LEGISLATIVE COUNCIL

Thursday, November 16, 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:

Criminal Law Consolidation Act Amendment (General),
Marketing of Eggs Act Amendment,
Prices Act Amendment,
Unfair Advertising Act Amendment.

QUESTIONS

BETTING

The Hon. R. C. DeGARIS: I seek leave to make a brief explanation before asking a question of the Chief Secretary.

Leave granted.

The Hon. R. C. DeGARIS: I notice in the Port Pirie newspapers several articles about the future of betting shops in the city of Port Pirie. Can the Chief Secretary say what the Government's policy is in regard to the future of those betting shops?

The Hon. A. J. SHARD: I hope I do not say anything that is different from what I said yesterday in a reply to another honourable member on the same subject. The Government has no intention of doing anything in connection with betting shops at Port Pirie, nor has it given any thought to the matter.

The Hon. A. M. WHYTE: I seek leave to make a short statement before asking a question of the Chief Secretary.

Leave granted.

The Hon. A. M. WHYTE: It is not of any consequence to me whether the number of betting shops at Port Pirie is maintained or increased, as I have no real interest in that aspect. However, I know that the betting shops are closed when the local racing club has a meeting, but betting is transacted on the day before a meeting. I believe that the explanation has always been that Port Pirie is a credit town; I believe that not only bookmakers but also publicans use a credit system. When a similar situation occurred in Western Australia, the betting shop licensees were expected to have at least one agent at the course on the day of a local meeting, so that credit bettors could transact business on the course, with the idea of attracting more people to the racing meeting. Since country racing is at a low ebb, will the Chief Secretary consider putting such a proposition to the betting shop licensees at Port Pirie?

The Hon. A. J. SHARD: I do not know the policy of the Betting Control Board in this respect, but I shall take up the matter with the board to see what can be done and what the position is at Port Pirie.

GRASSHOPPERS AND LOCUSTS

The Hon. D. H. L. BANFIELD: In this morning's paper, the Director of Agriculture gave details of the extent of a plague of locusts in the North and West of South Australia. Can the Minister of Agriculture give details of the measures that the Government is taking to combat the problem?

The Hon. T. M. CASEY: This morning I authorized the Agriculture Department to purchase a further 1,000gall. of lindane at a cost of $4,000. Also, I approved the expenditure of $3,000 for the aerial spraying of adult locusts if required during November and December. For the information of honourable members, I point out that nearly 300gall. of insecticide has already been used by northern councils for the spraying of plague grasshoppers. Also, more than 600 gall. of insecticide has been made available to councils in the northern and western agricultural areas for the spraying of plague locusts. As the incidence of late hatchings is dependent upon weather conditions during the coming weeks, the Government has taken the above measures to ensure that the Agriculture Department is able to do everything possible to control and combat the locust and grasshopper plagues.

The Hon. R. A. GEDDES: I noticed that the Minister referred to some locust hatchings in the North of the State. As in previous questions that the Minister has answered he has always referred to grasshoppers, and not to locusts, can he say where the hatchings are?

The Hon. T. M. CASEY: In the Cleve-Cowell area, numerous reports have been received from some 10 hundreds, and there has been general escalation throughout the area as smaller hoppers have grown to more readily noticeable size. At Kadina, five landowners have reported hatchings. At Maitland, 250 acres has been reported at Kilkerran, about 5-10 sq. ft. At Burra, small outbreaks in lucerne. At Jamestown, one report. At Gladstone, one report, but several landowners have obtained lindane from the Jamestown District Council. At Cambrai, one small area has been reported. Large numbers of small hoppers, mixed with grasshoppers, have been

located at Orroroo; similar but larger hoppers have been located at Peterborough, where one band of fifth instar hoppers has been located, 120 m by 20 m. Dense bands of very small hoppers have been located at Kia-Ora and Glenora stations. No locusts have been seen or reported by stations from Yunta to Faraway Hills. Agricultural advisers have been requested to contact all councils in their districts to get them to assess their infestations and insecticide requirements. Scattered layings suspected throughout large agricultural areas and the near pastoral country have now been verified; they are likely to result in some scattered swarms during November-December. Swarms will not come from the remoter pastoral country, but some escape of flying swarms at Cleve and Cowell would seem to be inevitable.

MAGILL SCHOOL

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

Leave granted.

The Hon. C. M. HILL: My question concerns the Magill Demonstration School. Considerable trouble is being experienced with motorists parking in Adelaide Street by the school while waiting to pick up children after school. "No parking" signs have been placed along the southern side of the street concerned but these appear to be ineffective: they are too far apart, and apparently they are difficult for motorists to read. I understand that the school has approached the Burnside council several times since May to have the signs improved or to have a council inspector patrol the area; however, thus far the council has not given a satisfactory reply nor has it taken satisfactory action in answer to the objections that have been raised by some parents and friends of the school.

Although there have been no major accidents, it appears to these people that it has only been a matter of luck. About 300 children leave the school in this street; the infants section adjoins the street and, as everyone knows, children of this tender age as a rule have not developed a very good road sense. As the school is in my district, will the Minister ask his colleague to contact either the Road Traffic Board or the Burnside council to see whether a safer and more satisfactory arrangement can be achieved in that street as soon as possible?

The Hon. A. F. KNEEBONE: I shall be pleased to convey the question to my colleague and obtain a report as soon as it is available.

INNAMINCKA

The Hon. A. M. WHYTE: I understand the Minister of Lands has a reply from his colleague, the Minister of Environment and Conservation, to my recent question about pollution at Innamincka?

The Hon. A. F. KNEEBONE: My colleague, the Minister of Environment and Conservation, has had this matter examined, and informs me that regulation 132 of the Petroleum Regulation, 1970, requires that "On the suspension, completion or abandonment of a well the person-in-charge shall, as soon as practicable, restore the well site and all surrounding areas to as near their original state as is practicable".

The nature of the drilling mud, the main item dumped into the pit, is such that it dries out very slowly. As such pits normally contain 15ft. to 20ft. of this special mud, it is impossible to backfill the pit until the mud has substantially dried out. Two other properties of the mud, namely, its density, and its capacity to form a gel, make it unlikely that any mud would be washed from the pit into nearby streams unless subjected to prolonged sluicing by fast-flowing water.

The above comments do not apply to the unused caustic soda. This material slowly absorbs water and carbon dioxide from the atmosphere to form harmless sodium carbonate, but until this occurs it presents a real danger to stock and wildlife. Normal practice is to bury excess soda in the mud pit.

The two wells about which concern has been expressed at this time were both completed during the latter half of 1971. At this stage the mud had dried out sufficiently to allow backfilling to be carried out. The companies concerned are at present carrying out a clean-up programme, following the intense drilling effort which has been expended during the last 18 months to establish sufficient natural gas reserves to satisfy the Sydney market. These two well sites were included in that programme.

Regular visits to the area are made by inspectors appointed under the Petroleum Act, 1940-1971. There are, however, more than 100 well sites in this general area and the intervals between visits to each one can vary. For this reason, reports by members of the public or interested bodies are always welcomed; the department has never had any difficulty in obtaining the co-operation of the

licensees concerned. The two well sites currently under consideration and a number of others will be inspected when a reasonable interval for these sites to be made good has elapsed.

EGGS

The Hon. E. K. RUSSACK: I seek leave to make a short explanation prior to asking a question of the Minister of Agriculture.

Leave granted.

The Hon. E. K. RUSSACK: According to the Marketing of Eggs Act, a person shall not offer or expose for sale any eggs in any shop unless those eggs bear the stamp evidencing the fact that they have been graded under and in accordance with the Act. I have received an inquiry from a producer. The Act specifically mentions "offer for sale in a shop", but do eggs have to be stamped when provided with meals by hotels, roadhouses, restaurants, or other eating houses?

The Hon. T. M. CASEY: That would depend on the circumstances. Some hotels run their own poultry and use their own eggs, and that is permissible under the Act. The same situation applies to ordinary householders. A person can run fowls as long as he uses the eggs himself. If he has fewer than 20 fowls he may dispose of the eggs as he wishes. I will get a complete run-down on the situation for the honourable member and bring down a report.

CATTLE COMPENSATION FUND

The Hon. R. C. DeGARIS: Has the Minister of Agriculture a reply to a question I directed to him on November 7 regarding the Cattle Compensation Fund?

The Hon. T. M. CASEY: The Director of Agriculture reports that during the financial year 1970-71 total expenditure from the Cattle Compensation Fund was $113,378. Of this amount, $80,214 represented compensation payments, $25,000 was expended on tuberculin testing, and $8,164 was spent on administration associated with payment of compensation from the fund and tuberculin testing financed from the fund. In 1971-72, total expenditure from the fund was $198,731, comprising compensation payments—$165,611, tuberculin testing—$25,000, and administration—$8,120.

REAL PROPERTY ACT AMENDMENT BILL (STRATA TITLES)

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

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

That this Bill be now read a second time.

It contains a consequential amendment to the Act, arising from the Bill amending the Planning and Development Act which is before Parliament at the moment. Honourable members will remember that the Planning and Development Act Amendment Bill (General) contained a proposal to increase from $100 to $300 the contribution payable to the Planning and Development Fund by developers of subdivisions containing 20 allotments or less. The Real Property Act contains a similar provision with respect to strata titles and, to be consistent, this provision must be amended to provide a similar increase. Thus, the Director of Planning will, if this Bill becomes law, be able to refuse approval of a strata plan if the applicant for approval has not paid into the fund the sum of $300 for each unit defined on the plan. I shall now deal with the clauses of the Bill. Clause 1 is formal. Clause 2 enables the commencement of this Bill to be proclaimed at the same time as the Planning and Development Act Amendment Bill (General). Clause 3 effects the increase from $100 to $300.

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

BILLS OF SALE ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

This short Bill is consequential upon the Consumer Transactions Bill. Its purpose is to exempt an unregistered bill of sale that constitutes a consumer mortgage within the meaning of the Consumer Transactions Bill from the provisions of section 28 of the Bills of Sale Act. The effect of that section is to avoid an unregistered bill of sale as against the Official Receiver and judgment creditors. Registration is of value only to relatively sophisticated persons, and it was considered that, in the case of a bill of sale securing a debt of less than $10,000 on chattels, the money that would normally be spent upon registration could be better employed in insuring against loss of title that might result from the operation of clause 37 of the Consumer Transactions Bill. The effect of the amending Bill is, therefore, to preserve the validity of a bill of sale as against the Official Receiver or a judgment creditor, where the sole ground of invalidity consists in the fact that the bill of sale is unregistered.

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

DAIRY CATTLE IMPROVEMENT ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

RURAL INDUSTRY ASSISTANCE (SPECIAL PROVISIONS) ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

PHYSIOTHERAPISTS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

PUBLIC ACCOUNTS COMMITTEE BILL

The House of Assembly intimated that it had disagreed to the Legislative Council's amendment but had reinstated clause 12 and amended it as follows:

After "Assembly" to insert "after consultation with the Committee" and to strike out "from the staff of that House"; and after "functions" to insert "and the Secretary and officers shall, if they are not already officers of the House of Assembly, on appointment become such officers".

Consideration in Committee.

The Hon. G. J. GILFILLAN: I move:

That the Legislative Council do not insist on its amendment, and agree to the House of Assembly's amendment.

I understand that the proposal is for the secretary of the committee to be appointed by the Governor on the recommendation of the Speaker after consulting the committee. It has been found that some difficulties could arise about where the secretary's responsibilities lie, and I think it is reasonable to suggest that his proper position is on the staff of the House of Assembly and responsible to the Speaker and, in turn, to the committee. I should not like the Bill to be lost because of a disagreement over such a relatively small matter, and I ask that the House of Assembly's amendment be accepted.

Motion carried.

CITRUS INDUSTRY ORGANIZATION ACT AMENDMENT BILL

The Hon. T. M. CASEY (Minister of Agriculture) obtained leave and introduced a Bill for an Act to amend the Citrus Industry Organization Act, 1965-1971. Read a first time.

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

That this Bill be now read a second time.

This short Bill provides for a reorganization of the composition of the Citrus Organization Committee of South Australia. At present, the committee consists of a chairman, appointed by the Governor, two persons representing growers, and two persons who have knowledge of marketing. Following discussions with the growers, it seems to the Government that there is something of a consensus of views that the number of grower representatives on the committee should be increased. Accordingly, it is now intended that the committee will consist of seven members being (*a*) a chairman appointed by the Governor; (*b*) four elected grower representatives; and (*c*) two persons appointed by the Governor who have extensive knowledge of commerce.

I now consider the Bill in some detail. Clauses 1 and 2 are formal. Clause 3 amends section 5 of the principal Act by bringing the definition of "representative member" into harmony with the proposed new provisions, and by inserting a definition of "the prescribed day" which will be the day on which the members of the newly constituted committee will take office. Clause 4 provides that on the prescribed day the members of the committee then in office will vacate their offices and the new members of the committee will take office. I have already indicated how the committee will be composed after the prescribed day.

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

FOOD AND DRUGS ACT AMENDMENT BILL

The Hon. A. J. SHARD (Minister of Health) obtained leave and introduced a Bill for an Act to amend the Food and Drugs Act, 1908-1967. Read a first time.

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

That this Bill be now read a second time.

It contains sundry minor amendments to the principal Act, most of which I will explain in detail as I deal with the clauses of the Bill. However, I should like at this point to explain to honourable members that the Bill provides for a general increase in all the penalties specified in the Act, and I should like to give the reasons for this increase. As an example, a penalty of $100 at the present moment is proposed to be increased to $400, $40 to $200,

and $10 to $100. In many instances, penalties under the Act have not been increased since 1908, when the Act first came into operation. When one considers the inflationary spiral that has occurred since that date, an increase to the extent proposed by this Bill seems quite reasonable. Requests for penalty increases have been received by the Public Health Department, from various local boards of health, and from representatives of the wine trade.

The only other amendment proposed by this Bill that I should like to enlarge on at this point is one that has been strongly urged by the Wine and Brandy Producers Association for quite some time. As the Act now stands, the permitted strength for unsweetened spirits is 35° underproof and 45° for sweetened spirits, these strengths to be determined by the Sykes hydrometer. It has been submitted that the permitted additives of such substances as caramel and sugar alter the specific gravity of the spirits, thus producing an obscuration that affects the hydrometer reading. A true reading of the alcoholic content is not given. To offset the effect of the additives it is necessary to add extra alcohol, and so, in order to obtain a reading of, say, 35° on the hydrometer, the actual alcoholic content of the spirits must be increased by one or two degrees proof. The addition of this extra alcohol is very costly to the industry in this State. In all of the other States, the alcoholic content of spirits is determined by modern scientific methods (for example, by distillation) in accordance with a standard recommended by the National Health and Medical Research Council. These methods ignore the obscuration factor and determine the true alcoholic strength on which, of course, excise is calculated and paid. Under the Act as it now stands, all foods are standardized by regulation and it is highly desirable that spirits, the only present exception, also be dealt with by regulation. Uniform standards can thus be adopted and modern methods kept pace with.

Clause 1 is formal. Clause 2 fixes the commencement of the Act on a day to be proclaimed. Clause 3 amends the long title to the Act, by deleting the reference to "sale" of food and drugs. It has been found that the notion of sale restricts the operation of the Act, particularly in relation to the regulation-making power. There is obvious need from time to time to include in the Act or the regulations provisions that do not necessarily relate to the "sale" of food and drugs. Such things as the preparation and handling of food that is not necessarily for sale, and the possession of certain drugs without prescription, are but two examples. It is felt that by broadening the purposes of the Act, as stated in the long title, this problem can be overcome.

Clause 4 inserts several new definitions. The operation of the Act is being broadened to cover certain apparatus in respect of which the department has received complaints. Such things as disposable syringes, electrotherapy machines, and massage and slimming apparatus are not at present within the ambit of the Act. First, it is necessary that regulations be made as to sterility and proper use of such devices. Secondly, general control over these devices must be had, as in many instances extravagant claims are made about their effect, and experience has shown that it is very difficult to establish actual fraud in these cases. A definition of "premises" is inserted so that supply of food from mobile canteens and temporary structures can be controlled. The definition of "sale" is included and is given a fairly expanded meaning so that the supply of food as part of a service is specifically covered by the Act.

Clause 5 relates to controlled therapeutic devices, to which I have already referred. Devices may from time to time be declared by proclamation to be devices subject to the Act. Clause 6 places the control of such devices in the hands of the Central Board of Health. Clause 7 provides that the notice of appointment of an analyst must state his business address in lieu of his residential address. In practice, all analysts appointed under the Act are officers of the Chemistry Department and it is thought to be sufficient that only their business address be stated. Clause 8 increases the membership of the advisory committee from seven to nine. The Director of Agriculture and a microbiologist are added, so that a much wider range of expertise can be relied upon when the committee carries out its functions of recommending regulations under the Act to the Governor.

Clauses 9 to 11 increase penalties. Clause 12 deletes that provision of the Act that specifies the strengths, and the method for determining those strengths, in relation to spirits. This whole matter may now be covered by regulation. Clauses 13 to 32 inclusive increase penalties. Clause 33 amends that section of the Act that deals with the division and mixing of articles of food or drugs that are purchased as samples for analysis. The provision as

presently worded does not adequately deal with the situation that arises—for example, the analysis of meat pies or tins of icecream. It is proposed that in such cases the regulations will spell out in detail the number of articles to be purchased and the method of dividing and mixing those articles.

Clauses 34 and 35 increase penalties. Clause 36 enacts new section 50a which provides for the recovery of the costs of analysis from defendants. The central board has had no trouble in recovering such costs, but local boards do have a problem, as the Act provides that no charge is to be made by the Government Analyst for any analysis done for a local board. Clauses 37 to 39 increase penalties. Clause 40 amends the regulation-making power to cover the matters of the alcoholic strength of spirits, the control of controlled therapeutic devices, and the sampling of food and drugs. Clause 41 increases a penalty.

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

WHEAT DELIVERY QUOTAS ACT AMENDMENT BILL

The Hon. T. M. CASEY (Minister of Agriculture) obtained leave and introduced a Bill for an Act to amend the Wheat Delivery Quotas Act, 1969-1970. Read a first time.

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

That this Bill be now read a second time.

It makes three changes of great importance in the application of the principal Act, the Wheat Delivery Quotas Act, to growers of wheat in this State. They may be summarized as follows: (*a*) provisions are proposed to be inserted to deal with the cases where excessively large amounts of wheat are being carried forward from season to season by way of short-falls; (*b*) a provision relating to this season's abnormally low harvest is proposed and is intended to ensure that all grain delivered this season together with over-quota wheat of previous seasons will be taken up as quota wheat; and (*c*) a provision relating to special hard wheat allocations is proposed to be inserted.

Clauses 1 and 2 are formal. Clause 3 repeals the preamble to the principal Act, which is now somewhat out of date. Clauses 4 and 5 make minor drafting amendments to the principal Act. Clause 6 amends section 49 of the principal Act, which deals with the carrying forward from one season to the next of short-falls, that is, the difference between the amount of wheat actually delivered from a production unit and the amount represented by the quota allocated to the production unit. It has come to the attention of the advisory committee that in some cases these short-falls are accumulating from year to year at an alarming rate. Instances have occurred where no wheat has ever been planted on production units, in respect of which quotas were allocated, since quotas were first allocated. In relation to these properties, short-falls equivalent to years of production have accumulated. In other cases the accumulation of short-falls has resulted in quotas being attached to production units for a particular season that are far beyond the productive capacity of the unit; so here further short-falls are inevitable.

Accordingly, it is proposed that in the cases mentioned above the advisory committee will be given the right to review the amount to be carried forward by way of short-fall and, if necessary, reduce it or direct that in a particular season no amount will be carried forward. Any decision of the advisory committee in this area may, of course, be appealed against to the review committee. Clause 7 inserts two new sections (54a and 54b) in the principal Act. New section 54a provides that, where the amount of wheat that can be delivered in this State and the amount of over-quota wheat from a previous season is less than the amount of wheat comprised in the State quota, and the Minister considers that it is justified, all wheat delivered may be taken up as quota wheat. Honourable members will, no doubt, be aware that this situation will probably occur during the current delivery season. Due to adverse seasonal conditions, the amount of wheat available for delivery as quota wheat of this season will fall far short of the State quota. It is considered that a provision of the kind proposed will be of considerable benefit to those farmers who do have wheat to deliver and who will, accordingly, be able to take advantage of the guaranteed minimum price arrangement.

New section 54b arises from successful representations that have been made for a special hard wheat quota for this State. Depending on total deliveries of hard wheat this year, those producers who have delivered hard wheat will, by operation of this section, have their wheat delivery quotas increased by up to 50 per cent of the amount of hard wheat delivered.

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

HEALTH ACT AMENDMENT BILL

The Hon. A. J. SHARD (Minister of Health) obtained leave and introduced a Bill for an Act to amend the Health Act, 1935-1971. Read a first time.

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

That this Bill be now read a second time.

It contains several relatively minor amendments to the principal Act and also seeks to increase most of the penalties presently provided by the Act. For the same reasons as I stated when introducing the Bill to amend the Food and Drugs Act, I now commend to honourable members the penalty increases sought by this Bill. In many cases the penalties now obtaining have not been increased since 1956, when the last general review of penalties was made.

Clause 1 is formal. Clause 2 fixes the commencement of the Act on a day to be proclaimed. Clauses 3 to 34 inclusive increase penalties. Clause 35 enables a local board of health to make wider and more specific regulations with respect to the registration of lodging-houses. It is desirable that a board should be able to specify certain conditions to be fulfilled before a person may be granted a certificate of registration for a lodging-house and that certificates may be revoked on breach of a condition. It is considered that the running of lodging-houses for gain ought to be controlled more efficiently, as it is an area in which the unscrupulous can easily take unfair advantage of those members of the community who are vulnerable because of age, poverty, or any other disadvantage.

Clauses 36 and 37 increase penalties. Clause 38 provides that the fee (at present 20c) payable by a local board to a medical practitioner on the notification of an infectious or notifiable disease may be prescribed by regulation. Clauses 39 to 53 inclusive increase penalties. Clause 54 broadens the power to make regulations with respect to irradiating apparatus. As the section is presently worded, regulations may be made only with respect to controlling the possession and use of such apparatus and granting licences for the use of such apparatus. The need has arisen to impose licensing requirements on persons who import, manufacture, possess for sale or sell irradiating apparatus. The amendment will enable regulations to be made for such licences, just as they may be made with respect to radioactive substances.

Clause 55 extends the regulation-making power in the Act to cover the fixing of certain fees under the Act. The amount of these fees is at present either fixed under the Fees Regulation Act or specified in the Act itself. This clause also empowers the Governor to make regulations regulating and controlling the construction, maintenance and operation of swimming pools. Honourable members will no doubt be well aware of the health hazards that can arise from a pool that is not cleaned, filtered or treated against certain bacteria. As the number of private and public pools is increasing at a fast rate, the Government believes that the health, as well as the safety, aspects of pools ought to be considered and regulated. Clauses 56 to 58 increase penalties.

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (GENERAL)

Second reading.

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

That this Bill be now read a second time.

It makes several unconnected but important amendments to the Local Government Act, all of which are designed to improve the operations of local government and the employment of its resources. Clauses 1 and 2 are formal provisions relating to the title and commencement of the Act. Clause 3 amends section 57a of the principal Act by deleting the reference to the licence of the council being required for the resignation of a member. In 1971, other sections were amended to permit a member to resign without obtaining his council's consent. A consequential amendment to section 57a was omitted at that time.

Clause 4 amends section 84 to empower a council to appoint the Auditor-General as its auditor if it desires to do so. Provision is also made to provide that the Auditor-General is not subject to requirements regarding the possession of a local government auditor's certificate. This amendment has been recommended by the Auditor-General and is due to concern which has arisen that some audits have not been of desired standard. One large council has also sought the amendment and others are known to be anxious to take advantage of it. The principal reason for clause 7 is a consequential amendment to section 100 following proposals in later clauses relating to the use of both systems of assessment in an area. However, advantage has been taken to alter to decimal currency the amounts shown in the old currency.

Clause 8 amends section 105 by striking out paragraph IV of subsection (1) and inserting a new provision. The present provision

generally prohibits a person from nominating for more than one office of member of a council. The Act, however, did not contemplate a person nominating for two vacancies in the one ward. Such vacancies can occur when there is a normal annual election and also a supplementary election at the same time. In the last council elections a person did nominate for two such offices. The new provision will prevent this.

Clause 8 also amends section 105 by inserting new paragraph Va which provides for the checking of nominations when received and for the persons lodging nominations to be given an opportunity to correct errors. Unfortunately, instances have occurred where some persons have been given an opportunity to correct errors whilst others (even in the same council area) have not received the same treatment. This has caused considerable discontent. As in clause 7, the main reason for clause 9 is a consequential amendment to section 115, but advantage has been taken to change the references to the old currency.

Clause 10 amends section 129 to provide that a returning officer when exercising his casting vote in an election shall do so in favour of a retiring councillor when he is one of the candidates, and in other cases shall draw lots. The Act at present does not direct a returning officer to exercise his casting vote in any particular manner, as is, of course, the case in other elections. However, in local government elections, the returning officer is, in most cases, the clerk, and if he exercises his casting vote in favour of someone other than a retiring councillor, as did happen this year, considerable repercussions can be caused. First, it can be said that a retiring councillor is not defeated, and second, the clerk could find himself in an untenable situation if the offended person subsequently gained office.

Clause 11 amends section 153, which at present permits councils to appoint committees and to delegate to them powers and duties under the Local Government Act. The amendment extends this provision to include the Planning and Development Act. With the increasing activity of councils under the latter Act it is desirable that the committee system be extended to provide for delegation of functions under that Act. Clause 12 amends section 156 to apply the provisions therein to all councils. At present the provisions apply only to metropolitan councils and permit them to resolve to suspend the operation of by-law making powers relating to the procedures to be observed at meetings. These provisions could be beneficial to other councils and no reason exists for the present limitation.

Clause 13 inserts new subsections in section 157 and relates to superannuation for employees. The new provisions provide for councils to submit to the Minister schemes for provision of superannuation benefits. The Minister has the right to approve such schemes with or without changes, and, where a council has not submitted a scheme, he has the right to determine a scheme. It is an unfortunate fact that some councils do not provide such benefits and others provide very little. It is considered that all should have a right to enjoy these privileges. Clause 13 also provides, in section 157, for service of an employee with different councils to be continuous for long service leave purposes. Both this provision and the previous provision will promote the career of the local government officer. Provision is made for a determination to be made that one council shall contribute to another council.

Clause 17 repeals section 179 and inserts a new section. At present councils are empowered to use one of the two systems of valuation. It is considered that the use of both systems in the one area will be of considerable benefit to many areas and provide for a more equitable distribution of the rate burden. New section 179 will permit a council to use the land values system in the whole area or part of its area, for example, in a ward, township or zone, whilst annual values operate elsewhere. This is not new in Australia as it applies successfully in Western Australia. Clause 20 repeals section 189 and provides by a new section that the use of the land values system in an area or part shall be by proclamation following a petition by the council. Clause 21 repeals section 190 and provides by a new section that a council shall give public notice of a proposal to use the land values system in its area or part. Rights are given for the ratepayers to demand a poll on the question.

Clauses 6, 14 to 16, 18 and 19, 22 to 30, 35 to 40, 53, 60 and 65 make consequential amendments to sections 88, 169, 173, 178b, 180, 184, 192, 193, 196, 197, 198, 199, 200, 202 to 211, 235, 241, 245, 248, 249, 253, 488, 816, and 847 due to the proposal for the use of both systems of valuation. Clause 31 repeals section 214 and inserts a new section concerning declaration of differential general rates. The change from the present provisions is that councils may declare differential general rates in wards, townships or zoned areas. It is considered that this will permit greater

flexibility in rating powers. Clause 31 also inserts new section 214a which will empower a council to grant rate rebates or concessions for securing proper development of any portion of the area or of preserving buildings or places of historical value. The provision is particularly desirable within the city of Adelaide, but also in other areas. The exercise of the power requires approval of the Minister.

Clause 32 amends section 228 to empower municipal councils to declare differential minimum amounts payable by way of rates. Clause 33 makes similar amendments to section 233a in respect of district councils. At present a council can declare one minimum amount which is payable over the whole of the area. Many instances have occurred, particularly in country areas, where a minimum in one part of an area is appropriate but most harsh in another part. Clause 34 amends section 234 principally to cover consequential amendments as a result of the new provisions to permit the use of both systems of valuation in an area, and also to change the references to the old currency. Clause 41 amends section 267a, which empowers a council to defer rates in respect of needy people. If a council defers the payment of rates the recipient loses the right to vote because rates are still outstanding. Yet, when a council completely remits rates under other powers, the recipient does not lose the right to vote as rates are no longer outstanding. This is an anomaly which is corrected by clause 41.

Clause 42 amends section 287 to empower a council to spend revenue in repaying any amounts wrongly paid by a ratepayer. Instances have occurred where errors have resulted in ratepayers wrongly paying amounts to a council. At present, councils have no power to make such refunds except in the financial year in which the error occurred. This is considered to be too harsh. Clause 43 amends section 287a, which at present empowers a metropolitan council to pay up to $70,000 in a financial year to the South Australian Housing Trust, for development purposes. This amount is increased to $250,000. The existing amount can be too low in some desirable instances, for example, in the Hackney redevelopment proposals, involving the Corporation of St. Peters.

Clause 44 amends section 338 regarding reinstatement of roads. The amendment includes the Electricity Trust of South Australia in the bodies to which the provisions are not applicable. E.T.S.A. has its own arrangements with councils. Clause 44 makes similar amendments to section 339. Clause 45 amends section 346a regarding the fencing or enclosing of swimming pools. Because of the provisions contained in the Swimming Pools (Safety) Act, 1972, the amendment provides that section 346a shall not apply to any pool to which that Act applies.

Clause 47 amends section 425 regarding the issue by a council of a notice to borrow money. At present, councils are required to prepare plans and specifications and estimates of works involving borrowing for inspection by ratepayers. In many cases, considerable costs can be involved in preparing detailed plans and specifications and such costs can be wasted if a resultant poll of ratepayers on the borrowing is lost. It is considered that councils should supply particulars of the work and an estimate rather than full plans and specifications. This would be sufficient to enable ratepayers to determine their attitudes to borrowing. Clause 48 makes a similar amendment to section 426. Clause 49 amends section 434 to permit a council to borrow money to discharge an overdraft. A recent instance has occurred where a council has created large overdrafts through revenue expenditure of a capital nature (somewhat unwisely) and it is necessary that the council borrow to overcome its current difficulties. The consent of the Minister is required for such borrowing.

Clause 50 amends section 449aa to increase a council's overdraft power in connection with electricity undertakings. The present power has been found to be insufficient for the operation of these undertakings. The present overdraft is restricted to not more than one-quarter of the gross revenue from the undertaking. This is increased to one-half. Clause 51 makes consequential amendments caused by the amendments proposed in clause 64, explained later. A new section 449a is inserted. Clause 52 makes a minor amendment to section 475 to change the reference to Adelaide Electric Supply Company Limited to the Electricity Trust of South Australia. Clause 54 repeals section 509, which sets out the clearances of aerial conductors from roadways, buildings and other erections. The section is applicable to those councils that conduct electricity undertakings. The present clearances are out of date and it is proposed by regulation that the clearances used by the E.T.S.A. in their own works be applicable. Section 517 is amended by clause 55 by inserting power to make regulations.

Clause 56 amends section 530c, which sets out the procedures to be followed by a council when it installs a sewerage effluent disposal scheme. When a council borrows for such work, it is required to do so under its normal borrowing powers, which includes a possible poll being demanded by the ratepayers of the whole area. As the provisions provide for ratepayers affected by the scheme to be advised of the proposals and for those ratepayers to lodge objections, it is considered undesirable for the borrowing to be subject to the consent of all ratepayers, many of whom are not affected by the proposals. Clause 56 achieves this. Clause 57 amends section 536, which enables a council to exercise control on the keeping of cattle and swine in a township. The amendment extends this power to an area within 100 m of the township. It is desirable that control be possible in areas close to and surrounding the township.

Clause 58 repeals section 666b regarding unsightly structures or objects. The present provisions have been found to be somewhat ineffective due, principally, to difficulties in the definition of "chattels". A new section is inserted that will enable a council to require any structure or object that it considers to be unsightly to be removed or that such action be taken as will ameliorate the condition. In default, a council may take the necessary action. Appeal rights are retained. Clause 59 amends section 669 (16) II, which enables a council to make by-laws to license sellers of newspapers, who must be males of not less than 13 years of age. No adequate reason can be seen for the restriction on females, and clause 59 corrects this.

Clause 60 repeals section 776 regarding the interests of an officer with his council. At present, the provisions are extremely severe and automatic disqualification results if an officer has any interest in a dealing with his council. A new section is inserted which retains severe sanctions against malpractice but enables the Minister to exempt certain cases in which an officer has dealings with the council. There are certain interests that should not result in disqualification. Examples of these are: (1) the officer paying money due to the council, (2) receiving compensation when a council uses compulsory powers to take material from his land, (3) being a member of a committee of management, (4) rental of a hall or other facility for entertainment purposes, (5) membership of a local club having dealings with the council, (6) being a member of a council's superannuation scheme, (7) receiving a fee as a member of a body under any Statute, and (8) his spouse being employed by the council.

Clause 61 repeals section 777. This section is inoperable as section 99, to which it refers, was withdrawn from the Act several years ago. Clause 62 amends section 779a, which empowers a council to erect signs restricting traffic on unsafe roads or bridges. It has been suggested that a council could be liable for damages because of the erection of such signs. This is unreasonable, and clause 62 prevents this. Clause 64 amends section 835 regarding postal voting. This amendment will provide that the ballot-paper used in postal voting shall be indistinguishable from other papers. This is desirable in view of complaints that differences in postal ballot-papers destroy the secrecy of a vote. Clause 66 amends section 856 concerning borrowing powers of the city of Adelaide. The effect of this amendment is to contain all the borrowing powers of the city of Adelaide within the one Part. Clause 51, which I have already mentioned, prevents the use by the city of the normal powers in the Act. This is necessary as all the powers will now be in the one Part.

Clause 66 also provides for the city of Adelaide to be able to borrow in connection with an approved development scheme. In 1969, section 855b was inserted in the Act to give the city power to enter into development schemes, but no power was provided for the council to borrow for such schemes. Clause 67 makes a consequential amendment to section 858 as a result of the proposals contained in clause 68. Clause 68 amends section 863, which affects the city of Adelaide and concerns the creation of sinking funds in connection with borrowing. The present provisions regarding the payment of money into the fund are out of date. Clause 68 brings these up to present day requirements. Clause 69 repeals section 864. This is necessary and consequential as a result of the amendments that provide for the inclusion of the city of Adelaide's borrowing powers in one Part of the Act.

Clause 70 repeals section 884, which refers to the bridge at Port Augusta. As a new bridge is now in use and the old bridge is to be demolished, the section is not needed. Clause 71 inserts new section 886c in the Act and provides for Beaumont Common to be vested in the city of Burnside as a park.

Beaumont Common was left to the people of Beaumont for their enjoyment by the late Samuel Davenport in the 1800's. The common is in the ownership of trustees. However, the trustees do not have the finance to meet the costs of maintenance or rates and taxes. The council will look after it as a park, but will be restricted, under the provisions, to retaining it as an open space and cannot permit organized sporting activity thereon.

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

CONSUMER CREDIT BILL

In Committee.

(Continued from November 14. Page 2953.)

Clause 45—"Prohibition of procurement charges, etc."

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

After clause 44 to insert the following heading:

PART IV A
CHARGES FOR THE PROCUREMENT OF CREDIT

and to strike out subclauses (1) and (2) and insert the following new subclauses:

(1) Any person who recovers or seeks to recover any fee or other consideration in respect of the procurement from any licensed credit provider of credit shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

(2) Where a scale of procurement charges has been fixed under this section and any person recovers or seeks to recover any fee or other consideration in respect of the procurement from any credit provider or other person of credit in excess of the amount allowed in that scale of procurement charges, he shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

(3) The Commissioner may, by notice published in the *Gazette*, fix a scale of procurement charges for the purposes of this section.

(4) The Commissioner may, from time to time, by notice published in the *Gazette* vary any scale so fixed.

(5) Any person who considers that a scale of procurement charges fixed under this section is unfair or inadequate may, at any time, appeal against the scale or any part thereof to the Tribunal.

(6) The Tribunal may, after consideration of an appeal under this section, order the Commissioner to vary the scale of procurement charges in such manner as it considers just.

(7) A person from whom any amount has been recovered in contravention of this section may recover back that amount from the person to whom, or to whose benefit it was paid, as a debt, in any court of competent jurisdiction.

(8) This section does not apply to the procurement of credit in the circumstances to which section 20 of the Consumer Transactions Act, 1972, applies.

Since this clause was considered in Committee a day or so ago, the Government has had extensive discussions with credit interests. The Australian Finance Conference is of the opinion that procurement charges should not be permitted in credit transactions involving licensed credit providers, except to the extent that they are allowed under clause 20 of the Consumer Transactions Bill. In other transactions it is desirable that some measure of control should exist over the amount that may be charged for the procurement of credit. The amendments proposed to this clause remove its present contents and insert new provisions in lieu thereof.

First, a person is prevented from making a procurement charge in respect of a credit transaction in which a licensed credit provider is involved. This prohibition does not apply, however, in the circumstances set out in clause 20 of the Consumer Transactions Bill. In respect of other transactions, the commissioner is empowered to fix a scale of procurement charges. A person who considers that this scale is unfair or inadequate in any way may appeal against the scale to the tribunal. The tribunal may, upon consideration of the appeal, order the commissioner to vary the scale in such manner as it considers just. No person is permitted to recover procurement charges in excess of the amount allowed by the scale. It is hoped that these amendments will overcome the various points raised by members in debate, and will provide effective controls in matters that are of serious concern both to the Australian Finance Conference and the Government.

The Hon. F. J. POTTER: It seems the Government has given considerable attention to the problem and made an entirely new approach to procurement fees. What is now proposed seems fair and reasonable, but I am concerned about the definition of "credit charge". Will procurement charges be authorized by regulation for the purpose of this definition? If procurement charges are added to the credit charge, the effective rate of interest may become more than 10 per cent.

The Hon. A. J. Shard: That is not intended.

The Hon. F. J. POTTER: That may be so, but I reserve my right to ask for this clause to be recommitted, if necessary.

The Hon. C. M. HILL: Those people involved in the business of procuring loan money from private citizens and placing it

with borrowers are concerned, because in the past they have been entitled to charge a legitimate procuration fee. Now, they fear they may not have the same right under this legislation. It seems that the Government has divided two groups of people into licensed credit providers, those who will not be able to charge a procuration fee, and those who are not licensed but who will be able to charge such a fee.

There will be one alteration in respect of procuration fees—namely, a scale of charges will be laid down. I do not think that that is altogether unreasonable. In his explanation the Chief Secretary said that, if the charge is deemed to be unreasonable, an appeal can be made to the tribunal, which will act as an umpire, and adjustments may be made. Apart from the aspect mentioned by the Hon. Mr. Potter, I believe that the Government has made a genuine attempt to meet the situation, and I support the amendment.

The Hon. A. J. SHARD: I thank honourable members for their attention to this clause. I believe that the Hon. Mr. Potter thinks that the amendment may be all right, as does the Hon. Mr. Hill. The Bill will have to be recommitted, and I shall be willing for progress to be reported so that the matter that has been raised can be further considered during the weekend, if that is necessary.

Amendment carried; clause as amended passed.

Clauses 46 to 52 passed.

Clause 53—"Manner in which credit is to be provided."

The Hon. F. J. POTTER moved:

In subclause (2) (b) to strike out "solicitor" and insert "legal practitioner".

Amendment carried; clause as amended passed.

Clause 54 passed.

Clause 55—"Canvassing."

The Hon. A. J. SHARD: I move to strike out subclauses (1) and (2) and insert the following new subclause:

(1) Where a credit provider canvasses, or employs any person for the purpose of canvassing at the place of dwelling or business of any person with a view to inducing that person to apply for or obtain credit, the credit provider and the canvasser shall each be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

The purpose of the amendment is to remove provisions that are inconsistent with provisions in the Consumer Transactions Bill relating to the payment of commissions.

Amendment carried; clause as amended passed.

Remaining clauses (56 to 61) and title passed.

Bill reported with amendments.

Bill recommitted.

Clause 3—"Arrangement"—reconsidered.

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

After "Part IV—Credit Transactions." to insert "Part IVA—Charges for the Procurement of Credit.".

This is a consequential amendment.

Amendment carried; clause as amended passed.

Clause 5—"Interpretation"—reconsidered.

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

In the definition of "guarantor" after "a person who" third occurring to insert "gives any such guarantee or".

The purpose of this amendment is to make it clear that a person who gives a guarantee in the course of carrying on a business is not to be treated as a guarantor under the proposed legislation. The legislation is intended to protect private individuals and not those who have sufficient commercial experience to look after their own interests.

Amendment carried; clause as amended passed.

Clause 6—"Application of this Act"—reconsidered.

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

In subclause (1) to strike out "except" and insert "Part IVA and".

This amendment deals with the provision of the Bill exempting certain persons and transactions from the provisions of the Bill. It is considered that Part IV (dealing with procurement charges for credit) should apply in respect of all credit transactions; the effect of the amendment is to ensure that this is so.

Amendment carried; clause as amended passed.

Clause 13—"Establishment of the Tribunal"—reconsidered.

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

In subclause (2) (*a*) to strike out "appointed to" and insert "holding".

The purpose of this amendment is to make the wording of clause 13 (2) (*a*) consistent with clause 14 (2).

Amendment carried; clause as amended passed.

Clause 38—"Name in which a licensed credit provider is to carry on business"—reconsidered.

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

After "business" to insert "as a credit provider".

This amendment makes it clear that the prohibition against a credit provider carrying on business in a name other than the name in which he is licensed extends only to his business as a credit provider and not to any other business that he may happen to be carrying on.

Amendment carried; clause as amended passed.

Clause 39—"Corporation must employ a licensed person as manager"—reconsidered.

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

In subclause (1) after "licence" to insert "in this State".

This amendment is merely inserted from an abundance of caution to make it clear that the Bill requires an approved manager for the business of the credit provider conducted over the whole of the State and not for separate offices.

Amendment carried; clause as amended passed.

Clause 40—"Form of credit contract"—reconsidered.

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

In subclause (1) (*b*) (*v*) to strike out "changes" and insert "charges"; in subclause (4) to strike out "in the contract"; in subclause (9) to strike out "excess", after "consumer" to insert "in respect of a credit charge", and to strike out "principal or interest" and insert "amount".

These amendments are all drafting amendments that do not alter the substance of the clause.

Amendments carried; clause as amended passed.

Clause 41—"Form of contract that is a sale by instalment"—reconsidered.

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

In subclause (3) to strike out "in the contract".

This is also a drafting correction.

Amendment carried; clause as amended passed.

Clause 51—"Assignment of certain interests"—reconsidered.

The Hon. F. J. POTTER moved:

In subclause (1) (*b*) and in subclause (2) to strike out "solicitor" and insert "legal practitioner".

Amendment carried; clause as amended passed.

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

CONSUMER TRANSACTIONS BILL

Adjourned debate on second reading.

(Continued from November 14. Page 2959.)

The Hon. R. A. GEDDES (Northern): I support this interesting Bill, which attempts to carry out the Government's philosophy of giving the consumer, in relation to hire-purchase transactions, the greatest possible protection that can be devised. The Bill repeals the Hire-Purchase Agreements Act, 1960-1971. The Government has always expressed its sympathy for the consumer, and the Consumer Credit Bill, which has just been considered by the Council, and this Bill are geared to giving the greatest possible help to the consumer, although possibly at the expense of private enterprise. If it becomes operative, the Act will mean tighter control by hire-purchase companies, and perhaps the consumer without sufficient equity will have less opportunity to purchase goods under hire-purchase, because the companies, to protect themselves, may have to put up their charges to combat the problem of the consumer's always being right. There is every possibility that hire-purchase charges will rise to protect the companies from the added consumer privileges.

No matter how iniquitous people may consider or describe hire-purchase companies, hire-purchase is a way of life in the economic sense in Western society, and we might say that the economy of South Australia itself has been geared, operated and directed around the hire-purchase system. The increased productivity from such industries as the washing machine industry, the electrical and television industries, and the motor car industry has created employment in this State, and these industries revolve around the ability of Mr. and Mrs. John Citizen to buy these commodities. Because many people do not have ready cash, the hire-purchase companies have been able to profit, but at the same time they have been able to produce profits. If one were to condemn completely the principle of hire-purchase, one would have to turn back the clock to the Dark Ages, because without hire-purchase the householder would not have the amenities of today—the washing machine, the lawnmower, the air-conditioner and a host of other things, all of which people are able to buy through hire-purchase facilities.

No-one in hire-purchase circles knows how this Act will operate, if it is proclaimed. It is to the credit of the industry, however, that it has not lobbied or produced undue criticism of the Bill, because until it becomes operative no-one can foresee how it will work or whether it really will work to the benefit of the consumer, as is intended. It is hoped, for the sake of the consumer, that it will work. I hope that, because of its provisions, the cost to the consumer of hire-purchase will not rise

unnecessarily and that the consumer of humble means will be able to buy without being unduly restricted.

The Bill is designed to cover transactions involving less than $10,000 and to protect the consumers from the big bad wolves of the financial world—the mortgagor, the guarantor, the hire-purchase contract, and the credit contract, and every facet of the money-lending world the Government can find to control. The hire-purchase companies may have to remember not only the old adage that the customer is always right but now also they must add that his complaints must be right, as well. Clause 5 contains some interesting definitions, and shows the breadth of the Bill and its coverage. For instance, "services" are defined as follows:

(*a*) the cleaning, ironing or repair of any articles of clothing or personal ornament;

I cannot see how a person will get on if the crease in his trousers is not to his satisfaction and how he will benefit under the Bill. The definition also includes the following:

(*b*) the repair or servicing of any articles of household use or ornament;
(*c*) the repair, re-instatement or renovation of any part of a dwellinghouse;
(*d*) the painting or decoration of the whole or any part of a dwellinghouse;
(*e*) the performance in relation to a dwellinghouse or its curtilage of work of a kind usually performed by a plumber or electrician;
(*f*) the servicing, repair or painting of a motor vehicle;

In case anything has been missed, paragraph (*g*) covers "any other services that may be prescribed". Nothing has been missed. If a new shoelace breaks, I suppose one could get some protection under the Bill.

Although many clauses show the complexity of the Bill, I shall deal with only four or five which I hope the Minister will explain more fully. Clause 10 provides for exclusion of implied terms. The clause provides:

(1) The conditions and warranties to be implied in a consumer contract pursuant to the provisions of this Part may not be excluded, limited or modified by agreement.
(2) Any other condition or warranty to be implied in a consumer contract may (subject to any other enactment or rule of law) be excluded, limited or modified by agreement.
(3) In any legal proceedings, any purported exclusion, limitation or modification of a condition or warranty that is capable of exclusion, limitation or modification shall be regarded as ineffectual unless it is proved that before the formation of the contract the attention of the consumer was drawn specifically to that exclusion, limitation or modification.

Many of the words in that clause are contradictory. Perhaps the Minister could spell out this provision more clearly to me. Clause 15 causes me some concern. It provides that a consumer shall be entitled, within a reasonable time (not exceeding 14 days) after the delivery of goods in pursuance of a consumer contract, to rescind the contract on the ground of any breach of condition on the part of the supplier. Quite obviously, this is designed as a cooling-off clause, but in my opinion the period of 14 days is far too long. The clause produces many questions that are difficult to answer, and I will put some of them to the Chief Secretary for his consideration. If a man was to trade in his old motor car and purchase a new one, the second-hand car dealer, after the prescribed time under the Second-hand Dealers Act, would be free to sell the traded-in car. Let us assume he sells it and within 14 days the owner of the new car returns the car, stating that he wishes to rescind the deal and he wants his money back. Does he get back the total amount of money that he paid for the vehicle as well as the money that he received for his traded-in vehicle? If he does, there will be a great injustice to the second-hand car dealer. In fact, that sort of thing would cripple that industry quickly.

The same can be applied to any other goods involving a trade-in transaction. I wonder whether it is just that this cooling-off period of 14 days should be retained; I think that seven days would be a far better period of time. Another point is depreciation in value of a new product. If a person was, for instance, to buy a new refrigerator and he took it home and in the 14 days allowed to him he decided he was not satisfied with it and he used as an excuse that there was some breach on the part of the supplier to return that refrigerator which, although it might be in show room condition, from all appearances, as everyone fully appreciates, would have depreciated in value (which the trade has always accepted): in those circumstances, would the man get his money back in full? One could cite many other instances where, because the consumer is considered correct, right and proper, and everyone else is wrong, the consumer could certainly get his pound of flesh, but to the detriment of the industry, and that would make the Government's Bill foolish.

By clause 20, a credit provider may be given the right to pay a commission to the agent who does the work for him. The clause provides

that, where the amount or value of the commission or other benefit (or where separate commissions or benefits have been paid or conferred the aggregate amount or value thereof) exceeds 10 per centum of the credit charge payable under the credit contract, both the credit provider and the person to whom the commission was paid shall be liable to a fine not exceeding $1,000. I have no argument with the credit provider. Once it is clearly set out in the Bill that the rate of commission shall be no greater than 10 per cent, I have no quibble with some penalty being imposed on the credit provider if he exceeds that rate; but I disagree that the agent should be caught in the same net because, if a credit provider was to be paying out the commission to an agent, say, at Whyalla, he would not necessarily be paying on every transaction: he would be paying monthly or at some other period of time and, if the agent was then responsible for checking that the amount of money he received was exactly the correct amount of commission and was liable to a maximum fine of $1,000 if he did not, that would seem to be not only unfair but unnecessary. However, I do not argue that the credit provider should make sure of the amount of the commission. I intend to move an amendment to this clause that will place the responsibility on the credit provider and give the agent an opportunity to explain his reasons why.

In clause 23 (2) there is a minor drafting error: it should read "to the supplier at his place of business or at any place fixed by agreement". I draw honourable members' attention to that. The aims and ambitions of the Government, as promised to the electors, for consumer help are now to go out and be proved or not proved to be correct. The old system of private enterprise and competition being the order of the day and way of business is slowly being whittled away with controls such as these. The consumer must always remember that private enterprise is the industry that provides the goods, the employment and the wages, and, the more controls that are imposed on private enterprise, the less efficient and competitive it will be, and in the long run it will not benefit the consumer because of the overall escalation of costs. I support the second reading.

The Hon. A. J. SHARD (Chief Secretary): I thank honourable members for the attention they have given to this Bill. Several questions have been asked. I agree with most honourable members who have spoken that this is a Committee Bill. If honourable members ask their questions again in the Committee stage, I think I may be able to answer them as we go through the Bill clause by clause.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Arrangement of this Act."

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

In Part III to strike out "DIVISION I—RIGHTS OF CONSUMERS UNDER CONSUMER MORTGAGES DIVISION II—MISCELLANEOUS" and insert "PART IIIA—PROVISIONS GENERALLY APPLICABLE TO CONSUMER MORTGAGES AND CONSUMER LEASES".

The amendments to this clause are consequential on amendments that are to be moved to clauses 32 to 35 of the Bill. These clauses at present deal only with consumer mortgages. However, it is considered that they should be equally applicable to consumer leases. Hence, clauses 32 to 35 will constitute a separate part dealing with both consumer mortgages and consumer leases.

Amendment carried; clause as amended passed.

Clause 4 passed.

Clause 5—"Interpretation."

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

In the definition of "consumer contract" to insert the following new paragraph:

(*da*) a contract or agreement that includes a provision conferring any right or licence to occupy land;

The purpose of this new paragraph is to make it clear that a lease of land, which includes incidental provision for hiring furniture or other goods, does not come within the definition of a consumer contract.

The Hon. C. M. HILL: I thank the Chief Secretary for his explanation, and I thank the Government for introducing this amendment. It covers my query concerning furniture included in a lease of furnished accommodation.

Amendment carried.

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

In the definition of "guarantor", after "a person who", to insert "gives any such guarantee or".

The purpose of this amendment is the same as for an amendment to the Consumer Credit Bill. It excludes from the definition of guarantor a person who gives a guarantee in the course of carrying on some commercial undertaking. Thus, the only person entitled to the protection afforded to guarantors under the Bill will be a natural person.

Amendment carried; clause as amended passed.

Clause 6 passed.

Clause 7—"Contract conditional upon credit."

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

In subclause (1) (*a*), after "may", to insert "by notice in writing served on the supplier".

The purpose of this amendment is to show how rescission of a contract is to be effected under clause 7. The amendment provides that the consumer may, by notice in writing served on the supplier, rescind the contract in the event of a failure of a condition precedent.

Amendment carried; clause as amended passed.

Clause 8 passed.

Clause 9—"Implied condition in consumer contract for the provision of services."

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

In subclause (1) to strike out "it is" and insert "they are".

This is a drafting amendment.

Amendment carried; clause as amended passed.

Clauses 10 to 14 passed.

Clause 15—"Rescission of consumer contract."

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

In subclause (1) to strike out "fourteen" and insert "seven".

I think it would be satisfactory for all concerned if the cooling-off period were reduced to seven days.

The Hon. A. J. SHARD: This amendment is unacceptable, because it is considered that the present limitation of 14 days is as short as practicable.

The Hon. R. C. DeGARIS: I support the amendment. I believe that after a person has taken delivery of goods he should be able to satisfy himself whether there are any faults or breach of conditions of these goods within seven days, so that he can rescind the contract. He just rescinds the contract, and it is up to the supplier to take his case to the tribunal. It should be the other way round: a contract should exist until the tribunal rescinds it.

If the consumer has any complaint he should have the right to go to the tribunal and make his complaint; then, the tribunal will decide on the evidence whether the contract will be rescinded. We are putting the boot on the wrong foot if the consumer can return the goods to the supplier and say, "I am sorry; the contract is rescinded," and if it is then up to the supplier to take the matter to the tribunal. That is one reason why I support the amendment.

The Committee divided on the amendment:

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

Noes (8)—The Hons. D. H. L. Banfield, T. M. Casey, M. B. Cameron, C. M. Hill, A. F. Kneebone, F. J. Potter, A. J. Shard (teller), and A. M. Whyte.

Majority of 2 for the Ayes.

Amendment thus carried.

The Hon. R. A. GEDDES: I move to insert the following new subclause:

(2a) The notice must state the ground upon which the consumer purports to rescind the contract.

Because of the complications involved in this type of return of goods, I suggest that the notice must state the grounds on which the consumer purports to rescind the contract, so that the people concerned will be aware of the problem. As the supplier is the only person who can appeal to the tribunal on such a problem, this would act as evidence for him. Also, it would stop the frivolous return of goods to a supplier.

The Hon. A. J. SHARD: This amendment is unacceptable because it requires a consumer to state the grounds upon which he rescinds the consumer contract. Most people would not have the necessary legal knowledge to state their reasons for rescission in a manner that is legally accurate.

The Hon. Sir ARTHUR RYMILL: I cannot see that this amendment in its isolated form gets the matter further. Under the clause, the purchaser has the right to rescind within a certain period (or, perhaps at present I should say that the purchaser has the right to rescind within an uncertain period, because it is hanging in the balance). The fact that he gives a reason does not seem to come into account at all; if he has the right to rescind, he has that right, whatever the reason. If he has not the right to rescind, the clause should say so. Unless the Hon. Mr. Geddes can show me where this amendment gets us any further, I cannot support it.

The Hon. F. J. POTTER: The basis of rescission is for a breach of condition. What the Hon. Mr. Geddes is endeavouring to do in this amendment is make the person (who is seeking to rescind for a breach of condition) say what condition he thinks is applicable to the case. The question of what a condition

is goes back to an earlier part of the Bill; it is tied up with the question of whether or not the goods are in accordance with the description. Under clause 8, there is an implied condition that the vendor has the right to sell the goods, and also that the goods correspond with the description or the sample and that the goods are of merchantable quality. Those are the four broad conditions referred to in the Bill and, of course, they are the common law conditions that are implied according to the law of contract. What is sought here is to ask for a statement of which one the purchaser is relying on.

I agree with the Minister that there is a difficulty: an ordinary person would not know very much about these technical matters, anyway; probably he could state his objection only in layman's language. At least, if it was to appear from what was said in the notice of rescission that a breach of condition was involved, the vendor would know whether or not he had any basis on which to approach the tribunal under clause 5 (*d*) to declare the rescission invalid. I support the amendment, even though the actual reasons stated in the notice might be in somewhat inadequate terms; at least something could be deduced from it to show whether a breach of condition was involved.

The Committee divided on the amendment:

Ayes (11)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes (teller), G. J. Gilfillan, L. R. Hart, C. M. Hill, H. K. Kemp, F. J. Potter, E. K. Russack, and A. M. Whyte.

Noes (7)—The Hons. D. H. L. Banfield, T. M. Casey, M. B. Cameron, A. F. Kneebone, Sir Arthur Rymill, A. J. Shard (teller), and V. G. Springett.

Majority of 4 for the Ayes.

Amendment thus carried.

Progress reported; Committee to sit again.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (MINING)

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

NARCOTIC AND PSYCHOTROPIC DRUGS ACT AMENDMENT BILL

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

LAND AND BUSINESS AGENTS BILL

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

That Standing Orders be so far suspended as to enable the conference on the Land and Business Agents 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

At 4.48 p.m. the Council adjourned until Tuesday, November 21, at 2.15 p.m.