LEGISLATIVE COUNCIL

Thursday, October 25, 1973

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:

Art Gallery Act Amendment,
Liquid Fuel (Rationing),
Nurses' Memorial Centre of South Australia, Incorporated (Guarantee),
Potato Marketing Act Amendment.

LAND COMMISSION BILL

At 2.18 p.m. the following recommendations of the conference were reported to the Council:

As to amendments Nos. 1 *and* 3:

That the Legislative Council do further insist on its amendments and the House of Assembly do not further insist upon its disagreement thereto.

As to amendments Nos. 4 *and* 5:

That the Legislative Council do not further insist upon its amendments but make in lieu thereof the following amendment to the Bill:

Clause 6, page 3, lines 2 to 8—Leave out all words in clause 6 after "Governor" in line 2 and insert "upon the nomination of the Minister".

(2) One member of the commission shall be appointed by the Governor to be Chairman of the commission.

and that the House of Assembly agree thereto.

As to amendments Nos. 6 *and* 7:

That the Legislative Council do further insist on its amendments and the House of Assembly do not further insist upon its disagreement thereto.

As to amendment No. 8:

That the Legislative Council do not further insist upon its amendment but make in lieu thereof the following amendment to the Bill:

Clause 12, page 5, line 37—After "Minister" insert "and approved by a resolution passed by both Houses of Parliament".

and that the House of Assembly agree thereto.

As to amendment No. 9:

That the Legislative Council do further insist on its amendment and the House of Assembly do not further insist upon its disagreement thereto.

As to amendment No. 10:

That the Legislative Council do not further insist upon its amendment.

As to amendment No. 13:

That the House of Assembly do not further insist upon its amendments to this amendment but make in lieu thereof the following amendments to amendment No. 13:

Leave out proposed subclause (4) and insert:

(4) An allotment or parcel of land of less than one-fifth of a hectare in area shall not be leased by the commission to any person for a period exceeding, or for periods exceeding in aggregate, ten years.

After proposed subclause (6) insert subclauses as follows:

(7) Where a notice of intention to acquire land is served by or on behalf of the commission on the proprietor of land constituting a planning unit, and no such notice has previously been served in relation to that land, the proprietor may, within three months after the date of the service of that notice, serve personally or by post upon the commission prescribed particulars of the commercial development proposed by him in relation to the planning unit, and in that event, land comprised in the planning unit shall not be acquired by compulsory process within a period of two years after the date of service of those particulars, and if a substantial commencement of the commercial development has been made during that period, the land shall not be acquired by compulsory process after the expiration of that period.

(8) Where the acquisition of any land has been delayed or postponed for any period by reason of the provisions of subsection (7) of this section, but the land is subsequently acquired by the commission by compulsory process, within three years after service of the first notice of intention to acquire the land served by or on behalf of the commission, then notwithstanding the provisions of the Land Acquisition Act, 1969-1972, the compensation to which the proprietor of the land is entitled shall be assessed in all respects as if the acquisition had been effected as soon as practicable after service of that first notice of intention to acquire the land.

and that the Legislative Council agree thereto.

And the Legislative Council make the following consequential amendments to the Bill:

Clause 4, page 2, after line 1 insert definitions as follows:

"commercial development" in relation to land, means commercial building development or commercial housing development:

"commercial building development" in relation to land means development of the land by the erection thereupon of premises that are to be used for industrial or commercial purposes:

"commercial housing development" in relation to land means the development of the land by the erection thereupon of dwellinghouses, flats, or home units intended for sale, but does not include any such development where the nature or extent of the development does not conform with criteria established by regulation:

After line 5 insert definitions as follows:

"planning unit" means any land that the proprietor proposes to use for the purpose of commercial development:

"proprietor" in relation to land means the proprietor of a legal or equitable estate of fee simple in the land:

and that the House of Assembly agree thereto.

As to amendment No. 14:

That the Legislative Council do not further insist upon its amendment.

As to the suggested amendment:

That the Legislative Council do not further insist thereon.

Consideration in Committee.

The Hon. A. F. KNEEBONE (Chief Secretary): I move:

That the recommendations of the conference be agreed to.

The Council managers worked very hard to obtain a satisfactory solution to the problems that existed between the two Chambers. The conference was conducted under most amicable conditions. Certainly it was a difficult one because of the desire of both Chambers to retain their principles in regard to the Bill. However, after about five hours of deliberations we were able to arrive at a decision, which, I think, is satisfactory and acceptable to both Chambers. I thank the Council managers who accompanied me to the conference for the way in which they applied themselves to the difficult task before them.

The Hon. R. C. DeGARIS (Leader of the Opposition): I support the motion and what the Chief Secretary has said about the conference, which was a prolonged one: it adjourned in the early hours of the morning (at about 1 a.m.) and returned today to complete its work. The conference was managed for the House of Assembly by the Premier, the Minister of Development and Mines, Mr. Duncan, the Leader of the Opposition, and Mr. Dean Brown. After the initial skirmishes, when the viewpoint of both Chambers was put to the conference with firmness by the managers of each Chamber, the conference settled down to

one of co-operation and set about its task of finding practical compromises to the viewpoints expressed by both Chambers. I think I may say, with the support of the Council managers, that the conference was a constructive one. There was a desire on both sides to see the other side's viewpoint.

The first compromise was reached in relation to clause 6, which honourable members know deals with the question of the nomination of the commission. In the original Bill the commission was to be nominated by the Premier and the Prime Minister conjointly, each one having to approve of the other's nomination. In debate the Council had insisted that the commission should be appointed by the State Government; therefore, the Prime Minister should not have any say in the appointment of the commission. This point was accepted by the House of Assembly managers, and the Council then withdrew its other amendment to the clause which was probably an ancillary amendment. If the Prime Minister and the Premier had had the power to nominate to the commission, this Parliament should have had the final say in approving appointments to the commission. Having achieved the first amendment, namely, the appointment of the State Land Commission by the State Government, the Council saw fit not to insist on its secondary amendment.

Regarding clause 12, which was possibly the most difficult clause in the Bill, the House of Assembly managers agreed to the Council's amendment in clause 12 (1) (*a*) and to remove the phrase "or for other public purposes". The managers then had to deal with clause 12 (1) (*f*), which the Council originally deleted from the Bill. This provision, which gives the Minister power to assign other functions to the commission, was reinstated at the conference. However, a further amendment to it, covering the question of "other public purposes", was accepted: that is, if the Minister wishes to assign other functions to the commission, those functions must be approved by a resolution of both Houses of Parliament. This is a practical way of overcoming the difficulties that faced both Houses regarding this clause. This change, whereby the approval of both Houses will be required for an extension of the functions of the commission, also had some bearing on the later non-insistence by the Council managers on the appeal clauses. I will have more to say about that later.

I turn to clause 12 (2), which contained the words "notwithstanding any enactment or law to the contrary". The House of Assembly managers agreed to the deletion of those words, and the Council managers agreed not to insist with their inclusion of the provision that the commission had to be circumscribed by the Planning and Development Act.

I turn now to the other Council amendments, the first of which was that of the Hon. Mr. Hill. He moved to insert, in clause 12, new subclause (4), which would have prevented the commission from leasing housing blocks of less than one-fifth of a hectare in area. In other words, household blocks with which the commission intends to deal would have had to be freehold. A compromise was recommended that fulfilled the Hon. Mr. Hill's intentions and at the same time gave the commission power to lease blocks of less than one-fifth of a hectare in area, which leasing must not exceed, in aggregate, a period of 10 years. That was a satisfactory compromise from the point of view of the House of Assembly and the Legislative Council.

Subclause (6), which was originally inserted by the Council, deals with exclusions from acquisitions by the commission. In other words, it virtually places a prohibition on acquisitions by compulsory process of any dwellinghouse occupied by the owner as his principal place of residence, of any factory, workshop, warehouse, shop or other premises used for industrial or commercial purposes, or of any premises used as an office or rooms for the conduct of any business or profession. That subclause remains in the Bill, as the House of Assembly managers did not insist on their disagreement to it.

To clause 12 has been added subclauses (7) and (8), which add further strength to the prohibition from acquisition contained in subclause (6). The new subclauses place a prohibition on acquisition by the commission of certain lands, which prohibition was detailed by the Chief Secretary when he read to the Committee the recommendations of the conference. The new subclauses provide that the commission shall not, by compulsory process, acquire land that is required for future development. Where a proprietor, under this provision, is holding land for future development, whether industrial or commercial, and it can be shown that that land is required for the expansion of a business activity, then there is a prohibition placed on that land as regards acquisition by the commission.

As a safeguard to that prohibition, if the commission issued a notice to acquire, people holding that land must, within three months, prepare plans of proposed commercial or industrial development and, within two years, substantially commence that development. That is a reasonable protection for the commission and for the genuine owner or proprietor who may be holding land for genuine expansion of the business. With the widening of the prohibition clauses, the commission is now restricted virtually to the acquisition of broad acres, and it is unhampered in its acquisition of land for the production of allotments and building blocks: that is where this Council believed its acquisition power should rest. It means that more building blocks may come on to the market, and that is the spirit of the compromise that was reached.

I turn now to the appeal clauses on which the managers did not insist because under the Land Acquisition Act an appeal does lie in relation to the price paid for land that is acquired. I do not think it is logical that an appeal should now lie on the grounds of unfairness or injustice as far as acquisition by the commission is concerned because an appeal did not lie on the question of price in the original appeal clause. That is still there as far as broad acres is involved. Commercial and industrial land, or land held even for future housing development, is protected under the agreement between the Houses. Where it is broad acres I do not think an appeal should be allowed on the grounds of unfairness or injustice, because an appeal lies in that regard under the Land Acquisition Act anyway. So, with the widening of the prohibition clause the Council is justified in not insisting on the appeal clause.

The Council, I think, does not wish to see an appeal clause being used to prevent the commission from fulfilling its function. Indeed, under the agreement that has been reached the commission is not hampered in its operation to provide more building blocks for the market; however, satisfactory protection is provided for those who could be adversely affected by the commission's activities under the original Bill.

The Council did not insist on new clause 20a, which was inserted by this Chamber. My original draft of the proposed new clause contained a provision that it also amended the Land Acquisition Act. When that new clause was inserted I realized that it really belonged in the Land Acquisition Act, and not in the Land Commission Bill. I could hardly say it was correct that an amendment in this Chamber should alter the title and amend an existing Act at this stage. The right place for this amendment is in the Land Acquisition Act, and the Premier has agreed

that the concept contained in new clause 20a will be introduced by amendment to the Land Acquisition Act this session.

I agree with the Chief Secretary when he says that the conference was amiable. It was constructive; but the passage of this Bill through both Houses of Parliament has been associated with what I might term some unusual political practices and, if I may say so, some usual political practices. It is unfortunate that unfair and unwarranted criticism, which I believe is done purely for political motives, has been levelled at the work of this Council, and indeed allegations of delay were levelled against the Council even before the Bill was introduced into this Chamber. The amendments introduced by this Council alleviate, I believe, the anxiety of many people in the South Australian community who were more than concerned with the powers being sought in the original Bill.

The Bill, as agreed to by the managers, in my opinion does not in any way inhibit the stated intention of the Government but does provide reasonable protection for people and reasonable security for those who at present own a piece of land, whether a building block or larger, and reasonable security for those who may own land in the future. I look forward to the day when the Government gives some recognition to the constructive legislative work of this Council and when Party leaders desist from the use of unfair and unwarranted criticisms and allegations, coupled with undue pressure, for purely political purposes. The work the Council has done on this Bill is worthy of commendation, as is the co-operative way in which the managers went about the task of seeking a practical answer to some of the important matters in a new piece of legislation.

The Hon. M. B. CAMERON: Regarding amendment No. 13, is it intended that at the end of the period of 10 years the land will be freehold? What will be the system? Will it be by payment to the commission and how will payment be decided upon? Will it be on the basis of non-profit to the commission or taking into account any fluctuations in land prices over the period of 10 years?

The Hon. A. F. KNEEBONE: This was an amendment made by this Council. It was not the Government's amendment.

The Hon. R. C. DeGaris: It is the Government's amendment now.

The Hon. D. H. L. Banfield: We do not know about that yet.

The Hon. A. F. KNEEBONE: It will be the Government's duty to administer the proposal put before us in relation to this matter. I am quite sure the commission will be able to administer this satisfactorily. As has been announced previously (I am not making any fresh announcement in this regard) Mr. Ken Taeuber is to be the Chairman of the commission, and I have a high regard for his ability. Regarding the question the honourable member has asked, because of what is laid down here leasehold cannot be extended beyond a 10-year aggregate. I am happy that this amendment has been incorporated because we are now enabled to lease back to a person who has a property of this nature for a period until the development advances to the stage where it will be necessary to terminate that lease. It is apparent to all of us regarding residential sites of less than one-fifth of a hectare that the position will be freehold with conditions attached. I am sure honourable members will agree that an excellent compromise has been reached here. As to the financing of the situation so that the commission will not be making a profit, that is a matter of administration that the commission will have to decide.

The Hon. R. C. DeGARIS: I agree with what the Chief Secretary has said. The intention of the clause and its application will be that titles issued will be freehold titles, but it does give a little flexibility to the commission so that, if it requires to lease certain blocks before they are developed, it can do so.

The Hon. M. B. CAMERON: The Chief Secretary said that a freehold title would be issued with conditions attached. As I understand it, that would be a departure in this State.

The Hon. A. F. KNEEBONE: No; freehold titles have been issued in this State with certain conditions attached. As the honourable member well knows, residential sites in Government towns are let on a leasehold basis on the understanding that if certain conditions are carried out they can become freehold. We have leased blocks of land on the basis that people must build on them within a certain period. Such conditions apply to freehold.

The Hon. R. A. Geddes: The Housing Trust is another example.

The Hon. A. F. KNEEBONE: Yes; this is no departure.

Motion carried.

Later:

The House of Assembly intimated that it had agreed to the recommendations of the conference.

QUESTIONS

SOLDIER SETTLEMENT

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

Leave granted.

The Hon. R. C. DeGARIS: I have already indicated to the Chief Secretary that I intended directing a question to him along these lines. I am sure it stems from a misunderstanding. I was contacted recently by a soldier settler in the South-East who said there was concern among soldier settlers there following a statement made by the Minister of Works on soldier settlement. Apparently the Minister said that properties cannot be passed on to sons of soldier settlers. The gentleman who telephoned me said that in 1949 and 1950 the Statute was changed so that property could be passed on to the sons of soldier settlers. He asked me to ascertain the situation and to find out whether something had gone wrong in connection with the legislation. I am certain that there has been some misunderstanding. Can the Chief Secretary clarify the matter?

The Hon. A. F. KNEEBONE: I thank the Leader for giving me notice that he would ask the question, and I believe that my reply will clear up the matter. There is no objection so far as I am concerned to soldier settlers transferring or bequeathing their war service perpetual leases in the same way as is done with other Crown leases. In cases where the transfer does not come within the scope of the war service land settlement scheme, however, the mortgage to the Minister and advances not yet due (if any) have to be repaid prior to issue of consent to transfer, and the transferee is not eligible to receive advances under the scheme. The war service land settlement scheme provides that, in the event of the death of the war service settler, his war service perpetual lease may be transferred or transmitted to the widow or, if she is deceased, to a son without payment of the unmatured balances of amounts due to the Crown being required. In these circumstances the widow, or son, becomes an eligible person under the scheme and enjoys the status of a war service settler.

In addition, it is now permissible for a war service settler, during his lifetime, to obtain consent to transfer his lease, where circumstances justify such a transfer, to

a son or son-in-law without repayment of the mortgage to the Minister being required. In order to obtain consent it must be shown that the son or son-in-law has the ability to manage the holding satisfactorily and that he can be expected to meet all financial obligations to the Lands Department. He would not be eligible for further advances under the scheme. A war service settler may also transfer his lease to enable a joint tenancy to be created between: (*a*) the settler and his wife; (*b*) the settler and and one or more of his children; (*c*) the settler, his wife and children. Such a tenancy may be effected without repayment of the Crown mortgage and without affecting the elegibility of the settler for further advances. The cases which I have outlined relate to transfers which involve a mortgage to the Crown. As already indicated, in the absence of such a mortgage a war service lease may be transferred in the same manner and under the same conditions as any other perpetual lease. There is no requirement that a war service lease must be sold or that a son must buy the property on the death of his widowed mother.

Children of deceased war service settlers may enjoy certain concessions in the event of the property being willed to them, although in some cases it may be that repayment of the mortgage and payment of any arrears in respect of the lease would be required before consent to transfer was issued. I am at a loss to understand how misconceptions such as those occurring in the letter quoted in another place could have arisen, as factual information is readily available from the head office or local representatives of the Lands Department.

LOCUSTS

The Hon. B. A. CHATTERTON: A recent press report stated that Senator Wriedt, the Commonwealth Minister for Primary Industry, would make $500 000 available to the States for locust control. Has the Minister of Agriculture anything further to report on that matter?

The Hon. T. M. CASEY: No. However, a question was asked yesterday about locusts. If I had known then that the Commonwealth Government would make such a generous contribution toward eradicating locusts throughout Australia, I would certainly have referred to it. Nevertheless, it was very good news to read that the Commonwealth Government was at last recognizing a situation that I have always raised at Agricultural Council meetings since I have been Minister of Agriculture. It is gratifying to know that a friendly Commonwealth Labor Government can make such a generous offer to the States, after the previous Commonwealth Liberal Government had denied such assistance to the States. It indicates that the primary producers of this State are in many cases being looked after, even though they have not given credit where credit is due in many cases. I believe that the allocation of this money will be discussed at a special Agricultural Council meeting in Canberra in about 10 days time. I hope that the whole situation regarding plague locusts can be finalized. I believe that at present the New South Wales Government is being helped considerably in the West Darling area. I believe that two light aircraft, two helicopters, motor vehicles, and 18 personnel from the Australian Army are being provided at no cost to the New South Wales Government by the Commonwealth Government to combat plague locusts in that area. As I said yesterday, there is no doubt that there is close liaison between the four States involved—Queensland, New South Wales (where plague locusts have been reported), Victoria (where they are likely to move from the areas under surveillance), and South Australia, to which my latter comment also applies. I hope that, after the Agricultural Council meeting, the generous offer of $500 000 on the basis of a $1 for $1 subsidy will help considerably in eradicating locusts not only this season but also next season.

ROAD SAFETY EDUCATION

The Hon. C. M. HILL: I seek leave to make an explanation before asking a question of the Minister of Health, representing the Minister of Transport.

Leave granted.

The Hon. C. M. HILL: Actually, I think my question also concerns the Minister of Education. The most recent report from the Chairman of the Road Safety Council (dated October 12, 1973) deals with the question of students being educated in road safety. In view of the road toll and the tragic accident rate on our roads, the education of young people in driving methods and techniques is very important. Under the heading "Student Driver Education Committee", the report states:

The September courses conducted at the instruction centre involved 165 students of both sexes who held learner permits. Six courses each of three days were successfully organized. Unfortunately, no significant progress has been forthcoming in the efforts to improve and streamline the administrative and organization procedures of this undertaking. Recent opportunities were availed of to attract attention to the need for action by the Education Department. As a result, it is hoped that positive moves will be forthcoming and particularly to overcome the existing shortage of instructors. It is quite unsatisfactory that the committee is unable to expand the scheme beyond the present maximum of about 500 a year, or less than 4 per cent of the available students.

In view of that significant statement and complaint, I ask why the committee cannot expand its activities and educate more students in safe driving methods and techniques. Further, is the Government taking any action to overcome such restrictions, whatever they may be?

The Hon. D. H. L. BANFIELD: I shall be happy to refer the honourable member's question to the Minister of Transport and to point out to him that the honourable member thinks that this matter might also be of interest to the Minister of Education.

FRIENDLY SOCIETIES ACT AMENDMENT BILL

The Hon. A. F. KNEEBONE (Chief Secretary) obtained leave and introduced a Bill for an Act to amend the Friendly Societies Act, 1919-1971. Read a first time.

URBAN LAND (PRICE CONTROL) BILL

Adjourned debate on second reading.

(Continued from October 24. Page 1413.)

The Hon. F. J. POTTER (Central No. 2): I will commence my remarks by quoting a paragraph from the report that sets out in summary the recommendations of the Speechley committee. The paragraph states:

Accordingly we recommend that at this stage the incentive to seek further speculative gain be temporarily removed. We believe that this can be done without disrupting plans to subdivide by price controls of a highly-selective nature. Our suggestion is that it be announced that any allotments serviced by water or sewer which are purchased after a future date (May 1, for example) cannot be resold at a price in excess of 7 per cent of the purchase price plus rates in any period of one year. An additional 7 per cent on a pro rata basis plus rates will be permitted in the second and subsequent years. The period for which this control should be maintained should be left indefinite but the Government should announce that it would keep a close watch on the situation and remove control as soon as it is satisfied that the supply of allotments is in balance with demand. Such an announcement would dampen the desire to buy land in order to secure a quick profit. The

advantage of it being selective is that it would not deter from entering the market those who plan to use land. This is important because otherwise subdividers might be deterred from undertaking new subdivision. Furthermore, those who buy with the intention of building, but are forced to change their plans, will be able to sell their land without incurring a loss; 7 per cent seems adequate to cover sales commission, stamp duty and some interest. Similarly, those speculators who bought land before the announcement with the object of resale at a profit will not be penalized to the extent of making a loss by the change in policy. And, most important, subdividers would also be free to sell land from new subdivisions at uncontrolled prices. Perhaps I could quibble about some of the assumptions made in that summary of the recommendations of the Speechley committee but, by and large, I think that it represents the basis on which the Government announced that it would introduce in this session of Parliament legislation to control prices of urban land. The date the Government fixed was May 16, not May 1 as suggested in the report. My undersanding is that the Government desired to give effect to that final recommending paragraph and, as it gave due public notice of its intentions and named May 16 as the relevant date, I would have supported this idea and this kind of control for a limited time until the supply and demand of allotments was more in balance. However, when one turns to the Bill, what does one find? It has become what I might describe as a hydra-headed Bill: in fact, it sprouted two or three heads in the course of its passage through another place.

The Bill not only sets out to control the price of urban land purchased after May 16 but also imposes price controls on new subdivisions, contrary to the recommendation of the report and an aspect which the committee said was most important, namely, that subdividers should be free to sell land at uncontrolled prices. The Bill not only does that but also controls the prices of newly-erected houses, flats and units in wide and very vague terms. Thirdly, the Bill also imposes rent control on flats and units. Fourthly, it makes the legal profession and land brokers Government policemen for the purposes of the Bill. Is the Bill not typical of a socialistically minded approach to the whole matter by a Government that seeks to impose controls at every possible level?

The Hon. Mr. Chatterton in his somewhat academic approach to the subject made the point that the purpose of the Bill was to moderate demand by dissuading new buyers from purchasing allotments for speculative gain. He referred to the market equilibrium, price mechanism, speculative booms, etc., but he confined most of his remarks to the problem of containing speculation in allotments of land. I think that that is the problem on which the Council should be concentrating. The Hon. Mr. Chatterton said little about controls on the price of buildings on that land, and did not touch at all on the matter of rent controls.

I think that almost all the points that could be made on the Bill have already been made by previous speakers. As the Bill is now totally different from the original concept of control on allotments of land purchased after May 16, it has in many ways become a Committee Bill, because it deals with so many of these additional matters, all of which will have to be studied carefully in Committee. Some amendments have already been foreshadowed by previous speakers, and they will have my full support. Also, we must examine carefully some of the other parts of the Bill that deal with control of houses and land. Indeed, some of those parts of the Bill may not meet with the favour of honourable members.

I said that this was a socialistic measure. This is seen nowhere more clearly than in the inclusion within the terms of the Bill of new land subdivisions. The inclusion of newly subdivided land is a matter on which it is difficult for one to pass judgment. It seems that there are arguments on both sides of this aspect. However, one thing appears to me to be absolutely certain: the activities of subdividers will diminish if this Bill passes in its present form and, if those activities do diminish, it is absolutely certain that the supply of allotments they create will slowly but surely run down. It is at that point of time that the Government intends, because of its philosophies, that the new land commission will step in and take the place of the private developer.

There is no doubt that the object behind the inclusion of subdivisions in this measure is to create a situation in which, in a comparatively short time (and I mean within perhaps one or two years), the land commission will be the sole body that is left in control of the subdivision of urban land. I do not know whether that prospect appeals to honourable members. It certainly does not appeal to me, because it is clear that the Speechley committee considered there was a proper place for the activities of subdividers in this field, and that they fulfilled an important function in maintaining the supply of land. If these subdividers are to be subjected to price control in such a way that they will not know what they will be able to realize for the vast sums of money required to be invested in this type of activity, there is no doubt that they will cease, over a period of time, to be interested in South Australia and will turn their attention to other States where these socialistic controls do not apply. That would indeed be unfortunate for the urban residents of South Australia.

Also, I do not approve of the provisions in the Bill whereby members of the legal profession and land brokers will be required to act as the Government's policemen. I draw honourable members' attention to the provisions of the Bill that require these people to do all the investigatory work in connection with transfers of urban land that are affected by the Bill. If they counsel or procure any transaction or aid or abet any person in entering into a transaction, or if they enter into a transaction or make a contract or agreement the purpose or effect of which is either directly or indirectly to defeat or evade the operation of the Act, an offence is created.

Not only is an offence created, but also the legal practitioner or land broker is liable to disbarment or deregistration. That is a new provision which I do not like. I do not see why, if the Government wishes to impose these controls, it should not be the authority to carry out investigations and, in appropriate cases, to give certificates of exemption from the provision of the Act. This is what happened before, when the national security regulations were in operation. If the Government wants these controls, it should police the Act itself and not place the onus on the professional people to whom I have referred.

This has now become a Committee Bill, and I have no doubt that when the Bill gets into Committee many amendments will be placed before honourable members for their consideration. Expecting this to happen, I am willing to support the second reading as I believe that, if the ramifications of the measure can be confined to those originally suggested in the Speechley report, we will have a measure that is worth while.

There is a place for controlling speculation in vacant allotments of land in urban areas, and that provision will have my support. However, I cannot agree with the additional matters that have been imported into the Bill and, like other honourable members, I am awaiting an explanation from the Minister as to why these additional matters were included.

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

PLANNING AND DEVELOPMENT ACT AMENDMENT BILL (QUEENSTOWN)

Adjourned debate on second reading.

(Continued from October 24. Page 1413.)

The Hon. J. C. BURDETT (Southern): Clause 3 provides:

Section 41 of the principal Act is amended by inserting after subsection (7) the following subsection:—

(7a) For the purpose of resolving any doubt as to the effect of subsection (7) of this section (in cases arising either before or after the commencement of the Planning and Development Act Amendment Act (No. 2), 1973) it is hereby declared that where there is an authorized development plan in force in relation to land that is subject to this section, this section requires, and always has required, the Authority or a council in determining whether to grant or refuse its consent under this section to make a decision that is not at substantial variance with the provisions of the authorized development plan as in force when the decision is made.

I refer to the words "this section requires, and always has required". That simply is not true. It is all very well for the Bill to say that the provision always has required certain things, but it has not expressly, and not in terms at the very least, required this. If the Bill is passed, it will say something that is not true. It will say that something that is not so is so; it will say that the section always has required things that, in fact, it has not required. If we pass the Bill we will be legislating for a lie, so to speak; and will be legislating contrary to reason. Of course, we may do that. We know that the Parliament of South Australia, if it acts constitutionally within the State and Commonwealth Constitutions, may pass any legislation at all, whether it is stupid, contrary to reason, or ineffective.

When I was studying constitutional law many years ago, particularly the English Constitution, I was taught that according to the Constitution the Parliament of England or, more strictly, the Queen in Parliament, could pass any law at all, which would become the law of England: even if the law was stupid or totally ineffective. I was told also that, if the Parliament of England passed a law making it illegal for people to smoke cigarettes in the streets of Paris, that would be a law of England, and that it would be illegal for people to smoke in the streets of Paris. It is true, however, that Frenchmen in Paris would not take much notice of that law. I was also taught that if the Parliament of England passed a law that all blue-eyed babies should be strangled at birth, then that would be the law of England. In fact, very few babies would be strangled in accordance with that law.

The Hon. C. M. Hill: You would have been in trouble.

The Hon. J. C. BURDETT: Yes. We may pass stupid or ineffective laws because it is constitutional to do so, but I suggest to honourable members that we should not do so. It is fundamental under our system of Government that we should make good laws that do not tell lies. As the Hon. Mr. Hill said yesterday, many approaches have been made to him about this Bill, and claims have been made that this Bill is not retrospective legislation in the ordinary or accepted sense. I do not know whether there are degrees of retrospectivity, and I do not know what is meant by the phrase "accepted sense" in the Bill

What does this part of the Bill do? If this Bill is passed it will mean that, if one is looking at a situation at any time back to 1967 when the original Act was passed, we are bound to look at it in the light that this section has always meant certain things. Certainly, that will be the retrospective or retroactive effect. As far as I am concerned, this is retrospective legislation, which provides that we have to interpret the law as if there was a requirement in it that was not there before. This Bill also introduces the dangerous principle of Parliament interpreting its own legislation regarding something that has already happened. I believe in the separation of the three functions of Government: the Legislature (to make the law), the Executive to put the law into effect, and the Judiciary to interpret particular situations that come before it in the courts. This Bill requires Parliament to interpret a situation and to go further back for the purpose of resolving any doubt as to the effect of subsection (7) of this section in cases arising before or after the commencement of the operation of the Planning and Development Act Amendment Bill, 1973.

It is the function of the courts to interpret Acts of Parliament regarding particular situations that arise: it is not the function of Parliament. Parliament must make good and sensible laws that do not talk nonsense. If it is found that laws passed by Parliament do not carry out what is intended, then the law should be changed for the future. One should not claim that the law has not said things in the past that it did say. It seems to me, however, that if we pass this Bill in its present form we shall be putting ourselves in the same situation as Humpty Dumpty, in Lewis Carroll's *Through the Looking Glass,* when he said "Words mean exactly what I want them to mean." That is what we will be saying if, after passing an Act in 1967, and amending it to say certain things we then further amend it to say something entirely different. Also, we will be putting ourselves in the position of Pooh Bah, in Gilbert and Sullivan's *Mikado,* when he carried out all the functions of Government; we will be carrying out the functions of lawmaker and the court as well.

When we make laws and place our own interpretation on them in situations that have already arisen, which is the function of the court and not the function of this place, then I say that it is fundamentally bad legislation. In the first place it says that what is not so is so, it is contrary to reason, is retrospective, and makes Parliament try to interpret its own legislation instead of leaving that for the court. I say this Bill is a bad Bill and I oppose it, at least in its present form.

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

COMPANIES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 24. Page 1410.)

The Hon. F. J. POTTER (Central No. 2): This is a straightforward Bill and deals with the appointment of auditors under the provisions of the Companies Act, particularly the Act that was passed by this Parliament last year. The Bill really does only three things. It provides that the Auditors-General of the Commonwealth and various States and Territories are deemed to be registered company auditors for the purposes of the Companies Act. Of course, that was the previous provision prior to the passing of the major amendment to the Companies Act to which I have just referred. No-one can quibble about that amendment.

This second series of amendments makes it possible for a company to appoint two or more firms as its auditors. As the Minister explained in his second reading explanation, some large companies have adopted the practice of appointing two or more firms to share audit tasks. I do not think there is any problem about this, and accordingly the Bill allows it to be done. The Minister told us

that a similar amendment had been found necessary and was passed recently in New South Wales. A third provision in the Bill extends the investigatory provisions of the Companies Act to industrial and provident societies. I see no objection to this, and I support the second reading.

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

ELECTORAL ACT AMENDMENT BILL (COMMISSIONER)

Adjourned debate on second reading.

(Continued from October 24. Page 1414.)

The Hon. G. J. GILFILLAN (Northern): I support the Bill. The Minister gave the second reading explanation only yesterday, and because of committee commitments this morning I have not examined it in as much detail as I would have wished, but on checking it through I believe it has much to commend it. There is, as the Minister said, a comparatively simple principle involved, although it takes very many clauses of the Bill to do it. Mainly, this is to change the title of the Returning Officer for the State, who will then become the Commissioner, while the Assistant Electoral Officer will become the Principal Electoral Officer of the State. This will bring them up to the standard and status (and possibly the salary) of similar officers in other States.

I have always found the officers in the Electoral Department, including those in charge, very fair and obliging to all members of Parliament and members of the public who at times have to make inquiries. They should receive remuneration in keeping with their heavy responsibilities. It is their responsibility to see that the supervision of elections is carried out fairly and without prejudice. This leads to another clause in the Bill which makes the position of the Commissioner much more secure and free from undue influence, in that he can be dismissed only by a resolution of both Houses of Parliament, except in case of mental or physical ill health. This provision always should have been in the Act because it is possible that undue influence by way of threat could be brought against an officer in a responsible position where perhaps one or two votes may be so valuable as to decide the fate of a Government in an election in any one seat. For this reason it is only fair and right that the Commissioner should be secure in his position to make decisions without fear or favour.

The Bill contains a provision that the Commissioner shall not, without the consent of the Minister, engage in any remunerative employment or undertaking outside the duties of his office. This ties up with making this officer independent of outside influence. It is true that, if he did not have the protection of Parliament, as suggested here, he could be subjected to undue influence from, say, a Government (I am certainly not suggesting this one), but if he were engaged in business certain temptations could be put in his way. This provision, too, is in keeping with the idea of making this an independent office in the best interests of the administration of the Electoral Act. Accordingly, I support it.

Another amendment affects members gaining a low percentage of votes under the new system adopted for election to this Chamber. Although there has not been a great deal of time to consider this Bill, I shall look at the clause again before we go into Committee. It is not an important matter, and I am sure I can sort it out. I have checked the Bill and I support the principle involved. Under this measure, we will give the electoral commissioner a good deal of independence and a good deal of protection from outside pressures. To further emphasize this, it has been suggested that he shall not take an outside position for reward unless he receives permission from the Minister. For those reasons, and as he is prevented from taking any outside occupation, his salary should be in keeping with the heavy responsibility that he will carry.

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

POLICE OFFENCES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 24. Page 1411.)

The Hon. Sir ARTHUR RYMILL (Central No. 2): This is a very short and simple Bill. The Minister explained that, because of reallocation of Ministerial responsibilities, the word "Minister" is being substituted for the word "Attorney-General", which will enable the authorization required by the Act to be given by the Minister for the time being undertaking the responsibility. It is purely technical and I suggest it can be passed without further delay.

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

ADJOURNMENT

At 3.41 p.m. the Council adjourned until Tuesday, October 30, at 2.15 p.m.