LEGISLATIVE COUNCIL

Thursday, November 9, 1972

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

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Advances to Settlers Act Amendment,
Cigarettes (Labelling) Act Amendment,
Criminal Law Consolidation Act Amendment (Homosexuality),
Environmental Protection Council,
Lower River Broughton Irrigation Trust Act Amendment,
Metropolitan Adelaide Road Widening Plan,
Metropolitan and Export Abattoirs Act Amendment,
Renmark Irrigation Trust Act Amendment,
River Torrens (Prohibition of Excavations) Act Amendment.

QUESTIONS

WEEDS BOARD

The Hon. H. K. KEMP: I direct my question to the Minister of Agriculture, and seek permission to make a short statement.

Leave granted.

The Hon. H. K. KEMP: The Minister has been generally understood to have undertaken to go no further with the weeds board idea if the majority of district councils were opposed to it. I quote from a letter from the District Council of Onkaparinga:

From the analysis supplied to a recent meeting of council regional delegates with members of the Department of Agriculture it would appear as if the majority of councils are opposed to the scheme. Sixteen said they prefer the present system, seven said they prefer the present system and oppose the proposed board system, 28 rejected the proposed board system. These number 51 out of 73 replies. The District Council of Gumeracha put a very strong case recently and this council supports its letter.

Does the Minister intend to proceed further with the proposal?

The Hon. T. M. CASEY: As the honourable member knows, a Weeds Advisory Committee was appointed and its term of office was extended for a further 12 months to look at the whole question. I have not received a report from that committee, and until I do I cannot comment on the question.

INNAMINCKA

The Hon. A. M. WHYTE: I seek leave to make a short statement prior to asking a question of the Minister of Lands, representing the Minister of Environment and Conservation.

Leave granted.

The Hon. A. M. WHYTE: At the weekend, some conservationist friends of mine flew me to Innamincka to see at first hand a position which they and I consider to be of some importance to the State. We have had the problem of tourists who are not willing to play the game and look after our State as they should, but the problem I saw at Innamincka, to my mind, was of quite alarming proportions. The rather beautiful area that we traversed has been subject to a series of drillings for oil, gas, and so on, and some of the sites have been abandoned without anything being done to restore the environment to its original state. During the trip I took a number of photographs, which I shall be happy to pass on to the Minister, showing that heaps of rubbish have been left uncovered, and in some cases sludge pits with several feet of dry caustic sediment have been left open. In one case partly-used drums of caustic soda have been left uncovered and without tops on them.

As the Minister well knows, this is flood country and depends for its existence on the floodwaters of the Cooper Creek. Great areas are covered by floodwaters at times and eventually some of this debris and caustic soda will find its way into the picturesque and valuable waterholes along the river. This could result in the devastation of bird life and fish that abound in some of these water holes, many of which are permanent, despite the harsh environment of the country. It could and surely will, unless corrected, result in a loss of cattle to the pastoralists. Will the Minister pass on this information to his colleague and ask him to take the necessary action to correct the present position, and also to do his best to prevent similar loose misappropriations of our environment occurring in the future?

The Hon. A. F. KNEEBONE: I thank the honourable member for drawing this matter to my attention. He knows that I am interested in the area. I can hardly find words to express my abhorrence of what can only be described as the vandalism that has occurred in this area, which I view seriously and which I will bring to my colleague's notice.

The Hon. A. M. WHYTE: Will the Minister of Lands explain to his colleague that

no general discord exists between drillers, conservationists, and pastoralists? About 95 per cent of operators have complied with the requirements of the Mining Act and have worked in close co-operation with pastoralists. It has been suggested to me that a cheap and quick remedy is available, and this would seem necessary because of the possibility of the Cooper Creek flooding. The most dangerous of these polluted areas could be covered by a Highways Department bulldozer or grader during its next patrol, so that the worst of the present situation could be corrected. Perhaps the cost of this operation could be debited through the Minister of Environment and Conservation against those who have erred in not obeying the provisions of the Mining Act.

The Hon. A. F. KNEEBONE: I understand what the honourable member has said, but my comment about vandalism referred to open drums of caustic acid that are lying around and are a danger to bird life and to the health of itinerant people travelling through the area who may not realize the danger. If a flood passed through this area, the acid could be carried into permanent water holes and become an extreme hazard. That was my reason for referring to vandalism. Having spoken to pastoralists in the area, I know that some drillers co-operate extremely well with them. I did not generally condemn drillers, but only those who had not done the right thing. I will direct this further question to the attention of my colleague.

CHOLERA

The Hon. V. G. SPRINGETT: Is the Minister of Health satisfied that the risk to the State of the introduction of cholera by those who have recently returned by air from overseas is satisfactorily safeguarded?

The Hon. A. J. SHARD: I have not had a chance to talk to departmental officers on this matter but, according to the reports I have received, everything possible is being done. I have complete confidence that the Public Health Department (including Dr. Woodruff and Dr. Wilson, and all others dealing with the matter) will do the correct thing. In the limited time at their disposal, these officers have done a magnificent job in contacting as many people as they have contacted. I think they have contacted eight out of 14 people, which is very good. They are, therefore, doing everything possible and, as soon as I have an opportunity, I will discuss the matter with the department to make doubly sure that everything possible is being done.

DRAINAGE RATES

The Hon. M. B. CAMERON: Has the Minister of Lands a reply to the question I asked on November 7 regarding South-Eastern drainage rates?

The Hon. A. F. KNEEBONE: In the 1971 amendment to the South-Eastern Drainage Act, section 53 (7) provides:

> An appeal under this section shall not suspend the right of the board to recover rates under this Act but if in consequence of the hearing of an appeal it appears that any amount of rates has been overpaid, or paid by a person who is not liable to pay those rates, the board shall refund that amount to the person by whom it was paid.

As it can be seen, the Act provides that the rates must be paid and, if the appeal is successful, the amount of overpaid rates must be refunded by the South-Eastern Drainage Board. I am making a press release in the South-Eastern papers on this matter.

BREMER RIVER

The Hon. V. G. SPRINGETT: On August 30, I asked a question of the Minister of Agriculture, representing the Minister of Environment and Conservation, regarding the Bremer River. Has he a reply?

The Hon. T. M. CASEY: The Director of Environment and Conservation reports that the Bremer River has been sampled by the South Australian Mines Department in five places from north of Callington to Lake Alexandrina. In all places, whether above the mine or below it, the copper content was less than .05 parts a million. The available information is that the copper toxicity concentration for fish is about .5 parts a million, although lower concentrations may be lethal with prolonged exposure, and the limit of copper in water for human consumption is one part a million. The Kanmantoo copper mine uses a completely closed circuit from its main dam to a treatment plant and return. No liquid outflow from the mine can reach the tributary of the Bremer River, and a secondary dam has been built specifically to prevent this happening. The dams and pipeline are regularly inspected and the latter has warning devices so that the flow can be quickly shut down in the event of a pipe breaking.

It is most unlikely that any death of fish in the Bremer River is related to copper pollution from the Kanmantoo mine. However, preliminary studies by the Environment and Conservation Department show that the

pH of the water of the Mount Barker creek is low and this may contribute to the problem. Studies are continuing.

AFRICAN DAISY

The Hon. H. K. KEMP: I seek leave to make a short statement before addressing a question to the Minister of Agriculture.

Leave granted.

The Hon. H. K. KEMP: My question concerns the African daisy. Recently, considerable publicity was given to the subsidy promised to the Lions Club for weeding by hand a small area of African daisy. A press report since then indicates that this offer has now been withdrawn. I believe the Minister himself participated in that exercise and badly blistered his hands. I think the area involved was about 100 acres, but the Crown lands that are heavily infested with this weed amount to some thousands of acres. First, was this a test area to see whether hand-weeding was practicable? I should think it was a test area, because there could be no possible excuse for undertaking such a relatively small project except as a demonstration area. Secondly, is any other means of combating this pest being tested at present? Thirdly, has the control of African daisy by biological means been referred yet to the Commonwealth Scientific and Industrial Research Organization?

The Hon. T. M. CASEY: That is a difficult question to answer because it has so many parts. First, I have no blisters on my hands. Secondly, if the honourable member would like to join me next Sunday, I am sure we could do with his help, for I have no doubt he could pull more daisies than I could. Thirdly, the problem of the African daisy has been raised many times by the honourable member in this place and he knows as well as I do that it will be a difficult operation to eradicate it in the Hills area.

The Hon. H. K. Kemp: In fact, it is impossible.

The Hon. T. M. CASEY: I note that the honourable member says it is impossible, but at least we are doing something practical about it. We are demonstrating that something can be done, and we have been demonstrating that over the years, because the department has employed prison labour to pull the daisy.

The PRESIDENT: Order! There is too much conversation. The Minister is replying to a question.

The Hon. T. M. CASEY: The Adelaide Lions Club conceived a project by which it could benefit the Crown lands area in the Hills by pulling the daisy and at the same time be remunerated for services rendered. I commend the club for that. There is no suggestion that the Government has reduced or taken away any subsidy for the weeding of other places, because no grants or subsidies were made. It was a completely false statement that appeared in the caricature yesterday in the *News* and I understand that it was withdrawn in the later edition of the *News*, as it should have been. I have raised this matter at the Agricultural Council meetings by pointing out to the Commonwealth and other Ministers that this weed was causing a serious problem in the Adelaide Hills and asked that the matter be referred to the C.S.I.R.O. so that biological control might be implemented. I have not yet heard from the Commonwealth, but I am sure that the honourable member knows that this type of exercise is carried out in France and that similar measures have been undertaken in South Africa, the country from which this weed originated. I hope that the C.S.I.R.O. will realize the seriousness of the problem of controlling this weed, and make some effort to bring it under biological control. However, at this stage I have heard nothing from that organization.

PHYSIOTHERAPISTS ACT AMENDMENT BILL

The Hon. A. J. SHARD (Minister of Health) obtained leave and introduced a Bill for an Act to amend the Physiotherapists Act, 1945-1966. Read a first time.

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

That this Bill be now read a second time.

It provides for the recognition of diplomas in physiotherapy granted by the South Australian Institute of Technology. The standard of these diplomas is considered to be equal to that of the diploma of physiotherapy of the University of Adelaide, which has in the past been the academic qualification required for registration as a physiotherapist. The first diplomas of the institute will be granted at the end of the current academic year. Within a short time the institute diplomas will become the only diplomas issued, as the University of Adelaide intends to discontinue courses in physiotherapy. The provisions for temporary registration with the Physiotherapists Board are removed by the Bill. This form of registration, which covers the period between becoming eligible for the grant of a diploma and the conferring of the

diploma, has been a source of unnecessary cost and inconvenience to all parties concerned. A person now becomes eligible for registration as a fully qualified physiotherapist as soon as the diploma course is completed.

The restriction on the maximum fee that may be prescribed for registration has also been removed. The fee will in future be fixed by regulation without statutory restriction. This avoids the necessity of amending the Act when an increase in fees is needed to defray the expenses of the board. Clauses 1 and 2 of the Bill are formal. Clause 3 amends section 39 of the principal Act by providing that a person holding or entitled to hold a diploma in physiotherapy bestowed by either the South Australian Institute of Technology or the University of Adelaide will be eligible for registration by the board. Clause 4 repeals section 39b of the principal Act. This section provided for temporary registration of physiotherapists. Clause 5 amends section 42 of the principal Act by removing the restriction on the maximum fee payable to the board on registration.

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

LAND AND BUSINESS AGENTS BILL

Adjourned debate on second reading.

(Continued from November 8. Page 2813.)

The Hon. M. B. CAMERON (Southern): I do not wish to go much further in my remarks on the Bill. I notice that there are amendments on file, and they cover some of my objections to the Bill. In many country areas there is insufficient business for the two positions of land agent and land broker to be held by different people. I have received information from Mount Gambier, which is close to Victoria, that people in Mount Gambier are only too well aware through dealing with their clients of the unnecessary delays in and cost of the Victorian system of dealing in land. I have no doubt that this is the case. A significant number of land brokers will be placed in a difficult employment position in regard to their chosen profession (in some cases, chosen 30 years or 40 years ago) and many of them will lose their jobs.

In particular, country land agents and land brokers, as well as some in Adelaide, will be adversely affected, because they will not be able to earn a living as a land broker or a land salesman. It seems to me in studying the Bill and trying to assess the spirit of it, that the Bill is an attempt to transfer a considerable amount of the business now involved in land broking to legal practitioners. My suspicions are somewhat confirmed by clause 88 (3) (*b*), which states:

> Where the purchaser has before executing the contract sought and received independent legal advice.

In other words, the 48-hour cooling-off period will not apply where the purchaser has received independent legal advice. Clearly, most land agents will avoid the 48-hour cooling-off period, if possible, for the benefit of their business and to ensure that the business goes ahead without delay. I can see this provision being a major cause of the switching of business from land brokers to legal practitioners. I intend to study this matter more closely and am considering placing an amendment on file to delete this provision.

I do not believe that the Bill as a whole is a bad Bill, but the clauses in it which relate to matters that have been a way of life in this State for many years will not have my support. I support the second reading and look forward to examining the amendments that will be moved in Committee.

The Hon. T. M. CASEY (Minister of Agriculture): I have listened attentively to the speakers in this debate who covered certain ground extensively time and time again. As far as the Minister who introduced the Bill and the Government are concerned the measures in the Bill are designed to preserve the present economies existing in the system of land purchase in South Australia and, at the same time, to give to the general public improved protection from faulty and misleading practices. All the lies, mistruths and falsehoods being circulated by a small minority of people who perhaps think that the changes outlined in the Bill will drastically increase costs to the public will be proved untrue.

The Hon. M. B. Cameron: You can't guarantee it.

The Hon. T. M. CASEY: The Government will make a regulation that will fix the cost to the public of land transactions at about the level currently being charged by land brokers and solicitors. I remind honourable members that regulations must be laid on the table of both Houses and can be disallowed. If honourable members are not satisfied with the changes in costs, the regulations can be disallowed. It is as simple as that.

The Hon. M. B. Cameron: If we have no regulations, we have no guarantee.

The Hon. T. M. CASEY: Let us be sensible about this matter. If the Government intends to increase the fees drastically, any honourable

member or a member of another place can move for disallowance. That absolutely sinks the argument of honourable members who have said that costs will rise dramatically because, under this measure, they will not. Any honourable member can show his disapproval of any dramatic increase when the regulations are placed before Parliament.

Secondly, it is simple logic to realize that a land broker employed by the same real estate agent who is selling a property cannot act as a completely independent adviser to the purchaser. This is an irreconcilable conflict of duty. It is a conflict that no-one from the Real Estate Institute has tried to answer. It is a conflict that I have yet to hear adequately answered by members opposite. In referring to these obvious dangers involved with this conflict of interest, I refer to a judgment by the Chief Justice of South Australia in December, 1971, in *Jennings v. Zilahi-Kiss, Zilahi-Kiss and M. K. Tremaine & Co. Pty. Ltd.* In that case the purchaser, who thought he was buying self-contained flats, found that he had bought premises in which it was not permissible to have a stove, still less a kitchen, under the relevant authority's ruling, and he was left with something quite different.

Members interjecting:

The Hon. T. M. CASEY: I have listened to all other members, and I have listened attentively. I have had some personal experience of these things, just as the Leader has. What was important and significant about the case I have mentioned was that the situation arose simply because there was no independent advice or representation for the party to the transaction. In his judgment, the Chief Justice said:

In addition, the defendant company through Coombe was in effect proposing to act in connection with this transaction for both the vendor and the purchaser. The undesirability of this has often been pointed out by courts and, in my view, it is not only undesirable but wrong, whether the adviser in question is a solicitor or a land agent. It is impossible for the same person to give satisfactory service as the confidential and expert adviser of two parties with conflicting interests. The man who undertakes to serve two masters may easily find himself in a position where he must be false to one and possibly to both.

I defy any member in this Chamber to say that that is not true. It is a fact of life.

The Hon. R. C. DeGaris: I know it is.

The Hon. T. M. CASEY: I am pleased the Leader agrees with me. It would be the first time the Leader has ever said that there must be a conflict of interest.

The Hon. R. C. DeGaris: I didn't say that.

The Hon. T. M. CASEY: Yes, the Leader did. The matter is discussed in emphatic terms in other cases. The learned Chief Justice, after referring to other judgments, said:

No doubt the practice will continue whatever judges say: but I hope that these proceedings will bring home to this company at least the realization that acting for both sides may entail financial disadvantages which far outweigh the trifling remuneration for drawing up the settlement documents and attending at the settlement.

I have been quoting a judge's ruling in a case, and honourable members cannot dispute it, because what he said is perfectly true.

The Hon. Sir Arthur Rymill: Do you think a ruling in one case applies to every case?

The Hon. T. M. CASEY: Not necessarily, but I think he is covering the generalization, the whole field. I refer also to the comments of Justice Zelling in the case of *Ellul & Ellul v. Oakes* on May 4, 1972. His Honour said:

It is high time that the citizens of this State were given the same protection in relation to real property transactions as applies everywhere else in the Commonwealth.

The Hon. M. B. Cameron: At the same cost?

The Hon. T. M. CASEY: Justice Zelling gave a ruling, and on this occasion honourable members opposite chuckle about it.

The Hon. D. H. L. Banfield: And last night they wanted the court to decide everything. They are wrong again.

The Hon. T. M. CASEY: The judgment continues:

No doubt this suggestion will be greeted by cries that the cost of property transactions will be increased by solicitors' scale fees. There are two answers to this: first, that conveyancing costs in this State are not governed by scale fees but by itemized charges taxable in the ordinary way by the Masters and like all other rules of court subject to disallowance by Parliament; secondly, that whatever the cost involved it would be minuscule compared with the cost of a verdict for $550 and the costs in two courts with which the unfortunate respondent in this case finds himself saddled. In my experience the present is not an isolated case.

The Hon. C. R. Story: Did the Minister write all this himself or are those the words of the Attorney?

The Hon. T. M. CASEY: I have quoted the words of Justice Zelling, and these are my comments. If the honourable member does not believe me he should read the whole of the judgment.

The Hon. C. R. Story: Only the funny bits have been picked out.

The Hon. T. M. CASEY: I do not think they are funny. They are most relevant.

Nothing has been taken out of context in quoting from Justice Zelling or from the Chief Justice.

The Hon. C. R. Story: Did you write it?

The Hon. T. M. CASEY: Of course I did.

The Hon. C. R. Story: Did you write the document?

The Hon. T. M. CASEY: It is a typed document, but I wrote the preamble. These comments point out very clearly the need to give the general public greater protection. It is not the purpose of this legislation to attempt to introduce a system similar to that operating in other States. I hope that spells it out. We have a good system operating in this State. Honourable members are claiming that it is going to be changed, but it is not going to be changed.

The Hon. C. M. Hill: Oh, cut it out.

The Hon. T. M. CASEY: I am talking about the system, not the application of it.

The Hon. F. J. Potter: What is the difference between the system here and elsewhere?

The Hon. T. M. CASEY: The Bill endeavours to provide the sort of safeguard that the judges had in mind in the cases I have mentioned, within the ambit of the existing system in South Australia. Some critics have said there has never been a complaint in 111 years. Many members have said this.

The Hon. C. M. Hill: A proven case.

The Hon. T. M. CASEY: They said there was never a complaint. Honourable members should read *Hansard*. The Hon. Mr. Cameron said it last night and the Hon. Mr. Story said it two or three times. Do members realize that in this State there is no machinery for investigating complaints against land brokers? Unless the land broker is a licensed land agent there is no authority that can do anything about him. The Hon. Mr. Hill will bear me out. This is quite true.

The Hon. C. M. Hill: No, it is not true.

The Hon. T. M. CASEY: There is no machinery for investigating complaints against land brokers. Unless a land broker is a licensed land agent there is no authority that can do anything about him. That is the point I make, and the Hon. Mr. Hill will agree.

The Hon. C. M. Hill: No, I will not agree.

The Hon. T. M. CASEY: When complaints are received at the office of the Registrar-General, the practice is to shrug the shoulders and say, "We have not got any machinery. You had better go to the Real Estate Institute and make a complaint there." That is the procedure that exists in South Australia.

The Hon. C. R. Story: Are you reflecting on the institute, saying that it does not do its job?

The Hon. T. M. CASEY: I am not reflecting on anyone.

The PRESIDENT: Order! I ask the Minister to take his seat while I am speaking. The Minister is replying to the debate. I have tried to give every other member an opportunity to speak. Now the Minister is replying, and I ask for order while he does so.

The Hon. T. M. CASEY: In the past 12 months in the Lands Titles Office six separate occasions can be identified on which complaints have been made. How many that would mean in the past 111 years, I could not hazard a guess. They have not been followed up. It was simply sent to the Real Estate Institute or some other body. In recent weeks, since publicity has been given to the matters contained in this Bill, many people have come forward with specific examples of the problems that this Bill is endeavouring to stop. The Hon. Mr. DeGaris has referred to some of these examples, which the Attorney-General has already made public. I will give the Council yet another example that the Attorney-General gave recently.

It is amazing that the public is apathetic in relation to business dealings. I have had experience, even in minor roles, of purchasing goods that have turned out to be inferior. I have returned them and demanded that I be given the type of goods to which I thought I was entitled when I purchased them. I was ridiculed by the people from whom I purchased the goods, until I told them who I was, when they nearly fell over backwards. Many people do not like to make complaints, because they are afraid someone will find out they have made a mistake, which they do not like to think they have done.

The Hon. C. R. Story: Fancy pulling rank on the poor people.

The Hon. T. M. CASEY: I did not pull rank. I thought my action was justified in the circumstances. The Attorney-General received the following letter from a gentleman who wrote to the Law Society:

"I was very interested in the item in the *Advertiser* dated August 24, 1972, concerning land brokers and land agents, because of my own experience in purchasing a property when I first came to live in South Australia nearly two years ago. I had previously owned and transferred property in the United Kingdom, Tasmania and Queensland, and was completely astounded at the way in which the transfer of the property I at present own was conducted. The land broker was employed by

the seller's agent, and the treatment I received at the hands of this land broker is almost unbelievable. My purchase of the property concerned was a cash one, obviously involving some thousands of dollars, and the business was conducted as if I were buying a pound of potatoes across the counter in a greengrocer's shop.

I have in my possession the land broker's account wherein he makes a charge for "preparation of transfer and attendance at settlement". The "attendance at settlement" consisted of a junior clerk handing me a sealed envelope, despite the fact that I had, at the request of the land broker, kept an appointment to meet him at this office to complete the business in question. The land broker and the agent between them had taken out an insurance of $17.75, which was charged to me on the land broker's account, and at no time had I been consulted as to whether I wished to have such an insurance taken out on my behalf. Further, the policy was quite useless, as the property would have been grossly over-insured. Subsequently, I received an account from the water and sewerage department demanding payment for excess water consumption which should have been sent to the owner of the property and which should have been adjusted at settlement.

On each occasion on which I attended the office of the land broker I was received at the counter of the outer office by a junior, and at no time did I see either the land broker or his qualified assistant, and have not done so to this day. At no time was I interviewed in any private office, and at no time were my wife (who attended with me) or I offered a seat. I was a complete stranger to South Australia and could not believe that this was the normal way in which business was conducted, but, when I wrote to the land broker making complaints at the treatment, I had letters in return which I consider to be couched in insulting terms.

This Bill and the measures contained in it are an integral part of the Government's overall plan to give the general public of South Australia adequate consumer protection—protection against the evils that arise from having matters attended to by brokers who, by reason of their employment, cannot do their job because they are serving two masters with conflicting interests. It is of considerable importance to the people of the State that this measure must be passed in its present form.

I understand that when this measure was first mooted a gentleman came to this State from Queensland and wrote in glowing terms about the situation. However, I understand that Dr. Wilson from Queensland did not contact the South Australian Government when he was in this State. The Attorney-General even wrote to him explaining the true nature of the Bill, but the Attorney has never received a reply from him. Much skulduggery has occurred behind the scenes in relation to this Bill. The case of Dr. Wilson, to which I have referred, is just one example.

I ask honourable members to sum up what the Government is trying to do. It wants to give the maximum possible protection to the public. Many people (indeed, most people) who conduct land transactions in South Australia are completely honest. Many of these people are good friends of mine. On the other hand, many people in this line of business are unscrupulous in their attitude to the general public.

The Hon. C. M. Hill: That is not so.

The Hon. T. M. CASEY: It is.

The Hon. C. M. Hill: Not in broking.

The Hon. T. M. CASEY: Does the honourable member say "land agents"?

The Hon. C. M. Hill: I said there were some in relation to land agents, but what you have just said is not true.

The Hon. T. M. CASEY: I will dispute that with the honourable member, because this only goes to prove that one cannot serve two masters.

The Hon. R. C. DeGaris: A solicitor can.

The Hon. T. M. CASEY: One cannot do so unless one has two faces. I am not talking about any other generalities. If honourable members want to discuss generalities, they can do so later. The point is that one cannot serve two masters. The matter of costs has been adequately covered. I could mention many cases that have been referred to in the press and in another place where people, knowing that this measure was before Parliament and not being afraid to state what had befallen them in their property transactions, had come to the fore. Had this measure not come before Parliament, these people would not have done so. However, they are now doing so in increasing numbers.

The Hon. C. M. Hill: How many?

The Hon. T. M. CASEY: I cannot say.

The PRESIDENT: I suggest that the honourable Minister address the Chair and not worry about interjections.

The Hon. T. M. CASEY: Thank you, Sir. In view of the increased number of people who are coming forward, knowing full well that they will obtain protection under a measure of this kind, honourable members opposite will realize that something is being gained for the public of this State by this Bill, and I therefore ask honourable members to support it.

Bill read a second time.

In Committee.

Clauses 1 to 14 passed.

Clause 15—"Entitlement to be licensed."

The Hon. R. C. DeGARIS: I have an amendment to this clause. For several days, the Committee has been dealing with the Industrial Conciliation and Arbitration Bill, to which there were many amendments, and my amendments to this Bill are not yet on file. Also, the Minister's reply to the second reading debate may well have changed the views of some honourable members. Therefore, I ask that progress be reported to enable the proposed amendments to be re-examined.

Progress reported; Committee to sit again.

PLANNING AND DEVELOPMENT ACT AMENDMENT BILL (GENERAL)

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

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

That this Bill be now read a second time.

This is the third amendment to the Planning and Development Act introduced by the Government during the current session. The two previous Bills dealt with urgent matters of a specific nature. This Bill deals with a miscellany of amendments to various parts of the Act. It provides for new powers relating to the control of development and land subdivision, the introduction of objector appeals, new provisions regarding finance, and a number of matters relating to administration and procedure.

The Government is aware of widespread concern about the effects of scattered building development and land subdivision in the rural areas of the State, particularly those adjoining Adelaide and the major country towns. Urban development of this kind poses a threat to efficient primary production and quickly destroys the predominantly rural character of an area. Most importantly, if allowed to continue between Adelaide and the proposed Murray New Town, such activity could destroy the open rural character of the beautiful Mount Lofty Range which lies between. One of the fundamental concepts of Murray New Town is that it will be physically separated from the built-up area of Adelaide. As a development plan covering this area will not be completed for quite some time, there is nothing to stop haphazard development adjoining the highway between Adelaide and Murray New Town. The Government proposes that more effective control in rural areas be achieved in two ways: firstly, by extending interim development control powers to control building development; and, secondly, by giving the Director of Planning additional powers to control land subdivision.

At present, interim development control under section 41 of the Act is limited to the Metropolitan Planning Area. It is proposed to delete the reference to the Metropolitan Planning Area, thus enabling the Governor by proclamation to declare that any land within any planning area shall be subject to interim development control. All parts of the State are now included within a planning area, and development plans are in course of preparation or have been authorized for each of the 12 planning areas proclaimed. The Government proposes to introduce interim development control immediately for the area between Adelaide and Murray New Town. Other country towns, too, will benefit where such controls may be necessary in lieu of zoning by-laws made under the present Building Act, which is shortly to be repealed.

The additional powers to control land subdivision are threefold. First, it is proposed to extend the overall control of land subdivision in the Act to any allotment of 30 hectares (74 acres) or less. The present limit is 20 acres. There have been frequent references in this Council to the conditions arising in the Mount Lofty Range owing to the unrestricted subdivision of land into allotments in excess of 20 acres. The Commissioner of Highways is concerned at the creation of 20-acre allotments which have a narrow frontage to main roads merely to enable undesirable development to gain a frontage to that road. There are also other examples to be found, particularly along the Murray River, where a lack of control of allotments greater than 20 acres has resulted in the division of farm land into large allotments having a narrow frontage to the river and connected by a narrow strip to the major part of the allotment some distance back from the river. These devious designs enable shacks to be built close to the river, possibly on land subject to flooding, and the owners can avoid having to set aside a public reserve and access road along the river frontage as required by the Act.

The second measure to strengthen the land subdivision controls in the Act is designed to prevent the sporadic spread of urban-type subdivisions in rural areas. It gives the Director of Planning power to refuse a plan if the land being divided does not form part of a compact extension to an existing township. Thus, the measure will safeguard rural land against sporadic development. As the provision can

create some hardship if it is rigidly administered, the Government proposes that the Director, as a matter of policy, should administer this new power in the following manner, pending the preparation of planning regulations. The owner of any allotment will be permitted to divide that allotment, provided that the applicant can prove to the satisfaction of the Director of Planning that each allotment proposed to be created will comprise, and be used for, an independent economic unit for the business of primary production.

In order to provide for the needs of a farmer wishing to allow, for example, his son or relative to build a house and secure a separate title for that house, it is proposed that the Director of Planning shall approve plans submitted by owners of land held in a single current title existing at the date this amendment comes into operation which create only one additional allotment not greater than one hectare in area. Such allotment will be approved provided that the remaining area of land in the original title can be proved to be an economic unit for the business of primary production, and that such an allotment is created prior to any further subdivision or resubdivision of the land. Where an owner of any allotment wishes to obtain separate titles for houses already existing or under construction on the land at the date the amendment comes into operation, the Director will approve the creation of allotments no greater than one hectare in area, provided that each allotment so created contains at least one dwellinghouse. The Government considers that this policy is fair and reasonable and is in the best interests of all rural landholders who are genuinely anxious to maintain primary industry on a sound basis.

The final major provision relating to the control of land subdivision concerns the division of land in the hills face zone within the Metropolitan Planning Area. At present, the Act requires the Director of Planning to refer any plan of subdivision to the State Planning Authority if the land is located within the hills face zone. The authority must report to the Director whether the plan conforms to the purposes, aims, and objectives of the Metropolitan Development Plan, which are primarily to prevent the natural character of the face of the range from being impaired. The report accompanying the plan of subdivision recommends that land within the zone should not be divided into areas of less than 10 acres and of a lesser frontage than 300ft. Thus the authority has had to study each application submitted to it and make a reasoned judgment on whether the location and nature of the subdivision would be likely to impair the face of the range.

There has been public concern regarding the use of this discretion by the authority, so the Government intends to make it mandatory that no allotment of less than those dimensions shall be created in future within the zone. It is also intended to put a stop to the increasing number of attempts to create allotments along private roads or thoroughfares within the hills face zone. There are many such roads in the zone and most of them are entirely unsuitable for development purposes. This new provision will to some extent lighten the burden of the Director in relation to hills face land. No appeal will be possible under this provision in the Act.

I will now deal with some of the other new powers introduced in this Bill. The Queenstown project has highlighted a problem that the Government strongly considers ought to be resolved as soon as possible. Local councils have in many instances complete jurisdiction over the development of their individual areas, and they may accept or reject a particular project without regard to the effect that project might have beyond the immediate council area. It has become apparent that a major shopping complex, for example, can have a far-reaching effect on its surrounding environs and that, as neighbouring council areas have no rights in the matter, the scheme ought properly to be considered by an independent body. The Government therefore intends to give the State Planning Authority power to step in in such a case and decide the application in lieu of the council.

The planning authority will consider the proposed scheme in the light of the community as a whole, and will make its decision having regard to the advantages or disadvantages to all affected areas. The planning authority will only be invested with this power upon a proclamation of the Governor made in each separate case. It is intended that local councils should be able to require roadways in new subdivisions to be constructed to a greater width than the minimum of 7.4 m (24ft.) specified in the present Act. It is desirable that this action be taken so that those roads which are likely to be used by buses or by heavy transport vehicles in industrial-type subdivisions should be constructed to a greater width at the initial expense of the subdivider. It is intended that the maximum width of construction shall be 14.8 m (48ft.).

The Government intends to remove the restriction at present in the Act that prevents the authority from subdividing land held by it, except where the land is needed for redevelopment. The authority is the purchasing body of land for Murray New Town, and it is desirable that the authority should be able to divide land held by it. The Government also contemplates that it may be necessary for the authority to buy land, and subdivide it into residential allotments for sale to the public at cost, as a means of curbing the increasing price of land.

I come now to the question of objector appeals. This matter has been considered carefully by the Government, and the Director of Planning was asked to make special studies in other States of Australia and travel to New Zealand in order to determine the best possible procedure. The Government intends to grant a right of appeal to those persons who are eligible to object to any proposal under planning regulations, if they are aggrieved by a decision of a local council or the State Planning Authority to grant consent to that proposal. At present, it is held that a right of appeal exists only for an aggrieved applicant, and the Government has concluded that it is fair and just to give a right of appeal to persons who claim their interests are affected adversely by permission being granted for any development to proceed.

The problems associated with urban development are becoming more complex, and much ill feeling will be overcome by giving both applicants and objectors the right of appeal to the Planning Appeal Board. Providing such a right of appeal for objectors may cause a considerable increase in the number of appeals lodged with the board. Delays can be onerous and costly and give rise to undesirable practices by objectors. The Government has already foreshadowed such an increase in the number of appeals to the board and made provision for an enlargement of its membership.

Some safeguards are needed to prevent a multiplicity of frivolous and time-wasting appeals, and it is intended to give the Chairman of the board or an associate chairman power to decide whether an apparently vexatious or trivial appeal should proceed. It is also intended that the board be given the power to award costs when it thinks fit. The purpose of an appeal is to review a decision made previously by the appropriate authority. It is proper therefore that only those persons who lodge objections at the appropriate time should be allowed to appeal against any consent given. Provisions are included to ensure that a developer is not held up unduly, having received a favourable decision, and that he is aware of the date upon which he is free to proceed with his development without any risk of an appeal being lodged.

It is intended to increase the payments in lieu of land when a small number of allotments are created in plans of subdivision or resubdivision. At present, a subdivider within the Metropolitan Planning Area pays $100 an allotment into the State Planning Authority's Planning and Development Fund when 20 allotments or less are being created. It is intended that the payment of $100 an allotment be increased to $300 an allotment. No increase is proposed in country areas. However, in both cases the size of allotment to which the provision applies is to be enlarged from 2 acres to 1 ha (2.47 acres).

As the Act now stands, there is a distinct advantage to the developer of a subdivision that has 20 or less allotments. At the most he would have to pay $2,000 into the fund. The developer who creates more than 20 allotments has to give 12.5 per cent of the land as open-space land. At the least this would be equal to 2½ allotments, which obviously in most subdivisions would be worth considerably more than $2,000. It is hoped that, by increasing the amount of the contribution, the position of the developer of 20 or less allotments will be equalized with that of the developer of more than 20, and that, in comparison to payment, the provision of open-space land will become an economic proposition and therefore a more frequent occurrence.

Consideration has been given to relating the amount payable in some way to the value of the land, but investigations have shown that the administrative measures necessary to achieve an equitable system would be lengthy and cumbersome. The payment of a sum for an allotment applies to the smaller types of subdivision and resubdivision where, for example, only one or two allotments are to be created. A quick decision is necessary in such cases. To relate the amount payable to land value would require extensive valuation procedures and possible rights of appeal against such valuations. The estimated effect of the provision will be to increase revenue from this source from about $100,000 to $300,000 a year.

This sum is necessary to finance the State Planning Authority's expanding land acquisition programme for open space. A complementary amendment is intended to the Real Property Act relating to the amount payable when strata

titles are issued. The Bill provides that councils can make payments into the Planning and Development Fund. There is doubt at present whether a council can pay moneys into the fund, if, for example, a council wished to join with the State Planning Authority in acquiring land for redevelopment or sharing the cost of compensation to preserve trees or historic buildings. The Bill also contains various amendments that give effect to the Government's concern with conservation and environmental matters. The Planning Appeal Board and the State Planning Authority will be required to consider conservation of the environment and prevention of pollution when making a decision on various matters arising under the Act.

The Bill contains several amendments relating to administration and procedure, and I will explain each of these as I deal with the clauses of the Bill in detail. Clause 1 is formal. Clause 2 fixes the commencement of the Bill on a day to be proclaimed. Clause 3 is a consequential amendment to the arrangement of the Act. Clause 4 amends certain definitions. The definition of "allotment" is clarified. The existing wording enables a person who deposited a plan of a lease before the commencement of the principal Act to request the Registrar-General to issue separate titles for the defined areas in the lease. This, of course, was never intended and is contrary to the intention of the principal Act. The definition of "plan of subdivision" is extended to include plans that create allotments of 30 ha or less. The out-dated definition of "Land Office plan" is substituted with a definition of "public map".

Clause 5 deals with delegation. The authority is given the power to delegate either to the Chairman or the Secretary its powers in relation to considering applications for approval under planning regulations or interim control provisions. It is impracticable for the full planning authority to consider all the numerous straightforward applications that come to the authority from day to day. The authority is also given the power to delegate to a panel consisting of the Chairman and two other members of the authority its functions in relation to hearing objections to proposed planning regulations. The panel will then report to the authority and the authority will make the decision on the objection.

Clause 6 restates the right of appeal to the Planning Appeal Board by any aggrieved applicant who has been refused some consent, permission or approval under the principal Act. Clause 7 clarifies the position regarding the time within which the various rights of appeal to the board must be exercised. The board is directed, when making a decision, to have regard to the health of the community as a whole, not only within the locality under question. The board must also have regard to conservation of the environment of the particular locality and prevention of pollution. Clause 8 directs the authority, when examining and assessing the development of a planning area, to have regard to the prevention of pollution and conservation of the environment. Clause 9 directs the authority to make copies of authorized development plans available for purchase by the public.

Clause 10 ensures that consent must be sought for resubdivision, as well as subdivision, of any zone defined for that purpose by a planning regulation. The authority is given power to delegate its powers and functions under a planning regulation in relation to a council area to any person or group of persons. Thus, for example, a single person can be sent to remote areas on behalf of the authority. The authority will also be able to set up committees to investigate and deal with particular problems. This clause also provides that where any consent, permission or approval under the principal Act is given subject to conditions, those shall bind all future owners of the land to which the conditions relate. For example, the authority may grant permission for a building to be erected, subject to the condition that a belt of trees in front of the building be maintained. As the Act now stands, the next owner of the land is under no obligation to maintain that belt of trees.

Clause 11 enacts two new sections. New section 36a gives a right of appeal to the Planning Appeal Board by any person to whom notice of a proposal has been given, who has objected to the authority or the council, and who is aggrieved by the decision of the authority or the council to grant approval of the proposal. The right of appeal is therefore limited to those people who have already lodged objections to the proposal. The Chairman or an Associate Chairman may ask an appellant to show cause why his appeal should not be dismissed as vexatious or trivial. The board may award costs in any appeal. The board may make an order in certain cases to enable the original applicant to proceed with the proposal, notwithstanding that there is an outstanding appeal over some aspect of the proposal. The unsuccessful appellant objector may appeal against the decision of

the board to the Land and Valuation Court. New section 36b gives the Governor power to declare by proclamation that, in lieu of a council, the authority shall deal with any application lodged with that council that may have a significant effect on conditions prevailing outside that council's area. I have already referred to the reasons for his new provision.

Clause 12 amends section 37 of the principal Act which provides that a planning regulation shall not prevent a person from continuing to use his land in the way in which it was lawfully being used before the planning regulation took effect. The provision has been rephrased so as to make it quite clear that all conditions attached to any prior consent are adhered to. A planning regulation is also not to affect a consent given under the interim control provisions of the Act. Clause 13 directs a council to submit proposed planning regulations to the authority before giving public notice of the regulations. The authority has prepared model regulations and wishes to ensure that there is as much uniformity between the regulations made by different councils as possible.

Clause 14 is a consequential amendment. Clause 15 removes all references to the Metropolitan Planning Area from the interim development control provisions of the Act. Thus these provisions can now apply to any land within the State. As I have already explained in some detail, this amendment will enable the authority or a council, as the case may be, to exercise control over development in any area within the State. Once again, the authority and the councils are directed to have regard to the health of the whole community, the conservation of the environment of the locality under consideration, and to prevention of pollution when making decisions with respect to development proposals. Clause 16 repeals section 42 of the principal Act which deals with subdivision of land in prescribed localities. This section is re-enacted in Part VI of the Act that deals with control of land subdivision.

Clause 17 clarifies the position with regard to those leases of portions of an allotment that need the approval of the Director. The amendment will make it clear that such a lease requires the Director's approval if it exceeds five years, whether that five-year period is comprised of the term of the lease, or the term of the lease and the term for which the lease may be renewed. The section as it now stands has been interpreted in a way that is contrary to the intention of the Act when it first came into operation. The section is also amended to apply to all pieces of land that have an area of 30 ha or less.

Clause 18 re-enacts old section 42 of the principal Act to which I have already referred. The alterations made to the section are purely consequential on the removal of this section from Part V of the Act. The section properly belongs to Part VI of the Act which deals with control of land subdivision. The only reason for the present position of the section in Part V of the Act, which deals with interim development control, is that Part V as it now stands deals with the Metropolitan Planning Area. This of course is sought to be changed by this Bill. New section 45b is enacted. This section prohibits a person from depositing a plan for approval if that plan shows any allotment that has a frontage on a private road, or any allotment that has a frontage to a public road of less than 100 m or an area of less than 4 ha, if such an allotment lies within the hills face zone. This section will not apply to a plan where the allotment in question constitutes a reserve.

Clause 19 empowers a council to refuse approval to a plan of subdivision if it does not conform to road specifications laid down by the council. The council may specify the width of the roads to be formed by a developer up to a maximum width of 14.8 m. Clause 20 amends section 52 of the principal Act which deals with the grounds upon which the Director may refuse approval of a plan of subdivision. The contribution that a developer of 20 allotments or less may choose to pay into the Planning and Development Fund in lieu of providing open space land is increased from $100 to $300. The ground of prematurity is simplified and broadened so that the Director can look at a wider area than the immediate locality of the land in question. A further ground of refusal is given to the Director if he is of the opinion that the proposed subdivision would not form a compact part of an existing developed area. This will enable him to prevent haphazard development and to preserve existing rural areas. Simple metric conversions are also effected by this clause.

Clause 21 effects a metric conversion. Clause 22 provides a statutory easement for the Electricity Trust of South Australia in all cases where an easement is shown on a plan of subdivision. The trust has found difficulty in obtaining easements in the past and it is apparent that a statutory easement will be

much more satisfactory. The wording of the easement is similar to the easements already provided in this section for the benefit of the Minister of Works for water supply purposes, and the councils for drainage purposes. Clause 23 amends section 61 of the principal Act which deals with power of the Governor, at the request of the owner, to proclaim land as open space that may not thereafter be subdivided. As the section now stands, owners of Crown leasehold land may not make such an application. The amendment extends the benefit of this section to owners of all types of Crown leasehold land, provided that the consent of the Minister of Lands is first obtained.

Clause 24 gives the authority power to acquire land for the purpose of relocating people and businesses displaced by the redevelopment projects of the authority. At the moment, the authority may only designate land for relocation by the protracted and cumbersome method of preparing supplementary development plans. By striking out subsection (5), the present restriction prohibiting the authority from subdividing its own land except for redevelopment purposes is removed. The provision has been found to prevent major positive moves by the authority to implement development plans, such as developing acquired land for an industrial estate or a new town. Councils already have the power to subdivide council land, subject to the approval of the authority, and it is anomalous that the authority has not a similar power.

Clause 25 empowers the payment of moneys by councils into the Planning and Development Fund. Clause 26 provides that proceedings for offences under the Act may be commenced within 12 months of the alleged commission of the offence. At present, the Act is silent on the question of time, and so the Justices Act time limit of six months prevails. With this proposed amendment, the principal Act will be in line with the Building Act.

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

SWIMMING POOLS (SAFETY) BILL

(Second reading debate adjourned on November 8. Page 2814.)

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Non-application of Act."

The Hon. H. K. KEMP: I have amendments which have not been circulated. I seek the assistance of the Minister in reporting progress until this can be done.

The Hon. T. M. CASEY (Minister of Agriculture): I am willing to report progress.

Progress reported; Committee to sit again.

LAND ACQUISITION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 8. Page 2805.)

The Hon. R. C. DeGARIS (Leader of the Opposition): This Bill establishes yet another committee—another paid committee. I know some honourable members have done a little work on assessing the number of committees appointed over the past two years, their functions, their cost, and their effectiveness, and here we have yet another being appointed. This one is to be appointed under the Land Acquisition Act and will be known as the Rehousing Committee. Some of the actions of public authorities in the acquisition for public purposes of private property have been strongly criticized in this Chamber over a number of years (indeed, I remember criticism occurring in this Chamber in the past two years), and I believe that that criticism has been directed quite correctly. As a Parliament we accept the principle that the Crown should possess the right to acquire property in the public interest. No-one denies this principle that the Crown should have the right to acquire property in the public interest or for public purposes.

However, in the acquisition of any property to be used for any public purpose the person whose property is being acquired should not be placed at any disadvantage. Because of a number of factors, including inconvenience and the cost of acquiring another property, the compensation payable should be more than the market value. Normal market value in circumstances such as these is not justice. Those factors other than the market value must be taken into account, yet in many cases of forced acquisition the property owner, in my opinion, is not unusually placed at a disadvantage. The case most recently criticized in this Chamber concerned the acquisition of property along the South Road associated with the development and construction of the Flinders Medical Centre. I do not want to go back over the whole of this case, but simply to mention it briefly, because it is a classic example of the tactics being adopted by the acquiring authority placing the home owner or the property owner in a disadvantageous position.

This acquisition concerned about 30 houses just off the South Road and up to the boundary of the Flinders university. These people were informed by letter that the Government would, within the next 10 years or somewhere in the foreseeable future (I forget whether it was five years or 10 years) acquire the properties. Just imagine the position in which these people were placed with such a letter. There was no notice to treat, just the information that the Government intended acquiring these properties within a certain period of time. The people were placed in the position that their properties became unsaleable to anyone other than the Government; in other words, there was no longer any market value except what the Government said was the market value. In this case, a number of people had built houses, had spent a good deal of money on gardens, had borrowed money, and were virtually forced to sell. In repurchasing they had to find other sources of finance and pay higher interest for that finance. Yet none of this was taken into consideration in relation to the market price, or at least I know that in the original offer made by the Government none of this was considered.

The important part of the Bill starts on page 3. New section 26g provides as follows:

(1) Where land constituting or including a dwellinghouse has been or is to be acquired by the Authority for the purposes of an authorized undertaking, the provisions of this section shall apply in respect of the acquisition of that land.

(2) A person to whom that dwellinghouse was, at the time of the service of the notice of intention to acquire the land, his usual place of residence shall be entitled to make application to the Committee at any time before or within three months after the date of the acquisition for assistance under this section.

(3) An application under this section must be made in writing and in a form determined by the Committee and must set out in detail—

(*a*) the grounds upon which assistance is sought from the Committee;

and

(*b*) the nature and extent of the assistance that the applicant seeks from the Committee.

Then follows a summary of the powers of the committee. It may make arrangements with any department or instrumentality of the Government of the State, or with any other person or body of persons, by means of which the applicant will be rehoused in a satisfactory social environment, or any other social problems arising from the acquisition will be overcome or ameliorated.

The Hon. A. M. Whyte: This isn't possible.

The Hon. R. C. DeGARIS: I am coming to that point. New section 26g (4) (*b*) provides:

. . . recommend to the authority that a grant of moneys or other financial assistance, be given to the applicant for the purpose of enabling him to obtain accommodation in a satisfactory social environment or for the purpose of overcoming or ameliorating any other social problems arising from the acquisition.

They are the powers of the committee, which can investigate and do these things in relation to a dwellinghouse being acquired by a public authority. I want to stress two points regarding this Bill. Why should any person whose property is being acquired for a public purpose have to go cap in hand to a committee to receive assistance that will place him in the same position he enjoyed before the acquisition? If the Crown wishes to acquire anyone's property, irrespective of its market value, the person involved should with the money he receives from the acquisition be able to place himself, without any disadvantage, in a situation similar to that which he enjoyed prior to the acquisition. For such a person to have to go, after acquisition, cap in hand to a committee to obtain the same situation he enjoyed previously is a sad state of affairs. The initial compensation should have been sufficient to enable him to place himself in circumstances similar to those he enjoyed prior to the acquisition.

If one accepts the principles of the Bill and agrees that there is a problem because insufficient money is being paid for the acquisition of properties to enable people to re-establish themselves, and if one agrees with the philosophy that a committee should exist to which these people can apply for assistance, why should that committee's work be restricted solely to rehousing? The committee has power only to make grants of money and to make certain arrangements regarding rehousing. Surely there are many people in the community whose properties will be acquired in the future and who will face similar problems which perhaps will not be related to housing.

I refer, for instance, to the owner of a delicatessen, or a small tradesman, bootmaker or butcher. If such a person's shop is lost by acquisition, he must move to another area, find a new clientele, and build up his business in that area. One could give a range of people who could be in this situation because of acquisition. However, under this legislation they will have no access to the committee. A person who, having run a small business in a certain district for a long time, suddenly has his premises acquired could find himself

in a financial situation just as difficult as, if not more difficult than, that in relation to rehousing.

I wish to stress the two points that I have made regarding the Bill. That the Government has seen fit to introduce such a measure shows that it admits something is wrong with the whole matter of land acquisition for public purposes, especially when a committee has to be established to make grants to people to enable them to re-establish themselves in the same sort of conditions they enjoyed before the acquisition. If this is necessary in relation to rehousing, the committee's work also needs to be extended into fields other than rehousing. I should like the Minister to examine the Bill and, in reply, to say whether he would be willing to accept amendments that would widen the scope of the Bill to cater for the group of people to whom I have referred—those who will be dispossessed of their properties and who will, because of acquisitions, find themselves in financial difficulties that may not be related solely to rehousing.

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

CONSUMER CREDIT BILL

Adjourned debate on second reading.

(Continued from November 7. Page 2711.)

The Hon. F. J. POTTER (Central No. 2): This fairly lengthy Bill is an important measure and another link in the whole chain that the Government is forging in connection with its policy of consumer protection. The Bill repeals the Money-lenders Act and deals comprehensively with the whole matter of consumer credit and the existing law regarding consumer credit transactions. As it is recodified, it deserves much attention by honourable members. Unfortunately, as honourable members know, the Council has been actively engaged over the last few days on other important legislation. Consequently, I have not had an opportunity to examine in detail the Bill's provisions. However, on the face of it, the Bill seems largely to be a Committee Bill, because it is necessary for one carefully to examine its various clauses and decide whether they are adequate for the purposes envisaged.

One can start off with a certain amount of confidence in the measure because it arises, first of all, out of a long examination into the whole problem by the Rogerson committee (as it was then known), which was set up from the Adelaide Law School in 1966. Following that, the committee set up by the Law Council of Australia, under the Chairmanship of Mr. Molomby, submitted a report. That committee examined the practical applications of the problems that had been ferreted out by the Rogerson committee. It is therefore true that a deep examination of the whole problem has been undertaken from two different aspects. In this Bill we see largely the result of the practical inquiry by Mr. Molomby's committee. I do not know yet whether or not a similar Bill has been introduced in other Parliaments of Australia, but certainly the idea behind the setting up of the Molomby committee was that eventually some kind of uniform Bill would be achieved for introduction throughout the Commonwealth.

The Minister said nothing about this in his second reading explanation but I suppose that even if, as usual, we in South Australia are being the first in the field, we can expect that something like this Bill will be repeated elsewhere soon. Some important factors must be considered. First, the Bill does not deal with consumer credit supplied to corporations: it deals only with individuals, from the consumers' point of view. It is presumed that corporations needing to raise money of one kind or another are able to look after their own affairs, so there is a limit to certain provisions of the Bill. Also its provisions do not apply to what may be called large credit transactions exceeding $10,000. The Bill deals only with credit transactions of less than $10,000, except where that credit is made available for house purchase purposes.

This means that many consumer credit transactions will still come within the ambit of the Bill, because it is true that many housing loans are of $10,000 or less. So, many transactions will be involved there. The whole purpose of the Bill is to restate the law, getting over the technical difficulties that often face the credit consumer (to use the new term coined by this Bill). So far as those difficulties relate to his legal position, they often centre on the old problem of legal technicalities, and it is fair to say that consumer credit transactions under the existing law are excessively concerned with matters of form rather than the real substance of the transaction, which is a deal between the person who is prepared to lend and the person who wants to borrow.

The major point made by the Minister in this matter is that in today's world one party is at a much greater disadvantage than the other party; the person who wants to borrow is more or less forced to borrow on whatever terms, under whatever conditions and

under the signature of whatever documents are presented to him by the person lending the money. It is said that the Bill is not intended to prevent or impede fair and legitimate business practice. I hope that is so. My rather cursory examination of the Bill indicates that there is perhaps some degree of truth in that statement, but at the same time it will mean virtually that business almost has to turn a new corner in respect of consumer credit transactions; a new set of ethics will have to be absorbed and probably the old set of forms will have to be replaced by a new set, even though they may be in simpler terms than those we know of.

The Hon. R. C. DeGaris: It is hard to predict what will happen.

The Hon. F. J. POTTER: It is a matter of seeing how the thing works in practice. If we look at the Bill (and, as I say, I have had a chance to look at it only cursorily) we are inclined to say, "This does not look so bad in theory, and it looks as though it may work", but I have no doubt that, if it is given an opportunity to be put into practice, many problems of one kind or another will arise, and I presume the Government intends to keep a watchful eye on the general situation. Of course, here again another tribunal is being set up. I do not know how many tribunals, committees and authorities we have.

The Hon. R. C. DeGaris: The last count was 400 in two years.

The Hon. F. J. POTTER: It is an amazing number. I looked at a list compiled by an honourable member (I forget who it was) and it amazed me. We have here another tribunal to deal with this field of activity, a tribunal comprising a local court judge as chairman, one representative of the consumers and one representative of commerce. I do not know how the Government will make a choice in appointing these two last-mentioned people. I suppose it may as well go out into the community at large and appoint anyone to represent the consumer.

The Hon. Sir Arthur Rymill: It has 500,000 people to choose from.

The Hon. F. J. POTTER: That is so. There are certain exemptions. The first is the exemption of corporations borrowing money; the second is the exemption for transactions exceeding $10,000; and there are also exemptions for persons carrying on business in the course of which they do not charge a rate of interest exceeding 10 per cent per annum. This is a slight reduction of the previous rate operating in the Money-lenders Act, which is being repealed.

Most of the Bill deals with the actual setting up of the tribunal and with its powers, and it establishes its area of authority. It also defines what is meant by "consumer credit", etc., and sets out what the legal position will be. Broadly speaking, it requires full details of a transaction to be given to the person who is borrowing the money. It provides that the existing systems of credit used by some retail stores may be retained, provided they comply with the necessary requirements of the tribunal. Of course, it will not interfere with the normal monthly credit accounts that one has at a store or with a grocer because, as I understand it, those accounts do not provide for any payment of interest; or, if they do, it is certainly less than 10 per cent. One or two provisions are fairly restrictive on persons who have been in the business of lending money or of procuring the placing out of money. One clause provides that no longer will it be possible for a fee to be charged for procuring finance and, no doubt, this will affect some people who have been actively engaged in this kind of business. These matters need examining in Committee, rather than trying to deal with them now.

I think the measure is a commendable effort by the Government to try to establish fairly wide-ranging protection for people who wish to borrow money. True, as the Minister has said, these days it is not the usual practice to borrow money to keep the wolf from the door, as it were, which was the situation 50 years or 100 years ago. When a person borrows money now it is usually needed to buy some form of luxury (to buy a boat, to pay for an oversea holiday, or something like that).

When a Bill such as this is introduced and we look back and see the legislation that operated 50 years or 70 years ago, we realize the big changes that have occurred in our society since the end of the Second World War. It is amazing what has happened in the last 25 years, and how we are now sharing in a new prosperity: perhaps not all sections of the community, but a greater percentage of the community than before. This Bill is complementary to the Consumer Transactions Bill.

The Hon. A. J. Shard: Which one should we deal with first?

The Hon. F. J. POTTER: It makes no difference: perhaps this one should be dealt with first, and I think they are in the right order

on the Notice Paper, although they are complementary in many ways. I wholeheartedly support the measure, but some questions need to be answered in Committee. There may be a fairly leisurely progress through that stage in order to obtain the necessary answers to questions. I cannot pose them now, because my study of the Bill has not been deep enough yet. However, by the time we are in Committee I hope to be able to raise one or two matters.

The Hon. A. J. Shard: Between now and the Committee stage, if you decide on any amendments will you let me know?

The Hon. F. J. POTTER: Yes. At this stage, I support the Bill.

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

CONSUMER TRANSACTIONS BILL

Adjourned debate on second reading.

(Continued from November 7. Page 2718.)

The Hon. C. M. HILL (Central No. 2): As the Hon. Mr. Potter has just said, the Consumer Credit Bill and this Bill seem to complement each other, and I think it is proper (and indeed necessary) that they take their course side by side through this Chamber. In supporting the second reading, I believe the Government has launched on a wide and comprehensive plan to give all possible protection to consumers, and this is one measure used to reach that target.

Consumers of all kinds should have adequate protection: it is always proper that all parties to transactions into which consumers enter should have adequate protection, too. We must consider all parties to contracts, to arrangements, and to agreements in which credit is involved, so that the fairest possible result can be achieved when disputes arise concerning consumer sales and protection.

From time to time instances are brought before the notice of members of Parliament, and one hears of them in the community generally, in which consumers sometimes are unduly and harshly treated in their hire-purchase or credit transactions, and when this treatment is unfair, it is necessary in today's world for some wrongs to be made right. This measure sets out to achieve that purpose.

Unfortunately, I have not had as much time as I would like to review the measure, but I hope to have more time in the next few days. As I understand it, the tribunal that is set up under the provisions of the other Bill will be the tribunal to which parties can take their complaints and objections. It will sit in judgment on questions of consumer mortgages, credit contracts, and consumer contracts, although in the latter case credit is not involved.

The tribunal has the right and has extensive powers to rescind agreements or amend agreements so that, in the opinion of the tribunal, justice can be done when disputes arise and complaints are made. The measure flows from the Rogerson Report on the Law Relating to Consumer Credit and Money-lending, and, in the history of this Parliament, it will be interesting to look back on the various Acts dealing with consumer protection that will have their origins in that now quite famous report.

In his second reading explanation the Minister said that he was trying to simplify the law regarding credit protection, but I wonder whether that objective is to be achieved. It seems to me that, whereas valiant endeavours are made in our commercial life today to bring about simplification, business transactions of all kinds are becoming more complicated. The goal to move toward a more simplified procedure must be commended.

The Government is trying to achieve that target by getting right down to the basic commercial substance of the transaction rather than the somewhat complex forms of credit sale that have come into our ordinary commercial and retail way of life. As the Minister pointed out, there are now 11 forms of credit transaction affecting consumers in today's ordinary business and retail world.

The Bill endeavours to simplify all those 11 current forms of credit transaction into two basic forms: first, the consumer sale, and secondly, the consumer loan. It is those two elements in principle which the Government has concentrated on and has endeavoured to maintain in its approach to the objective of giving consumer protection. Putting it another way, there is the sale element (as the Minister said in his second reading explanation) on the one hand and the loan element on the other hand.

The Bill provides for somewhat revolutionary changes in regard to the former concept of hire-purchase agreements. It means that in future, if the Bill passes in its present form, the complete title to the goods will pass with the actual sale transaction to the purchaser, and the vendor of those goods, instead of the previous arrangement of having hire-purchase agreements, will take a consumer mortgage over those same goods. I have not had sufficient time to study the Bill in depth, but one clause I bring to the Government's notice is clause 37.

I do this now because the Minister asked the Hon. Mr. Potter to let him know of any issues he would like looked into before the Bill came before the Council again next week. It seems to me that the provisions of this clause constitute a new departure from the old law that has existed for many years, namely, that the sale by a person of goods over which security has been given does not pass the title to the purchaser in any circumstances.

It would appear that the new clause will restrict the financing of the sale of a business. At present, most businesses are sold by the granting of a bill of sale over the assets. If this clause is passed in its present form, the owner could see the assets unbeknown to the financier or security holder, and the buyer, taking in good faith, would get a good title.

This would be even more unfair if the sale was financed by the vendor of the business. That occurs in some cases. It has been brought to my notice that, where a person gives security over business assets, the section should not apply. It is suggested that subclause (2) should be amended to take care of that point.

I have mentioned the measure only briefly, for reasons that I have previously explained. This Bill will have to be studied carefully in Committee and will have to be treated as complementary to the measure we have already discussed. In order that I may have more time, because of the lack of time occasioned by the pressure of work during the last two days and evenings, I ask leave to conclude my remarks.

Leave granted; debate adjourned.

DAIRY CATTLE IMPROVEMENT ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 8. Page 2800.)

The Hon. C. R. STORY (Midland): There is a saying that a little bull goes a long way. Apparently the little bull does not go far enough for the Government, because the purpose of the Bill is to alter the age of a bull to be nominated under the Dairy Cattle Improvement Act from six months to 12 months. So, it seems to me that a little bull does not go far enough. There is little else in the Bill, except that the Government wants to try to bring little bulls into line with big bulls. I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Bulls over 12 months old to be licensed."

The Hon. G. J. GILFILLAN: I have checked to see why this section has been amended. The main alteration seems to be to the term "as a herd sire for dairy purposes". Previously the term used was "a bull", apparently to be used for dairying purposes. What is the situation in the case of a beef breed bull used on a dairy herd? It would still be dairying purposes if the cows were used as a milk herd, as distinct from where the bull is used to breed stock, which in themselves would be dairy cows. Quite often a bull is used and the cows continue to be dairy cows. Can the Minister say whether such a bull would require a licence?

The Hon. T. M. CASEY (Minister of Agriculture): It would.

The Hon. Sir ARTHUR RYMILL: I do not know whether "dairy purposes" is defined. The clause seems ambiguous. What does "a herd sire for dairy purposes" mean? Sires for dairy purposes are used to get the cow in calf so that she will produce milk, and the calf is sold for a considerable sum. I know that, early in the season, day-old calves were selling for up to $25 or $30. The Hon. Mr. Gilfillan really has raised the question whether a herd sire for dairy purposes means a herd sire for raising dairy stock or merely for the purposes I have mentioned. It seems fairly ambiguous, and a more positive definition than merely saying "a herd sire" does not take the matter much further. Perhaps the Minister could explain the position in more detail.

The Hon. T. M. CASEY: First, we must decide what sort of dairy farms we have. We have registered dairy farms. That is the crux of the matter. If a sire is used on a registered dairy farm for the purpose of dairy production, that bull must be registered once he reaches the age of 12 months. What happens to the progeny is a matter for the manager or owner of the herd. If he has bull calves, they are no good to him for dairy production, so he will sell them. If he had heifer calves that did not meet his requirements as a studmaster he would quit those, also, but this applies to registered dairy farms, and the whole object is that bulls used on these registered dairy farms, on reaching the age of 12 months and being used as sires for the production of dairy produce, must be registered.

The Hon. M. B. CAMERON: I have not looked at the original Act, but can the Minister tell me the requirements for the registration of a sire under that Act? Is it only stud

cattle that need to be registered? It seems to me this could be rather restrictive.

The Hon. T. M. CASEY: No. On many occasions people do not buy registered bulls from registered herds to go into a registered dairy herd. This depends on the owner of the property. If he sees a bull that does not belong to a registered herd, but he thinks it could be a good type of sire to have for his herd, there is nothing to stop him from buying it. However, once he brings it on to his property and uses it as a sire for his dairy herd it must be registered.

Clause passed.

Title passed.

Bill read a third time and passed.

[*Sitting suspended from* 4.37 *to* 6.16 *p.m.*]

INDUSTRIAL CONCILIATION AND ARBITRATION BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos. 1, 4, 5, 12 to 14, 17 to 19, 21 to 30, 32 to 35, 38, 39, 41 to 48, 50, 52 and 53 and disagreed to amendments Nos. 2, 3, 6 to 11, 15, 16, 20, 31, 36, 37, 40, 49, 51, and 54 to 58.

The Hon. A. J. SHARD (Chief Secretary) moved:

That Standing Orders be so far suspended as to enable the Council to sit after 6.30 p.m. for the purpose of concluding the business contained in the message received from the House of Assembly.

The Hon. A. F. KNEEBONE (Minister of Lands) seconded the motion.

The Hon. C. R. STORY (Midland): I ask for your ruling, Mr. President. Is this the point where an honourable member can object to Standing Orders being so far suspended as to allow the business of the Council to continue after 6.30 p.m.?

The PRESIDENT: The motion has been moved and seconded. There are other things that I need not discuss at this point. I must take a vote. If there is a dissenting voice, there will have to be a division. There is a different motion that the Chief Secretary could move—the suspension of Standing Orders to enable the business of the Council to be debated beyond 6.30 p.m.

The Hon. A. J. SHARD: That is what I want to move. I meant to move:

That the sitting of the Council be continued beyond 6.30 p.m. for the purpose of dealing with the message from the House of Asembly.

The PRESIDENT: That will be the motion.

The Hon. C. R. STORY: I merely want to debate the Chief Secretary's motion that the Council do sit after 6.30 p.m. May I ask for your ruling, Sir, on whether I may debate that motion?

The PRESIDENT: The question of an extension of time is debatable, but I hope that that is not something we shall indulge in now. It is preferable that we take a vote on the motion.

Motion carried.

Consideration in Committee of the House of Assembly's message.

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

That the Council do not insist on its amendments to which the House of Assembly has disagreed.

I think there has been enough debate on this matter both here and in another place. I regret that another place took so long debating it is afternoon, because it has delayed the return of the Bill to us. However, we now have it in this Chamber. I have the schedule of the Legislative Council's amendments to which the House of Assembly has disagreed. To short-circuit the whole procedure, I ask honourable members to accept my motion.

The Hon. R. C. DeGARIS (Leader of the Opposition): This Bill has been debated fully in this Chamber. We moved a number of amendments that we believed were essential to the Bill. The House of Assembly has accepted many of them but has disagreed to others. I ask the Committee not to support the Minister's motion. In the debate in this Chamber, we yielded a lot of ground to the Government; not only that, but we extended our co-operation to the Government, and much compromise was achieved in the debate. I think that our amendments are reasonable.

Motion negatived.

[*Sitting suspended from* 6.29 *to* 6.42 *p.m.*]

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendments to which it had disagreed.

The Hon. A. F. KNEEBONE moved:

That a message be sent to the House of Assembly granting a conference as requested, that the time and place of the conference be the conference room of the Legislative Council at 8 p.m., and that the Hon. D. H. L. Banfield, R. C. DeGaris, A. F. Kneebone, F. J. Potter and C. R. Story be the managers on behalf of the Council.

The Hon. R. C. DeGARIS: I should like to ask the Minister a question on this matter. Is it the Government's intention that both Houses should continue to sit while the conference is being held? I ask this question because it seems foolish that a conference should be

taking place tonight if both Houses rise. This means that nothing can be achieved until Tuesday, anyway. Will the Minister clarify that point?

The Hon. A. F. KNEEBONE: This is not a new departure: it has happened previously, the Council not having sat while a conference was being held. I remember distinctly that last year a conference was held, and the sittings of both Houses were suspended. Honourable members went home, and the managers reported on the next day of sitting. That is what is intended to happen on this occasion.

The Hon. C. R. STORY: I agree with the Minister of Lands that this has happened previously. However, it has happened only on a Tuesday or a Wednesday night, but never on a Thursday night, after which three or four days must elapse before the managers report to each House. This is a new procedure, and I should like the Minister to ascertain whether it has happened before. I do not think it has. Although it has happened during a week when both Houses have adjourned, it has not happened at the end of a working week. The Minister is asking the Council to recommend the holding of a conference on a Thursday night, and the conference could on this occasion continue until any time, outside of Parliamentary hours.

Normally, conferences are held when Parliament is sitting. However, as I see it, Parliament will not be sitting on this occasion, although some terrible things have happened, the sitting of the Council having been carried on after 6.30 p.m. on a Thursday. What is happening now is quite new. Will the Minister therefore examine his log book and see whether it is not a completely new procedure for a conference to be held at this time of the week, when Parliament is not sitting? Parliament can always be called together on Tuesdays, Wednesdays or Thursdays but, when a conference is commenced on a Thursday evening, and it is possible for it to continue into Friday, it is a new departure, which I think is wrong. I suggest that the Minister consider holding the conference at, say, 9.30 a.m. on Tuesday, which will be the next day of sitting.

The Hon. A. F. KNEEBONE: I do not want to be difficult. True, the Council will not be sitting while the conference is being held. However, I remember a sitting until 2.30 a.m. on a Friday.

The Hon. C. R. Story: That was on the last day of a session.

The Hon. A. F. KNEEBONE: I agree that holding a conference on a Thursday evening is a new departure as regards the fact that the Council is not sitting. There is no doubt that this will be a long and difficult conference. If it was held on a sitting day at, say, 9.30 a.m. on Tuesday, it could go on into Tuesday afternoon or Tuesday night.

The Hon. C. R. Story: That wouldn't worry me.

The Hon. A. F. KNEEBONE: It would worry me in relation to the amount of business that Parliament would conduct. I do not want to argue the matter at length. I merely think it is better for the conference to be held now and to have the matter dealt with. I have been on many conferences at which the managers have sat looking at each other knowing that each side would not give way. Let us see this time how far we can get without sitting down and arguing whether or not we should be sitting. I do not wish to upset the Opposition but, in my opinion, I think it would be best to hold the conference tonight. Only the conference managers will suffer a disability; other honourable members can go home. I do not see any sense in everyone else sitting around, getting tired and irritable, and waiting for other people to finish their business. Let us go to the conference, let others go home, and we can report back at the next sitting of the Council.

Motion carried.

The Hon. A. J. SHARD (Chief Secretary) moved:

That Standing Orders be so far suspended as to enable the conference on the Industrial Conciliation and Arbitration Bill to be held during the adjournment of the Council, and the managers to report the result thereof forthwith at the next sitting of the Council.

Motion carried.

ADJOURNMENT

A 6.57 p.m. the Council adjourned until Tuesday, November 14, at 2.15 p.m.