon. C. R. STORY: No. There is a lot of shipping done without its being involved. The situation is that I tried (and the Minister knows this) with the support of the Government Produce Department to resurrect some of the boom that went through the Port Lincoln works at one stage. We entered into an agreement with the producers on the West Coast and there was much export in 1969-70. The result of that I would not like to have recorded in *Hansard*; it was not a very successful operation. I believe Mr. Jeanes has done a good job as Chairman of the operations committee.

The Hon. T. M. Casey: No-one is denying that.

The Hon. C. R. STORY: But I cannot agree with the Minister when he says that the export trade is done through the Government Produce Department. That is what I understood him to say. I shall look at *Hansard* tomorrow.

The Hon. L. R. HART: If these amendments are carried, can the Minister say whether it will be competent for any private individual to export through the Government Produce Department?

The Hon. T. M. CASEY: If he wants to, there is nothing to stop him. The Bill will not stop that.

The Hon. L. R. HART: I am not too sure that that is so. It may be so but I still think there is no need to strike out subsection (4). The Minister has not explained why it is necessary to do that. The General Manager of the Government Produce Department may not exercise his powers, but it is reasonable to leave them there in case they are needed. It is necessary also that we regulate the killing of export lambs. The Minister says, "That will be done. There is nothing to fear—everything will be all right. The corporation will do it." I do not know whether there is anything in this Bill providing for the corporation to have any control over exports.

The Hon. T. M. Casey: I am talking about your function of regulating supplies into the abattoir.

The Hon. L. R. HART: That is one matter, but regulating supplies that can be killed for export is another matter. I am still not sure that the Minister is clear about the importance of the amendment.

The Hon. T. M. CASEY: It is the responsibility and function of a board to run its own affairs. In the past, the board has not been responsible for the influx of meat into the abattoir; it was done by the operations committee under the chairmanship of the General

Manager of the Government Produce Department. That is what I understood the situation to be. The operations committee comes in only when there is so great an influx of lambs that the abattoir cannot handle them. So we must restrict the intake; we all agree on that.

The Hon. L. R. Hart: The operational committee is only an advisory committee to the General Manager of the Government Produce Department.

The Hon. T. M. CASEY: That is right, but why should it be advisory to him? It should be the function of the board of management to manage the abattoir; the department has nothing to do with the abattoir. It should never have been in the department's hands in the first place. It should be the responsibility of the board of management to handle it, and that is where it will be put now.

The Hon. C. R. Story: That's because you had too large a board, on which too many interests were pushing and pulling.

The Hon. T. M. CASEY: That is all the more reason why we should give this function to the board.

Amendment carried: clause as amended passed.

Clause 42—"Power of corporation to deal in stock."

The Hon. L. R. HART: This clause amends section 51 of the principal Act, which provides:

That the corporation may buy and sell stock, carcasses, and meat, but shall not sell any meat by retail.

I referred to this matter previously because I was concerned that the board might become a marketing authority, and I still hold that concern. The Minister, by interjection, implied that he believed the board should be a marketing authority; undoubtedly, this would be Socialist policy, but I hope we do not reach the stage where the corporation will become a marketing authority. It can become a wholesale marketing authority only if it is prevented from entering the retail trade by provisions in the Act. I also hope that it does not enter the wholesale meat marketing trade, although this could happen in the future. I want it on record that I recognized this point.

The Hon. D. H. L. Banfield: You won't be here then. Why should you worry?

The Hon. L. R. HART: I will still be about. I point this out, because we know that Governments are not terribly good at running businesses. Many businesses run by the Government lose huge sums of money, and I think we can lose enough money at the abattoir without its entering the meat trade as a trading authority.

Clause passed.

Clause 43—"Maximum number of stock to be sold in one day."

The Hon. L. R. HART: Section 52 states:

The board may by public notice fix the maximum number of stock of any kind to be sold on any one day in any market under the control of the board, and may refuse to receive into any market any stock in excess of the maximum number so fixed for the particular kind of stock.

This power is being exercised now, and has been exercised for some weeks, in regard to lambs. A section in the Act permits the board to exercise this power in relation to any stock, but it is exercised only in relation to lambs at present. The restriction on the number of lambs this week into the sale yards was 20,000 lambs. The consumption of lamb in the metropolitan area is about 20,000 lambs, and the idea of permitting that number in the sale yards is to cater for the local trade. The capacity of the slaughtering section of the abattoirs is about 40,000 lambs a week, which means that, if we are to utilize the capacity of the abattoirs, people in the meat trade will buy their stock at some place other than at the sale yards of the metropolitan abattoirs. Indeed, this is happening now.

The exporter does not have any priority in the kill with lambs that he purchases in the sale yards; so he is not operating in the sale yards now, because he cannot get any priority for killing. Wholesalers, and even retail butchers, are going into the country and buying lambs, in particular, at a discount and are booking them into the works, as required, for local consumption. By doing that, they are getting priority in the kill. In other words, the exporter is still unable to operate because of the bank-up of lambs required for the local market. In some cases, these lambs are not finding their way on to the local market but are going to other States. They are being bought locally, booked into the works by the local trade, taken from the works, and sent to other States as carcasses.

Some of the private works are also buying and killing in their own works for trade with other States. This means that the works which normally kill and supply the local trade are killing and supplying the interstate trade. This means that additional lambs required for the local trade are going to the abattoir for slaughter. At present, we have no difficulty in selling export lambs, and the Minister knows that. In a question I asked the other day, I

said that 75 per cent of our lambs today were third grade and that there was no difficulty in finding markets for third-grade lambs in areas where we normally did not sell lamb. We are faced with having a huge number of lambs available for kill that could be exported, once killed, but we are unable to get them killed. People are prepared to buy them locally and overseas, but we cannot get them killed. I realize that the capacity of the works is such that, even with overtime, we have this backlag.

Is the board acting in the best interests of the producers in restricting the number of lambs to such a low figure? Obviously, between 30,000 and 35,000 lambs go through the works each week, many of which are bought outside the sale yards at the abattoir and at a discount. If the board were to lift the number of lambs permitted to be sold in the sale yards it would benefit not only the retailers and butchers who buy in the sale yards but also the producer, who would sell his lambs in an area where there was competition. The butcher, because of the restricted number of lambs going into the sale yards, is unable to obtain sufficient lambs of the type he needs. So, he has to go to the country to get his requirements and bring them back for the local trade. If we could increase the volume going through the sale yards, there would be more competition. I suggest that the Minister discuss this matter with the corporation. For every lamb that goes through the sale yards, yard fees must be paid. If we lift the yarding by 10,000 lambs, the board will be $500 better off each market day, through yard fees alone. Further, it would be doing a service to the producers. I realize that the board utilizes the operational committee's knowledge in this respect.

Clause passed.

Clause 44—"Power of corporation to borrow money, etc."

The Hon. L. R. HART: This clause is one of the crucial clauses in the Bill, because it deals with finance. It gives the corporation unlimited borrowing powers. Admittedly, the Treasurer may have to authorize some of the loans, but the corporation can borrow money for upgrading the works. Can the Minister say whether a project, for which money is borrowed, has to be referred to the Public Works Committee or the Industries Development Committee? I suggest that the Minister consider this aspect.

The Hon. C. R. STORY: I support the remarks of the Hon. Mr. Hart. In cutting out sections 53 to 66 of the principal Act we are cutting the heart out of the legislation and are replacing it with new section 53. New subsection (1) is a very wide provision. This Government is the first to embark on this type of loan to instrumentalities outside its jurisdiction. Surely the Minister will one day wake up to the fact that every time the Government sticks its finger in the pie, it is severely burnt. When any State Government gets itself tangled up in this sort of borrowing, it invariably comes under pressure. Normally, particularly in an election year, it bends to the persuasion of people who are trying to get something out of the Government. I believe that the Gepps Cross abattoir, which has been established for many years and which has capital assets worth about $15,000,000, should not lean upon the Government for any financial assistance. Every time the board has made a profit it has had that profit whipped away from it by arbitration, not by a judgment of the court. Yesterday I told the Minister that it was sometimes appropriate to put an abattoir in moth balls.

The Hon. T. M. Casey: It is difficult to do that with a service abattoir.

The Hon. C. R. STORY: Difficulties arise when a union is leading one by the nose. That is what we are faced with.

The Hon. T. M. Casey: How did the Homebush abattoir lose $1,000,000 last year?

The Hon. C. R. STORY: I was at the Homebush abattoir when there was a strike by drivers; many people were held to ransom, and the whole industry was completely held by the nostrils. If the Government is willing to guarantee huge sums of money, it may find that it is regarded as a bottomless pit. Every time a bit of profit is made at the abattoir it will be absorbed by superannuation, additional pay, long service leave, or something similar. I cannot see how the Minister can put the employees on the same basis as those in other service works in Australia. He has chosen to call the Gepps Cross abattoir a service works. If he would make it possible in this Bill for the employees to work under the conditions applying to the normal service works throughout Australia, and deal with the matter on a Commonwealth basis, we and the producers and consumers would be infinitely better off. If the Minister would take the necessary action to dispose of redundant tractors and baling equipment, together with the houses which accommodate people who have not worked at the abattoir, in many cases, for quite a long time, then he would be making a real contribution toward

reducing the cost of meat to the average South Australian housewife, and that is what the abattoir is supposed to do.

The Hon. D. H. L. Banfield: What was the move in 1968 and 1969 to do that?

The Hon. C. R. STORY: That is what was going to happen. Unfortunately, the people of South Australia were hoodwinked into having an election.

The Hon. T. M. CASEY: I am rather amazed to hear the Hon. Mr. Story asking why do we not do this and that. He had ample time, as Minister, to do these things, but he made no attempt at all. When a progressive Government decides to do something, the honourable member says it is not doing enough. I agree that if we can cut costs it will be made much easier for people to buy more meat at lower prices, but I did not lay down these conditions. The honourable member's Liberal Government did that. I cannot be expected at this stage to suggest an alteration, and I would not do so. People cannot be deprived of something they have had for many years, even though perhaps it never should have been started in the first place. However, I was not responsible for that, and the Hon. Mr. Story could have raised this matter many times. I do not think he can claim a victory on this occasion, because it just cannot be done.

The Hon. C. R. STORY: I do not think anyone wants to claim a victory. We are trying to work out a solution, and I am sincere in trying to help the Minister reach a solution which will tidy up a most difficult situation that has existed for a long period. I do not want the Minister to say it could have been cleaned up in 25 minutes, because it could not have been. I congratulated the Minister on bringing down the Bill in the first place, but he got so angry with me yesterday when I made a suggestion that I have been rather timid about rising again.

The Hon. R. C. DeGARIS: I think the discussion so far on the clauses of this Bill have been most enlightening. I congratulate the Hon. Mr. Hart and the Hon. Mr. Story on the many constructive suggestions made. The Hon. Mr. Hart would be one member in this Council who knows probably as much about the operation of the abattoir as any other person in the Chamber. We have reached the stage of a little argument about who should have done what and when.

[*Sitting suspended from 5.58 to 7.45 p.m.*]

The Hon. M. B. CAMERON: This clause gives wide powers indeed to enable money to be borrowed for the conduct of the new corporation. I said in my second reading speech that I should prefer to see the establishment of more regional abattoirs than the expansion of the Gepps Cross works into a larger killing facility. Can the Minister say whether in his report Mr. Gray recommended that this facility should be expanded, or whether works should be established at strategic locations throughout the country? Of course, money will be provided under this clause for any expansion of the works.

The Hon. T. M. CASEY: The present board has discussed the construction of a new beef chain—a matter that will be examined by the new corporation. There has also been much agitation (and rightly so) for the installation of a calf chain, a matter that has been referred to in questions in this Chamber. These matters will no doubt be examined by the new corporation, although I cannot say now what plans will be envisaged by it. I believe that these two matters will be examined, including the extension to the southern yards. I hope that we receive financial assistance from the Commonwealth Government to enable these projects to proceed.

I do not think an extension of the buildings at Gepps Cross would be considered. However, it has been suggested in the last few years installing straight chains for mutton rather than the "S" chains; I understand that new abattoirs have preferred the straight-chain system. These matters will be examined in future, although I do not know when. This will depend on the sum of money that is made available by the Treasurer and also on the feasibility of the various schemes.

The Hon. A. M. WHYTE: I do not believe that, merely by supplanting the present board with the new corporation, we will achieve all the wonderful things that have been imagined. Be that is it may, I am willing to support the change. Those who are trying to do something with the abattoir should be able to tackle the matter in their own way. However, I do not believe that all the pipe dreams will come to fruition. The new corporation will have almost unrestricted powers to borrow money from those sources that are willing to lend it money. I have always done my best to advocate that the old board had the money to implement the changes that it considered necessary. I do not want to see the present abattoir extended, as that would be unwise.

I think that a meat hall to serve a number of abattoirs would be an answer to our problems. One day we will probably see this, although there is no indication at present that this is intended.

I do not want to restrict the new corporation from borrowing money; any money lent to it will have to be lent on its assets. It is essential that the works continues to function. If it must function at a loss, I will be sorry. However, other Government departments do this and will no doubt continue to do so. The main thing is that the abattoirs should continue to serve and, if it does so at a loss, we can only try to correct the situation. Enough money must be made available to install a calf chain because we are at present slaughtering calves on the beef chain, which, apart from the by-products, is the only economic aspect of the abattoir.

The Hon. M. B. CAMERON: I have asked previously whether it is advisable to maintain as large a facility as this, which is reasonably close to the metropolitan area. Can the Minister say whether the abattoir is to continue in its present role, will it (as the Minister has indicated) comprise a meat hall for the clearance of carcasses, or will it become a larger facility than it is at present? I have grave doubts about the continuation of a large central abattoir in this situation. I would hesitate to see the corporation's being given the power to expand a facility such as this unless it has been decided that we should have such an abattoir in the metropolitan area. As the Minister wants to drop the name "Metropolitan" from the title of the works, I should be also interested to know whether it is intended that the new corporation will extend its power over private abattoirs or whether it is intended that the Government will, under the new corporation, establish more regional abattoirs.

The Hon. T. M. CASEY: The answer to the last question is "No". The honourable member asked whether it was desirable for the Gepps Cross works to continue in its present position: I think it is in a good position. Indeed, it compares with the Newmarket abattoir in Victoria and the Homebush abattoir in New South Wales.

The Hon. M. B. Cameron: Are they going to continue with Homebush?

The Hon. T. M. CASEY: Yes. It has been stated that the assets at Gepps Cross are worth $14,000,000 or $15,000,000. Are we to close down all those works and build somewhere else?

The Hon. M. B. Cameron: That is how it is done in America.

The Hon. T. M. CASEY: I do not know whether there are any Government abattoirs in America. I saw one big packing house (as it is called) on the west coast there and a big one in San Francisco, of the same type as the abattoir at Gepps Cross. Whether or not that is still in operation, I do not know.

The Hon. M. B. Cameron: What about Chicago?

The Hon. T. M. CASEY: I do not know; I did not go to Chicago. Gepps Cross will function for many years to come, and it is in an advantageous position.

The Hon. L. R. HART: There must be an expansion of the works at Gepps Cross. In my second reading speech I drew attention to the fact that for the 12 months ended on June 27 of this year the amount of money paid for overtime by the works at Gepps Cross was over $1,700,000, the reason being that the abattoir has not sufficient killing capacity. With the capital expenditure of, say, $500,000 on installing further chains to kill sheep, lambs and possibly calves, we could well save the abattoir about $1,000,000 in overtime payments. Surely that would be a wise investment. Another reason why we must do something about the overtime situation is that the abattoir is working seven days a week and, if that continues, we cannot carry out effective maintenance work. Maintenance of the works at Gepps Cross is essential if we are to hold our export licence, which is dear to every producer and consumer in this State.

At all costs, we must retain our export licence. Therefore, we must expand our works so that we are not involved in working seven days a week, with overtime. We cannot really compare ourselves with America because we are an exporting country, and Gepps Cross is an exporting works. In America they do not export to other countries, which have stringent hygiene requirements. Homebush in Sydney has no export licence, but our position is different. I cannot agree with the Hon. Mr. Cameron about the setting up of regional export abattoirs and the phasing out of Gepps Cross, as suggested. The authorities have been going to phase out New Market ever since I was a boy, but Newmarket is still there. Gepps Cross will be there for many years to come.

The Hon. T. M. Casey: I am pleased that you agree with me on that.

The Hon. L. R. HART: Regional abattoirs have some appeal until the situation is investigated. Sir William Angliss, an authority on

meat export, once said that, if one was going to have a viable export abattoir, it had to be in a position where it could see the ships coming into the harbour. The reasoning here is that we are going to export meat that must be shifted from the killing works to the ship's side. It is no good starting to shift the meat before the ship is in sight because it may arrive late or, when it does arrive, there may be industrial trouble, either on the wharf or on the ship, and one may be faced with having tons of meat on the wharf that no-one is prepared to move. Does one leave it on the wharf to rot or does one take it back to the works? It is apparent that any export abattoir must be close to a port. The number of inland works that have gone insolvent in Victoria and New South Wales cannot be counted on the fingers of two hands. If we are to learn from the experience of people in other States, we must realize there is a limit to the number of export works we can support.

By interjection, the Hon. Mr. Cameron said yesterday that he believed that the regional works he suggested should be export works. I am sorry, but I cannot accept that suggestion. Yes—we can have regional works throughout the country to kill for local requirements, but one of the requirements for any viable abattoir is that there must be easy access to a large domestic market, and to a labour market for a works of any size. If export works are to be dotted all over the country, stock must still be brought in over long distances. So Gepps Cross must be here for a long time to come. It must be upgraded and money must be spent on it if we are not to continue to lose money. We have a works that can be upgraded to export requirements at Port Lincoln. There are suggestions that one may be set up at Naracoorte; and we have abattoirs at Noarlunga, Murray Bridge and Peterborough.

The Hon. M. B. Cameron: We need more.

The Hon. L. R. HART: I will not accept that there is room for many more export works in South Australia. So, if the metropolitan abattoir a Gepps Cross is to be viable, money must be spent on it. We are in the fortunate position at present that that works has an export licence. Do not let us do anything to jeopardize that licence. By upgrading that works, we shall make it viable. The idea that we can phase out that works in our lifetime I cannot accept. That idea may appeal to the electors but let us study the matter in depth and see what answers we then come up with. The reason why I am concerned about the borrowing powers of this corporation is that the corporation itself may get involved in setting up other abattoirs, which it can easily do, in the present metropolitan area; it can expand the present metropolitan abattoir and set up other works.

I am not sure whether a service abattoir should be involved in the creation of further works. That should be the province of private enterprise. The Minister himself in a television interview yesterday said, "Private enterprise has shown us how it can be done." If private enterprise can show how it can be done, let it take up any future expansion that may be required. Therefore, there must be an upgrading of the Gepps Cross works.

The Hon. M. B. DAWKINS: This is probably the most important clause in the Bill. I do not know that it matters greatly whether it is a trust or corporation or whether there are nine, six or three members, but there must be the wherewithal to put the abattoir on a proper footing and the new authority must have the opportunity to borrow sufficient money to put the works on a proper footing. I agree with the Hon. Mr. Hart, who said that the board should not do more than the necessary work at Gepps Cross. I would be disturbed if I thought that the new authority would borrow excessive sums to go into other locations. I believe that the Gepps Cross abattoir will be there for some time to come.

Those of us who have seen the operations at Newmarket, where there has been chaos for the last 30 years and where they have been talking about shifting for 30 years, should compare the position there (where no adjacent land has been reserved, where no stock paddocks are close handy, and where there is much traffic within three or four miles from the heart of Melbourne) with Gepps Cross and realize how fortunate we are. We ought to appreciate the foresight people had in placing the works at Gepps Cross. We must spend adequate money to put the works on a proper footing to keep up the standard that has been built up there. Therefore, with the qualification I have made of no excessive spending, I support the clause.

The Hon. A. M. WHYTE: Regarding the meat hall, what I envisage is one that could handle considerable quantities of meat from various abattoirs and have a means of assessing, by the scanogram system (a type of X-ray), the quality of carcasses. If we had a meat hall that could supply quantities of meat to order, I hope that some day an exporter or an interstate trader could contact Gepps Cross

and say, "I want 300 lamb carcasses weighing 35 lb., with a fat content of such-and-such", and those lambs would be made available without hesitation. We would be able to sell meat of a standard quality, thereby giving a standard that would be known not only throughout Australia but throughout the world.

Clause passed.

Clauses 45 to 52 passed.

Clause 53—"Permits to slaughter stock for consumption by dogs."

The Hon. T. M. CASEY moved:

To strike out "twice" and insert "three times".

Amendment carried; clause as amended passed.

Clauses 54 to 59 passed.

Clause 60—"Carcasses slaughtered to be branded."

The Hon. M. B. CAMERON: Does this clause relate to the branding of stock for the purposes of identifying various grades of stock? What we need is a system whereby carcasses can be identified by grade and age. Is it intended that the new authority will take action in this regard and extend the branding of carcasses so that butchers can identify the meat by the colour of the branding?

The Hon. L. R. HART: The branding of carcasses relates to branding with the board's identification. I agree with the Hon. Mr. Cameron that we should study the question of the branding of carcasses, that is, identifying them as lambs, hoggets or sheep, but I do not think that this clause relates to the branding of carcasses for this purpose. The regulations lay down that certain stock must carry a certain type of brand, indicating that it has been slaughtered at Gepps Cross.

The Hon. T. M. CASEY: I am in favour of the strip branding of lambs and hoggets and I consider that these two basic sheep carcasses should be identified, because mutton is often done up as lamb. This practice works well in other States. I know that many housewives do not like to cook a leg that has a strip brand on it. They are afraid that the dye will run into the fat, but I believe that that is not the case.

The Hon. M. B. Cameron: We have to sell the idea.

The Hon. T. M. CASEY: Yes. To protect the housewife, she should be able readily to identify what she is buying.

Clause passed.

Clauses 61 and 62 passed.

Clause 63—"Delivery of meat."

The Hon. L. R. HART: This clause is also very important because it amends section 91 of the principal Act and introduces an entirely new principle with regard to the delivery of meat. Section 91 (1) provides:

The board shall have the exclusive right to deliver meat of stock slaughtered at the abattoirs to the owners within the metropolitan abattoirs area, and may make such charges for the delivery there as it may think fit: Provided that the charges for delivery of meat to retail butchers shall be the same throughout the said area irrespective of distance or the places where such butchers respectively carry on business.

The Bill strikes out the provision that the board shall have exclusive rights in this connection; possibly honourable members will not disagree with this aspect. The Bill also strikes out the provision that the charges for delivery shall be uniform throughout the metropolitan area. Many people contend that, if the board could do away with its liability to deliver meat, it could save much money. There is a division of opinion with regard to this matter. I am informed that the cost of delivery of meat by the abattoir is 0.75c a pound. It is difficult to compare the cost of delivery in Adelaide with the cost in other metropolitan areas, because there is an overall charge made here on the animals put through the works. The butcher pays a killing charge that includes moving the animal from the sale yards to the works, drafting, holding the animal prior to slaughter, and delivery. This places the exporter at a disadvantage, because he pays the overall charge, although he does not require the meat to be delivered.

It is thought that, if deliveries were made by contract, they could be made much more cheaply. The only place that we can use as a comparison is the Homebush abattoir, New South Wales. There, butchers pay the following rates: for sheep and lambs, 19c a carcass, irrespective of weight; beef above 250 lb., $2.28 a beast; yearlings, $1.50; calves, 36c; porkers up to 100 lb., 46c; baconers of 100 lb. to 180 lb., 60c; and choppers, $1.50 a carcass. All those rates are subject to a 10 per cent surcharge, but there are other complicating factors relating to delivery from Homebush. Deliveries are made mostly by one contractor, and the cost also includes quartering and loading the animals on to the contractors' vehicles. So, it is hard to compare the Homebush prices with prices here. Even at Homebush there is a uniform charge for deliveries to all parts of the metropolitan area of Sydney.

We must also remember that Homebush does not have an export licence, whereas the Gepps Cross abattoir does. If we did at Gepps Cross what is done at Homebush, our export licence might be jeopardized. At Homebush there are two delivery points—a delivery point for meat killed at Homebush and another delivery point for meat killed at regional abattoirs. If we had a contractor coming into the Gepps Cross abattoir, taking delivery of meat, quartering it and loading it, he would have to be subject to severe hygiene requirements; otherwise, we might lose our export licence. So, we could be involved in spending a large sum in setting up a meat delivery hall if contractors were employed to deliver. Although the Homebush figures may appear attractive on the surface, it is questionable whether they are any more economic to the consumer than are the charges at Gepps Cross at present.

I accept that the Gepps Cross works should not have a monopoly in connection with delivery, that the abattoir should be able to engage contractors if that is desired, and that there should be facilities for the butcher to take delivery if he so wishes. However, if a contractor is engaged, he should be required to deliver meat over the whole metropolitan area at a uniform price. It is done that way now, and the same is done at Homebush. I am concerned that the Bill sets out to delete the proviso in section 91(1) of the principal Act. I would accept the first part of the Minister's amendment, but I am not happy about accepting the second part which deletes the proviso regarding the uniform cost of delivery.

The Hon. M. B. CAMERON: The argument put forward by the Hon. Mr. Hart is worthy of consideration by the Committee. We must have some sort of rationalization, but much of it could have occurred with the present set-up had there been rationalization of delivery. I have heard of many butchers in the metropolitan area who close their shops between 12.30 and 1.30 p.m., but almost inevitably the delivery truck arrives at that time—whether or not by prior arrangement in order to have some time off I would not comment. Some service should be provided where the butcher could indicate that he would be out of the shop during certain hours, so that two people and a truck would not be standing idle for that period.

Many savings could have been effected. It would have been easy to wipe out many butchers in Adelaide by having a system under which a contractor could charge separate rates for individuals. The majority of butchers would accept delivery on certain days of the week and make arrangements accordingly. They would not have the facility now available of being able to order virtually on a telephone basis on any day. It would be quite wrong for them to have a separate rate and this would lead to great problems for the smaller butchers.

While there may be some argument for the rationalization of the number of butcher shops, there is always the danger of cutting down on deliveries and forcing the butchers to deal through retailers. However, the margins put on by the wholesalers would be such as to do away with any saving incurred by cutting down deliveries. I will be interested to hear what the Minister has to say in reply to the Hon. Mr. Hart who, I believe, has made a very good point indeed.

The Hon. T. M. CASEY: I would point out to the Hon. Mr. Cameron that many small butchers in the metropolitan area deal through the wholesalers. However, I hope that very shortly a meat auction will be set up in the metropolitan area of Adelaide, as was the case with Nelson's Meat Company. This is almost ready to start, and will help tremendously in the case of small butchers, who will be able to buy at auction and take their own meat or have it delivered by the people running the auction.

The Hon. A. M. Whyte: It should be the corporation.

The Hon. T. M. CASEY: It will not be. It will have to be done by private enterprise. Everyone agrees that the aim of the Bill is to make the new corporation able to run as a viable business. The amendment is designed to help the new board to operate efficiently. Anything restricting the efficiency of the board will mean that it is hamstrung, and we do not want to do this. Already discrimination exists as to quantities and areas, as very small quantities will not be delivered by the existing board. The board may have to place greater restriction on deliveries if the losses on such deliveries are not reduced. I was interested to hear the comments of the Hon. Mr. Hart about contractors operating at Homebush. I did not know that there was only one contractor operating on a contract basis. I do not think that is quite correct.

The Hon. L. R. Hart: I said one did the bulk of it.

The Hon. T. M. CASEY: I understand there is one big operator and a number of other big ones, because a tremendous quantity of meat is turned over at Homebush abattoir, which serves a population of about 3,500,000. Good meat comes in every afternoon and evening from all over New South Wales. It goes into the meat hall and it is sold in a most unusual way in a sort of barter arrangement. There is no auction. There is nothing to stop small butchers picking up their own meat, and I have seen this in operation at Homebush many times. If losses are sustained by one section of a business, then they must be subsidized by another section, and I believe that is inequitable. If killing charges must be high to cover delivery losses, the producer suffers. If we want to reduce killing costs then other costs must be reduced so that it is not necessary to subsidize them. At present the abattoir is losing quite considerably on delivery charges, and it must cover the loss by increasing charges in some other sector. All producers would like to get more for their stock at the abattoir, and we should be looking at ways to help producers.

Other amendments give the board power to fix charges for killing and put it on a proper and equitable basis, and this amendment gives some discretion on the delivery charge. A responsible board will endeavour not to discriminate, by size or area, more than is absolutely necessary. Every board must be given the opportunity to run its operation as efficiently as possible. This provision is to give the board the chance to put meat delivery on some businesslike basis so that the delivery service can continue to be given. I think the board will operate in a businesslike fashion in this area. If we can get the auction system off the ground it will help tremendously in the supply of meat, at any rate to the smaller butchers. I deal from a small butcher and I know that, when Nelson's Meat Company closed, he had to buy through a wholesaler. He was most concerned, because he used to buy his meat and return with it to his shop, where he would cut it up. If the proviso is to be put back, it may mean that the board will have to reduce its deliveries even further, which I do not want to see happen. I merely ask that the board be given the latitude it should have, because it will act responsibly. If we are to ask it to run the works as a viable undertaking, we must realize that its problems will be vast and that the board must be able to conduct its business in the best way possible.

The Hon. M. B. CAMERON: I agree that the works must be run in a businesslike manner. However, surely in the past costs could have been reduced by reducing from two to one the number of men on delivery trucks.

The Hon. T. M. Casey: Wouldn't that be the board's responsibility?

The Hon. M. B. CAMERON: I agree that the word "may" would be an improvement. However, the Minister has still not answered the Hon. Mr. Hart's point that we should have one set rate. I believe that delivery costs should be a separate charge so that, if a person wishes to pick up his own meat, he can do so and thereby save costs. I therefore consider that the proviso should remain.

The Hon. T. M. CASEY: I do not agree that there should be a blanket cover in relation to charges. If the honourable member can tell me of one organization in Australia that does this, other than the contractor in Sydney to whom the Hon. Mr. Hart referred, I should be surprised to hear of it. If one travels on the railways, by bus or by air, one must pay according to the distance one travels. When this Act was promulgated, the metropolitan area was nowhere near its present size and, if this proviso is included, we will be hamstringing the board to such an extent that we will be asking it to suffer a loss. The only way it will be able to absorb that loss will be by increasing the killing charge.

The Hon. Mr. Cameron would in no circumstances deliver pine posts from the Mount Gambier sawmill to Adelaide at the same charge as he would deliver them to, say, his own home. One must charge according to the distance involved; that is common economics. I think the board will act responsibly and that the time will come when, if people so desire, they will be able to pick up their meat from the abattoir.

The Hon. C. R. STORY: The Minister is concerned about delivery charges. The board has had to put two men on every delivery truck because it is the wish not of management but of the union that the trucks should be so high from the ground that it is necessary to have two men handling the carcasses, which is a ridiculous situation. This aspect was referred to in the McCall report, part of which was supplied to me, and it was referred to in the report by Peat, Marwick and Company, both of which reports are available to the Minister as, indeed, they have been available to former Ministers. If he so desired, the Minister could table the Peat, Marwick and

Company report, the McCall report or the report he has recently received. Part of the McCall report dealt with delivery costs. Mr. McCall recommended that as each vehicle became redundant another, which was closer to the ground and which would be capable of being operated by one person, should be purchased. It is a terrible waste of money to have two persons in such a vehicle, one man driving it and the other standing 4ft. 6in. off the ground, from which position he could not possibly carry a side of beef on his own.

I could say much more about the McCall report. I refer, for instance, to the large sums of money spent on having separate vehicles going around picking up slides that were on various carcasses. It is all very well for the Minister to ask me, "Why didn't you implement it?" If I had had a chance to implement it I would have, but I do not think he could get a better report than Mr. McCall's. The only problem is that, if I had thrown the McCall report on the table of this Chamber, we would have had a stoppage at the abattoir for about 18 months because it pointed out all the shortcomings of the whole situation. The Minister has had time to digest many of these things while in office. He is doing very well in what he has brought forward to us but, the sooner we get rid of these high vehicles and have private enterprise or some other type of delivery, the sooner we shall start to make a profit in delivering.

The Hon. L. R. HART: The picture is starting to unfold very clearly. There is no question that the Minister has in mind differential charges. He has stated that clearly. He has said that, if we do not have differential charges, we shall continue to lose money. In support of his argument he has said that, the farther one travels by air, road or rail, the more one must pay. However, in Sydney, where private contractors operate, there is a uniform charge for the delivery of meat. I cannot imagine that the private contractors in Sydney are operating at a loss. Therefore, we can surely use private contractors here if we want to provide for delivery at a uniform charge. With differential charges, we could well establish a system of quantitative discounts, whereby a wholesaler or another retailer could get a discount for deliveries of large quantities of meat.

The Hon. T. M. Casey: That is possible.

The Hon. L. R. HART: The Minister agrees that that is so. If one wants the big to get bigger, that is the way to do it. Look at the quantities of meat that go through a supermarket and think of the advantages of having meat delivered at a lower charge. If we are to introduce a system of differential charges, we are sounding the death knell of the small butcher. The Hon. Mr. Cameron suggested there should be some rationalization of deliveries. Possibly there is room for improvement there but at present most delivery vans that leave the works at Gepps Cross are filled with meat. In fact, one cannot get a special delivery of under six carcasses. A van loaded with meat leaves the works and must travel along certain roads because there are load limits on some roads in the metropolitan area: also, there are turning difficulties, so the man driving the van has to proceed along roads where he is not contravening traffic regulations. It may be that, when he gets to the last shop to which he has to deliver, only two or three carcasses are left on the van.

If contractors are employed, there may be three or four contractors in the one area at the one time delivering meat to different butcher shops. Under our present system there may be one or two vans from the abattoir delivering in the one area at the same time because of the quantity of meat being delivered to that area, but private contractors may be crossing each other's tracks. I do not think the butchers are opposed to paying a separate delivery charge. They would accept a separate delivery charge not all-inclusive with the other services.

We need not increase killing charges to cover losses on deliveries if we levy a special delivery charge. There are other things that may be worrying the Minister. He may have at the back of his mind the expansion of the metropolitan abattoir area and, if the area is to be extended greatly, he may believe that a uniform delivery charge is not acceptable. However, for the present (and this Bill covers only the metropolitan area) we must stick to the proviso that there will be a uniform delivery charge. This is essential. I agree we should relieve the board of the exclusive right it has at present to deliver. Therefore, I now move:

To strike out paragraph (*c*).

This means that we are reinserting the proviso that there be a uniform delivery charge.

The Hon. A. M. WHYTE: The Hon. Mr. Hart has done his homework well. The Minister's reply to him was not quite on the ball because he tried to intimate that it was compulsory that the corporation deliver at a

flat rate. All that has been said so far is that, if the corporation decides to deliver, there should be a uniform rate for delivery. That principle applies to many other commodities—for instance, beer, which is zoned, and within a certain zone it is delivered and controlled at a certain price. If we are to depart from that system, we shall need all the butcher shops on Grand Junction Road, and people from Elizabeth and Christies Beach would buy their meat within a certain distance of the abattoir: otherwise, they would be penalized for not living close to the abattoir. It would be ridiculous to suggest that we penalize a person because, for no fault of his own, he lived at Christies Beach or Elizabeth. The delivery charge must be uniform and, if the corporation does not wish to enter into this business, good luck to it; let it leave it to someone else.

The Hon. T. M. CASEY: If this proviso is reinserted, it will do two things: it will increase costs somewhere else in the abattoir—

The Hon. A. M. Whyte: No; you have not worked it out.

The Hon. T. M. CASEY: I have. We know that the delivery charge is at present costing the board money. It is causing a loss. Everyone knows that that is a fact, so do not let us beat about the bush. Delivery charges incur a loss and, in order to compensate for it, we would have to increase charges elsewhere. If a flat rate applied throughout the metropolitan area, some butchers would be asked to subsidize other butchers. The same problem exists with the movement of wheat: the farther a farmer is away from a silo, the more it costs him to get the wheat to the silo.

The Hon. A. M. Whyte: That's bad administration.

The Hon. T. M. CASEY: These are the facts of life. We would hamper the board in trying to become a viable proposition if the clause was not accepted as it stands. The board would not act irresponsibly: it would examine the whole situation and see how it could reduce costs without cutting out deliveries or increasing costs in certain areas so that it would not place a hardship on some butchers.

The Hon. L. R. HART: The Minister should realize that, if we have differential delivery charges, the price of meat to the consumer in the fringe metropolitan areas will be considerably higher than it is in the inner metropolitan area. If the board is losing such a large sum through deliveries, why does the Minister not produce figures to convince the Committee of this fact?

The Hon. T. M. Casey: You quoted figures.

The Hon. L. R. HART: Yes, and I will discuss them now. The cost to the board for delivery is .75c a pound, whereas at Homebush, where it is done by private contractor, the charge is less. There must be something wrong with our system, which should be improved.

The Hon. T. M. Casey: That's the prerogative of the new authority.

The Hon. L. R. HART: We should not fleece the consumer in the fringe metropolitan areas. If a differential charge were made we might well put out of business many of the butchers in outlying areas.

The Hon. T. M. Casey: Meat comes from Murray Bridge into the metropolitan area.

The Hon. L. R. HART: Yes, but an inspection fee must be paid to get it into the metropolitan area; that must be considered, too.

The Hon. T. M. Casey: That's under the present board.

The Hon. L. R. HART: Yes, but is the Minister suggesting that the new authority will remove that inspection fee? If so, the board would face added competition and could well lose more money than it is losing now.

The Hon. T. M. Casey: You would leave the inspection fee on, would you?

The Hon. L. R. HART: The fee is there to protect the service abattoir.

The Hon. T. M. Casey: You would leave it on?

The Hon. L. R. HART: If we are not to lose more money than we are losing now the fee will have to be left on, because that is the only thing that makes the abattoir pay its way now. If we introduced a system that eliminated competition in the livestock market, the producer could be worse off than he is now. The Minister has suggested that meat could be sold at auction on the hook at a price per pound. We had this system operating in the metropolitan area.

The Hon. T. M. Casey: Yes, at Nelson's.

The Hon. L. R. HART: Yes, and the company went insolvent. The future of this system, much as the Minister and I may believe in it, is not bright.

The Hon. T. M. Casey: I think it will be very bright.

The Committee divided on the amendment:

Ayes (9)—The Hons. M. B. Cameron, Jessie Cooper, M. B. Dawkins, R. C.

DeGaris, R. A. Geddes, L. R. Hart (teller), E. K. Russack, C. R. Story, and A. M. Whyte.

Noes (7)—The Hons. D. H. L. Banfield, T. M. Casey (teller), G. J. Gilfillan, C. M. Hill, F. J. Potter, A. J. Shard, and V. G. Springett.

Majority of 2 for the Ayes.

Amendment thus carried.

The Committee divided on the clause as amended:

Ayes (10)—The Hons. M. B. Cameron, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, L. R. Hart (teller), F. J. Potter, E. K. Russack, C. R. Story, and A. M. Whyte.

Noes (6)—The Hons. D. H. L. Banfield, T. M. Casey (teller), G. J. Gilfillan, C. M. Hill, A. J. Shard, and V. G. Springett.

Majority of 4 for the Ayes.

Clause as amended thus passed.

Clauses 64 to 83 passed.

Clause 84—"Enactment of sections 111a and 111b of principal Act."

The Hon. M. B. CAMERON: Does the Government intend to do away with the inspection fee charged on stock from outside abattoirs?

The Hon. T. M. CASEY: I see no reference in the Bill to that matter.

Clause passed.

Clause 85—"Regulations."

The Hon. L. R. HART: As a result of clauses 85 and 86, what has been done in the past by the Central Board of Health will now come under the jurisdiction of the corporation. I am concerned as to whether the corporation will be competent to implement regulations dealing with problems that are normally dealt with by the Central Board of Health. It would not be so bad if the corporation made regulations governing its own works, but the regulations at present cover not only the Gepps Cross abattoir but also other facilities in the metropolitan area. I wish to refer to subsections (17) to (22) of section 112 of the principal Act. If honourable members look closely at these they will agree that those subsections should be the province of the Central Board of Health, and not af a corporation. I do not know whether the Minister has studied this aspect. If not, I ask him to report progress so that the points I have raised can be considered. This impinges on a most important aspect of the meat trade, the health regulations, and I am not sure we are doing the right thing.

The Hon. T. M. CASEY: I can see the point the honourable member is making. However, clause 86 amends section 113 of the principal Act. If that section is reinstated I think it will satisfy the honourable member. We can do that and it will clear up the matter.

Clause passed.

Clause 86—"Provision as to regulations."

The Hon. T. M. CASEY: I do not intend to carry on with this clause. We should vote against it.

Clause negatived.

Clause 87—"Regulations unchangeable unless quashed."

The Hon. C. R. STORY: We have had a very good serve of this measure tonight and I ask the Minister to report progress while he checks on what is meant by the annotation to this clause. I am not sure what "quashed" means. I am sure, however, that this measure is passing too quickly for a most important Bill, and I ask the Minister to report progress at this point.

The Hon. T. M. CASEY: I am willing to co-operate.

Progress reported; Committee to sit again.

INDUSTRIAL CONCILIATION AND ARBITRATION BILL

Adjourned debate on second reading.

(Continued from October 24. Page 2290.)

The Hon. A. M. WHYTE (Northern): I rise not to speak at any great length to this measure, which is one of the more modern approaches to the situation of arbitration and conciliation. I can support such a measure. I gave it some thought, and I do not think it counts very much what we write unless we believe in it. If there is no sincerity in what is written into the legislation, and if there is no point of conciliation or arbitration, then words, whether written or spoken, are of no consequence. In this modern age we must reach some point of conciliation. We must have closer co-operation between those who employ and those who are employed. It is quite ludicrous to think that our community can go on for ever being dominated by people who wish only to gain power, and at any expense; and it does not matter whether it is in big business or in unions, which are the two conflicting elements concerned in such legislation. Unless some people are more willing to give full consideration to what they are doing to the person who does the work, whatever we write is of no consequence.

We see unions dominated by people who have never had a callus on their hands and

who are never likely to, but who can put a thousand people out of work and deprive them of a living just by the stroke of a pen or a mouthful of wind, without giving them much opportunity to say exactly what they want to do. On the other hand, I do not wish to defend all employers, either. I am hoping that some of the provisions of this Bill will go some way towards arresting much of the stupidity that has reduced our production figures and increased our costs.

As a nation, we are on a very competitive market, perhaps in some ways a handicapped market, because of the long distances we are forced to transport our products. Last year's figures showed an increase in productivity, despite all the automation and mechanization, of only 2½ to 3 per cent. At the same time, the average weekly earning increased by 11 per cent and prices almost matched the wage increase to the point of a 7 per cent increase. I presume that those who have designed the legislation in this way have done so in good faith. However, one could have doubts about that, because in some clauses there appears to be a desire to protect one point of view rather than to tend towards conciliation, from which we should start. If we desire to have conciliation before arbitration, we should start at the beginning and design a Bill that will provide for it. Not being a lawyer, I cannot say exactly what this Bill provides. However, if I took it to six lawyers, I would probably get six different opinions. I will therefore base my comments on my understanding of the Bill.

I have queries about many clauses. I refer first to clause 6, which contains the definition of "employee", which has been referred to by previous speakers. This definition encompasses an entirely new group of people. Whether this was intended by the designers of the Bill, I am not sure. If not, they will have an opportunity in Committee to make clear what they mean. Taxi drivers and transport operators have not previously been brought into this group. It would be difficult for one to determine by whom a road transport driver was employed when he took a load away from one person and then returned with another load for a different person. All sorts of problems are associated with this matter. The situation regarding owner-drivers of taxis and those who employ other drivers needs clarification.

I refer also to the position regarding building subcontractors, who have been continually attacked by unions, which have never been able fully to control them. It appears that there is a possibility of their being able to lay a finger on these people in future and to say that they will be registered. If this happens, I have no doubt, and nor have the people who have written to me, that building costs will increase considerably. If the subcontractor, who has played a significant part in the building trade, is to come within the ambit of this legislation, it will mean his demise.

The Hon. R. C. DeGaris: You know the Government's view on subcontracting.

The Hon. A. M. WHYTE: I do not really believe it is the Government's view. Some honourable members talk with tongue in cheek many times in defending the unions that put them into Parliament.

The Hon. D. H. L. Banfield: It wasn't the unions. We all have to face an election, you know. Don't blame the unions.

The Hon. A. M. WHYTE: I am not blaming them, because the unions sometimes select good men. It is obvious, however, that we are seeing a full-scale attack by unions on subcontractors. I will deal quickly with the clauses of the Bill, because this is a Committee Bill which can be debated by those who have a full knowledge of conciliation and arbitration legislation and of the rulings of courts over the years, a knowledge which I do not have and which I am not sure I want. Clause 29(*c*) provides that preference in employment shall be given to members of a registered association of employees. I know that those defending the Bill will say there is no provision for compulsory unionism, but it is almost one and the same thing. When speaking of compulsory unionism, one can only say whether or not one believes it is a good thing. I believe it will backfire one day to the point where the unions will have to kick out certain people it forced to join but who do not agree with their policies. In the long run, therefore, the unions will suffer.

The Hon. D. H. L. Banfield: That's the beauty of unions: they are open to members to decide what they wish.

The Hon. A. M. WHYTE: I have seen instances of that. I have many friends who are members of unions, and I presume that many of them vote Labor. Many of these unionists are at present dissatisfied not with unionism but with the people in unions who do not really think Australian or belong here. If more and more people are forced to join unions, as could happen, I do not know whether it will necessarily be a bad thing, as it could quite well backfire on people who believe that they can

control everyone in the country. However, if no other honourable member does so, I will move an amendment to clause 29 (*c*) on principle, as I consider it unfair that people should be compelled to join unions.

Under clause 80, all employees under awards are to be granted 10 days sick leave a year with unlimited accumulation. I am not sure that there should be a doubling of accumulation of entitlement from five days to 10 days a year as this could be more than that to which people are entitled. However, I do not believe that we should begrudge a person who is sick getting his pay. Provided he is genuinely sick, the award should cover him.

The Hon. D. H. L. Banfield: The genuine person is more likely to be the one who will accumulate his sick leave.

The Hon. A. M. WHYTE: I think the honourable member may have an argument there but I still think—

The Hon. D. H. L. Banfield: Anyway, if you do not give it to him, he will take it and you will have no production from him.

The Hon. A. M. WHYTE: No doubt, the Hon. Mr. Banfield will tell us all of the things I have said that he considers wrong.

The Hon. D. H. L. Banfield: No; you are doing all right. You are surprising me.

The Hon. A. M. WHYTE: Clause 82 provides that the Full Commission can lay down the general standard of the period of annual leave, and subclause (4) covers payment for annual leave. I understand that this at present is still awaiting judgment from the Full Bench of the Conciliation and Arbitration Commission. I do not know whether I am right in saying that, but I cannot pass judgment on this point until I know the commissioner's ruling.

The Hon. R. C. DeGaris: The question is whether sick leave and overtime come into annual leave or not; I think that decision has been made.

The Hon. A. M. WHYTE: I have not seen the judgment. The purpose of clause 145 is to remove access to civil proceedings. It appears obvious that this provision is designed to correct the action taken in the Kangaroo Island dispute. It would be a sorry state of affairs if we reached the point where any person in this State had not the right to court protection. I hope we can improve the clause or strike out this provision. I do not know which we need to do but, whichever method we adopt, we must remember that every person has a right to freedom from being injured or harmed and he should have effective access to judicial facilities that should be available in a democratic society. I support the Bill.

The Hon. D. H. L. BANFIELD (Central No. 1): I support this Bill. I am pleased to say that the emphasis is on conciliation rather than on arbitration. I was surprised at the Hon. Mrs. Cooper, who would not have a bar of conciliation at any price. The only thing that was worth while, apparently, was arbitration. Had the Hon. Mrs. Cooper studied industrial relations thoroughly, she would have discovered that more problems had arisen because of straightout arbitration than had ever been caused by conciliation.

The Hon. R. C. DeGaris: Can you define the difference for me?

The Hon. D. H. L. BANFIELD: With conciliation, people can get around a table and argue the point with the boss; then they can go back to the judge and say, "We have ironed out our differences." When people first go before an arbitration commission with a log of claims, the commission asks, "Have the parties conferred? If so, what have they agreed upon?" It is inviting them to get together to see how close they are before they want the commission to adjudicate on matters on which they cannot come to some satisfactory agreement. That is the whole purpose of a conciliatory approach, and only when the two parties cannot agree should the matter go to arbitration. When a matter goes to arbitration, there are usually two good solicitors who put up two excellent cases, one for the employee and one for the employer. They are both right from the point of view that each of them holds, but they are really very far apart because they have special interests to look after; then the judge has to arbitrate. If the two parties can get together and one of them says, "I think your claim is too low; you should raise it a little and we will agree to that rather than have a judge telling us to increase the claim because it is too low", they can conciliate along those lines. That is the difference between arbitration and conciliation, where people get around a table and thrash out the points at issue and where there is no face-saving to be done. Each side has its problems and each side desires to solve them. If a person makes up his mind to do so, he can do it through conciliation.

Listening to the Hon. Mr. Potter and then the first part of the speech of the Hon. Mr. DeGaris, I thought they had agreed that

perhaps conciliation was something worthwhile. However, by the time the Leader had concluded his speech after seeking leave to continue, I got the impression that someone had got at him overnight as the conciliatory mood seemed to have deserted him somewhat, and his line of argument had hardened a little.

The Hon. R. C. DeGaris: Have a heart!

The Hon. D. H. L. BANFIELD: Having been a member of a trade union for over 30 years and a full-time official for over 17 years, I know that much can be achieved through conciliation and, provided both sides are prepared to get together with a genuine desire to iron out any differences, no problem need go to arbitration. I say "a genuine desire" because sometimes people get together but they have no real desire to solve the problems at issue; they delay taking action. Sometimes it does not work out; but, where one side, be it the union or the employers, attempts to dig in its toes without any attempt to conciliate, that is where the trouble starts and quite often something that starts as a minor difference of opinion develops into a major dispute. The Hon. Mrs. Cooper said that the present set-up was cumbersome and that we needed some scheme whereby we could move quickly. It becomes cumbersome only when one side or the other refuses to talk. Nine times out of 10 a strike starts merely because it is impossible to get people talking. One side or the other refuses to talk and, therefore, there is only one way to bring the matter to a head—a strike, to hit the boss where it hurts him most. If he will not talk, something must be done, and he must be forced to talk. That is where arbitration comes in. If he is prepared to talk, nine times out of 10 a strike need not occur.

I believe that this Bill, when it becomes law, will be the means of achieving a marked improvement in industrial relationships between the employers and the employees of this State. I see no reason why coverage should not be given to every worker in this State; I see no reason why a worker not covered by an award should not be entitled to benefits that other workers have achieved. The Bill makes it possible for the parties to get together and straighten out their differences without having to resort to arbitration. The Hon. Mr. Potter pointed out that in this State about 13 per cent of the work force is not covered by any industrial award or agreement. This Bill will enable the majority of that 13 per cent to seek and receive coverage that will give them at least a minimum standard of working conditions at present enjoyed by over 80 per cent of the workers in this State. I think that the Bill will cover most of the 13 per cent. The Hon. Mr. Potter also said that only 37 per cent of the work force in the State was covered by State awards or agreements and that 50 per cent was covered by Commonwealth awards. Undoubtedly, he must have taken his figures from a survey made in May, 1968, but I can assure him that those figures are out of date, as various State and Commonwealth officers agree that 45 per cent of the work force in the State is covered by Commonwealth awards and 42 per cent is covered by State awards and agreements, whereas 13 per cent is not covered by any award.

If he had read the supplement in yesterday's *Advertiser* he would have seen a graph showing an increase in the number of people covered. I was amazed that the Hon. Mr. Potter and the Leader of the Opposition reflected on our State Industrial Commission. I have inquired not only in South Australia but in other States and have found that on more than one occasion both the Commonwealth and the New South Wales commissions were happy to rely on decisions made by our commission. It is untrue for anyone to say that the State Industrial Commission has a low standing compared to other State commissions. The Hon. Mr. DeGaris went to great lengths to support his view that civil action for tort should remain. It is significant that he did not, nor was he able to, point to one case in which a tort action was responsible for settling an industrial dispute.

We all know that, in the Kangaroo Island dispute, tort action not only failed to settle the dispute but widened it. Despite the tort action, it was the Industrial Commission (under Commissioner Lean) that settled the dispute. The Hon. Mr. DeGaris said that tort action was a rarity, but it is more than coincidence that there have been three tort actions since 1970. Prior to 1970, such action had not been taken for over 30 years. The coincidence arises from the fact that in 1970 the Commonwealth Liberal Party was toying with the idea of making law and order a vital issue at the forthcoming election. Although it could not get much support in other States for people to stir up strife, it found people in this State who were willing to sacrifice good industrial relations for the purpose of assisting the Commonwealth Government in its election campaign.

The Hon. C. R. Story: Do you disagree with law and order?

The Hon. D. H. L. BANFIELD: Not once did I say I disagreed with law and order: what I said was that is was more coincidence that since 1970 there have been three instances of tort action, whereas prior to 1970 there had not been a tort action for over 30 years. What is the significance of that, if it were not to stir up strife to give a platform for Prime Minister McMahon, who had nothing to stand on at the forthcoming election? The only body that wanted disorder in the country was the Commonwealth Government, which was anxious and which hoped to go to an early election on that issue.

The Hon. C. R. Story: Do you believe in law and order?

The Hon. D. H. L. BANFIELD: Yes. I have a Chairman here and, if he calls me to order, I believe in doing what he tells me to do. My actions display that I believe in law and order, and actions speak louder than words. The Commonwealth Government missed out badly and South Australia suffered considerably, not only as a result of the cost to people on Kangaroo Island but because our industrial relations suffered considerably as a result of the three tort actions taken since 1970. They got the bus operators on side and took tort action, but that did not settle the dispute.

The Hon. F. J. Potter: I don't think it's settled yet.

The Hon. D. H. L. BANFIELD: It is not still going on; it has been settled as a result of intervention by Commonwealth Commissioner Gough. We do not hear any more of the bus dispute or the tort action taken by the bus operators.

The Hon. F. J. Potter: Let's hope it stays that way.

The Hon. D. H. L. BANFIELD: Yes. If there is conciliation, there is no need for tort action. Then we had the Seven Stars Hotel dispute, which was taken before Mr. Justice Zelling, who did not encourage that type of action to be taken for the settlement of industrial disputes. That dispute was not settled as a result of any tort action but because the Australian Hotels Association could see that the good industrial relationship that had existed for many years between it and the Liquor Trade Employees Union was about to be destroyed, so they played a big part in having the dispute settled by agreement.

It is interesting to recall that neither Mr. Justice Zelling nor Mr. Justice Wells, who heard the Kangaroo Island dispute, in any way thought it a good idea that industrial matters should be settled by tort action; they both said that, in effect, in the course of hearing the disputes. The Hon. Mr. DeGaris failed to tell us that not one registered employer organization had ever asked for, or had supported, this line of action. So again it is significant that the people who know how to handle disputes are not the ones who want tort action. It gets back to someone who wants to stir and who is not happy to have proper industrial relations in the State but who wants to upset the applecart. It is obvious that the Hon. Mr. DeGaris is anxious to retain a law that originated in England in the Black Death of 1348. I think it would be interesting to honourable members if I briefly gave the history of the origin, as outlined by Dr. Fleming (Professor of Torts at the Australian National University, Canberra), in his book *Law of Torts*, in which he states:

> One prominent type of interference with economic relations is the tort of intentionally inducing or procuring breaches of contract. Its origin stretches back to the fourteenth century when, by analogy to the writ of trespass for abducting a servant, a remedy was devised to deal with cases where a stranger had taken another's servant by persuasion rather than force. . . . This common law action was shortly reinforced by a statutory action based on the Statute of Labourers which was passed in order to cope with the economic chaos in the wake of the Black Death that struck England in 1348 and produced a great scarcity of labour and rise in wages. The Statute made it an offence for a labourer or servant to leave his agreed service prematurely, as well as for a stranger to receive or retain him in his service.

The old conservative types want to hang on to a law that was introduced in England in 1348. We have some Liberal Movement members here, but we still find people who hang their hats on legislation introduced in the fourteenth century.

The Hon. R. C. DeGaris: We complained that you were taking one section only.

The Hon. D. H. L. BANFIELD: We are not. The Hon. Mr. DeGaris said that more tort actions had been taken against employers than against employees. If the provision benefits both sides, what is wrong with it? We are not looking after only one side. Why must there be two lots of penalties? Members opposite preach conciliation, but this is the kind of conciliation they mean: they mean that employees should be told, "Accept arbitration or we will clout you over the head." Is that a reasonable way to settle disputes? Of course it is not. The original British Trade

Union Act of 1871 gave the trade unions immunity from actions for tort. This immunity continued to be accepted as the law until the Taff Vale case of 1901, which went to appeal in July, 1902, in the House of Lords, when it was found that the immunity did not exist. So, in 1906 the British Liberal Government altered the Trades Disputes Act to restore to the trade union movement of the United Kingdom the immunity from actions for tort which everybody, until the Taff Vale case, thought it had enjoyed. During the debate in 1906 on the Trades Disputes Act Amendment Bill the then British Liberal Prime Minister, Sir H. Campbell-Bannerman said:

I wish to say comparatively few words on this matter. I am old enough as a Parliamentarian to have been in the House at the time when the legislation with which we are dealing was commenced.

He was referring to the original Trade Union Acts of the 1870's. The quote continues:

I remember following with great interest what took place at the time. But I never have been, and I do not profess to be now very intimately acquainted with the technicalities of the question, or with the legal points involved in it. The great object then was, and still is, to place the two rival powers of capital and labour on an equality, so that the fight between them, so far as fight was necessary, should be at least a fair one. At that time workmen were prohibited from combining for the purpose of protecting their interests, and in many other ways were under restrictions. The Bills which were passed between 1870 and 1880 had a most beneficent effect. They gave life and strength to the trade unions, very much to the alarm of a great body of opinion in the country, which had contracted a habit of looking upon those associations with dread and suspicion. That prejudice still lurks in some quarters.

The prejudice referred to still lurks in some quarters here in 1972. Sir H. Campbell-Bannerman continued:

But the great mass of opinion in the country recognizes fully now the beneficent nature of the trade union organizations, and recognizes also the great services that those organizations have done in the prevention of conflict and the promotion of harmony between labour and capital. I believe myself that all the best employers—I almost hope, I might say, all the good employers—in the country welcome anything which gives freedom and power to associations of so useful and beneficent a character as these.

He completed his address as follows:

I cannot but hope, nay, I confidently expect, that it may have been found possible before further progress is made in the matter to adjust the differences that exist, differences which are not differences in spirit or tone or in ultimate effect, but in method, and even to some extent in phrase—so that we may attain that which is our common end, namely, the freeing from impediments and risks of those beneficent institutions to which we owe so much in improving not only the conditions of the working classes, but the relations between masters and men.

That was the outlook of the British Government in 1906. What is the outlook of some members opposite now? They are not interested in benefits for the trade unions, and they do not want good industrial relations. Further, they do not realize that they would get better results if industrial relations were harmonious. They do not want to see benefits for the trade unions; rather, they attempt to take away benefits from the workers at every opportunity.

The Hon. C. R. Story: We do not want to hear what happened in the past: we want to hear something progressive from you.

The Hon. D. H. L. BANFIELD: If the honourable member wants something progressive, all he has to do is to vote for the clause I am referring to. On the other hand, if he wants to remain as far in the wilderness as is the Hon. Mr. DeGaris, he should follow his Leader. The honourable member would not be able to get into the Liberal Movement if it opened its doors wide open.

The Hon. C. R. Story: Why don't you give us views of your own?

The Hon. D. H. L. BANFIELD: It is only the little group in this Council that thinks as the honourable member does. He does not like to be told about people in other countries who have been progressive over the years: he looks only within these four walls. The sooner the honourable member faces up to what is involved in harmonious industrial relations the better it will be not only for himself but also for the people he represents. From 1906 to 1964, everyone in the United Kingdom thought that the trade unions had immunity from the law of tort. Then in 1964, in the case known as *Rookes* v. *Barnard*, the courts of England again took the view that the law of 1906 had not given to the unions the immunity that the House of Commons thought it was conferring upon them. The Wilson Government in 1965 therefore altered the law yet again to give to unions complete immunity from civil actions for torts in respect of normal industrial actions or in pursuit of industrial action to bring about a certain industrial result.

The law of the United States, Canada, and every other country where collective bargaining operates, provides for the same immunity except during the currency of an agreement. The law in Queensland provides for it and

has done so for more than 50 years. This law, which gives immunity to unions against actions for tort, has remained unaltered in Queensland for the last 15 years, during which Queensland has been governed by a Country Party and Liberal Party coalition. It has not been altered there, and I suggest there is a very good reason why it should not have been altered. It has not been altered, because they do not wish to upset the harmonious relations that exist.

If unions are not to be given immunity from actions for tort a situation could arise whereby, for instance, in the 15-working-day dispute in 1964 between the Vehicle Builders Union and General Motors-Holden's the union could be sued for well over $100,000,000. This is absurd and becomes more absurd when it is realized that under the law once liability is established it is not within the competence of a court to award one single cent less than the full extent of the damage suffered.

What would the position have been if the decision in the Kangaroo Island dispute had been reversed? If the court had assessed damages (it did not because the dispute was settled out of its jurisdiction), it is possible that the unions would have had to be paid damages, because by the time the dispute was settled and Woolley had shipped his wool to market the price of wool had increased, so that he actually benefited as a result of that action. Possibly the judge may have had to take the damages awarded away from Woolley, who was claiming that something was being taken from him when in fact something was being given to him because of the price of wool. Until recently there had been only one case in Australia in which recourse to the Taff Vale decision was had, and that was in 1902. From 1902 to 1970 there were no tort actions.

In 1902, the Industrial Arbitration Act of New South Wales introduced into that State for the first time the new system of industrial arbitration. This was followed two years later, in 1904, by the Commonwealth Conciliation and Arbitration Act. It firmly implanted in the minds of everyone that this was a new province of law and order in which the old resort to civil actions for damages was no longer part of the Australian law. Then, two or three years ago, a few smart lawyers decided that they would resurrect from the graveyard of ancient case law the old Taff Vale case. This was with a little prompting from the Commonwealth Government which wanted to upset the applecart, so it obtained smart alecs to resurrect the case from the graveyard.

They started to use the civil law in order to impose penalties upon unions that used this form of industrial action. The Kangaroo Island dispute was a classic example in which the employers dug into the graveyard of ancient English industrial law to drag out an old skeleton that had been put safely to rest in this country more than 60 years before, and in England in 1871, as the House of Commons in those dim, distant days believed. If the Opposition supports the idea that unions can be brought to the civil courts, prosecuted, and ordered to pay damages as compensation, it will destroy arbitration as we now know it.

The Hon. C. R. Story: The honourable member is not as good when he is reading someone else's stuff as when he is reading his own.

The Hon. D. H. L. BANFIELD: The honourable member wants facts. I am sure that what I am saying is correct, so that the honourable member cannot say that I am being incorrect. Whether I have read it or not, the honourable member knows that the Commonwealth Government wanted to upset the applecart in 1970; he knows it was a fourteenth century law; he knows that in 1871 the British Government tried to give immunity to trade unions from the tort law; he knows that in 1906 they attempted to do it; and he knows that his Party is not willing to do it in 1972. That is how backward they are in this House. I trust that members of the Opposition will do nothing to upset the good industrial relations that existed before the taking of civil action in industrial disputes. Much has been said about clause 29 (1) (*c*), which provides:

> In the exercise of its powers the Commission may:
>
> (*c*) by award authorize that preference in employment shall, in relation to such matters, in such manner and subject to such conditions as are specified in the award, be given to members of a registered association of employees;

The Hon. M. B. Dawkins: That is a terrible thing!

The Hon. D. H. L. BANFIELD: Of course! Opposition members have placed an interpretation on it which they know is not factual. They say it is compulsory unionism, but it is no more compulsory unionism than members here are progressive.

The Hon. R. C. DeGaris: It is compulsory unionism with the tort action taken out.

The Hon. D. H. L. BANFIELD: No, it is not: they are completely distinct and different parts of the Bill. Should preference be given to the man willing to pay for conditions now in the award or should there be an open slather for people who have not put a cent into obtaining those conditions? The other day, when walking down the street, I thought I would like a Cooper's stout. I was not feeling well, because I was worrying about the outlook that had been shown by some members here. As I walked to the door of the pub, a shabbily dressed fellow walked in ahead of me. He asked for a Cooper's stout but said that he had no money. The barman told him to leave. When I asked for the same order and put my money on the counter, the barman gave me the drink. He gave me preference, because I was willing to pay for what I wanted. What is the difference between two people who are looking for a job that will give them $90 a week, 10 days sick leave, long service leave, sick pay, etc., when one is willing to pay a weekly sum of 20c to be able to enjoy those conditions?

The Hon. A. M. Whyte: Just a sensible barman, apparently.

The Hon. D. H. L. BANFIELD: Of course, and he got the job. The other fellow wants these conditions, but is not willing to pay 1c for them. What is the difference between those two people? One receives preference over the man who is not willing to pay. I suggest that there is no difference but, if all things are equal, the preference should be given to the man who has paid for the cost of obtaining those conditions under which union men wish to work. Obviously, the non-unionist wanted these conditions to apply to him; otherwise, he would not have applied for that position. I challenge any honourable member opposite to tell other honourable members that, if they were offering their goods or services for sale, they would pass over the person who was willing to pay for those services or goods and give them to a person who was not willing to pay for them. To whom would any honourable member give preference in those circumstances? No honourable member would say that he would give it to a person who was not willing to pay for what he was receiving. None of us would do this. The Hon. Mr. DeGaris sends his wool not to India where it is needed but to China where he gets paid for it, and the Hon. Mr. Potter demands his money before he goes into court. He does not say that, because a person has no money, he will look after them and that, if another person has money, he will send him to someone else. Of course he does not do so, and there is no difference with the trade union movement.

I can appreciate that certain people might have conscientious objections to joining a union, and I think the Government would be happy to provide for those people. Indeed, if an amendment were moved allowing the commission to grant an exemption to a conscientious objector, I am sure the Government would accept it. No doubt that would overcome some of the objections that have been raised. It is obvious that the Hon. Mr. Whyte does not know much about the workings of the trade union movement when he says he doubts whether one union official has ever worked or got calluses on his hands. If the honourable member knew anything about the trade union movement, he would know that 98 per cent of union officials have all come from the workshops. Indeed, the Hon. Mr. Shard jumped up and down from a bread cart for years.

The Hon. A. J. Shard: That was child's play to what else I did.

The Hon. D. H. L. BANFIELD: Of course it was. We have been trained, and we know exactly what the employers attempt to put over us. We have worked in industry and have done things the hard way. Having been disgusted with the conditions obtaining, we have had to do something about them. We have therefore become union officials in order to improve working conditions. The honourable member does not therefore know what he is talking about, because all trade union officials have come up the hard way. It is easy for honourable members to laugh about the instances of which I am speaking but, if they want good relationships to exist in industry in this State, they will ensure that this Bill is carried. I support the second reading.

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

ENVIRONMENTAL PROTECTION COUNCIL BILL

Adjourned debate on second reading.

(Continued from October 24. Page 2291.)

The Hon. A. M. WHYTE (Northern): In supporting this Bill, I want to say how pleasing it is that, for the first time, to my knowledge, a comprehensive report has been made available to honourable members before they have had to debate a Bill. I compliment the Minister for the trouble he went to in ensuring

that the report was made available to honourable members before the debate commenced. A certain amount of pressure was, however, applied by honourable members, who delayed the matter until the report was made available.

The Hon. A. J. Shard: We are most co-operative.

The Hon. A. M. WHYTE: In this instance, I compliment the Minister responsible, as well as the committee that formulated the report.

The Hon. A. J. Shard: It is an excellent report.

The Hon. A. M. WHYTE: True, and it should be a best seller. Indeed, anyone could read this report, which is interesting from start to finish. In the words of Stewart Cockburn, it is the first thoroughly-researched report on a total community environment ever prepared in Australia and, indeed, it is probably one of the first ever prepared in any sovereign State in the world.

The Hon. C. R. Story: The only reason we got the report is that we jacked up until we received it.

The Hon. A. M. WHYTE: True, there was a bit of connivance.

The Hon. C. R. Story: If you saw the number of days that the legislation was on the Notice Paper, you would see that the report was not freely given. It took a long while to get it.

The Hon. A. M. WHYTE: True; however, the report is well worth the effort. The introduction of the report deals with man's early progress from the animal stage to the time when he overcame and domesticated the wild animal. It goes on to detail the methods that were used in cultivation. First, man had to proceed from one small area to another, when he had farmed out one area. He then used better farming methods, nurturing the soil. We have now reached the point where we have a congregated population and, as a result, pollution.

The world's population has increased in astronomical proportions, from 1,000,000,000 people in 1850 to 2,000,000,000 in 1930, and it will have doubled again to 4,000,000,000 by 1975. From reading the report, it is obvious that three major factors have contributed to our pollution problem. First, man is probably the greatest polluter of all time and, the more he congregates, the worse the problem becomes. Secondly, one could perhaps point to synthetic wastes as being the next most serious humbug; and, thirdly, there is the internal combustion motor.

The report predicts that the population will double again to 8,000,000,000 in the next 35 years, and the span to increase by 1,000,000,000 has decreased from 80 years to nine years. That gives an idea of what is expected of the resources of the world and, because we have these highly concentrated groups of people, the pollution rate must increase. It is wonderful and significant that South Australia may be in the vanguard to counter such pollution, because this a beautiful State. It has its extremely dry areas and hard seasons but, nevertheless, it has a certain beauty of its own. It will be a shame if we do not now take heed and do something to correct the problem that is mounting every day.

We have the increases in mechanization, fumes, chemicals, packaging, waste food, and sewerage. We must try to cope with all these non-biodegradable things. The report does not really come up with all the answers about what we should do, although each of its several recommendations is well worth considering. Perhaps this Bill envisages provisions that will allow the body appointed to take the necessary action to handle the ever-increasing problem of pollution.

Carbon monoxide, together with the lead used in anti-knock preparations in fuel for internal combustion engines, is one of the most deadly gases being emitted into the atmosphere. However, this is localized to the point where it occurs really in the urban and industrial areas. It is significant and of some importance that there is no noticeable increase within the overall global atmosphere, and we must be grateful for this. The situation with water, of course, is different. Although water pollution is a problem in concentrated areas, as we see in the case of salinity increases of great proportions in the Murray River, I suppose this applies to all the big rivers in the world.

It is significant that 97 per cent of the world's water is still in the sea, whilst 98 per cent of the remaining 3 per cent is contained in the ice caps. The population of the world has access to only about 3 per cent of the world's water supplies. The natural recycling of water by evaporation and return to the sea could be kept controlled so that there would be no noticeable effect on our main water holding basin, which is the sea. Everyone must be made aware of the part that he must play in this recycling so that we do not return filth to the sea, because this could have a detrimental effect, despite the huge volume of water in the sea.

It was of interest to notice that the human body is composed of more than 70 per cent water. If we take the wind out as well, it would hardly be worth the cost to bury a politician! Any person who has sufficient time to fully appreciate the report (and he would need a long time, because it is a lengthy report) would find it interesting from beginning to end. After reading the report, I have concluded that we have been over-using chemicals, and it may be worth while considering ecological remedies in many instances rather than escalating the use of chemicals.

The return of fertilizers to the various water supplies is causing continual concern. Eutrophication is the word used in the report and I understand it refers to the encouragement of weed such as algae, which kills fish and decays water plants. During the decaying process of the plants, the oxygen supply in the atmosphere is depleted. The non-biodegradable synthetics, such as detergents, have taken over largely, as we see the use of synthetics and also of petroleum products generally. The detergent has become almost a necessity to remove some of the stains made by these synthetic non-biodegradable substances. They are far different, of course, from the ordinary old soap that was used when I was young. That was made from fat and was of no great consequence.

The Hon. C. R. Story: Burfords was one.

The Hon. A. M. WHYTE: Yes, but there was not only Burfords. Many housewives in my area made home-made soap, all of which was biodegradable and of no real consequence as a pollutant. In fact, many of the fine gardens around country houses were grown with fairly soapy water. That soap was even used for washing out mouths on occasions!

The Hon. D. H. L. Banfield: What do they use now?

The Hon. A. M. WHYTE: I think for sure that they would have to use something stronger to clean some mouths. Pesticides are another group which are causing considerable concern to the State. D.D.T. is probably one of the worst. It is a killer of not only insects but also fish and whatever else it comes in contact with.

An old gentleman, for whom I have great respect and who has made a study of ecology, has for a long time suggested that we could solve some of our problems, such as the purification of water, by making use of various forms of life designed by nature to do just that. For instance, there was sufficient marine life (I am not sure whether that is quite right) or insect life in the water to cope with the various problems that need to be overcome to purify water by a recycling process in a natural water system. However, as we destroyed these creatures in the water system by our various pesticides, fertilizers, and so on, we were faced with the problem of unpurified water reaching our reservoirs. When we began to dam the streams and create man-made supplies of water, we did nothing to dam up and farm the necessary ecology to cope with the requirements of those built-up supplies.

It is interesting to note that some of the purest water known to the world flows through a continuous bed of rotting pine needles in a Canadian forest. No-one would imagine that one could purify the Adelaide water by passing it through rotting pine needles in a forest! I am not too sure of the amount of ecology we would need to make the Adelaide water supplies just a little better. As a young man I spent some time drinking water from various water supplies that did not always have much water, sometimes sharing it with cattle and sheep. I do not think I have ever encountered any water that was less tasteful than the water we sometimes find in the Adelaide metropolitan area.

I mentioned synthetics as one of our real problems. In the manufacture of synthetics, apparently it is necessary to use mercury. This demands the use of chlorine for the production of plastics. This creates a big pollution problem. In 1969 Canada produced 500,000 tons of chlorine, and 200,000 lb. of mercury was consumed: in other words, for every 100 tons of chlorine produced, 39 lb. of mercury was transferred to the environment—and, of course, mercury is a very harmful material. In closing, I mention two things that concern me very much from the point of view of environment—the grazing of land and tourism. Much has been said about the grazing of land, especially in the drier pastoral areas, and it has been proved now to most people that with careful husbandry even the driest of our areas can carry some stock without much harm to them. The early settlers, who did not understand the habits of our natural vegetation, believed it would grow again in six months time.

I can show honourable members various water supplies in the outback that were equipped to water 10,000 sheep. As a matter of fact, at one time it was said that a water supply that would not water more than 10,000 sheep was not worth equipping. The devastation caused then has not, to this day, been repaired.

Under the present pastoral lease requirements and the watchful eye of our Pastoral Board, not much harm is being done to our outback areas—at least, by the pastoralists. Perhaps we should keep a close watch on tourism, which is a source of income and employment to the Government. It has now become accepted as part of our lives. We shall have tourists whether or not we like them.

The Hon. T. M. Casey: We like them now.

The Hon. A. M. WHYTE: We like their money. It will mean that we shall build roads to our beauty spots that previously were not accessible to many people. If we want to keep those places as beautiful as they have been, we must reorganize our tourist trade to the point where it is not merely a disorderly flow of people who believe that they can drive through the country regardless of what they do. That does not apply to all tourists—I do not want it inferred that it does—but many of them have not much respect for pastoralists or the State. They have very little respect for our beauty spots. We have now reached the point where people travelling in the outback should be compelled to designate their intended routes at a certain point. They should indicate where they propose to travel so that, should trouble arise, the police will know where to look for them. If a breakdown occurs or a creek suddenly comes down in flood, the police will know where those people are, they having reported at a central point. This will ensure some control.

If a complaint is lodged, it will not be so hard for a bushman to discover its source if a record is kept of people travelling through the area. It will mean some control over careless tourists. I offer that idea for consideration. I have no hesitation in saying that this is a Bill that will allow the implementation of much of the excellent report that has recently been made available to honourable members. The Bill envisages that many members of the council will be public servants (this is not recommended in the report), but it might be a step in the wrong direction to load the council with public servants. The environment concerns every Australian, and South Australia expects to be in the vanguard in regard to the protection of the environment. If the public servants who will be on the council are not fully occupied already (considering the salaries they receive), it is high time they were fully occupied. They should not be on every board going, and it would be wrong not to have the man on the street or the man on the land represented on the council, because they have a fair stake in the State and have a right to be represented on the council.

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

LONG SERVICE LEAVE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 24. Page 2293.)

The Hon. E. K. RUSSACK (Midland): I favour the principle of long service leave and firmly believe that employees should have the best possible conditions of employment. I have always understood that long service leave was made available to employees so that they could recuperate from and be recompensed for their good service. I know that most employees accept long service leave in this light and take the opportunity of having a holiday. However, I believe it is wrong that some employees should take other employment during their long service leave.

I believe there must be a balanced situation. By "balanced" I mean that an employer must be able to pay his employee for the required long service leave. I know there are many spheres of employment in which this is perhaps no problem, but I should like to present the situation of many small suburban and country businesses. Some years ago, because of the concern that some small proprietors were becoming bankrupt, the Prospect Rotary Club published a booklet to assist people in the running of small businesses. The booklet, titled "Guide Posts to Running a Small Business", sets out 10 points to progress. The last point states:

> The proprietor must know exactly what it costs to operate his business as a whole, and he must spend less than he makes.

This is a fundamental business principle because, obviously, a person must be able to meet all his expenses, which must be paid from the profits he earns. Irrespective of the size of the business, this principle applies, and it applies also to Governments. Yesterday's *Advertiser*, under the heading "$8,000,000 Limit to Government Pay Rise", reports the Premier as saying to a meeting the previous day:

> The service pay increase offered to more than 20,000 Government-employed blue-collar workers will cost the State up to $8,000,000. This compares with the $6,500,000 increase on the Government wages bill last time. $8,000,000 was as far as the State Government could go without grave financial difficulties.

Every business, whether private enterprise or Government operated, must keep within the bounds of its financial resources. Some small

businesses will find it difficult to pay for the extra long service leave. I know that an astute business man prepares for any eventuality and I know that it could be argued that a business proprietor would provide for long service leave, but the principle of long service leave has changed recently. I believe I am right in saying that, prior to January 1, 1966, long service leave was awarded after 20 years service. After January 1, 1966, long service leave was received after 15 years service, and now under this Bill the qualification period is reduced to 10 years. So, each business will find it necessary to make adjustments to its arrangements. We must consider not only the amount of wages that has to be paid but also the fact that when an employee goes on long service leave his work must be done by someone else.

I have always understood that the Government claims that it considers the small man, yet, as a result of this Bill, difficulties may arise and some businesses may have to retrench staff or even close their doors. Larger businesses are better able to absorb this sort of cost, to the detriment of smaller businesses. Let us take the case of a country town from which people can easily commute to the city. The city retailer, because of his volume of turnover, can keep prices at a minimum. Therefore, the country business man must offer goods for sale at the same price as does the city store and, if the country business does not have the necessary volume of turnover, the proprietor will get into difficulties as his costs increase.

The Government of the day believes in decentralization, and I do, too. Accordingly, it is necessary to keep country businesses viable so that decentralization can take place. In the light of the difficulties posed not only by this Bill but also by other measures, I warn the Government that some employers will find it very difficult if not impossible to carry on if their costs continually increase. I am not against the principle of long service leave; I believe that, if a business can afford increments for its employees, those increments should be paid. However, we must keep a balance in order to prevent small businesses from going under.

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

METROPOLITAN ADELAIDE ROAD WIDENING PLAN BILL

Adjourned debate on second reading.

(Continued from October 24. Page 2293.)

The Hon. JESSIE COOPER (Central No. 2): I rise to speak in general support of this Bill. It is a proper and intelligent approach to a difficult problem—the notification of intention to restrict the use of land so that it can be used for road development purposes. This Bills aims to do it in such a way that the public owners of the land will not in any way be injured. I believe that the proposals in this Bill represent a reasonable approach to the matter. Although one cannot easily foresee the implications and all the side-effects of this type of measure, I believe that no great damage will be done, provided the forecast planning is not for a time too far ahead.

While I agree in general with the concept of long-term planning, to which we give so much lip service these days, I believe that to put an embargo on land adjacent to some of our present roads for too many years ahead might inhibit the growth of some parts of the metropolitan area in a way that would be very damaging to further development. I suggest that the Government and the commission should look into the crystal ball only a few years ahead when gaining inspiration for planning under this legislation. There is a further danger in attempting to plan too far and too widely ahead: should the use of land be restricted under the plan for a number of years and then, due to a change in concept, be released from restriction, there would be a bad reaction against the commission and the Government, if not, indeed, some grounds for litigation.

I have a point of objection with reference to clause 5, which requires that the plan be deposited with the Registrar-General of Deeds in Adelaide, together with any amendments or variations of the plan. This, I suggest, is a very poor method of notifying the public of the requirements of the plan. It envisages that, without general promulgation of the fact, the plan may be different this week from what it was last week, and different next month from what it is at present, and no man shall know the law as it stands. It would mean that every person looking with interest on a block of land or building would have to consult the plan at the registry to discover whether any alteration had been made or to discover what requirements there were and whether there had been any alterations, say, in the last 48 hours. Local government centres are the places where the citizen inquires about building and land rights. I believe that, in addition to the lodgment of the plan as

required under the Bill at present, a copy of the plan and any alteration thereto should be provided at every council office as defined in the Bill. I support the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—"Commissioner to prepare Plan."

The Hon. C. M. HILL: I commend the Hon. Mrs. Cooper on raising the need for a copy of the Commissioner's plan to be forwarded and displayed within council centres. Will the Minister undertake that plans and amending plans will be forwarded to council centres?

The Hon. T. M. CASEY (Minister of Agriculture): I will refer the matter to the Minister in another place and recommend that the Hon. Mrs. Cooper's suggestion be implemented, and I have no doubt that it can be. I am sure this suggestion would be in the interests of everyone.

The Hon. JESSIE COOPER: Because I thought of introducing an amendment, I spoke to the Parliamentary Counsel, who pointed out that clause 9 covered what I intended to do. With the Minister's promise to make a recommendation, I consider that the matter need be taken no further.

Clause passed.

Progress reported; Committee to sit again.

OMBUDSMAN BILL

Adjourned debate on second reading.

(Continued from October 24. Page 2276.)

The Hon. V. G. SPRINGETT (Southern): An ombudsman is an agent or an attorney, and it has been said that he is a "Mr. Fix-it", although other people call him "big brother". The origin of this office goes back to the beginning of the 1800's in Sweden. Its function is to protect citizens from the suspected abuse of administrative power. This conjures up visions of overpowering, self-important and determined Governments, whether they be acting in a group or as individuals, conditions in a situation not unknown in the continent of Europe in the 1930's and not completely unknown in some parts of Africa today. The ombudsman is not a person dealing on an international level: his concern is for the average every-day citizen, the middle-aged widow who is to lose her house, does not know how to deal with a domineering authority, does not know her rights and, because she is too frightened to seek and assert them, she loses the battle against authority.

The ombudsman is able to stand by her and act for her. The first recent appointment of an ombudsman was in Denmark in the 1950's. Since Denmark produced its first ombudsman there has been a spate of them appearing in various parts of the world. It is an appointment that is easy to apply to different legal systems and to all levels of government, be they local level or federal level. It is claimed that it is a device that provides for citizens a cheap, speedy, and simple machinery for the ventilation of citizens' grievances. A Government providing such machinery is a Government well out of the average man's thinking. The ombudsman is not fettered by the doctrine of Crown privilege or by the more formal nature of a full judicial inquiry.

He provides the aggrieved citizen with a system of redress that does not supplant any other system but adds to it, a system that is cheap, speedy, and simple, so we are told. It is not a concept peculiar to any special or particular form of any legal or Government system. So often we may sigh for a situation that calls for and provides for fewer committees. One of the bugbears of modern living is the proliferation, multiplication, and even duplication of committees: an absolute orgy of them. I paraphrase the words of Baroness Orczy who wrote *The Scarlet Pimpernel* (and I am speaking of committees) when she said:

> We install them here, we appoint them there,
> Officialdom seeks them everywhere.
> We'll find them in Heaven,
> We'll find them in hell,
> All firmly installed and doing very well.

The ombudsman is simply the formulator of administrative fairness and equity by the power of persuasion, we were told in the second reading explanation. If he has the power of persuasion and with that he has to formulate administrative equity, it seems to me that to confront modern administrative armamentarium with nothing more than a golden tongue and a suave manner in other persons would seem to be asking a lot, but in this case they are more than just a golden tongue and more than just a suave manner. Much power is given to this office. How truly does the Minister say in his second reading explanation that modern-day public administration is so complex that it can be undertaken only with a substantial measure of delegation of power to subordinate authorities, including the power to determine issues between citizens and the public authorities without in many cases the right of access by the ordinary citizen to the every-day courts of law. I am sure we all agree with what he said.

Executive power grows constantly and, with octopus-like tentacles, takes us into its clammy embrace. All our lives are, alas, increasingly subjected to the ever-increasing possibility of abuse of administrative power, not necessarily deliberate, although that may be the case. However, abuse often occurs by accident, and there is an increasing impact on all our lives by this ever-growing power of Executive control.

It may be easy for us and for our colleagues in another place to pass measures. If we add up the total number each year, we shall be alarmed to see what it comes to. If we subtract the measures which, for some reason or another, have a limited life, we are left every year with an ever-multiplying, ever-increasing pressure by authority and control on the citizen, who really asks no more than that he should be able to live his life in peace.

Traditional legal remedies have been found in so many cases to be inadequate to deal with the abuses of power that have resulted from the growth of Executive strength. It is not much good being equal before the law if the law cannot cope with our problems. It is equally bad to build a bigger and braver, centrally-controlled society if it leads to abuses of power, wherein the miniscule citizen is in danger of being trampled underfoot. This has been only too obvious in past decades.

What happens to the unknown widow, the humble timid spinster, and the ordinary everyday working man who, by reason of ignorance or for some other reason, have come face to face with authoritarianism and the all-powerful "them"? There are dozens and dozens of souls who know neither their rights nor the services and claims that are theirs and, if knowing, are easily controlled and scared by the big bureaucratic machine. I used to think (and perhaps some other honourable members felt the same way) that the duties of an ombudsman were really those of a Parliamentarian. So many people (and I was one of them at one time) think that we should be seeking a redress of administrative wrongs, that we as Parliamentarians should be the bastion and the defence against the inroads of authoritarianism into the lives of those in the community. I suppose it is true that we should (and there is no doubt that, whether or not it is true that we should, we certainly do in so many cases) act for the individual in defence against the inroads of authoritarianism.

However, there are limits on what we can do and, of course, we do our best work in this way at group level and not at the individual level. It cannot be true that we can do our best and our most practical work on an individual level, because we are primarily concerned with things at the policy-making level, so that we cannot deal with the individual as adequately as we can with a group or cause. As expressed overseas, and as it is intended in this Bill, according to the second reading explanation and the Bill itself, the ombudsman will be able to draw on documents and other material relative to a certain case or decision. That is something that we cannot do. The ombudsman therefore opens up fresh avenues of approach in order to help us when we present cases and circumstances in the interests of our electors. On the other hand, although not being permitted to question a Ministerial decision, which we in the Council can do, the ombudsman for his part can check and examine the facts that caused a certain decision to be made. Therefore, we can dovetail together without overlapping each other and without straining in opposite directions.

The Hon. A. J. Shard: In other words, you are contending that between the pair of you you could put a Minister on the spot.

The Hon. V. G. SPRINGETT: We ought to.

The Hon. R. C. DeGaris: There are various spots.

The Hon. V. G. SPRINGETT: I agree. In his second reading explanation, the Minister drew special attention to the definition of "administrative act", which appears in clause 3 (1), as follows:

"administrative act" means any decision, proposal or recommendation (including a recommendation made to a Minister of the Crown) relating to a matter of administration made or done by any department, authority or proclaimed council or by any person engaged in the work of that department, authority or proclaimed council. . . .

It is so complete that I wonder whether anyone can get out of it or how it does not cover everyone in the whole State. Time will tell how effective it is. It seems to me that an administrative action is completely able to help anyone at some time in his life. The Minister emphasized that this definition is the keystone of the whole measure, since the jurisdiction of the ombudsman in all matters will be fixed and determined by reference to this definition.

It has certain exclusions: it excludes the exercise of judicial powers and the actions of persons when acting as counsel or legal advisers to the Crown; that is, judicial acts are excluded because they are reviewed within that judicial system, and the substance of legal advice given

to the Crown by its advisers is also excluded in order to preserve the confidentiality of that advice.

I find it difficult at first not to be confused by the fact that, although the ombudsman has such far-reaching powers, he seems to be limited in areas where he would seem to be most needed. This is because his sphere of work is suspected administrative abuse—nothing else. It must be borne in mind all the time, as a background to one's thoughts. It is planned with the passage of time gradually to extend the power of the office of ombudsman to all councils. The Minister yesterday used the term "over all councils" (I emphasize "over"). Frankly, I do not like that term. It suggests domination and a dominating force. I like to think of the ombudsman extending his influence to all councils, helping in situations in which he is peculiarly and specially equipped.

In order to be able to help these councils, with the passing of time councils will be proclaimed bodies, proclaimed councils, and when they have been proclaimed they will come within the ambit of operations of the ombudsman. Again, as with a department, so a proclaimed council will include everyone functioning in and for that council. The ombudsman will be complete and inexcusably unremitting. The exemptions from this Act shall be tribunals exercising judicial or quasi judicial powers, and I have referred to this earlier.

Secondly, an exemption is granted to members of the Police Force. This surprised me at first. However, the reason is the apparent difficulty of separating a policeman's administrative actions from his other actions. If he was investigating anything administratively as a policeman, it would be difficult, if not impossible, to separate these duties. Since the ombudsman is restricted to investigating only administrative actions, members of the Police Force are removed from his power as far as administrative functions are concerned, although the schedule to the Bill provides that the Police Force is one body that the ombudsman can approach and deal with.

Clause 6 ensures that the ombudsman's initial salary shall be his minimum, and I think this is rather encouraging. Whoever gets the job will know that he cannot go down and can only go up. Clause 7 points to the fact that the ombudsman cannot take any extra remunerative employment without the consent of the Minister. I do not quite see why this provision should have to be included. It seems to me, as was referred to earlier this evening in regard to another Bill, that, if the ombudsman has all the work to do that we think he will have, he should be so fully occupied doing his own job that he would not be able to undertake outside employment. In any case, should a man in such a position as this, one of such responsibility, and a man to whom the public can turn with great trust and confidence, be in a position where he undertakes work outside that of his own office? I should be interested to hear the Minister's comment on that.

The Hon. A. J. Shard: That is not unusual. They do little jobs for remuneration that do not take them any length of time. If that provision was not there, they could do nothing.

The Hon. V. G. SPRINGETT: I still think that probably a man of this kind should not do anything outside, but I thank the Chief Secretary for his explanation.

The Hon. A. J. Shard: I could mention two or three, but I do not want to mention names.

The Hon. V. G. SPRINGETT: I thank the Chief Secretary. The next clause provides the details and terms concerning what in my profession would be called locum tenens. I am not sure what one calls that person in this office, except probably a substitute or a temporary appointee. This provision seems quite normal. The next clause allows the delegation of work by the ombudsman. I am sure this will be necessary as the work increases and the department matures and enlarges: he must have power to delegate his work within his department.

Clause 10 intrigues me, especially as a medical man. It provides for retirement at the age of 65 years, which is a not uncommon provision, but I attend many medical meetings and one of the things always being stressed is that a person should keep working as long as he can, to keep going, yet here we are providing that the ombudsman must retire at the age of 65 years. It is illogical that in one breath we say that a person should keep going but in another we say that he cannot keep going.

The same protection is given to the ombudsman in this Bill as is given to other key figures in Government, such as the Auditor-General. The ombudsman cannot be removed, except by an address from both Houses of Parliament. The Governor can suspend him in an emergency and give Parliament the reasons within seven days or, if Parliament is not in session, within seven days after the next session commences. It seems to me that,

if this man is to be empowered to explore and find out all the information that his office demands he shall find out from time to time, he will not be an extremely popular man at times, and I think it is important that he should have this isolated independence and security of being able to be removed only by an act of both Houses of Parliament.

Clause 11 provides that the ombudsman will hold office outside the control and extent of the Public Service, although provision is made that if, prior to his appointment, he was in the Public Service, his benefits up to the time of taking his appointment will be safeguarded. I wonder how wise it is for a man of this kind to be appointed by the Government and whether he should be appointed by Parliament. I suppose that is asking a little too much, but I am sure that many appointments of this kind give rise to much heartburning on the part of many people.

The Bill goes on to provide that the ombudsman will be able to draw his staff from either within the Public Service or outside it. This is good, I think, but what effect is it possible for this to have if we find those drawn from the Public Service are in a union or a group and some of those drawn from outside are not? Will the outsiders be forced to join a union, or will they be accepted as conscience-free from unions? If the latter is the case, one wonders about other Bills that we discuss from time to time.

The next clause provides that the ombudsman may make an investigation into an administrative act on receiving a complaint or on his own motion but that, if another remedy is available to the aggrieved person, the ombudsman is precluded from investigating the case. In other words, he must be sure that all other sources of approach and dealing with the matter have been fully investigated.

Clause 14 allows for retrospectivity of investigation prior to the commencement of the Act. There is a 12 months limitation on the investigation of complaints. There are several other classes of people who may complain to the ombudsman. Clause 15 (1) contains the words "any person or body of persons" and then the clause goes on to refer to a deceased person, for whom any person with a direct interest can act. This, I presume, would include a lawyer representing surviving members of the family. The same clause provides that any member of either House of Parliament of this State may also complain to the ombudsman in the interests of a person. There are those people who think that an ombudsman should act in any case only after a member of Parliament has acted, but I do not think that is so. This appointment will perhaps help Parliamentarians; it will certainly help members of the public.

Clause 16 stipulates a time limit of 12 months within which complaints must be made. There will be some cases involving matters of inheritance that may not be settled in that time, so it is possible for the ombudsman to waive this time limit. I hope he will be generous to and easy on those who, through no fault of their own, cannot get their matters dealt with or brought to the notice of the ombudsman within 12 months.

It is provided that the matter being investigated shall not have occurred "too far distant in the past". Those were the Chief Secretary's words in his second reading explanation. I do not know what "too far distant in the past" means. In this case, however far back into the past it goes, I hope it will be to the benefit of the public and not of the Government. An employee, according to clause 17, cannot use the ombudsman in an appeal against his own department in relation to his own employment, because bodies and tribunals already exist for dealing with industrial and employment problems. The ombudsman will not consider any trivial complaints, or any frivolous and vexatious complaints not made in good faith. Bearing in mind the circumstances of a particular case, if there is nothing to be gained by proceeding with it, he does not proceed.

I was wondering at this point how people could appeal against the ombudsman himself. Provision is made later in the Bill for an appeal to the Supreme Court against a decision of the ombudsman himself. When a department or a council is to be investigated, the ombudsman informs the principal officer of that department or that council that such an investigation is to be conducted, and every investigation will be conducted in private. The ombudsman can get information from whom he wishes and in such manner as he thinks suitable, and may determine whether any person shall be represented by counsel, solicitor, or otherwise. I wonder why it is not stated that a person can choose to be represented by counsel. Is there not a case for a person to be represented by counsel? If, after investigation, the ombudsman decides there is a breach of duty or there is misconduct on the part of the department or the proclaimed council being investigated, he reports the fact to the principal officer concerned, and also the Minister and the Government are informed.

To facilitate his work, the ombudsman will have the power of a Royal Commission. These terms are very wide because again, if he is to do his job properly, he needs wide terms. In clause 20, there is no privilege regarding documents and there are no obligations regarding secrecy that can deny the right of the ombudsman to receive required information. The ombudsman can claim to override privileges regarding the use of documents and in respect of obligations regarding secrecy. I should like to hear more about that from the Chief Secretary. What is the position of the priest, the doctor or a person who, at law, has taken an oath of secrecy? I ask this particularly because Cabinet proceedings remain inviolate.

The Hon. A. J. Shard: A priest, a doctor, etc.?

The Hon. V. G. SPRINGETT: Yes—and any person who takes the oath of secrecy. Cabinet proceedings are to remain inviolate here, for obvious reasons. By clause 22, any disclosure of information obtained by or for an investigation is forbidden. There is a fine of $500 for breach of that stipulation. In the same way, there is a fine for wilfully misleading a tribunal. Although the investigations are private and confidential, it is possible, if the ombudsman so thinks fit, for the facts to be published, if they are in the public interest. I should think that provision would be rarely invoked. I should hope so, because people will not go to the ombudsman with their worries if they fear that everything may be made public. That disposes of the clauses of the Bill.

I am in favour of having an ombudsman. I support the Bill as it stands at the moment. I shall listen to what other members have to say about it. The schedule contains a list of the departments that the ombudsman can investigate; it includes every Government department in South Australia. I support the Bill.

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

ADJOURNMENT

At 11.44 p.m. the Council adjourned until Thursday, October 26, at 2.15 p.m.