LEGISLATIVE COUNCIL

Wednesday, November 8, 1972

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

QUESTIONS

BRUCELLOSIS

The Hon. R. C. DeGARIS: In view of the reply given yesterday about the Commonwealth Government's increased grants for tuberculosis and brucellosis control, will the Minister of Agriculture take up with Cabinet the dropping of the charge proposed to be made in the brucellosis eradication campaign?

The Hon. T. M. CASEY: I think the Leader is aware that, throughout the discussions we have had on this brucellosis and tuberculosis eradication campaign, the only reason why the Government made a charge was that the Commonwealth did not make moneys available this year as it did last year. I assure the Leader that, at least as far as I am concerned, now that the Commonwealth has provided moneys, as it did in previous years, the former position in regard to the eradication of brucellosis will be restored.

RURAL RECONSTRUCTION

The Hon. R. A. GEDDES: I seek leave to make an explanation prior to asking a question of the Minister of Lands.

Leave granted.

The Hon. R. A. GEDDES: Part of the reply the Minister gave me yesterday to my question on rural reconstruction states:

Although this State is entitled to $13,800,000, it may well be placed under considerable pressure to forgo some of this assistance if it is clearly indicated that it will not be used within a reasonable period, as compared with other States.

Is there any point in the Government's giving serious consideration to easing the standards which have been set and which become the criteria on whether a primary producer can obtain a loan for farm build-up so that a wider range of primary producers can apply for a grant, thereby making better use of Commonwealth Government funds?

The Hon. A. F. KNEEBONE: I have said many times in the Council that the conditions under which these funds can be used, the conditions under which the loans are made, and the conditions of eligibility for assistance have been laid down by the Commonwealth, and the State has to follow those guidelines. I cannot see how we as a State can alter our approach to this matter, because the funds are made available on this basis and we are required to make the grants from the Commonwealth on the basis it has laid down. I cannot see how we can alter the conditions that apply.

The Hon. R. A. GEDDES: I seek leave to make a further explanation prior to asking another question of the Minister of Lands.

Leave granted.

The Hon. R. A. GEDDES: I thank the Minister for his reply, but I think he misunderstood my point. What I meant was whether there is any point in asking the Commonwealth Government for an easing of the standards that have been set. I did not necessarily mean that this State should ease the standards.

The Hon. A. F. KNEEBONE: There are periods when reviews will be made and the next period for review is early next year, as I understand it. When we went back on previous occasions and argued with the Commonwealth for an easing of the situation, we got some easing last time in the conditions of repayment of loans, etc. I cannot see how we can do much more at this point. As I have said previously, I am disappointed that more people have not applied. However, many people have applied on both sides of the scheme. This is a difficult matter, because some people have gone past the point of no return, and we must study the situation. The primary producer must be able to become viable with the build-up and be able to prove to the authority that, with the loan required for the build-up, he is able to become viable within a certain time. I know that some honourable members have queried the word "viable"; but it is a Commonwealth word and we use the Commonwealth's interpretation of it. The primary producer must become viable to the extent that when he desires money in the future he is able to approach the usual financial institutions and meet the charges that they make, which are substantially higher than the charges under the scheme. It is pretty difficult to assess this, but it has been assessed on a number of occasions, and people have been disappointed that they have not received assistance. Some people apparently do not know when they are bankrupt.

ECZEMA TREATMENT

The Hon. A. M. WHYTE: Has the Minister of Health a reply to my recent question about eczema treatment?

The Hon. A. J. SHARD: I have taken this matter up with the Commonwealth authorities,

who advise that items such as stockinet gauze do not come within the provisions of the pharmaceutical benefits available under the National Health Act, which limits such benefits to drugs and medicinal preparations and does not make provision for the supply of apparatus or appliances. Drugs and medicinal preparations are made available as pharmaceutical benefits after a recommendation to that effect by the Pharmaceutical Benefits Advisory Committee, a statutory body established under the National Health Act to advise the Commonwealth Minister for Health on matters concerning the listing of pharmaceutical benefits. The committee also recommends the restrictions, if any, which will apply to a benefit item. If the honourable member wishes to supply details of the products concerned in the case mentioned, the Commonwealth Director-General of Health undertakes to have the matter examined and, if appropriate, refer the question of listing of the items to the Pharmaceutical Benefits Advisory Committee for consideration.

RAILWAY LINK

The Hon. A. M. WHYTE: Has the Minister of Lands a reply from the Minister of Roads and Transport to my recent question about the railway link between Adelaide and Crystal Brook?

The Hon. A. F. KNEEBONE: The Minister of Roads and Transport has informed me that the reason for the delay in standardization of the rail gauge between Adelaide and Crystal Brook is that the committee established with the concurrence of the Commonwealth Minister for Shipping and Transport and the South Australian Minister of Roads and Transport, to work with the consultants on details of the scheme, has not yet finished the necessary work. Until the necessary agreement is reached between the Commonwealth and the State of South Australia, ratifying legislation cannot be introduced into Parliament and therefore no date of commencement can be given.

VETERINARY SERVICES

The Hon. A. M. WHYTE: Has the Minister of Agriculture a reply to my recent question about veterinary services?

The Hon. T. M. CASEY: Pregnancy testing in beef herds has become a normal part of herd management in recent years. It is a highly skilled technique, and a number of owners in the State are proficient. However, as proficiency depends very largely on the number of animals done, some of these owners prefer to get the job done professionally. There is a risk when unskilled operators do these tests that abortions may result or cows may be wrongly discarded. The economic loss entailed could be substantial. For these reasons the Agriculture Department considers that a series of lectures for producers would not be of material assistance and that farmers would be well advised to seek professional assistance in this matter. The suggestion that some form of travel subsidy for farmers who are a long distance from veterinary services would appear to have more practical benefit, and I am willing to examine this aspect further.

BARYTES MINE

The Hon. R. A. GEDDES: Can the Chief Secretary, representing the Minister of Development and Mines, say whether there is any likelihood of the barytes mine at Oraparinna closing in the foreseeable future?

The Hon. A. J. SHARD: I cannot answer the honourable member's question now, but I shall be happy to refer it to my colleague and bring down a reply as soon as possible.

CAMPBELLTOWN ZONING

Adjourned debate on the motion of the Hon. C. M. Hill:

That the Metropolitan Development Plan Corporation of the City of Campbelltown Planning Regulations—Zoning, made under the Planning and Development Act, 1966-1971, on September 21, 1972, and laid on the table of this Council on September 26, 1972, be disallowed.

(Continued from November 1. Page 2575.)

The Hon. C. R. STORY (Midland): I oppose the motion. My purpose in doing so is to see that the regulations are not disallowed, but my reason is quite different from the reason for which the Hon. Mr. Hill wished to have the regulations disallowed. He had some dissident householders in the area, and, as a member of the Joint Committee on Subordinate Legislation, I heard the evidence they put forward.

The Hon. C. M. Hill: Actually, it was only one householder.

The Hon. C. R. STORY: Yes, but others were involved for whom he was speaking. The householder put a good case to the committee. The Hon. Mr. Hill did what he should do, as a member of Parliament, and brought the matter before the Council. I understand he has reached complete satisfaction for the person involved

with the Corporation of the City of Campbelltown. I have a much wider axe to grind. Mine is for the landholders presently occupying land, many of whom have held that land for more than 100 years. I do not think we should take up the cudgels on behalf of some "Johnny-come-lately" in this State, and here I refer to certain people who come along and give evidence on principle about everything that is a piece of open ground, not looking in the slightest at what hurt that is going to be to the original owner, the present owner, or the owner of the future. These people are terribly vocal, they seem to have a lobby with the Government, and they seem to have built themselves into a tremendously important situation.

I refer particularly to the Town and Country Planning Association, an organization with which I have had some close acquaintance. If it were not for me and two other people, this organization would never have been turned loose on the people of South Australia. That is one of the things I have to bow my head about. The original concept of town and country planning as it has emerged was started by the Jaycees in this State. That body did a project, very successfully, on the planning of Murray Bridge for the future, and won quite a high award.

The Hon. C. M. Hill: They did a project on Murray Hill once, too.

The Hon. C. R. STORY: Of course, and the Hills Freeway comes into this, too. This group of enthusiastic young people invited members of Parliament to address them about town planning. I think I was the only one who replied to the invitation to attend their inaugural meeting, but I interested a number of other members of Parliament in the organization. It is a tragedy that the organization has become highly political. Many of my professional friends outside politics became involved in this organization. These people, who are not of the same political persuasion as I am, have all joined in and abused this thing as one of the greatest wheelbarrows to cart a load of rubbish (the contents of which, under Standing Orders, I am not permitted to mention) to the public of this State. I say without equivocation that, with the exception of one person, the people who are at present speaking on behalf of this organization (and they are mainly the holders of high offices in the organization) have been in this country such a little time that it does not matter.

The owners of land not only in the Campbelltown area but also in various other parts of the State are being invited to provide large areas of land for the enjoyment of the public generally. This wonderful organization never puts its hands in its own pocket when money is to be provided. The same applies to the regulations that the Council is now considering as, indeed, it does in relation to many other regulations. The Government will rue the day if it allows this organization, the members of which have a wonderful, idealistic approach to life, to get completely on top of the situation. However, if people who had been on their land for about 100 years suddenly turned their land over to any old speculator—

The Hon. D. H. L. Banfield: Like land agents.

The Hon. C. R. STORY: I said "speculator", not land agents. I think land agents are quite honest—

The Hon. D. H. L. Banfield: I didn't say they weren't.

The Hon. C. R. STORY: If these people had merely turned their land over to anyone 20 years ago, this State would have had no open spaces left now. However, these people have continued to do what they have wanted to do all their lives: provide fruit and vegetables to the people of Adelaide and of this State. Governments (and I refer to Governments generally and not specifically to the present Government) have made no provision for these people to be compensated for having continued in their market gardening avocation. Those who are opposed to the regulations now before the Council are saying to these people, "You continue to battle on although it is not paying you at present." If the head of the family was not working in some other job for four days a week, with his wife doing the work on the market garden, he would not be able to make a proper living. Only about seven families that are an economic unit are left in the Torrens Valley. The remainder, who have members of the family working at General Motors-Holden's and other places, have only small units of five or seven acres of land.

If these people, who are so high-minded, think that the metropolitan area should have more open-space areas, I do not disagree with them. However, someone must pay for those open-space areas and, whenever one takes land for the common good, someone ought to pay for it. I do not believe people should be forced to grub in the ground, which is not a

terribly pleasant occupation, particularly when the land comprises Bay of Biscay soil, in which one must work in the middle of winter trying to plant a crop. Why should those people be forced to do that for the common good? It is not proper. I, for one, think that what the council has done is proper and that what it has done to protect people who are still market gardening in these areas is right, because there is a very thin line along the edge of the Torrens which is good market garden soil; but the rest of it is pure Bay of Biscay soil. If water is not kept right up to Bay of Biscay soil, it will crack 1in. wide, and nothing will grow on it.

It is only through the industry of people who have come from Southern Europe and who have been prepared to work the hours they have worked in keeping some of this land in production that such good vegetables have been produced. For instance, it was generally believed years ago that the only place where we could grow good celery was somewhere between the end of the Gorge and Athelstone; but that has proved to be a complete myth, for some of the best celery in this State, which is still the best celery-growing State, is being grown at Virginia. With equally good husbandry, it could be grown just as well in the Murray Bridge area and similar areas, provided ample water and proper know-how were available. These people who own open spaces should not be penalized; they should be allowed to do what the council visualizes them as doing. If people want great areas of open space, it is a matter of their negotiating with the Government to buy the land at a proper valuation, and the proper valuation is the price that the owners could get if the areas were zoned as the Campbelltown council has zoned them.

I have no objection to conservation, but there is nothing to conserve in this area except open space. If the public wants open space, it must be prepared to pay for it. The only people who can provide the money for open spaces are the councils, aided by subsidies from the Government, either State or Commonwealth. To clamp down and disallow these regulations would be a travesty of justice for the people who have worked hard and have over a period of 70, 80 and perhaps up to 100 years given South Australia good vegetables; but they are moving into more economic areas. If the Town and Country Planning Association wants to do something really munificent, it should get on the back of local government to buy the areas and not take it out on the poor, unfortunate people at present grubbing a living out of the dirt, which is not a very happy living.

The Hon. A. M. WHYTE (Northern): I support the disallowance of these regulations—not that I fully understand the value of the Campbelltown area as a vegetable-growing area, apart from what I have read. My point is that we have in this State gradually built on all the fertile land. All the best vegetable-growing land near Adelaide is now part of the concrete jungle. The State cannot afford this. If we believe the experts, who tell us that our population will continue to explode and that it will be doubled and trebled within a reasonably short time, there must be a place for the growing of the vegetables necessary to feed such an increasing population.

The Hon. M. B. Cameron: In the South-East?

The Hon. A. M. WHYTE: It could be in the South-East. I know there are areas in the South-East suitable for this purpose, but I still contend that, although we talk a lot about decentralization, there are hundreds and thousands of acres of low-quality land where some of our cities should be built. I realize, too, that the cost of services to these areas would be greater than it is for services to the Campbelltown area. Nevertheless, it is short-sighted planning for any State to continue to decrease its open-space areas and to squeeze out the market gardeners farther and farther, on to poorer soil.

The Hon. Mr. Story's argument about open spaces is valid. He may have been unjust to the do-gooders who have brought to the Government's notice the fact that more open spaces are needed, but the Campbelltown area is one of the last such areas left. If there is not a take-over by the Government, it will surely lead to the removal of these people from that land because of the rates and taxes payable, land tax especially being one of the factors that have driven the market gardeners farther and farther out from the city. We see them attempting desperately to produce foodstuffs on the Virginia plain, which by no stretch of the imagination can be called fertile. It is suggested that a satellite town will be built adjacent to Port Pirie, probably in the Nelshaby fruit and vegetable growing area. I mention this because it seems so wrong to me that the few fertile areas left are not being protected for the purpose for which nature provided them.

The Hon. H. K. KEMP (Southern): There has been much misrepresentation in the case put up for the retention of open spaces on the edge of the Campbelltown area. The true

position is that it is now too late. Commercial vegetable production and close suburban subdivision have already intervened in practically the whole area involved here; and they make poor bed-fellows. Today, commercial vegetable production calls for the use of powerful materials, which must be carefully used if they are not to be immensely dangerous to the community that eats some of that material in the food it consumes and to the people working in the fields in which they are being used.

I do not think there is any need for panic, but some of the materials that must be used carefully are the aphicides, which are essential to the production of most of the principal crops, and celery as well. The material used for this purpose is a very potent material, and protective clothing must be worn by the operators who use it. The use of these modern tools is almost precluded, because how can a vegetable grower spray with a potent material when people are close by?

Weed killers have replaced the hoe in many of our vegetable growing areas. When there is any danger of the blow-over of weed killers, their use is also precluded, so the vegetable grower who is closely surrounded by housing is in many ways hamstrung. Apart from the small size of the holdings in the Campbelltown district, the vegetable-growing properties are now cheek by jowl with housing, and the council is in great difficulty with complaints that are arising because vegetable growing is not suitable near closely settled areas.

How would any householder feel when night after night, when the weather was dry, a pump was operating outside his bedroom window? This practice goes on in vegetable growing. How would a person feel taking a newly-polished car out and following a tractor that had come out of the Bay of Biscay soil, thus covering his car with mud? Vegetable growing and closely settled housing do not live well together.

Many roofs have been spoiled by the blow-over of such material as Bordeaux mixture, which on galvanized iron leads to quick rusting. There are further disadvantages that are equally as important. Vegetable growing properties today, to be kept free of disease, must be almost surgically clean and every pest must be eradicated from the surrounding area. How can this be done when there are unguarded households in which, although often occupied by enthusiastic gardeners, the gardeners have no clue when it comes to the eradication of pests? This is the difficulty that vegetable growers in the Campbelltown district have been facing increasingly in recent years.

A statement has been made that these are particularly valuable soils, but I question that statement. There are some soils along the Torrens River and immediately adjacent to it that are very good, but they are probably surpassed by the soil in the Virginia area, which has been laid down by the Para and Little Para Rivers. Beyond this small river flat area, in the Campbelltown district the soils are markedly inferior to those elsewhere in the State and infinitely inferior to those along the Murray River, in the South-East and in the Northern Adelaide Plains.

Vegetable growing today must be mechanized to a high degree. In other words, vegetable growing finds itself most happily placed on broad acres where tractors can be used over a long run. One of the difficulties the Campbelltown people on their small areas are facing is that they go only 10 yards, 20 yards, 30 yards or at the most 50 yards before a turn is necessary, and a loss in time is involved.

They are being completely outbid in the markets not only because of the much cheaper vegetables grown elsewhere in the Adelaide area but also because they are in competition with those grown in other States. Vegetable growers export largely to the Eastern States, where they are in direct competition with the Murrumbidgee areas and the other rich vegetable growing areas inland and elsewhere in Australia. It is this country which is becoming increasingly developed and which is making Campbelltown with its small subdivisions unsuitable for vegetable growing.

Another statement which has been made freely is that this land has available to it an inexhaustible water supply. That is untrue, because most of the bores in the Campbelltown area are far too saline to use for the growing of many kinds of vegetable. Some of them are of a quality that will permit the growing of cucurbits which, as they originate on the sea coast, will stand a high degree of salinity; but most of the water in the Campbelltown district cannot be used for the production of celery, lettuce and beans, which are the staple crops. The only water that can be used in that area is that which comes directly from the Torrens River, the flow of which is restricted today, and that which is purchased from the public mains and which cannot possibly be used if the grower is to compete with cheap Murray River water pumped directly from the river.

In other words, much of the material that has been put forward has been absolutely without

any idea of the facts of life regarding vegetable growing. This tremendously rich country must be preserved and be taken in the light of today's world. I agree with the Hon. Mr. Whyte that we must look forward and find districts that are at present under threat and not leave their presentation too late as in the case of the small pieces of the Torrens Valley that remain.

These are the areas north of Adelaide, particularly the areas in the Adelaide Hills that are good vegetable-growing areas, parts of the State under threat by Murray New Town, and the South-East. It is a matter of helping the people who wish to sacrifice their fellow citizens who are getting into increasing difficulty, and telling them to bring pressure to bear for the presentation of areas in which it is not too late, as it is in the Campbelltown district.

The Hon. A. F. KNEEBONE (Minister of Lands): I have listened with much interest to honourable members opposite. I thank the Hon. Mr. Kemp for his effort, because he answered many of the points put forward by the Hon. Mr. Whyte. The Hon. Mr. Story answered matters put forward in the previous debate on this subject. The Hon. Mr. Whyte need not worry about open space, because the Government has said it is interested in preserving adequate open space. We do not think that we have finished yet: we must continue to provide open space, and we hope to provide adequate open space in the future. We will look at everything that comes up in this regard. In the past two years this Government has spent $2,500,000 on open space, $1,500,000 on national parks, and $800,000 on public parks. So, it can be seen that the Government is serious in regard to providing open spaces. The facts outlined by the honourable member have been given careful consideration by the Minister Assisting the Premier. The case is an unusual one and one which is worthy of special consideration.

Regarding the problem raised by the Hon. Mr. Hill, the land referred to is the corner block of a large locality at Tranmere which appears generally to be appropriately zoned R.1. This zone is intended primarily to accommodate single family dwellings at low densities on individual allotments. However, such a zoning appears to be unduly restrictive for the particular land referred to. The provisions of regulation No. 41 of the council's planning regulations enable an application to be made through the council for an exemption from the regulations. The Governor, after considering the council's recommendation, may by proclamation exempt the land from the regulations subject to specified terms and conditions.

I understand that the council has informed the honourable member that, in the event of the proprietor of the property wishing to sell, the council will give sympathetic consideration to an application to invoke regulation No. 41 to permit a land use not permitted in an R.1 zone but which would maintain the residential character of the locality. The council will also give sympathetic consideration to rezoning the property when reviewing its regulations. As the procedure of regulation No. 41 involves the council's submitting a recommendation to the Minister for consideration by the Governor, the Minister Assisting the Premier has informed me that he would give sympathetic consideration to a recommendation received from the council incorporating safeguards regarding the residential character of the area and parking and access for cars as mentioned by the honourable member. I believe these assurances and the procedure contained in the regulations ensure that this individual's rights are capable of being fully considered under the law and, further, that his case will be given sympathetic consideration by all parties concerned. I therefore hope that honourable members will not support the motion.

The Hon. C. M. HILL (Central No. 2): I thank those honourable members who have spoken in this debate, particularly the Minister of Lands, who presented the Government's viewpoint so promptly. As I said last week, my sole object in moving this motion was to try to help one householder in the city of Campbelltown; the aspect of the open space controversy was not an issue that caused me originally to move for the disallowance of the regulations. I thought that the householder to whom I referred at length last Wednesday was being treated unfairly, and I informed honourable members then that I intended to approach the Corporation of the City of Campbelltown to see whether that council could in any way help the gentleman and his wife under the present law. I am pleased to say that I have received the following letter from Mr. D. Morrissey, the Town Clerk of that council:

I acknowledge receipt of your letter of November 6, in which you advise of representations received from the abovementioned residents (Mr. and Mrs. Turner) of this city, in relation to the Metropolitan Development Plan, Corporation of the City of Campbelltown planning regulations—zoning. As requested, I placed your letter before a meeting of the council held last evening, and am instructed to advise you that the council has resolved that:

1. in the event of the proprietor of the subject property wishing to sell, the council would give sympathetic consideration to an application to invoke regulation 41 of the Planning Regulations—Zoning, to permit a land use (maintaining the present residential character of the building, if necessary) other than R.1; and further that
2. when the first supplementary plan is drawn up for the city of Campbelltown the council would give sympathetic consideration to rezoning the subject property to a different classification than R.1,

but that any such undertaking could not bind a future council, but any future council would give every consideration to the matter if such an application came before it.

That was all that I asked the council for; and I realize that that was all the council could assure me of, with the law and the regulations in their present state. I am grateful for the co-operation I have received from the Corporation of the City of Campbelltown, and I am sure that Mr. and Mrs. Turner, too, will be grateful for the consideration shown by this Council and by the Campbelltown council. Because I am satisfied in this regard, I seek leave to withdraw my motion.

Leave granted; motion withdrawn.

CONSTITUTION ACT AMENDMENT BILL (COUNCIL)

Adjourned debate on second reading.

(Continued from November 1. Page 2576.)

The Hon. F. J. POTTER (Central No. 2): I had not intended to speak on this Bill, because its provisions are so straightforward that I thought they were self-evident to all. However, I must say something in reply to the rather cutting speech made by the Hon. Sir Arthur Rymill last week. The honourable member, if I may say so, was in good form. He set up his own aunt sallies and proceeded to knock them down with carefully angled shots. Having demolished the author of the Bill, the House of Assembly (which sent it to us), and the Government (which, he said, joined in the insult), he finally turned his attention to the subject of the Bill and tried to laugh it out of court. It was ridiculous, he said, to imagine 18-year-olds having sufficient experience to review legislation. Even dear old bewhiskered George Bernard Shaw was conjured up to pronounce that young people could not have the experience of old people. I would have thought that was rather self-evident, without having to rely on Mr. Shaw, who was more noted for his wit than for his profundity, anyway. We may ask what is meant by experience. Unfortunately, I think, too large a percentage of our people nowadays have little experience of life outside that of pursuing a monotonous and boring job with some kind of relaxation available to fill in the few leisure hours that remain. However, that is by the way.

I am one of the Parliamentary representatives from this Council on the University of Adelaide Council. The purpose of that council, by no means an unformidable body of talent and brains, is largely to function as a council of review, approving or disapproving of the decisions made by its various committees. A couple of years ago three student undergraduates, duly elected, were added as full and equal members of the council, and everyone has been agreeably surprised at the excellent contribution these young people make. The university tries, of course, to be a very democratic community and believes that people who are affected by decisions made concerning them should have a voice in the making of those decisions.

Apparently we cannot go that far. Some of us cannot go even so far as allowing all adults to have a vote, but at least a majority in this Chamber, including the Hon. Sir Arthur Rymill, was prepared a couple of years ago to allow citizens of 18 years of age to be eligible for enrolment as Council voters if they had the required entitlements. I would have thought this Bill had an elementary provision that those entitled to vote had the right also to stand for election. How even one of them could manage to get here, given all the hurdles of Party preselection, and so on, that he would find in his way, heaven only knows; yet the picture was painted of a number of teenagers sitting behind our desks and struggling hopelessly to cope with the task of reviewing legislation. That picture is as false as it is absurd.

I have said on other occasions that the laws passed by this Parliament, of which the Council is an integral part, affect the lives and rights of all our citizens. Younger people are no less restricted than their elders; indeed, often they are more restricted and more directly involved. If this Council is to say that they should not and must not have a right to stand for election, then I think the people at large will see the absurdities inherent in that attitude, and we must not complain if the cartoonists get to work on us. Sometimes I think they get nearer the real truth about us than we ever dare admit.

The Hon. G. J. GILFILLAN secured the adjournment of the debate.

DAIRY CATTLE IMPROVEMENT ACT AMENDMENT BILL

The Hon. T. M. CASEY (Minister of Agriculture) obtained leave and introduced a Bill for an Act to amend the Dairy Cattle Improvement Act, 1921-1968, as amended by the Dairy Cattle Improvement Act Amendment Act, 1972. Read a first time.

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

That this Bill be now read a second time.

This short Bill amends the Dairy Cattle Improvement Act, 1921-1972, and is intended to make quite clear the class of bull that is required to be licensed. Previously, the requirement as to licensing of bulls was expressed to relate to "bulls maintained or kept at, or for any purposes connected with, certain specified dairy farms in the metropolitan and country areas". It appears that the measure will be easier to interpret if the licensing requirement is set out a little more clearly. Clauses 1 and 2 are formal. Clause 3 amends section 6 of the principal Act by setting out in plain and unambiguous terms the licensing requirements.

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

RURAL INDUSTRY ASSISTANCE (SPECIAL PROVISIONS) ACT AMENDMENT BILL

The Hon. A. F. KNEEBONE (Minister of Lands) obtained leave and introduced a Bill for an Act to amend the Rural Industry Assistance (Special Provisions) Act, 1971-1972. Read a first time.

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

That this Bill be now read a second time.

Section 253b of the Commonwealth Bankruptcy Act provides for the "declaration" of any State law that provides for the giving of financial assistance to certain farmers for the purpose of discharging all or any of their debts. The Commonwealth Act further provides that if bankruptcy proceedings are taken against a farmer who is receiving protection from proceedings for debts under such a "declared State law" those bankruptcy proceedings may be "stayed". The Government has been advised by the Commonwealth Attorney-General that, in its present form, the Rural Industry Assistance (Special Provisions) Act, 1971-1972, cannot be declared under the Bankruptcy Act. The grounds on which this advice is based is that the Rural Industry Assistance (Special Provisions) Act does not provide expressly for the giving of financial assistance for the purposes of discharging all or some of the debts of farmers.

In fact, financial assistance of the kind referred to may be given pursuant to the Rural Industry Assistance (Special Provisions) Act, and the effect of this short Bill is to make it explicit that this purpose is included amongst its purposes. The Government understands that, if the principal Act is amended in the manner proposed, it will be possible to "declare" it under the Bankruptcy Act, and the farmers of this State will be afforded the additional protections adverted to above.

Clauses 1 and 2 are formal. Clause 3 amends the long title to the principal Act to make the relevant purpose quite explicit. Clause 4 amends the interpretation section of the principal Act by in effect providing that the Act will relate to a specific agreement, that is, the agreement relating to rural reconstruction entered into between this State and the Commonwealth on June 4, 1971. Clause 5 is consequential on clause 4 and is intended to recognize that there is now in existence a specific agreement.

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

TORRENS COLLEGE OF ADVANCED EDUCATION BILL

Second reading.

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

That this Bill be now read a second time.

I intend to introduce two Bills that will complete the process of separating the Teachers Colleges and the South Australian School of Art from the Education Department and establishing them as colleges of advanced education subject to the functions of the Board of Advanced Education. While the two Bills are similar and contain much common material, the problems involved in amalgamating two of the colleges in Torrens College of Advanced Education made it desirable to have a separate Bill for this purpose, especially in relation to the formation of the council.

However, much of the information and explanation that I shall offer to members will apply equally to both Bills. The major purpose of this Bill is to create the Torrens College of Advanced Education by a combination of the South Australian School of Art and Western Teachers College and the removal of both colleges from the Education Department. This is a natural development of the policy adopted by the Government as a result of the Karmel report on education in South Australia. The Karmel report recommended that teachers colleges should cease to be the responsibility of

the Education Department and should be incorporated under an Act of Parliament as independent institutions subject to the general supervision of a State co-ordinating authority.

The Government accepted this recommendation and, as a first step in implementing the new policy, appointed interim councils to both Western and the School of Art in July, 1971. The colleges have thus had some experience in council government. The second stage saw the establishment of the State co-ordinating authority, the South Australian Board of Advanced Education, by Act of Parliament that came into force on July 1 this year.

Torrens college will, in fact, merge two mono-purpose institutions into one multi-purpose college of advanced education, which will add materially to the State's provision of top level tertiary institutions. It will provide the State with a new major college capable of attaining the stature of the Institute of Technology, but offering courses in different disciplines. Commencing with courses in fine art, applied art, design and teaching, the college will be well placed to provide South Australia with a liberal arts college, providing educational facilities that we have lacked. It is the Government's intention that this new college will not be restricted in its operations to the offering of courses in art and teaching, but that, with the approval of the Board of Advanced Education, it will be able to expand its courses in other areas and become a truly multi-purpose college.

In this way, the Torrens college will fit the generally-accepted pattern of a multi-purpose college of advanced education. The college has been accepted by the Commonwealth as a college of advanced education for the purpose of Commonwealth financial support for both capital and recurrent expenditure. The concept of Torrens as created by this Act conforms to Commonwealth requirements as well as reflecting the views of the State Government. The chief concepts are that colleges of advanced education are self-governing, multi-purpose institutions, with their own governing councils, the right of direct employment of staff free from the control of the Education Department and not as members of the Public Service proper, working within their own approved budgets, and with their development programmes co-ordinated by the Board of Advanced Education.

Various reports have emphasized the benefits to be derived from multi-purpose as distinct from mono-purpose institutions. The latest of these was the report of the standing committee of the Senate which emphasized that teacher education should, where practicable, no longer be undertaken in mono-purpose colleges. Somewhat similar considerations apply to the South Australian School of Art. Commenced as a specialist art school, the diploma courses of the School of Art have been broadened in recent years by an infusion of liberal studies, the addition of courses in industrial design, and in other ways. It has become increasingly more difficult and less desirable to try to maintain the school in academic isolation. In fact, the Western Teachers College and the School of Art are both ripe for inclusion in a fully-integrated college of advanced education of the pattern that I have described.

Other benefits will follow. The present building of the South Australian School of Art is crowded now: no space exists for further development. Western Teachers College is fragmented on half a dozen different sites with totally inadequate accommodation. The Government intends to build a new college for Torrens on a site of about 45 acres in Underdale in a prime position to allow for future expansion. Whilst the college will serve South Australia, it will bring a top-level tertiary institution to the Western suburbs.

Under clause 16, the Minister is given power to appoint the first Director of the college. I am pleased to announce that Cabinet has approved of my recommendation that Dr. Gregory Ramsey, the current Principal of Western Teachers College, be appointed the Director-designate of Torrens College of Advanced Education. Dr. Ramsey is a science graduate of the University of Adelaide and a former Deputy-Director of the Australian Science Education Project. He obtained his doctorate from Ohio State University in 1969 and was appointed Principal of Western Teachers College in October, 1971.

Clauses 1 and 2 of the Bill are formal. It is the Government's intention to proclaim the Act early in the New Year. The interpretation clause provides normal definitions which are identical in most cases with those of the South Australian Institute of Technology Act. Clause 4 establishes the college as an autonomous body and, when read in conjunction with clause 28, removes the two colleges from the Education Department. Clause 5 sets out the functions of the college and establishes its basic character in fine and applied arts, and teacher education. Subclause (*c*) makes provision for widening the scope of the college to cover education in other fields.

Clause 6 brings the college within the purview of the Board of Advanced Education for the accreditation of its awards. The college may award degrees, diplomas, and other accredited awards. Clause 7 is the usual non-discriminatory clause, with which I believe every member will agree. Clause 8 provides for the establishment of the college council. I point out that the council provided is in the modern style for adult tertiary educational institutions and includes staff and student representation. Council membership has been carefully devised to take cognizance of the fact that the two component colleges will continue to operate on their present sites for some time. They will be gradually transferred as buildings are completed at the new site. This being so, and as there are discrepancies in student and staff numbers between the two, with Western Teachers College having a much larger population, it has been deemed desirable to ensure that both present components are directly represented on the council.

The Principal of the School of Art is included as an *ex officio* member of the council to balance somewhat the elected staff and student membership under paragraphs (*c*), (*d*) and (*e*) of subclause (2), which on current enrolments and staffiing could unduly favour Western Teachers College representation. I call particular attention to paragraphs (*j*) and (*k*). The former ensures that community representation must include at least two people of established competence in fine arts, while the latter permits the council to co-opt up to two additional members. This will enable the council to gain the services of people with particular knowledge or expertise which may be of value to the college.

Subclauses (4), (5) and (6) set the initial electorates for student and staff representation on the council. Subclause (6) contains a device to enable the council to be appointed on proclamation of the Act. Once the Bill is passed, I propose to cause elections to be held prior to Christmas.

I shall be requesting the new council, when appointed, to continue with the method of subclauses (4) and (5) for the election of staff and students, under its power to establish statutes, until Western Teachers College and the School of Art come together on the campus at Underdale.

Clause 10 defines the terms of appointments of members of the council and the grounds on which a member may be removed from office. A student member gains a term of one year in the expectation that student members will usually be senior students on election and may leave the college before completion of a term of office if the term exceeds one year. It has been deemed desirable that a student member shall be, in fact, a student. Such member can, under subclause (3), stand for re-election if still eligible on the expiration of his or her term. Clauses 11 and 12 are normal provisions for the conduct of the council's business.

Clause 13 sets out the specific powers of the council. Clause 14 requires collaboration with other appropriate authorities. Subclause (2) provides a reserve power for the Minister to ensure that there will be an adequate supply of trained teachers. Clause 15 gives the council authority to determine the internal organization of the college, and subclause (2) perpetuates the name of the South Australian School of Art. The South Australian School of Art has occupied a unique place in education in this State. The perpetuation of the name within the Torrens framework ensures the continuation of an outstanding art centre.

Clause 16 provides for the position of Director as the chief executive and for the appointment of the first Director. Clause 17 makes possible the encouragement of an active student life in the college. Clause 18 is the normal provision for making land available for the purposes of the college. Subclause (5) enables the transfer of the present furniture and equipment of Western Teachers College and the School of Art to the college.

Clause 19 is proposed to protect the interests of staff within the present colleges. The position is that academic staff in the two present colleges are employees of the Education Department. Non-academic or ancillary staff have been appointed by the Public Service Board to work for the Education Department in the colleges. It is proposed that the "appointed" day shall occur once salary and other conditions have been determined so that members of staff can mak an informed choice of their future employment. It is hoped that these matters can be finalized by July 1, 1973. Employees who do not wish to transfer to college employment retain their rights under the Education Act and Public Service Act, respectively.

Subclauses (2) and (3) protect existing status, salary and accrued leave, whilst subclause (6) preserves employee rights to superannuation. Clause 20 gives the council authority to make statutes governing the internal working of the college. These provisions are normal for autonomous tertiary institutions. They are, in fact, almost identical

with the similar provision in the South Australian Institute of Technology Act. Honourable members will note that any such statutes will be subject to disallowance by either House of Parliament.

Clause 21 makes provision for by-laws, which are also of a normal kind and which, like the statutes, will be subject to disallowance in the usual way.

Clause 22 attests the validity of statutes and by-laws. It also provides in subclause (5) that the council may adopt the statutes or by-laws of the South Australian Institute of Technology or the current rules or regulations of the present colleges. This provision is necessary if the college is to have a working base from which to operate in the new year. For example, there are rules and regulations governing the diploma courses in both institutions. Without provision for the adoption of the present practice, the new college would not have any legally constituted course on which to enrol students in January, 1973. Subclause (6) recognizes what a great deal of work is involved in the establishment of statutes and by-laws for a new college and therefore permits the adoption of present practice to extend over a two-year period. Clause 23 requires the college to report to Parliament annually, while clause 24 requires the keeping of accounts audited by the Auditor-General. Clause 25 makes provision for funding the college subject to the role of the Board of Advanced Education in reviewing budgets and making recommendations to the Minister.

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

COLLEGES OF ADVANCED EDUCATION BILL

Second reading.

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

That this Bill be now read a second time.

If passed, it will separately confer autonomy on Adelaide, Bedford Park, Salisbury and Wattle Park Teachers Colleges. Most of the explanations that I gave in respect of the Torrens Bill apply with equal force to this Bill. The recommendations of the Karmel report, the action of the Government in establishing interim councils in each college in July, 1971, the establishment of the Board of Advanced Education, and now the introduction of this Bill represent a consistent pattern of development. In addition, the Commonwealth Government has announced recently, following the report of the Senate Committee on the role of the Commonwealth in Teacher Education, that the Commonwealth will, by arrangement with the States, offer financial support for Government teachers colleges which are being developed as self-governing institutions, under Statute, free from Education Department control. The Commonwealth policy is in fact recognizing the merit of the policy that this Government adopted about two years ago.

The Bill provides the same kind of council government and the same relationship with the Board of Advanced Education with respect to accreditation of courses, finance and future development as explained in connection with the Torrens Bill. Inevitably, many of the clauses are identical in the two Bills. I will therefore direct my remarks more especially to the differences between this Bill and the Bill for Torrens. The introduction to the Bill states that it is ". . . to provide for the establishment of new colleges of advanced education . . ." and the Bill gives the short title as the "Colleges of Advanced Education Act". The purpose of these provisions, together with clauses 4 (1) (*b*) and 4 (3), is to establish a basic Act under which the existing teachers colleges and other possible future colleges of advanced education may be incorporated: that is, the Bill establishes a pattern for the future development of the college system.

Clause 4 identifies the four colleges to which this Act will apply immediately, and in subclause (3) confers new titles on each college. These new titles have each been recommended to me by the interim councils of the respective colleges, and the Government has accepted the recommendations in order to emphasize the new status of the colleges in advanced education. Clause 5 in subclause (*a*) provides for a continuance of each college's function in teacher education, while subclause (*b*) provides opportunity for each college to expand its functions so that it may develop a multi-purpose character. I emphasize that multi-purpose developments will be encouraged only where they are a reasonable extension of the activities of a college.

Clause 9 provides for the creation of a council for each college. The constitution of these councils differs a little from that proposed for Torrens. We were not faced in these cases with the problems of amalgamating two colleges operating temporarily on different and scattered campuses. Instead, in each case we have a consolidated staff and college on its own campus. There is thus no need for some of the clauses included in the Torrens Bill.

As with the Torrens Bill, the council is in the modern format for tertiary education, providing for staff and student representation on the council. Subclause (2) (*e*) provides for two nominees of the Director-General of Education. A nominee of the Director of Further Education was included in the Torrens Bill as the Diploma of Teaching (Technical) is provided currently by Western Teachers College. In the case of colleges covered by this Bill, it has been deemed desirable to have two nominees of the Director-General because of the vital interest of the Education Department in the employment of graduates from the colleges.

Similarly, six members of the public (eight in the case of Torrens) appears adequate for these colleges of advanced education taken together with the provision for the council to co-opt two more appropriate persons. The remaining members of council are to be appointed in the same way as for Torrens. The next clause to which I would draw attention is clause 17, which names the Director as chief executive and protects the appointment of the present Principals in the change of title of the principal officer in each college. As with the change of name of the colleges themselves, the adoption of the title of Director has been on the advice of the interim councils. It also reflects the new status of the colleges as well as the new status of the chief executives. There are three provisions in the Bill which, whilst identical with the provisions of the Torrens Bill, should be re-emphasized here.

Clause 15 (2) confers on the Minister of Education a reserve power in collaboration with college councils to ensure that the colleges provide a sufficient flow of trained teachers of various kinds to meet the needs of the State. This, of course, is one of the fundamental duties of any Minister of Education. However, I stress that the word "collaboration" has been used deliberately in recognition of the new status of the colleges.

The second provision to which I draw attention is clause 20, which confers on the staff of these colleges the same right of election and protection of benefits in employment and superannuation as was mentioned in the case of Torrens. This means that each staff member has the individual choice as to where his/her personal future employment shall lie. The third provision is in clause 23 (5) and (6) which enables each college council to adopt current rules and regulations in order to have a working base from the proclamation of the Act. Subclause (6) gives a breathing space to the colleges in which to formulate their own statutes and by-laws which, of course, will be subject to disallowance by either House of Parliament.

The remaining clauses of this Bill are identical to the provisions of the Bill for the Torrens College of Advanced Education and I will not weary members by repeating what I said with regard to that Bill. I pay a warm personal tribute to all those ladies and gentlemen who have served so willingly on the interim councils of the six colleges, namely, Adelaide, Bedford Park, Salisbury, Wattle Park and Western Teachers Colleges and the South Australian School of Art, in the period from July 1, 1971. These people have given freely of their time, their energy, their knowledge and their expertise, and their work has paved the way for true college autonomy. Doubtless, some will now consider that they have served their turn and will not seek re-election or re-appointment. Others will, I hope, continue to offer their services.

To all of them I offer the thanks of the Government and my own deep personal appreciation of their service. I also express my thanks to the Chairman of the Board of Advanced Education, the Director-General and other officers of the Education Department, who have given their services untiringly to ensure that the full autonomy of the teachers colleges and the School of Art will be a success and will involve a smooth transition.

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

LAND ACQUISITION ACT AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

It represents a major advance in the law governing the the acquisition of land by public authorities. In this matter, as in many others, South Australia leads the Commonwealth. The Land Acquisition Act provides in general terms for the acquisition of property on just terms. This means that, where a landholder is dispossessed of property, the law requires that he should receive fair compensation for the value of that property and also compensation for any disturbance that he has suffered as a result of the acquisition. These principles do not, however, cover one very important aspect of land acquisition. There may be cases where the property to be acquired has been used as a residence by the person from whom it is

acquired for many years. The property may not, however, save a market value commensurate with its value to a dispossesed owner or tenant as a place of residence. An old home in Bowden would not perhaps realize a great deal on sale but it may nevertheless constitute a satisfactory residence for those who have lived in it and grown used to it. If the property is acquired, the Government feels that a provision should be made to ensure that the present residents are rehoused in a satisfactory social environment. There may also be other social problems arising from the acquisition. For example, a resident may be subject to some kind of disability and his present place of residence may be very suitable for a person subject to that disability. Therefore, if the residence is to be acquired, there should be provision to ensure that this kind of social problem can be overcome in a proper manner.

The Bill seeks to overcome problems resulting from the acquisition of land by public authorities by establishing a committee that will exercise a general oversight of social problems arising from land acquisition. The committee is to consist of five members, appointed by the Governor, of whom the Chairman is to be a person nominated by the Minister of Community Welfare. In addition, the committee will comprise nominees of the Treasurer, the Minister of Roads and Transport, the Minister of Lands and one other person appointed because of his specialized knowledge of and experience in matters of housing. Where a public authority has served notice of its intention to acquire land that constitutes or forms part of a dwellinghouse any resident of that dwellinghouse may apply to the committee any time before, or three months after, the date of acquisition for assistance under the new provisions. The application must set out the grounds on which the assistance is sought and the nature and extent of the assistance that the applicant requires.

The committee is invested with the duty of investigating the application and, after it has done so, it is empowered to make arrangements with any department or instrumentality of the State, or with any other person or body of persons, by means of which the applicant will be assured of proper accommodation in a satisfactory social environment. The committee may also recommend that a grant of moneys or other financial assistance be given to the applicant so that he can overcome other social problems with which he may be confronted as a result of the acquisition. Any such proposal made by the committee is to be submitted to the Treasurer for approval. Where the committee's proposal has been approved by the Treasurer the acquiring authority becomes liable to pay any amount required to implement or give effect to the approved proposal.

Clauses 1, 2 and 3 are formal. Clause 4 inserts a new Part IVA in the principal Act. This new Part provides for a committee for the establishment of the Rehousing Committee. It sets out the various conditions under which members of the committee shall hold office. It provides that the committee may make use of the services of public servants, or officers of the South Australian Housing Trust, for the purpose of assisting it in discharging its functions. New section 26g included in the new Part sets out the right of a person who loses his place of residence as a result of acquisition to apply for assistance under the new provisions. The assistance will, of course, be additional to any compensation to which he is otherwise entitled under the principal Act.

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

BUSH FIRES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 7. Page 2713.)

The Hon. R. A. GEDDES (Northern): I support the Bill. One of its important amendments is an increase in the fines in almost every section for misdemeanours against the Bush Fires Act, such as burning of stubble, scrub, scrub or stubble on Christmas Day, Good Friday or on a Sunday, fires in the open, fires in lime and charcoal burning pits, and fires in the open having inadequate clearance. In every case the fine has been increased from $100 to $200 for a first offence, and it has been increased from $200 to $400 for a second offence. These increases are appropriate, because the public is prone to be careless in areas with a high fire danger. Some people will not take notice of warnings until a court hits them in the hip pocket nerve.

The penalty for lighting a fire on a day of extreme fire danger has been increased from $200 to $400 for a first offence, and for a second offence it has been increased from $400 or three months imprisonment to $800 or six months imprisonment. The question of lighting fires on days when that is prohibited has been a great worry to the Emergency Fire Services throughout the State, so I believe that those increases are justified. For a person who fails to obey the command of a fire control officer, the fine has been increased from $100 to $300 for a first offence, and for

a second offence it has been increased from $200 or three months imprisonment to $500 or six months imprisonment. The Bill contains some new provisions relating to the powers of the police that were not previously in the legislation. The fine for failing to give one's correct name and address to a police officer has been increased from $40 to $100, and the fine for throwing burning material from vehicles has also been increased. Clause 3 inserts the following definition:

"Nominated council" in relation to a fire-fighting organization means the council for the time being nominated by the Minister under section 27a of this Act as the council responsible for that firefighting organization.

In some of the larger council areas, particularly those on Eyre Peninsula and those bordering the North, there is sometimes confusion as to the organization to which E.F.S. machines and crew belong. For example, the Cleve District Council may look after equipment that is in its name and receive a Government subsidy for a fire truck and crew that operate in the area of the Elliston District Council. Clause 6 deals with the question of insurance against injury of fire fighters, and it clarifies just who is the responsible "employer" of the fire fighter for insurance purposes. An increasing number of E.F.S. units are being established outside council areas, and the responsibility in this connection will now lie with the Minister, who is to be known magnanimously as "the corporation".

I believe that in the past some councils have not had their fire crews insured, but a suitable system has now been worked out. It will be assumed that a large fire unit can carry six men, and that a small unit can carry four men. In this way they will use a rule of thumb to ensure that all fire fighters are covered by workmen's compensation.

The Hon. T. M. Casey: It will be done on the basis of the complement of the vehicle.

The Hon. R. A. GEDDES: Yes. Fire party leaders, who were not adequately covered previously in respect of workmen's compensation under the legislation, are now covered under this Bill. New section 68 provides:

A person shall not during the prohibited burning period or the conditional burning period use an internal combustion engine for—

(*a*) Harvesting a flammable crop on a holding;

(*b*) Moving or transporting a flammable crop within the boundaries of the holding on which it was harvested; or

(*c*) Spreading lime or fertilizer,

unless—

(*d*) The internal combustion engine is fitted with a spark arrester; and

(*e*) A shovel or rake and a portable water spray fully charged with water are attached to or carried on the internal combustion engine or are attached to or carried on any machine drawn by that internal combustion engine.

I do not criticize new section 68, which makes clear the intention in relation to harvesting flammable crops. I point out, however, that "harvest" is defined in the dictionary as "to reap and gather in corn or other ripe crop". Many farming pursuits other than those referred to in new section 68 are necessary in the summer months when material is flammable, but there is no provision in the legislation making it obligatory for farmers to carry shovels, rakes or portable water sprays when they are carrying out those pursuits.

Surely it should be spelt out that adequate safety precautions should be observed when those pursuits are being followed. It is assumed by the conscientious man on the land that these things are necessary, but assumption is useless in a court of law. I have seen many fires started by men mowing star thistles in the middle of summer, or raking star thistles with railway irons. Many comments have been made by fire-fighting organizations in local government about the use of the new slashing machine that travels at a good speed over the ground with the slashers rotating at high speed. When they hit stones and create sparks, these are prone to cause fires. The Minister may be aware that requests were made for the use of these slashers to be banned during the hot summer days. However, there is no mention of this in the Bill, nor is there provision for the operator to carry fire-fighting equipment to prevent fire or to assist if fire should break out.

The Hon. Sir Arthur Rymill: Isn't the centre plate or dome the more dangerous part, as it rotates on the ground and creates heat?

The Hon. R. A. GEDDES: There are two problems. The dome itself creates heat through friction, and the plates could hit stones and create sparks. Even the slow-moving grass mower of the scythe type has been known to cause fire by the mower blades oscillating through the fingers on to a piece of hard, quartz-like stone, and creating a spark sufficient to cause a fire. This has happened, to my bitter memory, more than once in my own district. Clause 26 deals with the movement of aircraft. It is a good clause, far clearer

and much more satisfactory than the original section of the principal Act, providing that aircraft may land during prohibited burning or conditional burning periods on airstrips completely cleared of flammable material, or on land with a firebreak at least 2 m wide cleared of all flammable material surrounding the airstrip, or (and this is the important point) where two men able to assist in controlling fires and two portable water sprays fully charged with water and a motor vehicle ready to transport the men and the water sprays are available. This applies when aircraft are being used for agricultural purposes.

The clause spells out that the restrictions do not apply to aircraft in emergency situations, aircraft on Government or licensed airfields, and aircraft being used on mercy flights or for fire-fighting operations under the direction of a fire control officer. The clause provides what has been needed for some years, because of the increasing use of aircraft for agricultural purposes. Clause 33 is of passing interest; it prohibits the sale of matches which have an after-glow exceeding 3 seconds, as specified by British Standard 3795:1964. I understand that in the past year or so book-type matches have been imported into Australia and distributed through motels and restaurants in the metropolitan area, and that these matches have a period of glow of about 30 seconds. One could imagine the problem if a careless or thoughtless person were to throw one of these matches to the ground on a hot day. The clause, providing that only matches with an after-glow not exceeding 3 seconds may be sold throughout Australia, is a wise precaution, and I hope the authorities responsible for checking matches through customs and other sources are well alerted to the situation.

Clause 37 gives power to councils to order the creation of firebreaks. I know that this has been requested in many local government areas for some time, but it seems a little unjust because the clause provides that if a council considers that the creation of a firebreak on any land within its area is likely to inhibit the starting or spreading of fires, the council may, by notice in writing given to the owner or occupier of that land, require the owner or occupier to create such a firebreak in the manner specified in the notice within the time specified in the notice. If the owner or occupier is unable, for reasons best known to himself, to comply with this request, he has a right of appeal to the Minister, who can take certain action. The council may do the work, if the owner or occupier fails to do so, at his expense.

With the growing number of national parks and forest areas, increasing numbers of parks around towns in country areas where local government organizations are planting trees and beautifying the areas, and creating caravan parks, I can well imagine the obligations of local government in suggesting to owners of land surrounding townships that they must plough firebreaks. This will loom large in the minds of councillors, but it is imposing an additional expense on the landholder, and this must not be lost sight of. It could be quite a costly proposition. Perhaps, because of the siting of the land, the firebreak may be of little benefit to the owner, although it will benefit the community. If the owner holds large areas and local government wants firebreaks put through, the owner could be involved in considerable cost, particularly in difficult country. I do not intend to move an amendment, but in practice I think the Minister will get a number of appeals from people suffering hardship. Especially in country which is undulating, rough and rocky, it is not always easy to put in firebreaks. If it is to be an annual event, the landholder will be responsible for the problems of erosion that occur. However, I will not be sidetracked in that direction.

Is it fair that the landholder should be required to do this at his own cost, particularly if he has a large area to plough or cultivate to make a break that is of no benefit to him? Time will tell about the practicality of this clause, but we know from statistics that local government has been making representations for some years on this subject. I intend to suggest an amendment to subclause (2), which provides that an appeal may be made to the Minister against any requirement of a council under the proposed new section and that any such appeal shall be lodged in writing at the office of the Minister within seven days of the giving of the notice by the council.

I suggest that an amendment providing that an appeal may be lodged within 14 days would help landholders whose mail services are not as good as they would wish them to be. Clause 39 contains two interesting aspects on which I wish to comment. Some fire controls have been restricted to the point where officers who must fight fires have only limited control when acting outside of that role. New paragraph (*g*), to be inserted in section 86 by clause 39, provides:

> In the absence of a member of the police force, prohibit or regulate the movement of vehicles, persons or animals in the vicinity of any fire or in the vicinity of any place where there is an imminent danger of fire;

As a former fire control officer, I have assumed that type of control, although I realize that I did not have the authority to do so. However, it is necessary for one to do this in the case of a pernickety person who asks, "What do you know about it?" I imagine that the fire control officers in the Adelaide Hills would be fairly experienced in this respect. Paragraph (*i*) of clause 39, which strikes out from paragraph (*h*) of section 86 the words "(other than water contained in a tank at a dwellinghouse and apparently required for domestic purposes)", strikes a strange note to me. In the past, it has always been sacred that water in a homestead tank which is to be used for domestic purposes shall never be used for fire-fighting purposes. However, by removing the words to which I have referred, there will be no reason why fire fighters will not be able to use domestic water in a dwellinghouse tank if they see fit to do so.

The Hon. D. H. L. Banfield: You could die of thirst if you didn't.

The Hon. R. A. GEDDES: There is nothing like dying of thirst when one is fighting a fire and the water in one's equipment is foul water from a dam or a saline bore. If one comes upon a fresh water tank at a dwellinghouse, the water is really like nectar. If this type of water is allowed to be used not only for drinking purposes but also for the fighting of fires, I suppose the Minister has some reason for it. However, as he did not give a reason in his second reading explanation, I should like him to do so in due course.

The principal Act was drafted by men who had a great regard for the conservation of water in the country. Today, we have younger men who have not experienced to the same extent as did their predecessors the pangs of hardship in relation to the conservation of water. One wonders, therefore, whether the lessons of the past will be reflected upon, especially when a fire fighter will be able in future to pull up his vehicle alongside a 10,000-gallon squatters tank at the back of a woolshed, take water from that tank and use it to fight a fire, when it may not rain on that homestead for many months.

The Hon. T. M. Casey: Most of the homesteads with which I am familiar have signs showing where one can obtain fire water. I have one on my property. Perhaps we are more advanced in the North than are people in the southern parts of the State.

The Hon. R. A. GEDDES: Many rural properties have signs stating that fire water is available so many hundred yards away. However, those signs do not point to the domestic water supplies.

The Hon. T. M. Casey: No-one is suggesting they do.

The Hon. R. A. GEDDES: That is the point on which I have been speaking. The legislation provides that a fire fighter may take or use water (other than water contained in a tank at a dwellinghouse and apparently required for domestic purposes) and any other fire extinguishing material from any sources on any land. The words in parenthesis are to be struck out. In addition to the explanation the Minister gave by interjection, I should like him to give a clearer one. I wish to make only one other point. I am under the impression that it is necessary under the regulations for a copy of the Bush Fires Act to be given to a fire control officer on his appointment. If this provision is not contained in the regulations, it certainly applies to many council areas with which I am familiar.

This is the second time that the principal Act has been amended and, because of the complexities of those amendments and also because of the change of the wording from "inflammable" to "flammable" and various other aspects, it will be extremely difficult for a person who is not used to reading Acts of Parliament fully to understand the legislation with all its amendments. I ask that consideration be given to the printing of a new Act containing all these amendments, once they have been carried, so that any fire control officer will be able to obtain a consolidated copy of the legislation, thereby enabling him to understand it to the best of his ability.

Bill read a second time.

In Committee.

Clauses 1 to 22 passed.

Clause 23—"Equipment of engines used in harvesting, etc."

The Hon. R. A. GEDDES: I said in the second reading debate this afternoon that although this clause, which repeals section 68 of the Act and inserts a new section in its place, is a far better provision than the original one, it does not go far enough, as it merely lays down guidelines regarding where the necessary equipment for fire fighting shall be carried. I asked the Minister whether it could not be spelt out that, in relation to the agricultural procedures that are carried out in summer, such as slashing with modern rotary slashers, operators must have adequate fire-fighting equipment with them. Has this aspect been considered?

The Hon. T. M. CASEY (Minister of Agriculture): Having discussed this matter with the Parliamentary Counsel, I know that it it difficult for one to write into the legislation what the honourable member has suggested. A multitude of combustion-type engines are covered, and I do not think what the honourable member has suggested can be done. Common sense must prevail in this matter. I draw the honourable member's attention to new paragraph (*e*), which practically covers the situation, as many people are accustomed to carrying water sprays on the vehicle on which the combustion engine is drawn because there is no vibration. In the case of a slasher, it would not be carried on the combustion-type engine, and one would have to take the risk of springing leaks.

The Hon. R. A. GEDDES: I thank the Minister for drawing my attention to new paragraph (*e*). However, I draw his attention to new paragraph (*a*), which deals with the harvesting of a flammable crop on a holding. This is nothing to do with a farmer who has a paddock full of star thistles; this is the only way in which he could get rid of them. The authorities will not wake up to this problem until a fire has occurred and a farmer is not carrying this equipment. I, too, have discussed this matter with the Parliamentary Counsel. The anomalies in the Act will remain there until rectified by the Government.

Clause passed.

Clauses 24 to 36 passed.

Clause 37—"Power of the council to order the creation of fire breaks."

The Hon. R. A. GEDDES: I move:

In new section 81a (2) to strike out "seven" and insert "fourteen".

The Minister intends that councils will have power to order a property owner to create fire breaks. If the property owner does not wish to comply with the council order there is provision for an appeal to be made to the Minister within seven days of the giving of the notice by the council. With the problems we have nowadays with communication by post, I believe that seven days would impose a hardship on people on Eyre Peninsula, the Lower South-East and in the Upper Murray areas.

The Hon. T. M. CASEY: As the amendment is a reasonable one, I accept it.

Amendment carried; clause as amended passed.

Clause 38 passed.

Clause 39—"Powers of fire control officers and fire party leaders."

The Hon. R. A. GEDDES: Section 86 of the principal Act is amended by striking out from paragraph (8) "(other than water contained in a tank at a dwelling house and apparently required for domestic purposes)". Hitherto, it has always been traditional for homestead water to be regarded as for domestic purposes only, so why should we agree to paragraph (*i*)?

The Hon. T. M. CASEY: It would be unreasonable to deny a fire control officer power to use tank water stored for domestic purposes if a critical situation developed and domestic supply was the only water available. Obviously, tank water would not be used except as a last resort.

The Hon. R. A. GEDDES: I thank the Minister for his explanation, but I am sorry that the authorities who have advised him on the amendments failed to say that only in extremely urgent cases would this water be used. The responsibility rests with the officer on the spot, and I hope that domestic water supplies will not be abused.

Clause passed.

Clauses 40 to 51 passed.

Clause 52 —"Regulations."

The Hon. R. A. GEDDES: This is the second time the Act has been amended, and the amendments we have just passed might be difficult for a layman to interpret. As every newly-appointed fire control officer is given a copy of the Act and the regulations, will the Minister consider having the Act reprinted to include these amendments so that the uninitiated will be able to understand the legislation with a minimum of difficulty?

The Hon. T. M. CASEY: I shall try to comply with the honourable member's wish.

Clause passed.

Title passed.

Bill read a third time and passed.

PRICES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 7. Page 2719.)

The Hon. G. J. GILFILLAN (Northern): I support this simple Bill, which merely extends the operation of the legislation for another year. The principal Act was promulgated many years ago, when there were shortages of certain commodities in the community. In many instances these shortages led to black-marketing and various other forms of consumer exploitation. The Government acted to contain these kinds of practice and, over the

years, the matter of price control has been somewhat modified. However, this principle has been extended into other areas of consumer protection.

It has been claimed that the Act plays some part in containing costs. However, this aspect is alway open to debate: it is largely a matter of personal opinion. Certainly, it does not appear to do any harm. Because of the many other provisions relating to other areas, I believe it is necessary to extend the legislation for another year. I have wondered whether there is another area of pricing that could bear investigation. This legislation deals with the prices paid by consumers. However, there are various practices of commerce between the wholesaler and the retailer that vary considerably with different people. I sometimes wonder, in the interests particularly of the smaller trader, whether this side of it, too, should not be investigated. However, as this Bill extends the present Act for another year, I support it.

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

LAND AND BUSINESS AGENTS BILL

Adjourned debate on second reading.

(Continued from November 7. Page 2741.)

The Hon. C. R. STORY (Midland): I rise to speak with probably less knowledge of this matter than any other member of this Parliament has, but I have in mind one or two fundamental things. I do not believe in poking the possum unless there is some real reason for it. I cannot imagine at the moment, on the evidence placed before me and other honourable members, why the possum should be tickled up now. From the readings I have made and the information I have obtained, I believe that land agency and land brokerage in this State have been in the capable hands of a group of people for about 112 years, and I have not been able (and I do not think the Attorney-General has, either) to find one instance of land brokers welshing on the people who have trusted them. I wonder whether one can say the same of the profession into which the Attorney-General would have us cast practically the whole of the land transactions of this State—solicitors, who are qualified people—because I know of many cases where solicitors have been struck off the roll for misconduct, misrepresentation, tickling the trust funds, and things like that.

I am not averse to everyone doing his own job, and there is a specific field in which solicitors and lawyers can operate. They are trained in the ways of the law, and naturally land transactions come within the general jurisdiction of their profession. However, there are other people, too, who specialize, and I am one of those old-fashioned people who believe it is wise to try to keep going organizations that have given good service to the public in the past and not try to change things overnight. I challenge the Government (and when I say "the Government" I mean the Attorney-General) to show me why the terrific change forecast in this Bill is necessary.

I refer particularly to clauses 61 and 88. It is incongruous to reflect that a previous Attorney-General, an eminent lawyer of this State (the late Hon. Hermann Homburg) who served in this Parliament from about 1910 to at least 1929 and probably later, and who was a Minister of the Crown at various times, provided in the Land Agents Act of that time a special provision (section 63) to deal specifically with country situations.

That is the provision I am particularly keen on looking at. No doubt, various means of subterfuge (and I use that word having considered what it means) can be used in a metropolitan area to get around the law that the present Attorney-General seems obsessed with settling on the people of this State—and for no good reason at all, as far as I can see. There are ways and means in which it can be done in the metropolitan area, as I can explain if I am challenged on it, but this is disastrous for the country areas. I cannot imagine why, when various deputations have endeavoured to tell the Attorney-General, who is an eminent Queen's Counsel in this State and should be tolerant (because, after all, he has been a Q.C. for only a little while), he will not, as I understand it, see anything wrong with this Bill.

At Waikerie, in the middle of the Riverland area, a gentleman has been running a successful business. I am assured (and I know from practical experience) that this gentleman has carried out the dual responsibility of being a land agent and a land broker. He was previously a manager of the State Bank of South Australia and resigned to take up this dual responsibility. The only reason why he is a broker is that he provides a service to the people in his district at very little expense to them, because any money that comes to him does so because he is a land agent; 20 per cent of his income comes from his land brokerage business and 80 per cent from his land agencies,

but he is prepared to do brokering duties as a service.

I put this fairly and squarely to the Government: what is the position if this gentleman is forced by this Bill to give up one of his licences—as he will be? The one that he will have to give up, of course, as he has to eat, like the rest of us, is his broker's licence. He will then be a registered land agent.

In order to get any documentation done that is in the slightest bit complicated (he cannot take three months transferring land and property nowadays, because if a person has sold land he must have the money to do something else) he must bring in either a land broker or a solicitor from somewhere else. The nearest would be 52 miles away at Berri. He could not bring anyone from Loxton. He would have to go to Tanunda to get a solicitor (that is if it is convenient for the solicitor to come within a certain time). I do not imagine that a solicitor could drop the work he was doing, because I understand that most solicitors are overworked dealing with other matters. I have spoken about a person who is well qualified to carry out the work of a land broker and land agent, and I will now go to Eudunda.

The Hon. T. M. Casey: You're travelling around a bit.

The Hon. C. R. STORY: Yes, but I always try to know what I am talking about. For a long time there have been agents in Eudunda who have done land agent work, who have been accepted under section 63 of the Act, and who have not been found wanting in any way. In other words, they complete the whole of the transaction and send it to a lawyer for final ratification; that is a good way of doing business, but they are precluded under the Bill from doing business in that way. Having completed all the documents, and being properly qualified, they lose the privilege of sending on the documents to a solicitor in the nearest town or one with whom they have an arrangement. The documents would be signed by the solicitor, who has great confidence in the people with whom he or his parents have worked for a long time.

We are in somewhat of a dilemma, because the Attorney-General is adamant that he will not see or talk to anyone about this matter. That is a terrible situation. I cannot find any reason for it, unless it is a sop to the Law Society, but I do not think the society is rapacious enough to want an absolute corner on land broking work. The Attorney-General seems to be obsessed with the idea that he is the only one who knows anything about land broking and that solicitors are the only people qualified to do it. People have been doing this work for 112 years and there have been no complaints regarding land brokers in this State. I find it difficult to understand why a person cannot hold a dual licence. If a person qualified as a land broker also happens to be manager of a company, he must go: he can no longer remain as a broker. He can, under the present Act, be a manager and still be a broker; there is no problem there. The company cannot have a broker-manager, so he must go. He might not get anything out of it himself, but his company might get something in the way of broking; that seems ludicrous.

The person who at present operates as a broker and a land agent is absolutely out: he must go. There is no future for him, and he must give up one licence. The person who operates under section 63 of the Act and who can normally get a solicitor to certify what he has done as being a proper settlement is out: there is no hope for him. The partnership in which one person is the land agent and another is the land broker—that is out, too. How ridiculous is that situation!

The Hon. C. M. Hill: What compassion!

The Hon. C. R. STORY: What tremendous compassion! I do not know what the Attorney-General has in his mind or the people who have advised him have in their minds. What a wonderful opportunity the Bill sets up for connivance If the Hon. Mr. Hill and I happened to be partners—

The Hon. D. H. L. Banfield: You couldn't be under the present set-up: one in the Liberal Movement and the other one not.

The Hon. C. R. STORY: A person must keep business above his personal thoughts. If the Hon. Mr. Hill and I were partners, I being the land agent and my partner being the land broker, there would be nothing to stop my partner from hiring a room opposite the established building and setting himself up, doing the conveyancing across the road. The Bill will allow for many kinds of crookery to take place. I do not know what is worrying the Attorney-General, because there does not appear to have been anything wrong in the past. No evidence has been put forward that there has been anything wrong. But if we want to make it wrong, the Bill is the proper way of pushing people into a corner. I told the Minister of Agriculture a week ago about being pushed into a corner. He will only have to wait for me to be proved right because, the moment we start to push people

around and send them underground, we will regret it. One of the greatest advocates of this practice was the late Ben Chifley, who said, "We won't ban the Communists, because we don't want to push them underground."

The Hon. T. M. Casey: Did you agree with that at the time? Did you support him?

The Hon. C. R. STORY: My word I did, but I was not here. I have no doubt that the Bill will lead to considerable connivance. If ever I saw anything better designed to take people down the river it is clause 88, which provides:

(1) Subject to this section, a purchaser under a contract for the sale of land may, by instrument in writing signed by the purchaser and served personally upon the vendor, or posted by registered or certified mail addressed to him, within two clear business days after the prescribed day give notice to the vendor of his intention not to be bound by the contract and the contract shall be deemed to have been rescinded at the time the notice is served or posted in accordance with this subsection.

Let us imagine that I pop around to look at a house that has been advertised for sale; no-one will know whether I am a land agent. I may sign an agreement to purchase the house for $10,000. If I do that on a Friday, I have from then to the following Monday to say to my clients, "There is a very nice house available for $12,000. I can recommend it, because it is extremely good." I can then go back to the owner of the house and close the deal during the cooling-off period. In introducing this Bill the Government is creating the possibility of that kind of practice being followed.

The Hon. C. M. Hill: And the person does not have to pay a deposit.

The Hon. C. R. STORY: I agree. It would be different if the person had to pay a deposit. So, I believe I have shown that there are ways and means of getting round the Bill's provisions. Because I see no reason for the Bill, I shall vote against it.

The Hon. M. B. CAMERON (Southern): I do not support those clauses in the Bill relating to the business of land brokers. I have listened with some interest to the views put forward by honourable members, and I am particularly impressed by the argument that there have been no cases, as far as our information goes, of land brokers being deregistered or of action being taken against them. That seems a cogent argument in favour of not interfering in an industry, business, or profession (whichever it may be called) involved in the every-day business of the transfer of property. I have received a considerable amount of correspondence from various members of the profession, much of which has been discussed in this Chamber previously by other members. I shall read one letter which puts forward a good case for not interfering, and which particularly impressed me. The letter, addressed to the Attorney-General, states:

You have said that you would deal compassionately with certain aspects of the above legislation. Have you considered the case of people in my circumstances? I have been a licensed land broker since 1940 and a licensed land agent since 1955. Contrary to the ideas of the President of the Real Estate Institute, my personal income arises equally from each source. I am now 56 years of age and know that it would be a considerable hardship for me to be forced by legislation at my age to rebuild at least half of the business I have created in accordance with current legislation.

Would it not be proper, reasonable and compassionate for an agent-broker 50 years or more of age who has been licensed as a broker for 25 years or more to be allowed to complete his working life in the manner he has legitimately planned and created? Persons in this category who have served the public without complaint for so long have surely proven entitlement to compassionate consideration.

As I understand the law of the land, it is not possible to deprive oneself of a way of life. If a person sells a business and signs a document indicating that he will not set up business again in competition, the law of the land covers the situation, and a person cannot sign away his way of making a living. However, this Bill runs contrary to the normal common law of the land, which is now being passed over for no acceptable reason I have heard. It is taking away a way of life these people have built up. Probably more cases of malpractice by solicitors could be cited than could be cited regarding any land brokerage business, though we are not doing a similar thing to that profession.

The Hon. C. R. Story: Do you think we should knock this Bill on the second reading?

The Hon. M. B. CAMERON: I will not commit myself at this stage, because certain clauses of the Bill are acceptable.

The Hon. C. R. Story: I cannot see them.

The Hon. M. B. CAMERON: I am sure the honourable member is quite sincere, but I believe it is necessary to discuss this. Certain clauses of the Bill could be left in.

The Hon. D. H. L. Banfield: They have been recommended by certain sections of the industry, too.

The Hon. C. R. Story: They have?

The Hon. D. H. L. Banfield: Yes.

The Hon. M. B. CAMERON: I think some clauses should remain. However, this is not just a Bill to change the Act in relation to the transfer of land; it is a change of philosophy. I have listened to and read remarks to the effect that the new provisions will not lead to increased costs. The Attorney-General has been quoted as saying that, but such a thing cannot be said by any one Attorney-General. There may be changes in Attorneys-General, and there may be changes in the attitude of lawyers.

If the experience in other States is considered, as it must be, obviously costs will increase. It is much more expensive to transfer land or property in other States, under a system different from our own, and it takes longer. Ours would probably be the most efficient system in the world, yet we are interfering with it, and for no good reason that has been put forward to date. To me, this is a completely unacceptable change as it affects land brokers. I can understand the need to tighten up perhaps on the provisions in relation to land agents.

The Hon. D. H. L. Banfield: Do you reckon some of them are crook?

The Hon. M. B. CAMERON: I am not saying they are crook. Some of them may be inexperienced. There is quite a difference between being crook and being inexperienced. There is a necessity for better training, but that cannot be said about land brokers, because they go through a thorough course, probably more thorough than most people engaged in the legal profession in relation to this matter.

The Hon. D. H. L. Banfield: How many years is the course?

The Hon. M. B. CAMERON: Two years, I understand.

The Hon. D. H. L. Banfield: How long does it take for lawyers to go through?

The Hon. M. B. CAMERON: Lawyers cover far more areas of the law than do land brokers, who specialize in one section. That is the important difference. I wish to raise other matters, but at this stage I seek leave to conclude my remarks.

Leave granted; debate adjourned.

SWIMMING POOLS (SAFETY) BILL

Adjourned debate on second reading.

(Continued from November 7. Page 2743.)

The Hon. H. K. KEMP (Southern): I shall draw attention to the law on this matter as it stands now, because I believe it is very good. The need for providing fences around swimming pools has increased tremendously in the last two or three years, because the installation of swimming pools has become so popular. However, I believe that the question of safeguards could be dealt with much better through the present regulations under the Local Government Act than through this Bill.

We should bear in mind the object of the Bill, which is to safeguard a trespassing infant from accidental drowning in an unprotected pool. In many cases pools are installed in the front gardens, and we must remember that nowadays front fences are out of date. This hazard must be recognized, but the Government's method of overcoming it is so clumsy that it will create problems for those who have a worthwhile reason for impounding water.

The administration of swimming pools is at present in the hands of councils, which may direct that fences be erected around pools if the councils consider the pools to be hazardous. If that direction is not obeyed, the council itself may erect a fence around the pool, and the cost involved becomes a charge on the landholder. This system can be very effective, because in most council areas a pool can be installed in the first place only with the council's permission.

For areas where that system does not apply, it would be very simple to make a slight amendment so that pools could be installed only with the council's permisison; under this system, the need for a fence could be considered before any danger arose. If my suggestions were adopted, it would be simple to overcome the hazards that the Government is worried about.

Because of the way this Bill has been drafted, special exemptions will be needed for practically every farm dam in the Adelaide Hills. Further, special exemptions will be needed for any body of water that has an area greater than a few square metres if that body of water is likely to be used for swimming; in this respect the Bill is far too wide and it creates a need for an awful rigmarole in connection with special exemptions.

The Bill also leaves completely neglected what I believe to be the greatest hazard of all: in the history of this State there are many dismal tales relating to children who have been drowned in underground tanks in the country and in fish ponds in the metropolitan area. For a five-year-old child, a fish pond is just as hazardous as is a swimming pool.

Under the system I have suggested, a council could insist that a pool be fenced if a complaint was made; however, if this Bill is passed, the council will be helpless. So, a valuable safeguard is being taken away. My plea to the Government is to withdraw this Bill and have another good look at the legislation as it stands, to see how it needs reinforcing to make it fully effective to meet the position, keeping in mind that in the district council areas pools cannot be installed without the councils' knowing, and it is before the pool is installed that the precaution should be taken and the requirements laid down.

As the legislation stands, we have the great majority of people who have put in a bush fire water reserve being placed in the position of having to fence and safeguard it, thereby almost defeating the purpose for which the reserve was constructed, because if a bush fire water reserve is used, as a secondary purpose, as a swimming pool, as is often the case in country districts, its very usefulness is destroyed if there must be heavy fencing erected to prevent access.

I do not want to go into ridiculous detail, but if the Bill is read literally as against the practical needs of our submetropolitan districts, particularly the Adelaide Hills, the restrictions incurred are just ridiculous. Every one of these ridiculous situations will have to be met by a special set of circumstances. I do not doubt that we can, with due thought, make considerable improvements to the Bill by amendment, but that is not the real need.

The real need is to withdraw the Bill which, I think, has been too hurriedly prepared, and to look at the legislation which has been most effective over the years and which has fallen down only in the comparatively recent period of upswing of popularity of the home swimming pool, extending back only two or three years. These pools are a danger, especially in the newer subdivisions where space is limited and where, very often, they can be installed only in front gardens. They are a danger which no one should be permitted to continue if there is a hazard to children passing casually. We all accept this completely, but I think the hazard can be much more efficiently overcome by modifying our present legislation rather than by withdrawing it and legislating especially, as this Bill is designed to do.

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

LONG SERVICE LEAVE ACT AMENDMENT BILL

In Committee.

(Continued from October 31. Page 2521.)

Clause 3—"Interpretation."

The Hon. F. J. POTTER: The resumption of this Bill in Committee has caught me a little by surprise, because I had intended to move some amendments as they already appear on file. It seemed to me, after reconsideration, that some of these amendments might not be quite the appropriate ones. I understand the Minister has some amendments, but I cannot find them on my file. They have not been handed around. I would like an opportunity to check them before deciding whether or not to proceed with my amendments. Perhaps the Minister would be willing to further report progress.

The Hon. A. F. KNEEBONE (Minister of Lands): I understood my amendments had been handed around. In view of the confusion that seems to exist, I ask for leave to report progress and for the Committee to sit again.

Progress reported; Committee to sit again.

[*Sitting suspended from* 4.59 *to* 5.33 *p.m.*]

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

To strike out paragraphs (*e*) and (*f*).

During the second reading debate the Chief Secretary said that the definition of part-time employees had been included in the Bill because the present Act did not clearly indicate whether or not long service leave applied to part-time workers. It had been the Government's intention when the Act was passed in 1967 that it should so apply, but doubts had been expressed whether the Act had that effect and it had never been tested before any tribunal. The new definition was inserted in the Bill to make the position clear. However, after the Bill had been passed in another place and introduced in the Council, Judge Bleby, President of the Industrial Commission, last week gave judgment in a claim made under section 12 of the Long Service Leave Act for *pro rata* long service leave, which has caused the Government to reconsider the position. Judge Bleby decided that the Act as it now stands applied to a part-time worker who, although employed as a part-time barman for different hours each week, had worked under one contract of service for nine years, and whose employment was of such regularity that it was fair to consider his service to be continuous. The Government considers that, in the light of this decision, there is no need now to include the definition of regular part-time employment in the Act; nor is there any need to amend the definition of

worker as provided in paragraph (*f*) of this clause.

The Hon. F. J. POTTER: I support the amendment, which deals with the problem of part-time employment. This court ruling means, of course, that the existing law takes care of the position; we must acknowledge that. If the amendment is carried, I shall not move the amendment to this clause that I have on the file.

Amendment carried; clause as amended passed.

New clause 3a—"Rights to long service leave of certain workers not affected."

The Hon. F. J. POTTER: I move to insert the following new clause:

3a. The following section is enacted and inserted in the principal Act immediately after section 3 thereof:

> 3a. Nothing in this Act shall be held to confer on a worker, whose service was terminated before the commencement of the Long Service Leave Act Amendment Act, 1972, any right to or in relation to long service leave, in respect of that service, that did not exist at the time at which that service was terminated.

This will make it clear that, once a person's services have been terminated or if an employee's services have been terminated prior to the operation of this measure, no rights accrue. This amendment should be acceptable to the Government.

The Hon. A. F. KNEEBONE: The Government did not intend that the amending Act should confer any right to the increased benefits contained in the Bill on a worker whose services are terminated before this amending Act comes into operation. If this additional clause is needed to clarify the intention of the Bill, I have no objection to it.

New clause inserted.

Clause 4 passed.

Clause 5—"What constitutes service."

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

In new subsection (8) to strike out "January" first occurring and insert "October"; in new subsection (8) (*b*) to strike out "January" and insert "October"; and in new subsection (8) (*c*) to strike out "January" and insert "October".

This will limit the retrospectivity of the new provisions to October 1 of this year: it will not make them retrospective to January 1 of this year, which I consider a rather lengthy period of retrospectivity. October 1 is a convenient date in the sense that it is the beginning of one whole quarter of the year. It is only sensible that, if we are talking about a commencing date, it should be at the beginning of a quarter; otherwise, fiendishly difficult and unnecessary computations will have to be made in connection with entitlement, because the normal entitlement operates from January 1, as it did in the previous Act, starting from January 1, 1966. Having said that, I have no doubt I shall be confronted by the Minister saying, "We did it before; why can't we do it now?"

True, when we introduced the previous Bill this provision was back-dated to January 1 of that year, but there were reasons for that that do not really apply in the present circumstances. So I suggest that a fair and reasonable date is October 1, which is not far removed from the time when this Bill came to this Chamber. It passed through another place on October 18 of this year. In some respects, I do not think it would have been unfair even to fix the date as January 1 of next year, but I do not want to do that. I will concede that new clause 3a does, to some extent, meet the objections I raised to retrospectivity. Perhaps we should consider whether we want to go back as far as January 1, 1972.

The Hon. A. F. KNEEBONE: The Hon. Mr. Potter has, to some extent, anticipated my objection to his amendment. He was a little half-hearted in moving it. The Bill is consistent with the action taken when the Long Service Leave Act was passed by this Parliament late in 1967, because the benefits contained in that Act operated in respect of service after January 1, 1966. It can therefore be seen that the retrospective operation of this Bill is much shorter than that approved by Parliament for the original Act. In this case, it would be about 10 months by the time the Act was proclaimed. It does not seem unreasonable that a person with a considerable period of service should have the benefit of the greater entitlement in respect of the service he has given since the beginning of this year. This is a much shorter period of retrospectivity than was the period that Parliament agreed to in 1967. I therefore ask the Committee to vote against the amendment.

The Hon. R. C. DeGARIS: I support the views of the Hon. Mr. Potter. If my memory serves me correctly, in 1967 the qualifying period of service for long service leave was reduced from 20 years to 15 years. The question of retrospectivity could create injustices for some people. Because I believe that the idea of going back to October 1 (the beginning of a quarter) is reasonable in the circumstances, I support the amendment.

The Hon. R. A. GEDDES: We should remember the need to be consistent, and I

point out that the amendment is in line with the decision that was made in connection with new clause 3a. I therefore support the amendment.

The Hon. F. J. POTTER: The whole saga of long service leave started in 1957; under the Bill introduced in that year, long service leave was provided on an entirely different basis—it was at the rate of one day for each year of service after seven years service. That system commenced on July 1, 1958—the beginning of a financial year. After that legislation was repealed, the 1967 Act came into force. I do not recall whether any debate took place then on the question of retrospectivity, but there was a lengthy debate on the question of pro rata leave. After a conference, it was finally recommended that the old provision relating to a seven-year period should remain. So, there was some retrospectivity in 1967.

The Hon. D. H. L. BANFIELD: I oppose the amendment. At present it is simple for an employer and an employee to know what the starting date is in regard to long service leave. A person can work out that he is entitled to 4⅓ days a year in respect of the number of years he has worked since 1966. Prior to 1966, he was entitlted to only 3⅓ days a year. From 1973 he will be entitled to 6½ days for every year of service. I believe that the amendment will create too much confusion.

The Hon. R. C. DeGaris: It is easier to say that there will be three days long service leave for nine months.

The Hon. D. H. L. BANFIELD: But there is not three days long service leave for nine months: it will be 6½ days for 12 months. What is three-quarters of 6½ days? It can be seen how difficult it will be for a worker to calculate when the Leader himself cannot work it out.

The Hon. R. C. DeGaris: It is five days.

The Hon. D. H. L. BANFIELD: Not precisely.

The Hon. R. C. DeGaris: Near enough; it is 4⅞.

The Hon. D. H. L. BANFIELD: This interchange illustrates my point: someone will be touched. The confusion has been clearly illustrated by the Leader. Let us not have this confusion; let us be consistent and let long service leave start from the beginning of the year. In 1967 we went back 1½ years for retrospectivity, but we are now going back for only half of that period. I point out that sick leave starts from January 1 each year.

The Hon. A. F. Kneebone: It is the same with annual leave.

The Hon. D. H. L. BANFIELD: Yes, and this Bill should not be different in this respect. If the worker can be robbed of three-quarters of a year's long service leave, members opposite want to grab it. This is what the Hon. Mr. Potter has implied: "Never mind about the worker; let us think about the boss." In order that long service leave can be worked out consistently, I suggest that the Committee reject the amendment.

Amendment negatived; clause passed.

[*Sitting suspended from* 5.57 *to* 7.45 *p.m.*]

Clauses 6 and 7 passed.

New clause 8—"Employment during leave."

The Hon. A. F. KNEEBONE: I move to insert the following new clause:

8. Section 13 of the principal Act is amended—

(*a*) by inserting after the passage "or by any other person" the passage ", in relation to which his right to long service leave accrued";

and

(*b*) by striking out subsection (2) and inserting in lieu thereof the following subsection:

"(2) An employer shall not knowingly employ a worker for hire or reward in any employment in which, pursuant to subsection (1) of this section, the worker is prohibited from engaging."

I move this amendment in the light of the comments made by His Honour Judge Bleby in the judgment he delivered last week, to which I have previously referred. His Honour commented that section 13 of the Long Service Leave Act, which prohibits a worker from working during long service leave, could prove a stumbling block to the granting of long service leave to a part-time employee. The Government believes that long service leave should be used for its intended purpose, that is, to give workers a respite from their toil. There is no problem for the majority of the workforce, that is, those who have only one job. However, some employees find it essential, because of the low wages they receive or for other reasons, to engage in some part-time employment in addition to their normal work. The case that Judge Bleby heard concerned a baker who worked for a few hours each week as a part-time barman.

The purpose of the amendment is to limit the prohibition in section 13 of the Act that a worker shall not engage in employment during long service leave in substitution for the employment from which he is on leave. The intention is to enable an employee who undertakes part-time work, in addition to his normal full-time occupation, to be able to continue to

work in his part-time work while he is on long service leave from his main employment. Also, if he becomes entitled to, and is granted, long service leave in respect of regular part-time employment, he can still continue in his full-time employment while on long service leave from his part-time work. The phrase "in substitution for the employment from which he is on leave" has been in the Western Australian Long Service Leave Act since 1958, with no apparent problems, and it seems entirely appropriate to include it in our Act.

The Hon. F. J. POTTER: I support the amendment. In the second reading debate I pointed out the obvious difficulties that would arise in connection with section 13 if part-time workers were entitled to long service leave. I said I had examined the matter and could not devise any solution to the problem then. It appears that the same problem confronted Judge Bleby and, indeed, that it sufficiently provoked him to make the comment referred to by the Minister. This is a difficult situation, which I do not think the amendment will entirely cure. The main problem is that this matter cannot be policed to any great extent because, if a person is on long service leave, one does not know whether he is working during that leave.

I have no doubt the principle is that leave is granted for recreation purposes. However, if a person goes to another State and takes another job no-one will catch up with him. The whole purpose of section 13 is merely to sound a warning to people rather than to provoke a large number of prosecutions. Indeed, I do not know of one prosecution that has been launched under this section, and I doubt whether there will ever be one. The amendment, which I support, goes some way towards solving the problem.

New clause inserted.

Title passed.

Bill read a third time and passed.

INDUSTRIAL CONCILIATION AND ARBITRATION BILL

In Committee.

(Continued from November 7. Page 2738.)

The CHAIRMAN: I have before me a list of amendments which are to be reconsidered. With the leave of the Committee, I shall put the clauses in whatever break there is between the clauses that are agreed to. The first clause for reconsideration will be clause 6.

Clauses 1 to 5 passed.

Clause 6—"Interpretation"—reconsidered.

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

To strike out the definition of "declared industry".

I moved this amendment in the previous Committee stage but decided that it should be left until later because it was uncertain how we would deal with clause 91. There is no need for a definition of "declared industry", because the term is not used in the Bill. Instead of having an unnecessary definition, I move for its deletion.

Amendment carried.

The Hon. R. C. DeGARIS: Paragraph (*j*) of the definition of "industrial matter" states:

Any matter that is prescribed for the purposes of this definition.

Doubt has been raised about the meaning of "prescribed". Can the Minister say whether it means prescribed by regulation?

The Hon. A. F. KNEEBONE (Minister of Lands): Yes, it is for that purpose.

Clause as amended passed.

Clauses 7 and 8 passed.

Clause 9—"President and Deputy President"—reconsidered.

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

In paragraph (*a*) to strike out "the status of" and insert "the same rank, title, status and precedence as".

The Government has considered this matter, and I understand that the amendment I have moved is acceptable to the Leader.

The Hon. R. C. DeGARIS: I thank the Minister for anticipating my reaction, but he may be right and he may be wrong. This clause has worried me. It is a change from the old Code, but we are amplifying what "status" means. Although I should prefer to see the wording of the old Industrial Code, I do not object to the Minister's amendment. I do not think the Minister's amendment will make any difference to the amendment I shall move to clause 94.

Amendment carried; clause as amended passed.

Clauses 10 to 68 passed.

Clause 69—"Jurisdiction of committees"—reconsidered.

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

To strike out from the amendment the words "the application was first made to the committee" and insert "the matter first came before the committee".

This is a drafting amendment to deal with one or two technicalities.

The Hon. A. F. KNEEBONE: I accept the amendment.

Amendment carried; clause as amended passed.

Clauses 70 to 77 passed.

Clause 78—"Equal pay for males and females in certain circumstances"—reconsidered.

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

In subclauses (1), (2) and (3) before "Commission" wherever occurring to insert "Full".

The amendment will leave the knotty problem of equal pay to the Full Commission to decide. This will be in line with what occurs in other States and in the Commonwealth. Earlier, I believe the Government intimated that it was prepared to accept this amendment; I hope that is true.

The Hon. A. F. KNEEBONE: Although the Government would have preferred to leave the clause as it is, we are prepared to agree to equal pay matters being heard by the Full Commission, particularly as the conditions under which equal pay can be granted are being widened.

Amendments carried; clause as amended passed.

Clause 79 passed.

Clause 80—"Sick leave—employees under awards"—reconsidered.

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

In subclause (1) after "Every" to insert "full-time"; and to strike out "to whom this section applies".

Earlier, the Hon. Mr. DeGaris said there was a marked difference between the provisions of clauses 80 and 81 in respect of entitlement to sick leave: clause 80 provided for a period of accumulation of sick leave for people governed by an award, but there was no such right under clause 81, which covered people who might not have their conditions of employment governed by an award. There is therefore an invidious distinction between two sets of employees. I have solved the problem by proposing to strike out clause 81 altogether when we get to it and bringing the two matters under the one provision, clause 80.

The Hon. D. H. L. Banfield: Can you clarify for me the position of a part-time employee not covered by an award?

The Hon. F. J. POTTER: As far as sick leave is concerned, his position will have to be governed by contract.

The Hon. R. C. DeGaris: That is not covered now, anyway.

The Hon. F. J. POTTER: That is so. I am dealing merely with the present position: I am not trying to spread the net so that everyone who is not at present covered is included. By my amendments, all full-time employees will be entitled to this standard of sick leave. Earlier, I doubted whether we should be prescribing these kinds of conditions at all; perhaps they should be laid down in terms by the court. However, I do not propose to pursue that, because the Committee did not view that amendment favourably, although that was probably the best way to tackle the problem. If the Committee wants to leave it in this form, well and good. I have already made the point that we are now virtually providing sick leave entitlement that is double what is provided in the most generous awards.

The Hon. R. C. DeGaris: It could be more than double.

The Hon. F. J. POTTER: Yes, but at least we are doubling it to start with. The most generous provision for sick leave is in the Metal Trades Award. I hope that, by being as generous as we are in providing for unlimited accumulation, we may encourage people not to indulge in the habit that seems to be developing of people taking sick leave for odd sorts of reasons. I have been amazed by clients coming to see me saying that they have "taken a sickie" for the day to enable them to have time off. That is undesirable; it is unfortunate that it is happening all too frequently nowadays.

It may be that, psychologically, an unlimited accumulation of sick leave will do something to remedy that unsatisfactory position. If there is a limited entitlement, people are inclined to go the whole hog and ensure that they take it all; but, with an unlimited entitlement, they will perhaps use it for the purpose for which it is granted—a prolonged illness or an accident. In that hope, I have decided to leave the position as it is. If difficulties arise in the future and it appears that the scheme is being abused, I hope that this or any other Government will have the political courage to bring down remedial legislation.

The Hon. A. F. KNEEBONE: I do not oppose the amendment but what the Hon. Mr. Potter has said about sick leave is probably so. However, many employers, by agreement, have given unlimited accumulation of sick leave, and many employers give much more sick leave than is envisaged here. For instance, some give four weeks sick leave plus four weeks leave on half pay plus four weeks on quarter pay; so many employers are more generous than we are being here in respect of sick leave. What the Hon. Mr. Potter has said about people with a small allowance of sick leave taking it all and other people with adequate sick leave

not being so keen on using it to the full could prove to be true. I do not oppose the amendments.

Amendments carried.

The Hon. F. J. POTTER: I move to strike out subclause (6) and insert the following new subclause:

(6) This section does not apply to employees of a prescribed employer or to an employee who in the terms of his employment receives an allowance or loading in lieu of sick leave.

This is a consequential amendment.

Amendment carried; clause as amended passed.

Clause 81—"Sick leave—employees not under awards"—reconsidered.

The Hon. F. J. POTTER: As a consequence of what has been done, I suggest that the Committee vote against this clause.

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

Clause negatived.

Clause 82—"Granting of and payment for annual leave"—reconsidered.

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

To strike out subclause (4).

The provision goes further than prescribing annual leave, and I believe the Committee may very well decide to take the same stand in this respect as it took on the question of telling the court what to do in connection with shopping hours. At that time the Committee took the stand that the question of rates of pay was a matter for the decision of the court. In subclause (4) the court is being told what rates of pay must be awarded for annual leave. Of course, there are decisions on this matter from time to time. Indeed, only a few days ago a very generous decision was given in favour of payment for annual leave for people engaged in the milk-vending industry. This indicates that interpretations are made from time to time that may or may not be subject to appeal, and the question of rates of pay, whether for work or for leave, should be left to the court. If we strike out subclause (4), the matter can be left to the court under the terms of subclauses (2) and (3). What is more, if the Minister believes that the court is not approaching the matter realistically, under subclause (5) he can apply to the Full Commission for a determination of the general standard of the period of annual leave for the purposes of the provision.

The Hon. A. F. KNEEBONE: I do not agree with the honourable member. It is only fair and reasonable that, when an employee goes on annual leave, he should not receive a lower rate of pay than the rate he receives while working. Subclause (4) provides that an employee is not disadvantaged, and it seems to be quite fair. It should therefore not be struck out. All that is necessary is to divide the earnings in the previous 12 months by 52. It should be immaterial whether part of an employee's pay has been over-award payments or overtime payments. It is not unusual for some employees to work regular overtime, and it is only reasonable that they should not suffer loss of pay when they go on annual leave. Australia is one of the few countries where an employee does not receive, as his right, payments in respect of pro rata annual leave. There is no reason why an employee who is dismissed should be deprived of his accrued right to annual leave and pro rata leave. In many places a man who always does night work goes on his leave at the appropriate rate of pay. I therefore believe that the amendment should be rejected.

The Hon. R. C. DeGARIS: Subclause (4) is the contentious part of clause 82. It stipulates that an employee shall be paid annual leave at not less than his average weekly earnings for the preceding 12 months or at the award rate or his current weekly earnings at the time of commencing his leave, whichever is the highest. That provision could mean that an employee on annual leave during a slack period might receive a bonus, because his average weekly earnings might exceed the normal rate of pay for that period of the year. Conversely, in the furniture trade (an industry that closes down for the Christmas break) there may be a high rate of overtime prior to Christmas. The Minister talked about being fair and reasonable, but I submit that the cases I have referred to are neither fair nor reasonable. In connection with the annual leave cases, 1971, in the Commonwealth Conciliation and Arbitration Commission, Moore J., Williams J., Aird J., and Messrs. Chambers and Taylor made the following announcement:

We have considered the submissions put to us in the context of our prima facie expressed view that "an employee taking annual leave before going on leave shall be paid the amount of wages (or salary) he would have received in respect of the ordinary time which he would have worked had he not been on leave during the relevant period." (Annual Leave Cases, 1971, page 7.) Whatever may have been the manner of interpreting in Tasmania the provision to which we referred, we think that we can properly give effect to our view by making the following announcement:

1. We agree that the question of payment for annual leave should be considered award by award and we therefore deal only with general propositions. In

individual awards special circumstances may require some departure from the norm.

2. Generally speaking, it is not our intention to require employers who are already paying an annual leave bonus to pay both the bonus and the amounts which we suggest.
3. The items which we think should in the general run of cases be included in payment for annual leave are as follows: (Individual situation may require in particular awards the exclusion or modification of them or the addition of other items.)
   - Over-award payments for ordinary hours of work. We think that to include over-award payments in private industry would, apart from its inherent industrial justice, give effect to the view which we stated in our December decision that employees in the public and private sectors should as far as possible be treated alike. Because of the method of assessment of their salaries, many employees in the Commonwealth Public Service already receive when they go on leave what would be an over-award payment if they were in private industry.
   - Shift work premiums according to roster or projected roster, including Saturday, Sunday or public holiday shifts.
   - Industrial allowances.
   - Climatic, regional etc. allowances.
   - Leading hand allowances.
   - First aid allowances.
   - Tool allowances.
   - Qualification allowances.
   - Service grants.
4. The matters which we think should in the general run of cases be excluded from payment for annual leave are as follows: (Individual situations may require in particular awards the inclusion or modification of them or the exclusion of other items.)
   - Overtime payments.
   - Camping allowances.
   - Travelling allowances.
   - Disability rates, such as confined spaces and dirty work.
   - Car allowances.
   - Meal allowances.
5. The lists contained in clauses 3 and 4 do not purport to cover the whole field of matters which may have to be considered for either inclusion or exclusion as to a particular award.

The point is made very clearly that certain matters should not be taken into account in regard to annual leave. Should a camping allowance, for instance, be taken into account where it is virtually an expense of the employee? And what of travelling allowances if he has not got to involve himself in travelling expenses on annual leave? Disability rates for confined spaces and dirty work, car allowances, meal allowances—should they be taken into account? I believe the Hon. Mr. Potter is correct. Subclause (2) provides:

Such leave, or a payment in lieu of leave or proportionate leave on termination of employment, shall be granted in accordance with the requirements and subject to the conditions set out in the general standard determined by the Full Commission from time to time.

While laying down a certain formula which they believed to be right, the gentlemen of the Full Bench to whom I have just referred made the announcement in each case that individual situations may require in particular awards the inclusion or modification of them or the exclusion of other items. The Full Commission is the right place to deal with this matter. If we do not leave it with the Full Commission, and if subclause (4) remains, we will produce more anomalies and more injustices than if it is left to the decision of the Full Commission. I urge the Committee to support the amendment of the Hon. Mr. Potter.

The Hon. R. A. GEDDES: What would be the position in the case of employees of Broken Hill Associated Smelters at Port Pirie who receive the lead bonus and are entitled to overtime? When their holiday pay comes up, under the provisions of this clause they would be entitled to proportionate overtime plus their lead bonus under the agreement.

The Hon. A. J. Shard: I would be surprised if they were not getting it now.

The Hon. A. F. Kneebone: I think they get it now.

The Hon. A. J. Shard: They do at Broken Hill.

The Hon. R. A. GEDDES: I am asking the Minister about employees at Port Pirie. These men would be getting this added consideration of the lead bonus which we know has been granted for some years.

The Hon. R. C. DeGaris: The court may decide that.

The Hon. R. A. GEDDES: That is the point I am trying to make. The community of interest in Port Pirie is one where the employee at the smelters is in the happy position of receiving these added advantages, but the mechanic, the fisherman, the fishermen's co-operative, the timber worker, or the storekeeper has no community of interest in relation to the type of holiday pay in that city. The court could look at this problem regarding workers in Port Pirie if the Hon.

Mr. Potter's amendment is carried, not to give an equality amongst the work force, but so that those less privileged and unable to receive the lead bonus would be able to get a little bit of help when they go on holidays.

The Hon. A. F. KNEEBONE: According to my information, the lead bonus is paid to these workers when they go on leave.

The Hon. R. A. Geddes: And overtime?

The Hon. A. F. KNEEBONE: I do not know about overtime.

The Hon. G. J. GILFILLAN: The court sets down minimum standards, but this does not stop an employer from paying a bonus to any employee prior to his departure on leave. I am interested in the phrase "his current weekly earnings at the time of commencement of such leave". Does this apply to one pay period? It is a very vague definition. Could it apply just to one week?

The Hon. A. F. KNEEBONE: No, it covers the leave. I was interested in the honourable member's comment regarding the minimum standard. Unfortunately, the minimum becomes the maximum in the eyes of South Australian employer organizations. They instruct their members not to pay more than the minimum rate. There is no honour among employers, apparently, because when I was a secretary they used to come to me and say, "I cannot offer a man at someone else's place of employment extra money to come to me because of my agreement with my association. Tell him for me he will get over-award payments if he comes to us." It is interesting to hear this talk of the minimum. Employer organizations try to enforce the minimum award of the court. The Leader referred to the Commonwealth Arbitration Commission. The same situation applies there in relation to the attitude of employers in this State. This is why we try to do something more for the people covered by our legislation.

The Hon. C. R. Story: You get just as many scabs with the employers as with the employees.

The Hon. R. C. DeGARIS: Does the Minister believe it is fair and reasonable that an employee receiving a car allowance in relation to his job should have this included in the time when he is on annual leave? If he receives a meal allowance should this be included when he is on annual leave? They are two matters which have been considered by the Commonwealth Conciliation and Arbitration Commission. I do not believe it is fair that these payments should be included in any payment for annual leave. The employee is not bearing this expense while he is on leave.

The Hon. A. F. KNEEBONE: These things provided by the employer are not paid out of the goodness of his heart. They are paid because the employee is suffering a disability.

The Hon. R. C. DeGaris: It is not a disability when he is on annual leave.

The Hon. A. F. KNEEBONE: They give the extra payment because the employees are suffering the disability for the whole of that year. Surely, if the employee earns a living on that basis he should receive his leave on that basis.

The Hon. C. R. Story: They receive the employment on that basis, but not their leave.

The Hon. A. F. KNEEBONE: You are talking about allowances.

The Hon. D. H. L. BANFIELD: The crucial point is whether any honourable member would be willing to hand back his electoral allowance when he was absent from the State. This is exactly the principle that should apply in industry. A person who has received an award rate of $80 a week and $10 a week overtime becomes accustomed to spending $90 a week. All honourable members know that a person on annual leave spends more money during his period of annual leave. How, therefore, could a person go on annual leave if he was to receive only $80 during that period? We should not expect anyone to be at a disadvantage during his annual leave.

The point to which the Minister referred but to which the Hon. Mr. Potter did not refer is that subclause (4) provides that "such payment shall be made irrespective of the reason for, or manner of, such termination". It is not unusual for an employer to ask an employee, when he is so entitled, not to take his annual leave then but to take it later. This means, therefore, that although the employee may have earned his annual leave he must work another six months before being able to take it. If that employee is dismissed because of, say, a disagreement with his foreman, he is deprived of his annual leave, even though he may have been provoked by the foreman. This has been happening for some time and should not be tolerated any longer. Of course, it is not unusual for some employers to ensure that this provocation occurs so that an employee is deprived of these benefits.

The Hon. R. A. GEDDES: The Hon. Mr. Banfield should remember that many workmen in the State, particularly those in Northern District, including the cities of Whyalla and

Port Pirie, have for some time, because of problems of industrial unrest, been denied the right of overtime. The Hon. Mr. Banfield is riding on a rosy cloud of pious words in saying that he merely wants holiday pay to be at a maximum. Industrial problems exist in Australia, particularly in South Australia, and this legislation will increase those problems. In Port Pirie, for example, Broken Hill Associated Smelters Proprietary Limited, which has looked after children when they have left school, is no longer able, because of the problems in that industry, to continue employing them as it has done in the past. Also, because of the industrial unrest and problems being experienced in the shipbuilding industry in Whyalla, the overtime which was previously a bonanza in that city and which kept all sections of the industry buoyant has now slowed down completely. Honourable members should be realistic and let the court review the economic situation in each trade, not making the amount a man should receive as payment for his holidays more important than this State's economy.

The Hon. D. H. L. BANFIELD: The Hon. Mr. Geddes has clearly shown why these people should receive extra money during their holidays. He said that they are placed at a disadvantage because they are not then on overtime rates and, indeed, that the employees at Whyalla and Port Pirie would be in this category. The Hon. Mr. Geddes wants these employees, who may have been receiving overtime for 49 weeks of the year, to suffer during their annual leave period when they will not receive overtime rates. There is a slump in Rundle Street each January because people are on annual leave and are not then receiving as much money as they normally do. It is obvious that if one receives $60 less during one's period of annual leave one cannot spend that money in the shops. A man on annual leave is entitled to receive the same rate during his period of annual leave as he does for the remainder of the year.

The Hon. R. C. DeGARIS: The Hon. Mr. Banfield has not grasped the point of this debate: we are merely asking that the situation regarding annual leave should be fair. The Hon. Mr. Banfield said earlier that a person receiving $90 a week throughout the year should receive the same rate when he is on annual leave. No-one denies that in relation to this amendment: we are merely asking that if two employees who normally do the same job on the same basic rate of pay go on annual leave, one should not receive more than the other. As usual, the Hon. Mr. Banfield used much wind without using his powers of logic. An employee going on annual leave might have received a car allowance, whereas another employee might not, but they are doing the same job. A car allowance is worth $10 a week.

The Hon. A. J. Shard: How could they be doing the same job if one has a car allowance?

The Hon. R. C. DeGARIS: Of course they could be.

The Hon. C. M. Hill: One could be an inside salesman and one could be an outside salesman.

The Hon. A. J. Shard: But they wouldn't be doing the same job.

The CHAIRMAN: Order! Every honourable member will have the opportunity to speak.

The Hon. R. C. DeGARIS: The employee receives a car allowance because it costs him $10 out of his pocket a week to use his car. If he receives $90 a week, his wage is only $80. When he goes on annual leave, he should not receive $90 when his counterpart receives only $80.

The Hon. A. F. Kneebone: They couldn't be doing the same job.

The Hon. F. J. Potter: They might both be driving around in the one car.

The Hon. R. C. DeGARIS: Yes. That is one illustration that destroys completely the Government's argument. No-one is saying that these things cannot be taken into consideration. At least the Full Commission can apply its logic to the problem and bring down a realistic and reasonable answer. To leave subclause (4) in the Bill will produce a situation that is neither fair nor reasonable, nor will it be acceptable to most employers in industry. I ask the Committee to support the amendment.

The Hon. A. J. SHARD: Having had much experience as a trade union secretary, I know hundreds of people who do the same job but who receive different rates of pay. The more a breadcarter sells, the higher the bonus he receives; this was arranged years ago. Breadcarters go on annual leave at different rates of pay. A breadcarter receives one-quarter of his total previous four weeks wages when on annual leave. According to the amendment, they would all get the minimum wage.

The Hon. R. C. DeGaris: No.

The Hon. T. M. Casey: The Leader hopes the court will award the minimum wage.

The Hon. R. A. Geddes: Don't be silly.

The Hon. A. J. SHARD: An inside salesman and another salesman who receives a car

allowance are doing two different jobs and their working conditions are different: one is out in the weather, and the man inside on the minimum wage is better off than the man outside.

The Hon. C. R. STORY: The way goods are sold today is different from the way they were sold when the Chief Secretary was a breadcarter. I know of a firm that pays its salesmen on a commission basis: the more buns sold along with bread the more the salesman receives, but this should not flow on into his holiday pay. Some employees are provided with a car, whereas other employees are supplied with a telephone.

The Hon. D. H. L. Banfield: They don't have these things taken from them when they're on annual leave.

The Hon. C. R. STORY: Some employees are given a car, other employees are given a telephone allowance, and other employees are given certain incentives to sell, but when it comes to annual leave, the company arranges the matter across the board. In some of the bigger companies, such as those that sell pipe, the employees who work outside are given an allowance and the others who sit in the office are not, but they are on one level. It seems to me the Government members are trying to build up an argument that does not exist.

The Hon. A. F. KNEEBONE: As I said previously, where a minimum is set the attitude of the employer organizations is that the minimum shall be the maximum. The Hon. Mr. Story is voicing the opinions of the employer organizations, which want to reduce everything to a minimum. What about the salesmen who earn various wages or salaries by their selling ability? This clause takes care of that. The newspaper industry employs piece-workers on linotype machines, and they are entitled to holiday pay based on their average earnings over the year. The Leader wants the person going on annual leave to receive no benefit from the allowances he received during the year. The Leader read something from the Commonwealth sphere and was trying to lay that down as the standard for South Australia; but we want to give South Australia a better standard than exists elsewhere.

The Hon. R. C. DeGaris: But it is not a fair standard.

The Hon. A. F. KNEEBONE: Of course it is. Dirt pay and height money are not provided out of the goodness of the employers' hearts: those things were forced on them by the unions going to the court to get them, and they got the minimum. These employees earn what they receive each week, and they should continue receiving these allowances when on annual leave.

The Hon. C. R. Story: They get their normal take-home money while on annual leave.

The Hon. A. F. KNEEBONE: They do not. I have been trying to educate honourable members opposite on industrial matters ever since I first came into this Chamber, but they have not learnt a thing in that time. I know what the employers used to do.

The Hon. C. R. Story: Used to do?

The Hon. A. F. KNEEBONE: Yes, and they still do it.

The CHAIRMAN: Order!

The Hon. A. F. KNEEBONE: It happened then and it happens today: an employer says to an employee, "You are a good employee; you are worth $1 a week more than the other fellow but, when it comes to annual leave, you are not entitled to it because you are not working." If he is a good employee for 49 weeks, he is a good employee for the other three weeks. I know it is worse than useless trying to drum it into the minds of honourable members opposite that the worker is worth something, whether or not he is on annual leave. I know the attitude of honourable members opposite to the worker.

The Hon. A. M. WHYTE: In all the years of explaining industrial matters to us, the Minister has often said that people should be evened out, that the standard should not be set by the best man in the team. However, the Minister now says that, when employees go on annual leave, some of them should be given more pay than their workmates get.

The Hon. A. F. Kneebone: I have never said that all workers should be evened out.

The Hon. D. H. L. Banfield: The Hon. Mr. DeGaris said that.

The CHAIRMAN: Order! Any honourable member speaking in Committee has the right to be heard. If any honourable member has anything to say in reply, he has an opportunity of doing so; there is no limitation on the number of speakers. However, I insist that honourable members speak one at a time. The Hon. Mr. Whyte.

The Hon. A. M. WHYTE: I know of a building contractor who, realizing that all his employees do not live within a stone's throw of his premises, grants a travelling allowance for some of them to travel to work. They are no better tradesmen than the others who walk to work. Why should those people who are

given a travelling allowance have extra pay while on holiday? The Minister has spent many years telling us that the most progressive man in the team needs no more money.

The Hon. A. F. Kneebone: I have not said that.

The Hon. A. M. WHYTE: I do not think the Minister believes it for a minute, but it is the general opinion of the unions that people should be kept at the same level. I have not always argued against it, but now the Minister is reversing his position. Although I was not out of sympathy with the Minister at the beginning of this debate, the more he spoke the more he convinced me that the Hon. Mr. Potter's argument is correct.

The Hon. E. K. RUSSACK: It has been suggested by the Minister that many honourable members do not understand the leave entitlement that an employee should receive. There is one body that is capable of deciding that, for it understands it—the Full Commission. It is on that principle that this amendment has been moved—that it is not the responsibility of honourable members to decide this matter but that it should be left to the Full Commission to decide. For that reason, I support the amendment.

The Hon. D. H. L. BANFIELD: It is remarkable that, when an employee is morally entitled to something, the Opposition wants to ensure that the matter is decided by the court. We know very well that a person who has been receiving $5 a week in over-award payments needs those payments while he is on annual leave. He is morally entitled to the same income while on annual leave as the income he receives while working. In reply to the Hon. Mr. Whyte, I point out that it was Opposition members who said that people should be levelled out in this respect. The Hon. Mr. DeGaris asked why one employee should receive more than another employee received. Let us take the case of an employer who, because one of his machines is idle, offers a man an extra $10 a week to persuade that man to work for him. Does the Leader believe that that man should be deprived of that $10 a week while he is on annual leave?

The Hon. R. C. DeGaris: No.

The Hon. D. H. L. BANFIELD: Well, the Leader said that one man should not receive more than another man receives while on annual leave. Surely an agreement should be honoured when a man is on annual leave; that is exactly what subclause (4) means. The Hon. Mr. DeGaris wants to deprive men of over-award payments while they are on annual leave, simply because someone may have to be paid a living-away-from-home allowance while he is on annual leave. In the metal trades and on the waterfront it has been decided that the average over-award payment amounts to 17½ per cent, and the court has on occasions granted that percentage. So, we are arguing about the possibility of workers receiving about $12 extra a week while they are on annual leave, and Opposition members begrudge this to the workers.

The Hon. G. J. GILFILLAN: In the heat of the moment, the main point has been overlooked: this is a matter for the commission, not for Parliament. The whole point of the amendment is to keep awards and rates within the commission, where they should be, If tonight's debate has proved anything, it has proved that this is not the place where awards should be fixed.

The Hon. M. B. CAMERON: It seems to me that the Hon. Mr. Banfield has misinterpreted completely what the Hon. Mr. DeGaris had in mind. The Leader is not trying to deprive anyone of anything: his point is that the matter should be established through the proper channels. It seems to me that we are almost exchanging political philosophies tonight. I support the amendment.

The Hon. V. G. SPRINGETT: I, too, believe that this matter should be left in the hands of the commission, not Parliament. It would be a sorry state of affairs if we had to rely on proceedings like those we have seen tonight to decide how much a person should receive. I join with some other honourable members in saying that I am not anxious to see the workers lose one iota of what he should receive.

The Hon. D. H. L. Banfield: You are doing your best to deprive him of his rights.

The Hon. V. G. SPRINGETT: I am not trying to deprive anyone of anything. I support the amendment.

The Committee divided on the amendment:

Ayes (10)—The Hons. M. B. Cameron, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, C. M. Hill, F. J. Potter (teller), E. K. Russack, V. G. Springett, C. R. Story, and A. M. Whyte.

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

Majority of 6 for the Ayes.

Amendment thus carried; clause as amended passed.

Clauses 83 to 93 passed.

Clause 94—"Appeal to Full Court."

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

In subclause (1) to strike out "Except as is prescribed by subsection (2) of this section an" and insert "An".

There are two amendments on file, one from the Hon. Mr. Potter and one from myself. Although the first is mine, it is complementary to an amendment I intend moving for a new clause 95a. As one looks at the Bill in relation to appeals and references under Part VII, one can see that no appeal lies to the Supreme Court from the Full Court. I know this is the intention of the Government, and I come back to the argument in relation to the question of status. The Bill does not provide for any appeal from the Full Court to the Supreme Court. I believe this is wrong, because there could be matters of law that must be decided. I intend providing in new clause 95a that an appeal shall lie from any order or decision of the Full Court to the Supreme Court as defined by section 5 of the Supreme Court Act, 1935, as amended, by leave of that Full Court. No person will have the inalienable right of appeal to the Supreme Court. He can appeal to that court only by leave of the Full Court. I think that is perfectly fair and reasonable.

The CHAIRMAN: I think it will be necessary for the honourable member to amend his amendment, because it does not agree with the words printed in the Bill. The amendment says, "Except as is prescribed" and the word in the Bill is "provided".

The Hon. R. C. DeGARIS: I was working from an old Bill. I seek leave to amend my amendment by striking out "prescribed" and inserting "provided".

Leave granted; amendment amended.

The Hon. A. F. KNEEBONE: As the Leader said, the reason for this amendment is to provide for his subsequent amendment, therefore what I say regarding this amendment will cover this and the next amendment. We cannot agree to providing appeals from the Industrial Court to the Supreme Court. At least since the Industrial Code was passed in 1920 there have been express provisions providing that decisions of the Industrial Court and Commission shall be final. This is at present contained in section 53 of the Industrial Code.

The Leader is trying to introduce into this Bill something that has not existed for 52 years. There has been express provision that there shall not be an appeal from the Industrial Court. In this respect the South Australian Industrial Court and Commission are in the same position as the only two other industrial tribunals in Australia on which judges are members, namely, the Commonwealth Conciliation and Arbitration Commission and the New South Wales Industrial Commission. In neither of these cases is there any right of appeal from those Commissions to a higher tribunal. That is what we have here and what has existed since 1920. Why go back to 1920 to introduce something?

There has been no reason advanced why the practice which has been perfectly satisfactory for over 50 years should be altered. If the clause as proposed is inserted it would mean that not only could matters be taken to the Supreme Court, but from there they could be taken to the High Court or perhaps even the Privy Council, and this is completely contrary to accepted principles in industrial matters. I oppose the amendment.

The Hon. F. J. POTTER: It is true that, ever since the previous Industrial Code has been in force, there has been no specific right of appeal to the Supreme Court or any other court from the Industrial Court. However, I suggest that the provisions of this Bill are setting up a different kind of court from what has existed in the past. Secondly, there was in the previous legislation provision for that court to seek a ruling from the Supreme Court by means of a case stated. There was provision in the Code for the Industrial Court to state a case for the decision of the Supreme Court; in fact, that has been exercised on a number of occasions—not frequently, and usually at the request of a party when a difficult question of law has arisen. It is not in this Bill, and we have a court set up in a watertight compartment, answerable to no-one, and charged with some most important decisions.

True, as the Minister said, there is no direct right of appeal in other courts. However, that does not mean that questions of law arising in the Commonwealth court cannot be put right by the High Court, because they can. Here, however, not even a question of law can be determined, except by the full bench of the Industrial Court. I am aware that the procedures involved in seeking leave to appeal and actually appealing will be costly and time-consuming However, it is important that we should wherever possible preserve a right of appeal to a higher jurisdiction. The amendment ought seriously to be considered.

In principle, there is no doubt that it is fair and reasonable that one should have this right of appeal because, unlike the Supreme Court which has a Full Court comprising three

judges, the full bench of the Industrial Court, which will comprise only two judges, will finally determine all points of law. Because I do not consider that to be sufficient in the circumstances, I support the amendment.

The Hon. D. H. L. BANFIELD: It is significant that the Leader of the Opposition wants now to include in the Bill something that has not been in the Industrial Code for over 50 years. One wonders what are his motives, especially if one knows, as the Leader would, how expensive this type of action can be. It is obvious that he wants to break the trade union movement.

The Hon. R. C. DeGaris: That is not so.

The Hon. D. H. L. BANFIELD: Then why did the Leader not say why he wants to include in the legislation a provision that has not been in the Industrial Code for more than 50 years?

The Hon. R. C. DeGaris: This is a totally different Bill.

The Hon. D. H. L. BANFIELD: Of course it is, and employers are now getting a totally different idea of things: they are finding that they no longer have the teeth of which the Hon. Mr. Story spoke. The Hon. Mr. Potter said how expensive this process can be, saying that, if the amendment was carried, seven separate steps could be taken, each one of which would be far too expensive for the average trade union. However, these steps would not be outside the limits of employers. First, there would be an appeal to a single judge and then to the Full Court; then leave would have to be sought to appeal to the Supreme Court and, a decision having been obtained from the Supreme Court, leave would have to be sought to appeal to the High Court. If one wanted to proceed from there, one would have to state a case for a right of appeal to the Privy Council and, if one were given that right of appeal, one would have to appear before the Privy Council. These processes cannot be taken at no cost, or even at little cost. Because trade unions do not have money of this kind it is obvious that the Leader of the Opposition and the honourable members who support this provision want to break the trade union movement.

Although reputable people may not take advantage of this law, there are disreputable people on both sides who would do so. Indeed, some solicitors would be willing, in order to receive greater financial reward, to say that although one had lost a certain round one could take the matter further. A solicitor could tell his client that, because a Supreme Court decision was not as decisive as it could be, the matter could be taken to the High Court, and so on. Does the Leader think this is the correct way to conduct industrial matters? Does he think one should have the right to take these matters to the Privy Council?

The Hon. R. C. DeGARIS: I agree entirely with the Hon. Mr. Potter that we are dealing with an entirely different Bill from the Industrial Code. Therefore, a comparison of the two is not warranted.

The Hon. A. F. Kneebone: How is it different from those in New South Wales and the Commonwealth?

The Hon. R. C. DeGARIS: As the Hon. Mr. Potter said, one still has a right of appeal to the High Court on certain points of law.

The Hon. D. H. L. Banfield: But you are not restricting this.

The Hon. R. C. DeGARIS: If that is what the honourable member thinks, I am willing for him to amend the wording. New clause 95a, which I shall move later and which is the crux of this matter, provides that an appeal shall lie from any order or decision of the Full Court. The only matters that will be referred to the Supreme Court (and of this I am certain, otherwise I would not have chosen this wording) will be matters of law that will be referred by the Industrial Court.

The Hon. D. H. L. Banfield: What restricts this? You have given them an open go in other cases.

The Hon. R. C. DeGARIS: Yes, but the committee is now discussing questions of law, and the Industrial Court will be determining a whole range of new matters that it did not have to determine previously.

The Hon. D. H. L. Banfield: You haven't got that in the amendment.

The Hon. R. C. DeGARIS: I have, in that it is provided that the appeal to the Supreme Court shall be by leave of the Full Court. In other words, there is a saving provision that prevents any appeal concerning an award going to the Supreme Court. If a matter of law should be decided by the Supreme Court that court can so decide it. However, only a few appeals will be made to the Supreme Court, which could prevent the occurrence of a grave injustice.

The Hon. A. F. KNEEBONE: Although the Hon. Mr. DeGaris said there is no right of appeal, clause 96 provides for such a right.

The Hon. F. J. POTTER: That is true, but only to the Industrial Court.

The Hon. R. A. Geddes: To the same people.

The Hon. F. J. POTTER: Although it is to the same people, they will be sitting in a different jurisdiction. As one can see from clause 93 (1), the Full Court will comprise only two judges. An interesting parallel is that this court also deals with Workmens Compensation Act matters, under which there is a right of appeal to the Supreme Court. Therefore, one has a right of appeal in one jurisdiction but not in another, which seems inconsistent.

The Hon. A. F. KNEEBONE: According to my instructions, this can go further than the Industrial Court. This would give another chance to cause industrial strife. The Government's attitude and the trade union attitude towards the handling of industrial matters outside the Industrial Court are well known, and that is the only reason I can see for this kind of action. Industrial strife will occur in these circumstances, and the Opposition is out to get the back of the trade union movement up. I can only prophesy what will be the result of the actions of the Opposition.

The Hon. C. R. STORY: The Minister has made some harsh statements. I do not believe that his prophecy will eventuate. It is only a matter of the Minister putting a proper case, and I would have thought that he could give his own opinion on these matters instead of depending on advice.

The Hon. A. F. Kneebone: I am not a lawyer.

The Hon. C. R. STORY: The Hon. Mr. Potter is not noted for being an avaricious person or one who goes out to bait people industrially and the Hon. Mr. DeGaris does not go out to bait the industrial section of the State. We are trying to legislate in a quiet and proper way, and we have a good reputation because we do not get involved in the muck-raking that goes on in another place. The Hon. Mr. Potter was not trying to inflame an industrial situation nor does any other honourable member want to involve himself in any industrial situation, because it is in the welfare of this State that we go along on an even keel. The Minister should not have said that the Legislative Council will be held responsible for every strike and every industrial problem that occurs in the next year as a result of the amendment, which has not been explained away by the Government.

The Hon. F. J. POTTER: We are talking about an appeal from the court to the Supreme Court, not an appeal from the commission or a committee. It is clear that the only appeal on the question of excess or want of jurisdiction would be to the court under this Act. The Minister has amended clause 96 (*b*) by striking out the words "or before a court or tribunal competent at law to exercise powers of the nature of those arising upon a writ of *certiorari* in relation thereto". I do not know how we could get to another court on an appeal against excess or want of jurisdiction if we cannot have a writ of *certiorari*.

The Hon. D. H. L. BANFIELD: I appeal to the Opposition not to come down on the harsh side, but what is more harsh than having to take seven steps to the Privy Council.

The Hon. R. C. DeGaris: You're dragging red herrings across the path.

The Hon. D. H. L. BANFIELD: Can the Leader deny that the amendment opens the way for an appeal to the Privy Council?

The Hon. R. C. DeGaris: Yes.

The Hon. D. H. L. BANFIELD: How does the amendment prevent it?

The Hon. R. C. DeGaris: It may not be necessary.

The Hon. D. H. L. BANFIELD: If it is not necessary, why include the right? It would open the flood gates to allow for the seven expensive steps to be taken as far as the Privy Council. It is not for the Government to explain away the amendment, and the Leader has not explained it, either. He has not explained why the provision does not exist in New South Wales or why it has not been necessary here for the last 50 years. If we find next year that things are not working satisfactorily because there is no right of appeal, that will be the time to provide for it. In New South Wales it has not been necessary for such a clause to be included, and over the last 50 years it has not been necessary in this State, so why is it thought to be necessary now? Why not wait and see whether the system works in the next 50 years as it has worked in the last 50 years?

The Hon. R. C. DeGARIS: The Hon. Mr. Banfield's question has already been answered.

The Hon. D. H. L. Banfield: Tell us about New South Wales.

The Hon. R. C. DeGARIS: When the honourable member started on this, he quoted both the Commonwealth and New South Wales. I do not know what the situation is in New South Wales, but the Hon. Mr. Potter knows what happened in the Commonwealth sphere. The honourable member has already stopped referring to the Commonwealth sphere because it is possible to have an appeal to the High Court.

The Hon. F. J. Potter: I should like to be able to look up the position in New South Wales to be sure about it.

The Hon. R. C. DeGARIS: This is a totally different Bill. When the Full Court agrees that it should decide some point of law, we should provide avenues for that.

The Hon. D. H. L. Banfield: Why don't you restrict it to points of law?

The Hon. R. C. DeGARIS: I am prepared to consider that, but that is exactly what this clause does. If the Hon. Mr. Banfield will accept that that argument is reasonable, I am prepared to consider a redraft of the amendment. I assure him that this is what I believe the position to be. The Supreme Court will not buy into a series of things relating to awards and conditions.

The Hon. D. H. L. Banfield: It has got to if these things are referred.

The Hon. R. C. DeGARIS: It does not. There is nothing here to force the Supreme Court to hear an appeal.

The Hon. D. H. L. Banfield: Then why is it there?

The Hon. R. C. DeGARIS: In every jurisdiction that I know of, with the possible exception of New South Wales, an appeal in certain cases is allowed to the High Court or the Supreme Court. A compromise is possible here. The Hon. Mr. Banfield has already mentioned the possibility of compromise. I am sure he would agree that on points of law there should be an appeal from this court to the Supreme Court.

The Hon. A. F. KNEEBONE: The Leader said "on points of law". I am prepared to accept the amendment if the Leader moves to include those words. Let us see how genuine he is in his offer.

The Hon. R. C. DeGaris: That is exactly what the amendment does.

The Hon. A. F. KNEEBONE: It does not say so.

The Hon. R. C. DeGaris: I believe it does that.

The Hon. D. H. L. Banfield: Well, say it in your amendment.

The Hon. R. C. DeGARIS: Perhaps the Minister would allow the amendment to go through it as it is, or perhaps he will report progress to allow me to seek advice from the Parliamentary Counsel.

The Hon. A. F. KNEEBONE: I do not propose to report progress. Enough time has been spent on this Bill already. If the Leader is not genuine in his offer and is not prepared to amend his amendment, let us put it to the vote and see what the other place will do about it.

The Hon. R. C. DeGARIS: I am surprised at the Minister's attitude, for it would take me only a few moments to consult the Parliamentary Counsel and have a suitable amendment prepared. Alternatively, of course, we could discuss the matter later.

The Committee divided on the amendment:

Ayes (9)—The Hons. M. B. Cameron, R. C. DeGaris (teller), R. A. Geddes, G. J. Gilfillan, C. M. Hill, F. J. Potter, E. K. Russack, C. R. Story, and A. M. Whyte.

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

Pair—Aye—The Hon. Sir Arthur Rymill.

No—The Hon. V. G. Springett.

Majority of 5 for the Ayes.

Amendment thus carried.

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

In subclause (3) to strike out paragraph (*a*).

The amendment brings this clause into line with clause 95, which we amended during the previous Committee stage, when we struck out a provision relating to the right of the court to order fresh evidence to be taken on an appeal from the Industrial Magistrate. I want to make a similar amendment in connection with an appeal from a judge to the Full Court. It is unnecessary to have in this Bill what is virtually a re-hearing provision; if necessary, the matter could be covered under subclause (3) (*c*).

The Hon. A. F. KNEEBONE: I spoke on this matter yesterday. Although I do not agree with the honourable member that hearing fresh evidence is a re-hearing, nevertheless I am a realist, if nothing else. I realize that, if I could not convince the Committee on this matter yesterday, I will not be able to convince the Committee now.

Amendment carried; clause as amended passed.

Clause 95 passed.

New clause 95a—"Appeal to Full Court of Supreme Court."

The Hon. R. C. DeGARIS: I move to insert the following new clause:

95a. An appeal shall lie on a matter of law from any order or decision of the Full Court to the Full Court as defined by section 5 of the Supreme Court Act, 1935, as amended, by leave of that Full Court.

After consultation with the Parliamentary Counsel, I have included in the new clause the

words "on a matter of law". The Hon. Mr. Potter has said that under the workmens compensation legislation an appeal lies to the Supreme Court from this jurisdiction on a matter of law.

The Hon. A. F. KNEEBONE: The Leader has demonstrated that he was genuine in his offer. However, I am still opposed to the principle of the amendment, and I shall vote against it.

The Hon. D. H. L. BANFIELD: If I am nothing else, I am consistent. I oppose the new clause.

New clause inserted.

Remaining clauses (96 to 177), schedule and title passed.

Bill read a third time and passed.

ADJOURNMENT

At 10.34 p.m. the Council adjourned until Thursday, November 9, at 2.15 p.m.