LEGISLATIVE COUNCIL

Wednesday, November 28, 1973

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

PETITION: HOMOSEXUAL BILL

The Hon. F. J. POTTER presented a petition signed by 57 persons expressing fear that the proposed Bill dealing with homosexuals would, in its present form, encourage an increase in wilful perversion which would be morally damaging to the community at large.

Petition received and read.

PETITION: PORNOGRAPHIC LITERATURE

The Hon. F. J. POTTER presented a petition signed by 59 persons expressing concern that the proposed legislation to control the sale of pornographic literature makes no provision for preventing the sale of any publication, however obscene it may be.

Petition received and read.

QUESTIONS

PAMPHLETS

The Hon. R. C. DeGARIS: Has the Minister representing the Minister of Education a reply to a question I asked on November 15 about pamphlets handed out at schools?

The Hon. T. M. CASEY: There appear to have been at least two kinds of publication handed out to teenagers, each of which deals with the same kind of material. The pamphlets have been distributed from the street and not on school property, but nevertheless schools have attempted to disperse the distributors. The practice of the Secondary Division is to bring the matter out into the open as soon as possible, and those students interested are given opportunities to discuss the issues. At one girls school outside which material was distributed recently, the headmistress suggested that girls who wanted further information should discuss the matter with their parents or her. Few girls showed interest in pursuing the subject further.

DESIGN AND CRAFT INDUSTRIES AUTHORITY

The Hon. JESSIE COOPER: I understand the Chief Secretary has an answer to the question I asked about the design and craft industries during the debate on the Appropriation Bill.

The Hon. A. F. KNEEBONE: By a press release dated October 17, 1973, the Premier announced that the Government had established a South Australian Craft Authority to encourage craft industries and wider markets for their products. This was the major recommendation of the report of the Government-appointed Design and Craft Board Industry Committee published last June.

SCHOOL GRANTS

The Hon. M. B. CAMERON: My questions are directed to the Minister of Agriculture, representing the Minister of Education, and they follow the answer to a question that I received yesterday about disadvantaged schools. First, when will the list of disadvantaged country schools to benefit from grants be compiled and published? Secondly, when will the schools to benefit from this scheme receive these grants?

The Hon. T. M. CASEY: I shall refer those questions to my colleague and bring down a reply. If I cannot do so before we adjourn till next year, I will make sure that the honourable member receives replies by post.

YORKE PENINSULA TOURISM

The Hon. M. B. DAWKINS: I seek leave to make a short statement prior to asking a question of the Chief Secretary, representing the Premier.

Leave granted.

The Hon. M. B. DAWKINS: I am reliably informed that a dinner meeting of the Yorke Peninsula Tourist Association, held at Port Vincent on May 17 last, was attended by the Premier. I understand he then undertook to look into the possibility, regarding tourism on Yorke Peninsula, of securing a report on a possible ferry service from Port Adelaide to Stenhouse Bay. Whether he was thinking in terms of a ferry service from Port Adelaide to Stenhouse Bay and to Wallaroo, where a casino was to be established, I do not know but, in any case, although I believe the honourable gentleman may have been stretching his imagination somewhat, some constituents in the area are inquiring whether the Premier has in fact been able to find out anything about that proposal. Will the Chief Secretary inquire into the matter?

The Hon. A. F. KNEEBONE: I will. I do not believe I shall be able to get the information for the honourable member by tomorrow but, if not, I will endeavour to contact him by post when the matter has been examined.

MONARTO EFFLUENT

The Hon. J. C. BURDETT: I understand the Minister of Agriculture, representing the Minister of Environment and Conservation, has a reply to a question I asked on October 30 about Monarto effluent.

The Hon. T. M. CASEY: I can assure the honourable member that the Agriculture Department and the Engineering and Water Supply Department are familiar with the "City Forest" concept promoted by P.A. Yeomans. My colleague, the Minister of Environment and Conservation, has informed me that this concept will be given due consideration when proposals for irrigation with effluent from Monarto are being evaluated.

PETRO-CHEMICAL PLANT

The Hon. A. M. WHYTE: Has the Chief Secretary a reply to my recent question about the petro-chemical plant?

The Hon. A. F. KNEEBONE: A great deal of concern over the environmental impact of the petro-chemical industry at Redcliffs has been expressed. The Government and the Environment and Conservation Department share this concern and have categorically stated that no pollution to the gulf waters, air pollution or serious disturbance to the environment around Redcliffs will be countenanced. The petro-chemical consortium has agreed to this and will undertake detailed studies to establish the most environmentally satisfactory methods of effluent disposal. The environmental impact of the petro-chemical plant is being carefully studied. Preparation and studies for the environmental impact statement are being prepared by the Environment and Conservation Department and by the petro-chemical consortium. A plan for the environmental impact statement, stating the nature of the studies required to be undertaken and the relevant authorities which will carry them out, is being prepared by the Environment and Conservation Department. A preliminary study of the gulf waters has been carried out by the Fisheries Department and the petro-chemical consortium, and further areas for study have been defined. Studies of the gulf waters over the complete annual variation of conditions will be undertaken. The consortium has undertaken to test the impact of the proposed effluents on the ecology of the gulf. Both the environmental plan and the impact statement will be made public, and it has already been stated that interested

members of the public are welcome to inspect the working documents of the environment division.

MURRAY RIVER FLOODING

The Hon. M. B. DAWKINS: I seek leave to make a short statement before asking a question of the Minister representing the Minister of Works.

Leave granted.

The Hon. M. B. DAWKINS: Concern has been expressed at the amount of pollution affecting the flooded Murray River near Mildura. It is believed that considerable seepage is getting back into the river. Can the Minister say whether officers of the Engineering and Water Supply Department are taking steps to ensure that the water used by people in the river towns and in other places in South Australia is sufficiently chlorinated to make it safe for use?

The Hon. T. M. CASEY: I think I could answer the honourable member's question simply by saying "Yes". However, I will refer the question to my colleague so that he may study it fully, and I will bring down a reply as soon as possible. If I am unable to obtain a reply while the Council is still sitting, I assure the honourable member that he will receive it by post.

WORKMEN'S COMPENSATION ACT AMENDMENT BILL

In Committee.

(Continued from November 27. Page 1993.)

Clause 4—"Interpretation."

The Hon. F. J. POTTER: I have a list of amendments and had hoped that it would be ready for distribution to honourable members by now, but apparently there has been some delay. However, I will move my first amendment to this clause, because it is not a difficult one to follow. I think honourable members could bear with me, without having the printed list of amendments in front of them. I move:

To strike out paragraph (*b*).

The definition in paragraph (*b*) covers the new definition of "injury". The Minister, in his second reading explanation, summed the matter up succinctly by saying:

> The definition of "injury" has been recast to remove the reference to the fact that the employment of the workman was a contributing factor to the injury. The compensability or otherwise of an injury as defined will be tested against the question posed by section 9 of the principal Act, that is, "Did the injury arise out of or in the course of the employment of the workman?"

The reason for this in a nutshell is that the definition should be altered to remove the reference to the employment of a workman being a contributing factor to the injury. The Minister, of course, referred to the tests under section 9 (1) of the principal Act, which provides:

> If in any employment personal injury arising out of or in the course of the employment is caused to a workman, his employer shall, except as provided in this Act, be liable to pay compensation in accordance with this Act.

It has been held by the High Court that "in the course of" requires a temporal and not a causal connection with employment. So, this means that for all practical purposes all that the workman has to do to recover compensation is to be at his place of work when he suffers the injury I suggest that the amendment to the definition of "injury", which is submitted in this clause, is objectionable for many reasons. I mentioned some of these reasons during the second reading debate, and I will refer to the principal objections again.

The present definition of "injury" in the 1971 Act (which, incidentally, is similar to the definitions contained in the Victorian and New South Wales Acts) has worked very well indeed. I do not know of one case where that definition has denied justice to anyone having a genuine injury. Another reason is that "disease" has been included in the alteration of the definition without qualification and, by removing the need for any causal relationship with the employment, the new definition seeks to extend the cover afforded by the existing Statute beyond the point where I believe it is reasonable and fair.

During the second reading debate last night I said that we must endeavour to get an Act that is fair to all the parties concerned. The third point I wish to make is that the line that is drawn in these conditions between who will receive compensation and who will not is, in many cases, extremely difficult to define. Accordingly, the Industrial Commission over the years has had difficulty in interpreting this provision. Now, the court will be called on, if the definition is left as it stands, to formulate a completely new set of principles. I suggest that the confusion, delay and expense for all people concerned in this matter, and in the complexities of the new definitions, are unfair and unjustified.

The Hon. D. H. L. BANFIELD (Minister of Health): The Hon. Mr. Potter said in his second reading speech last night and again today that he wished this provision to be reasonable and fair and that he was agreeable to anything that will do that. However, it will depend on whose interpretation of what is reasonable and fair prevails, because it appears that we are on different wave lengths as far as this measure is concerned. I therefore oppose the amendment. The new definition of injury which the amendment seeks to delete from the Bill has been included because the present definition limits the injuries in respect of which compensation can be paid. The effect of the amendment would be to continue with the present definition, which has been found to be unsatisfactory. I ask the Committee to vote against the amendment and to leave the new definition of injury as contained in the Bill.

The Committee divided on the amendment:

Ayes (12)—The Hons. J. C. Burdett, M. B. Cameron, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, C. M. Hill, F. J. Potter (teller), Sir Arthur Rymill, V. G. Springett, and A. M. Whyte.

Noes (6)—The Hons. D. H. L. Banfield (teller), T. M. Casey, B. A. Chatterton, C. W. Creedon, A. F. Kneebone, and A. J. Shard.

Majority of 6 for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 5—"Compensation for death or incapacity in certain circumstances."

The Hon. F. J. POTTER: I ask the Committee to oppose the whole of this clause. The Minister said, in the second reading explanation:

> Clause 5 inserts a new section 9a in the principal Act to cover the situation where an exacerbation or a recurrence of a work-caused injury occurs in circumstances that may not give rise to a claim for compensation under the Act. The amendment proposed will, where a "real practical connection" between the exacerbation or recurrence and the original work injury can be established, give the person a right of action. I point out to honourable members that this section comes into play only where the person involved would otherwise have no right of action under the Act.

As I understand the amendment, the workman under this clause would be entitled to compensation because, for instance, the greater susceptibility produced by a strain he had suffered at work would be sufficient to provide a "real practical connection" with the exacerbation of a

strain received at home. That seems to me the kind of situation contemplated by this new clause. Under the existing Act of 1971, death or incapacity which resulted from an accident at home which may have resulted from a work injury at his place of employment is compensable in terms of section 49 or section 51. The phrase "results from" has received from the courts over many years a wide and liberal interpretation, and it is for the court to say whether the link between the work injury and the subsequent death or incapacity is strong enough to warrant the finding that the latter results from the former.

If the workman's death or incapacity does not result from a work injury, why should that death or incapacity attract compensation? This clause introduces a quite unjustifiable extension of the employer's fair and reasonable responsibility. It is unclear in its meaning, and I ask all members to oppose it. Again, I fall back on the need to be fair and reasonable as far as the employer is concerned. This new section introduces words difficult for the court to interpret, namely, the words that there must be a "real practical connection". I think this justifies us in rejecting clause 5, and I ask the Committee to vote against it.

The Hon. D. H. L. BANFIELD: I ask the Committee to insist on this clause being retained in the Bill. Its purpose is to enable a workman who now does not have any claim to have a right of action where it could be established that an injury at work was the cause of a recurrence that subsequently resulted in his death or permanent incapacity.

The Hon. D. H. L. BANFIELD: There is a difference of opinion. If an employee, through his work, had a recurrence of a previous injury, obviously the work he was doing was the cause of the recurrence. Had it not been for that, the recurrence and the original injury would not have been there. I believe in being fair and reasonable to the employee, and therefore I ask honourable members to vote for the retention of the clause.

The Committee divided on the clause:

Ayes (6)—The Hons. D. H. L. Banfield (teller), T. M. Casey, B. A. Chatterton, C. W. Creedon, A. F. Kneebone, and A. J. Shard.

Noes (12)—The Hons. J. C. Burdett, M. B. Cameron, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, C. M. Hill, F. J. Potter (teller), Sir Arthur Rymill, V. G. Springett, and A. M. Whyte.

Majority of 6 for the Noes.

Clause thus negatived.

Clauses 6 to 9 passed.

Clause 10—"Penalty amount for late payment under a registered agreement."

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

(2a) Where, on application by the person liable to pay a lump sum pursuant to a registered agreement, the court is satisfied that the failure to pay that lump sum within the period of fourteen days required by subsection (1) of this section was not occasioned by the neglect or wilful delay of that person or his insurer, the court may direct that the penalty amount otherwise payable pursuant to that subsection shall not be so payable and upon that direction this section shall have effect accordingly.

This clause provides a penalty of 1 per cent a week for payments not made within 14 days after the registration of an agreement. That is a high rate of interest, working out at 52 per cent a year. I am not opposed to a penalty, particularly in circumstances where a registered agreement has been left with the court, but the notice of the registration of that agreement sent out by the registrar of the court is often subject to a delay of perhaps four or five days, through internal difficulties in the court. In most cases the notice is sent to the solicitor who has been acting and, if he happens to be away for a few days and there is no wilful neglect or delay by the employer or the insurance company concerned because of such difficulties, I think the court must have some right to stay the imposition of this high penalty. My amendment is limited only to those circumstances, and I ask the Committee to accept it.

The Hon. D. H. L. BANFIELD: There is no doubt that in the past there have been instances of undue delay in payments to injured employees, and a provision is necessary to overcome this problem. The purpose of the amendment is to overcome problems that have been met by injured workmen because employers have delayed in making payments that they had previously agreed to make. The Hon. Mr. Potter's request is fair and reasonable, and I accept the amendment.

Amendment carried; clause as amended passed.

Clause 11 passed.

Clause 12—"Costs."

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

In new subsection (1a) to strike out "the conduct of" and insert "some special reason exists why it is proper that those costs be so ordered or awarded".

This amendment deals with the court awarding costs against a workman. The principle is that no costs should be awarded against a workman. I do not object to that—it is a proper principle. However, circumstances sometimes arise where, if the court has a discretion to award costs for a special reason, it should have the power to do so. Often, matters are taken on to appeal after appeal at the cost, of course, of the employer or the insurance company, when such action is not completely justified. Sometimes the workman plays a very small part in it. The court should have a right to award costs in these circumstances.

The Hon. D. H. L. BANFIELD: I accept the amendment.

Amendment carried.

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

In new subclause (1a) to strike out "that workman was vexatious or fraudulent".

This is a consequential amendment.

Amendment carried; clause as amended passed.

Clauses 13 to 17 passed.

Clause 18—"Compensation for incapacity."

The Hon. D. H. L. BANFIELD: I move to insert the following new subclauses:

(*ba*) by striking out from subsection (1) the passage "previous twelve months" and inserting in lieu thereof the passage "period of three months immediately preceding the incapacity";

(*ga*) by striking out from subsection (6) the word "injury" twice occurring and inserting in each case the word "incapacity";.

The Government's intention in this Bill is that during periods of temporary incapacity because of an injury at work the workman should not lose pay. The present Act provides that the average weekly earnings of a workman, which is the amount of weekly payment he will receive during incapacity, is to be his average weekly earnings over the previous 12 months. Because of the rapid changes in amounts of wages that are now taking place, the Government considers that it would be more realistic for the average weekly earnings to be calculated in respect of the three months immediately before a workman becomes incapacitated.

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

To amend the amendment by striking out "three" in new paragraph (*ba*) and inserting "twelve".

I appreciate what the Minister is trying to do by his amendment and, in all respects except one, I support it. The only point that I cannot support is the new idea of averaging the earnings over a period of three months. The original concept of the Bill was to average earnings over the 12 months prior to an injury. The period is now to be the period immediately preceding the incapacity, and I support that concept. However, I oppose the suggestion that we should average earnings over only three months in determining the amount to be paid. Industry is accustomed to going back 12 months in connection with leave. The concept of going back only three months may appear to solve one problem but it will raise other difficult problems, particularly when, later in the Committee stage, we consider what should constitute average weekly earnings for the purposes of this Bill.

The Hon. D. H. L. BANFIELD: I oppose the amendment to my amendment. Because of changes in rates of pay during the 12 months prior to an injury, an employee might be disadvantaged if the calculation was based on a 12-month period. There could be as many as three or four variations in an award over that period; as a result, the average would be considerably lower than it would be if it was based on a 3-month period.

The Committee divided on the Hon. F. J. Potter's amendment:

Ayes (12)—The Hons. J. C. Burdett, M. B. Cameron, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, C. M. Hill, F. J. Potter (teller), Sir Arthur Rymill, V. G. Springett, and A. M. Whyte.

Noes (6)—The Hons. D. H. L. Banfield (teller), T. M. Casey, B. A. Chatterton, C. W. Creedon, A. F. Kneebone, and A. J. Shard.

Majority of 6 for the Ayes.

The Hon. F. J. Potter's amendment thus carried; the Hon. D. H. L. Banfield's amendment as amended carried; clause as amended passed.

Clauses 19 to 21 passed.

New clause 21a—"Declaration to be made by workman."

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

21a. The following section is enacted and inserted in the principal Act immediately after section 56 thereof:

56a. (1) The employer of a workman, who is receiving weekly payments provided for by this Part, may from time to time, at intervals of not less than three months, require that workman to make a declaration in the prescribed form as to the remunerative employment, if any, in which the workman has been engaged in during the period or any part of the period in respect of which the workman has so received those weekly payments.

(2) A requirement under subsection (1) of this section may be served on the workman either personally or by post.

(3) A workman shall not—

(*a*) refuse or fail to make a declaration referred to in subsection (1) of this section as and when he is, pursuant to that subsection, required so to do; or

(*b*) make a statement in any such declaration that is false or misleading in a material particular.

Penalty: Five hundred dollars.

This is a procedural matter; it introduces the concept of the ability of the employer to request a declaration from a workman. The provision is self-explanatory and will enable some kind of check to be kept on the activities of a person receiving compensation. He may be entitled to work and have the consent of his employer or insurer to undertake certain work. The principle is that, except where permitted or encouraged, the workman should not receive full compensation and engage in other employment. The best and most effective way of policing the situation is to require him at intervals to send in a statutory declaration covering what work he is or has been engaged in.

New clause inserted.

Clause 22—"Additional compensation."

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

To strike out paragraph (*a*).

Paragraph (*a*) provides that compensation will be made available to provide domestic assistance services to a workman if he is unable, as a result of his injury, to render domestic service usually rendered by him to a member or members of his family. This is really extending the idea of compensation too far. The definition of "domestic assistance services" is as wide as the sea: it covers the case of a husband who is unable to assist in washing dishes and the wife who may have been injured at her work and be unable to perform certain of her household duties. Conceivably, in the case of a wife, we could get to the stage where she might be on full pay and be able to hire someone else to do all her household work seven days a week, with no prescription for how much she must pay. She could pay the world if she felt so inclined. The provision goes too far: indeed, it is quite unheard of in any other workmen's compensation legislation with which I am familiar. The provision could be abused, whether applied to the husband or the wife.

The Hon. D. H. L. BANFIELD: I oppose the amendment. Under the Act as it stands a person who is injured and after a period of hospital treatment goes home but is unable to look after himself is entitled to be paid reasonable expenses for nursing services. Cases have been brought to the Government's attention of women who have been injured and, although they did not require nursing attention, they required domestic assistance to assist them in undertaking domestic work. It must be remembered that there are many mothers and wives who now work, whose husbands must continue in their normal employment and who are unable to stay at home to look after the wife who is recovering from an accident. What the amendment seeks to do is to deny reimbursement for domestic assistance service in cases of this nature, which the Government believes should be retained in the Bill. The provision relates not only to married couples. Many widows have to go out to work after time spent in hospital, though their incapacity is insufficient to warrant nursing services at home. It is unreasonable that such people should be expected to do domestic work and so aggravate their injury or incapacity. It is feasible that the cost of a domestic could be lower than extended compensation payments to the injured person whose injury is aggravated because she must perform housework.

The Hon. R. C. DeGaris: There could be a shortage of domestics.

The Hon. D. H. L. BANFIELD: The Opposition is anxious to protect the worker! Members opposite will do anything to assist an injured workman to return to his employment. However, they are not happy to allow a domestic to work in a house for a few hours a day to assist an injured widow who may have two or three children to care for. In the future, more women might take up domestic employment if they believed they were doing a service to the public. It is unreasonable that an incapacitated widow or widower, although not sufficiently ill to

require nursing services, should be deprived of domestic services. For these reasons, I oppose the amendment.

The Hon. R. C. DeGARIS: I support the Hon. Mr. Potter's views. The Minister's views open up a completely new field in workmen's compensation. If the Government wants to move into this new field, it has its avenues through the normal social welfare programme. To shift this responsibility on to the employer goes beyond the concept of compensation. Many other people in the community are not fully employed or covered by the Act, and they could be equally disadvantaged. If this matter were looked at from the point of view of compensation, it would be difficult to fit this concept into the Bill. No doubt there are sick widows who need support in the home. This matter comes under the Minister's health portfolio, not under this Bill.

The Hon. D. H. L. BANFIELD: I agree that this is an entirely new field. We already allow for nursing services. What we are doing under the Bill would reduce the cost of nursing services in the home, and this new provision in the Bill could reduce such cost. We are not dealing with the self-employed person. In that instance, the self-employed person can do exactly the same as the employer has to do regarding his employees: he will have to take out insurance for himself. Nothing in the world could stop a self-employed person from taking out an insurance policy for that cover. We all know of the hardship suffered by the widows of men who have been killed. If the workman had not been at work looking after his employer's interest, he would not have been injured, and it is for those reasons, because I cannot see why people should be disadvantaged, that I cannot accept the amendment.

The Committee divided on the amendment:

Ayes (12)—The Hons. J. C. Burdett, M. B. Cameron, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, C. M. Hill, F. J. Potter (teller), Sir Arthur Rymill, V. G. Springett, and A. M. Whyte.

Noes (6)—The Hons. D. H. L. Banfield (teller), T. M. Casey, B. A. Chatterton, C. W. Creedon, A. F. Knechone, and A. J. Shard.

Majority of 6 for the Ayes.

Amendment thus carried.

The Hon. F. J. POTTER moved:

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

Amendment carried; clause as amended passed.

New clause 22aa.

The Hon. D. H. L. BANFIELD: I move to insert the following new clause:

22aa. Section 60 of the principal Act is amended—

(*a*) by striking out the word "injury" first occurring and inserting in lieu thereof the word "incapacity";

and

(*b*) by striking out the passage "twelve months previous to the injury" and inserting in lieu thereof the passage "three months previous to the incapacity".

The Act at present provides that the computation of compensation is to apply in respect of average weekly earnings during the 12 months prior to the injury. This amendment is to provide that the period of the compensation is to be the period before the incapacity occurred rather than the injury. This is to cover cases where a person is injured at work but is not incapacitated until some time afterwards. While these cases are not very frequent they do occur at times, and it seems clear that the intention of the Act is to have regard to the earnings a workman was receiving in the period before he was unable to work because of the injury.

The Hon. F. J. POTTER: I support the amendment, but again with the reservation that I expressed earlier when the Committee carried my previous amendment. I therefore move:

In paragraph (*b*) to strike out "three" and insert in lieu thereof "twelve".

I need not make a further explanation of this amendment, because the same reasons apply as previously.

Amendment carried; new clause as amended inserted.

New clause 22ab—"Average weekly earnings when employed by more than one employer."

The Hon. D. H. L. BANFIELD: I move to insert the following new clause:

22ab. Section 62 of the principal Act is amended by striking out the word "injury" and inserting in lieu thereof the word "incapacity".

This amendment is similar to the one I moved to clause 16.

New clause inserted.

New clause 22ac—'Certain amounts not to be included in earnings."

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

22ac. Section 63 of the principal Act is repealed and the following section is enacted and inserted in its place:

63. For the purposes of computing average weekly earnings of a workman any amount paid by the employer to the workman—

(*a*) to cover any special expenses entailed on the workman by the nature of his employment,

(*b*) by way of shift premiums, overtime or other penalty rates;

(*c*) by way of disability allowances;

or

(*d*) by way of any other prescribed payment, allowance or benefit,

shall not be reckoned as part of the earnings of the workman.

Section 63 of the principal Act states:

Where the employer has been accustomed to pay to the workman a sum to cover any special expenses entailed on him by the nature of his employment, the sum so paid shall not be reckoned as part of the earnings.

So, in the principal Act, it is recognized that special allowances paid to a workman do not form part of his compensation when he is absent from work. I have expanded the provisions of that section to be far more specific as to what payments are not liable to be paid by the employer to the workman on compensation. First, special expenses are already covered in the Act; secondly, I believe that shift premiums, overtime, or other penalty rates should not be included; thirdly, I believe that disability allowances should not be included, and by way of a dragnet clause, so that opportunity can be taken perhaps to prescribe from time to time by regulation what other payments, allowances, or benefits are not to be reckoned, I have included new subsection (*d*).

The real problem is the basic question that the Government wants to make available to people on compensation their average weekly earnings which, of course, will include overtime payments. This is a new concept, not appearing in any other legislation, not appearing anywhere else; nowhere do we see that this kind of payment is made in respect of leave provisions, nor do any other awards which provide for the making up of pay when people are away because of incapacity. I shall be very surprised if any honourable member on the Government side can produce any precedent to show that this statement is wrong.

The whole matter of sick pay and what one is to receive when on compensation is a vexed question. At present we have the concept in this Bill that average weekly earnings are to be paid, but an upper limit is prescribed. In this

case it is $65 or 85 per cent of the average weekly earnings, whichever is the greater amount. Average weekly earnings are payable in all States except Victoria, where the upper limit is $63. The maximum liability for payment in Victoria is $15 260, in Queensland $12 680, in Western Australia $12 076, and in Tasmania $14 683. We all know that this Bill provides a maximum of $25 000, as compared with the amounts available in other States.

The expression "full pay", which was dealt with by the High Court, is also mentioned in the State Industrial Conciliation and Arbitration Act, and that concept is well known and in general use in industry. The expression "full pay" (and that is what I believe we should offer to workers within this State) includes weekly wage, bonuses, incentives, penalties, and so on, but does not include overtime. No court has included overtime in this expression and I do not think that, in this Bill, we should so extend it. It is a bad precedent that we are establishing here, and it will have disastrous effects on the economy of the State. I ask the Committee to carry my amendment so that these payments are all excluded from the concept of full pay. Apart from these matters, workmen, under this Bill, will receive full pay and that is what I believe they are justified in receiving.

The Hon. B. A. CHATTERTON: The Hon. Mr. Potter is under some misapprehension. The existing Act (and this has applied right back to 1926) covers all the things included in his amendment, but the only limitation is the figure of 85 per cent of average weekly earnings or $65. This is what the new amendments proposed by the Government are intended to alter. The amendment of the Hon. Mr. Potter is destroying the concept of average weekly earnings already existing in the Act.

The Hon. D. H. L. BANFIELD: I have never heard anything more contradictory than the contribution of the Hon. Mr. Potter. With one hand he will give full pay for workmen who are injured, but with two hands he will take away all sorts of things the workmen are accustomed to receiving. I oppose the amendment. It is quite unreasonable in the case where an employee is taken on and where his job entails overtime. Some awards even incorporate as a condition of employment that employees must work a certain amount of overtime.

The Hon. F. J. Potter: But they do not say how much.

The Hon. D. H. L. BANFIELD: That is true. It is true, too, that the unions have argued quite frequently on what is reasonable overtime, and it is also true that employers have gone to court and said that "reasonable overtime" is the amount of overtime workmen are asked to work. The Hon. Mr. Potter cannot deny that employers have put up this argument about "reasonable overtime". This reasonable overtime is put into the award and must be observed by the employee. Under the terms of the award, the employee works 48 weeks a year, doing four or five hours a week overtime, in accordance with the conditions of the award, and he then becomes incapacitated. The honourable member says he is not entitled to payment of the amount he was receiving as overtime for the 48 weeks before he became incapacitated.

This Bill is giving effect to the mandate that the Government received at the last election, when the Premier said that this legislation would be amended so that a workman would receive normal pay whilst on workmen's compensation. The effect of this amendment would be that, when a workman was on workmen's compensation, shift premiums that he would have received had he been at work, overtime, and other payments would be included in computing his average weekly earnings, for he has to work in accordance with the employer's instructions. Many people work at weekends and on shifts and they budget for the average wage they receive, including these amounts; but the Hon. Mr. Potter says that a workman has to be a lot worse off when incapacitated than he is when working. When an employee should be receiving more than he does when working (because he incurs other expenses that he does not incur at work) he does not.

While I agree that it would not be unreasonable to exclude disability allowances such as extra payment for working in hot, wet, and dirty conditions and allowances paid, for example, to reimburse a workman for the use of his motor vehicle (when he is not using it to go to work) from the calculation of average weekly earnings because he would not be subject to those disabilities or incur such expenses when on compensation, I cannot agree to the exclusion of shift premiums and overtime from the calculation of average weekly earnings, because that is part and parcel of his employment. As the Hon. Mr. Chatterton has pointed out, these things are already provided for in the Workmen's Compensation Act and there is no reason why they should be struck out. It is no use honourable members opposite saying, "We agree with full payment." Apparently that is so, provided it is subject to an upper limit of, say, 85 per cent of earnings. Now they say it is the full weekly earnings provided it is something less than 85 per cent: that is what it comes to if we take away what is provided for in the amendment. I oppose the amendment.

The Committee divided on the new clause:

Ayes (12)—The Hons. J. C. Burdett, M. B. Cameron, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, C. M. Hill, F. J. Potter (teller), Sir Arthur Rymill, V. G. Springett, and A. M. Whyte.

Noes (6)—The Hons. D. H. L. Banfield (teller), T. M. Casey, B. A. Chatterton, C. W. Creedon, A. F. Kneebone, and A. J. Shard.

Majority of 6 for the Ayes.

New clause thus inserted.

Clause 23—"Partial incapacity to be treated as total."

The Hon. D. H. L. BANFIELD moved:

In paragraph (*b*) (ii) of new section 67 after "work" to insert "reasonably".

The Hon. F. J. POTTER: I support the amendment.

Amendment carried; clause as amended passed.

Clauses 24 to 26 passed.

New clause 26a—"Review of weekly payments."

The Hon. D. H. L. BANFIELD moved to insert the following new clause:

26a. Section 71 of the principal Act is amended—

(*a*) by striking out from the second sentence thereof the word "average";

(*b*) by inserting in the second sentence thereof after the passage "which would" the passage "pursuant to any industrial award or agreement"; and

(*c*) by striking out from the second sentence thereof the word "injury" and inserting in lieu thereof the word "incapacity".

The Hon. F. J. POTTER: I support the amendment.

New clause inserted.

Clause 27—"Lump sum in redemption of weekly payments."

The Hon. F. J. POTTER moved:

After "subsection (2)" to insert "and inserting in lieu thereof the following subsection:

(2) In settling a lump sum pursuant to subsection (1) of this section, the court shall not, in any case, take into account any amount that the employer may become liable to pay by way of weekly payments, beyond an amount of twenty-five thousand dollars."

The Hon. D. H. L. BANFIELD: I accept the amendment.

Amendment carried; clause as amended passed.

Clause 28 passed.

Clause 29—"Compulsory insurance."

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

After "amended" to insert "—(*a*)"; and after "Act" fourth occurring to insert

"and

(*b*) by inserting immediately after subsection (4) the following subsection:

(4a) Where a policy of insurance purports to indemnify an employer for the full amount of his liability referred to in subsection (1) of this section, whether that policy of insurance was issued before, on or after the commencement of the Workmen's Compensation Act Amendment Act, 1973, that policy of insurance shall notwithstanding any term, limitation or condition expressed therein, have, and shall be deemed always to have had, effect as if it were a policy of insurance indemnifying that employer for that liability under this Act as from time to time in force."

My amendment will protect employers in connection with their insurance policies.

The Hon. D. H. L. BANFIELD: The amendment is reasonable, and I accept it.

Amendment carried; clause as amended passed.

Clause 30 and title passed.

Bill read a third time and passed.

Later:

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos. 3, 4, 6, 7 and 13 to 17, it had agreed to the Legislative Council's amendments Nos. 5 and 11 with amendments, and it had disagreed to the Legislative Council's amendments Nos. 1, 2, 8 to 10 and 12.

Schedule of the amendments made by the Legislative Council, to which the House of Assembly had disagreed:

No. 1, page 2, lines 11 to 20 (clause 4)—Leave out all words in these lines.

No. 2, page 3, lines 42 to 47 and page 4, lines 1 to 11 (clause 5)—Leave out the clause.

No. 8, page 12, lines 14 to 16 (clause 22)—Leave out all words in these lines.

No. 9, page 12, (clause 22)—After line 24 insert "and".

No. 10, page 12, lines 30 to 40 (clause 22)—Leave out all words in these lines.

No. 12, page 12—After new clauses 22aa and 22ab insert new clause 22ac as follows:—

22ac. Section 63 of the principal Act is repealed and the following section is enacted and inserted in its place:

63. For the purposes of computing average weekly earnings of a workman any amount paid by the employer to the workman—

(*a*) to cover any special expenses entailed on the workman by the nature of his employment;

(*b*) by way of shift premiums, overtime or other penalty rates;

(*c*) by way of disability allowances; or

(*d*) by way of any other prescribed payment, allowance or benefit,

shall not be reckoned as part of the earnings of the workman.

Schedule of the amendments made by the House of Assembly to amendments Nos. 5 and 11 of the Legislative Council.

Legislative Council's amendment No. 5:

No. 5, page 8 (clause 18)—After line 31 insert new paragraph (*ba*) as follows:

(*ba*) by striking out from subsection (1) the passage 'previous twelve months' and inserting in lieu thereof the passage 'period of twelve months immediately preceding the incapacity';

House of Assembly's amendment thereto:

Leave out the word "twelve" second occurring and insert the word "three".

Legislative Council's amendment No. 11:

No. 11, page 12—After clause 22 insert new clauses 22aa and 22ab as follows:

22aa. Section 60 of the principal Act is amended—

(*a*) by striking out the word 'injury' first occurring and inserting in lieu thereof the word 'incapacity';

and

(*b*) by striking out the passage 'twelve months previous to the injury' and inserting in lieu thereof the passage 'twelve months previous to the incapacity'.

22ab. Section 62 of the principal Act is amended by striking out the word 'injury' and inserting in lieu thereof the word 'incapacity'.

House of Assembly's amendment thereto:

Leave out the word "twelve" second occurring and insert the word "three".

Consideration in Committee.

The Hon. D. H. L. BANFIELD (Minister of Health): I move:

That the Council do not insist on its amendments Nos. 1, 2, 8 to 10 and 12.

All the matters involved in these amendments were discussed this afternoon. I won the argument, but I did not have the numbers.

The Hon. F. J. POTTER: I agree with the Minister that perhaps little purpose would be served at this stage by further debating the issues. I ask honourable members to vote against the motion.

The Committee divided on the motion:

Ayes (6)—The Hons. D. H. L. Banfield (teller), T. M. Casey, B. A. Chatterton, C. W. Creedon, A. F. Kneebone, and A. J. Shard.

Noes (11)—The Hons. M. B. Cameron, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, C. M. Hill, F. J. Potter (teller), Sir Arthur Rymill, V. G. Springett, and A. M. Whyte.

Majority of 5 for the Noes.

Motion thus negatived.

The Hon. D. H. L. BANFIELD: I move:

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

The House of Assembly amended the Legislative Council's amendment by leaving out "twelve" second occurring and inserting "three". Therefore, I move that the Council no longer insist on its amendment.

The Hon. F. J. POTTER: I oppose the motion and ask honourable members to vote against it.

Motion negatived.

The Hon. D. H. L. BANFIELD: I move:

That the House of Assembly's suggested amendment No. 11 be agreed to.

The House of Assembly has again amended the Council's amendment by leaving out the word "twelve" second occurring and inserting "three".

Motion negatived.

The following reason for disagreement to the House of Assembly's amendments was adopted:

Because the amendments provide an inadequate averaging period for computing average weekly earnings.

Later:

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

The Legislative Council agreed to a conference, to be held in the House of Assembly committee room at 9 a.m. on Thursday, November 29, at which it would be represented

by the Hons. D. H. L. Banfield, J. C. Burdett, C. W. Creedon, R. A. Geddes, and F. J. Potter.

CRIMINAL LAW (SEXUAL OFFENCES) AMENDMENT BILL

The Hon. B. A. CHATTERTON (Midland): I move:

That this Bill be now read a second time.

I draw honourable members' attention to the fact that the Council recently considered the Urban Land (Price Control) Bill; quite inadvertently one of its clauses amended another Act, and I believe that we have a similar sort of situation here. In that case the Government did not want to make an amendment by stealth, as it were, and I do not think honourable members would like to have this Bill defeated as a result of an accidental situation.

The Hon. R. C. DeGARIS (Leader of the Opposition): I move:

To strike out "now" and insert "this day six months".

I cannot accept the analogy made by the honourable member in support of reviving the Bill. He referred to the Urban Land (Price Control) Bill, but there is no comparison between that Bill and the Bill now before the Council.

The Hon. T. M. Casey: The same principle is involved.

The Hon. R. C. DeGARIS: It is an entirely different principle. Standing Order 281 allows a Bill to be revived. I can find only one position analogous to the present position in the history of the State. On November 11, 1884, the then Minister of Justice and Education (Hon. R. C. Baker), a gentleman of very high standing in Parliamentary matters in this State, moved for the second reading of the Petersburg and New South Wales Border Railway Bill. The motion that the Bill be read a second time was defeated on that occasion by nine votes to seven. The defeat of that Bill was not totally related to the general merits of the Bill; its defeat related partly to the route proposed.

At that time the argument was whether the route to the New South Wales border should be via Petersburg or via Terowie. The railway line was to link South Australia with the new line from Sydney to Wilcannia which had just been completed. On November 12, 1884, using the provisions of Standing Order 281, the Minister said that, unless the circumstances were exceptional, he would not be justified in bringing the matter forward again, but in this case the circumstances were extremely exceptional. The Hon. Mr. Hodgkiss and the Hon. Mr. Buick were both in favour of the Bill, and the Minister gave them leave to be absent from the House, saying that the Bill was in no danger and that they could go away for the day. However, when the debate came on the Bill was in danger, and it was defeated. Another matter was involved: that the Petersburg and N.S.W. Border Railway Bill was given a clear mandate at election time. The matter was debated fully on the hustings during the election campaign, and a clear promise was given to the electors of the State that the railway line at Petersburg would be constructed. In that case there was no debate or dispute on the principle of the Bill: the main argument was whether the line should go via Petersburg or Terowie.

In this matter, the point made by the Hon. R. C. Baker must be borne in mind: that before Standing Order 281 should be used, the circumstances should be extremely exceptional. I make two points: that the Minister had informed people that they need not be in the Council because the Bill was in no danger and that the matter was one for which a clear mandate had been given by the people of the State for the introduction of the legislation. The revival of this Bill could not be said to fall into the categories to which I have referred: there has been no campaigning on the hustings, and no election promise was made that the legislation would be introduced. It does not involve a taxation matter, and it is not a money Bill.

The only honourable member who was absent with a legitimate excuse on the day in question was the Hon. Mr. Story. The Hon. Mr. Gilfillan and I went out of our way to ascertain how the Hon. Mr. Story intended to vote, and his vote was fairly cast last week on this matter. There was no need for me to use the pair given to me by the Hon. Mr. Story, because it was given to me verbally over the telephone. Everything was done to ensure that the Hon. Mr. Story's vote could be cast. Unfortunately one honourable member who did not speak to the Bill or indicate his attitude to it missed the division.

For those reasons, I believe that this Bill does not fall into the same category as the only precedent I could find that is an exact replica in the history of the Parliament. It does not fall into the category of urgency nor, in the circumstances that surrounded the defeat of the second reading last week, do extremely exceptional circumstances apply. I agree that the Standing Order should be available in extreme circumstances for the revival of a Bill, if exceptional circumstances apply. However, I suggest that, with this experience, our Standing Orders Committee should examine this position to ensure that a most ridiculous position does not develop with regard to the defeat of a Bill at the second reading stage.

Other Standing Orders deal with other matters. One provides that a matter cannot be raised twice in the one session, and there appears to be a conflict between these two. One must agree that there must be some procedure whereby a Bill can be revived by agreement of the Council. I believe that the circumstances in which a Bill should be revived are ones which every honourable member must consider and to which they must give due weight. I believe that it is almost like the challenge made at some wedding ceremonies, namely, that the vows must not be taken by any to be enterprised, nor taken in hand inadvisedly, lightly or wontonly, but discreetly, advisedly and soberly.

If we are going to continue with this question of having a motion put again by notice from week to week, we could produce a ridiculous situation. I suggest, apart from anything else, that the Standing Orders Committee should examine this matter. I believe that the committee should examine very carefully any step it takes to revive on a week's notice a Bill that was defeated only a week ago. Standing Order 124 provides that a matter cannot be raised twice; I think that that is the tenor of it. That Standing Order must also be taken into consideration, although rulings given indicate that the revival of a Bill through the use of Standing Order 281 does not offend Standing Order 124. Honourable members, in voting on this matter now, must consider seriously what Standing Orders, particularly Standing Order 124, provide. I think it is reasonable that the Council should agree to my amendment.

The Hon. F. J. POTTER (Central No. 2): The Hon. Mr. DeGaris has made some very cogent remarks in this debate, but I question their real importance on this issue. Since the vote was taken on this Bill last week I have been under some pressure from honourable members and from people outside to change my vote, or at least to change my attitude in connection with the revival of the Bill today. However, I will not go along with the suggestions that have been put to me, and I do not intend to vote in favour of the amendment. I will support the motion for one very simple reason. I remind honourable members that, when the vote was taken on this

matter last week, the second reading was defeated by your casting vote, Mr. President, and you gave as your reason for voting against the second reading that your vote would preserve the existing law.

With the greatest respect to you, Mr. President, I believe that your vote was not correct, in the sense that I think the Bill should have been voted for at the second reading so that it would be passed into Committee. If the vote had been tied at the third reading, I think that that would have been the appropriate time when the vital casting vote of the Chair should have been used. I am not in any way questioning your personal attitude or your right to vote in any way you wished on this matter, Sir, but I think that the proper Parliamentary tradition would have been for you to vote for the Bill to be preserved, for it to be amended if necessary, and for the final vote to be taken at the third reading.

Because that was not done (and I am not suggesting in any way that it was done deliberately), the Bill foundered as it did last week. I think it was unfortunate that this important measure was defeated by the casting vote at the second reading. I believe that the third reading stage was when your right should have been exercised. Therefore, to me it is as simple a matter as that. I will support the motion, but not the Leader's amendment.

The Council divided on the Hon. R. C. DeGaris's amendment:

Ayes (8)—The Hons. J. C. Burdett, Jessie Cooper, M. B. Dawkins, R. C. DeGaris (teller), R. A. Geddes, G. J. Gilfillan, Sir Arthur Rymill, and A. M. Whyte.

Noes (10)—The Hons. D. H. L. Banfield, M. B. Cameron, T. M. Casey, B. A. Chatterton (teller), C. W. Creedon, C. M. Hill, A. F. Kneebone, F. J. Potter, A. J. Shard, and V. G. Springett.

Majority of 2 for the Noes.

Amendment thus negatived; motion carried.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Interpretation."

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

"Carnal knowledge" includes *penetratio per anum* of a male or female person:

I believe it is as necessary to define "carnal knowledge" as it is to define "rape" in this Bill. Unless it is defined, certain difficulties will exist.

The Hon. B. A. CHATTERTON: I accept the amendment.

Amendment carried.

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

In the definition of "rape" to strike out "person without his consent" and insert "or female person without his or her consent".

It is necessary that this amendment be made to equate the behaviour of the sexes.

Amendment carried; clause as amended passed.

Clauses 5 to 11 passed.

Clause 12—"Defilement of female between thirteen and sixteen years of age, and of idiot person or child."

The Hon. F. J. POTTER: The marginal note to this clause has been lifted out of the old Act. I suggest that "female" be altered to "person" to bring it into line with other marginal notes in the Bill.

The CHAIRMAN: That is a formal amendment, and it has been made.

Clause passed.

Clauses 13 to 27 passed.

Clause 28—"Abolition of crime of sodomy."

The Hon. R. C. DeGARIS (Leader of the Opposition): I will vote against clauses 28 and 29. When the last amendment was made to this legislation, a situation was produced that operated extremely well. That legislation detailed what constituted unnatural offences and removed any penalty (or provided a defence) in relation to consenting adults who committed an unnatural offence in the privacy of their own homes. I think that position is perfectly satisfactory, and it will be preserved by voting against this clause and clause 29.

The Committee divided on the clause:

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

Noes (7)—The Hons. J. C. Burdett, Jessie Cooper, M. B. Dawkins, R. C. DeGaris (teller), G. J. Gilfillan, Sir Arthur Rymill, and A. M. Whyte.

Majority of 4 for the Ayes.

Clause thus passed.

Clause 29—"Offences against animals."

The Committee divided on the clause:

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

Noes (7)—The Hons. J. C. Burdett, Jessie Cooper, M. B. Dawkins, R. C. DeGaris (teller), G. J. Gilfillan, Sir Arthur Rymill, and A. M. Whyte.

Majority of 4 for the Ayes.

Clause thus passed.

Remaining clauses (30 to 37) and title passed.

Bill reported with amendments. Committee's report adopted.

The Hon. B. A. CHATTERTON moved:

That Standing Orders be so far suspended as to enable the Bill to pass through its remaining stages without delay.

There being a dissentient voice:

The PRESIDENT: Ring the bells.

The Council divided on the motion:

Ayes (10)—The Hons. D. H. L. Banfield, M. B. Cameron, T. M. Casey, B. A. Chatterton (teller), C. W. Creedon, C. M. Hill, A. F. Kneebone, F. J. Potter, A. J. Shard, and V. G. Springett.

Noes (8)—The Hons. J. C. Burdett, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes (teller), G. J. Gilfillan, Sir Arthur Rymill, and A. M. Whyte.

Majority of 2 for the Ayes.

The PRESIDENT: There not being an absolute majority, the motion will be decided in the negative.

Motion thus negatived.

MINES AND WORKS REGULATIONS

Order of the Day, Private Business: The Hon. C. R. Story to move:

That the regulations under the Mines and Works Inspection Act, 1920-1970, made on May 24, 1973, and laid on the table of this Council on June 19, 1973, be disallowed.

The Hon. A. M. WHYTE (Northern) moved:

That this Order of the Day be discharged.

Order of the Day discharged.

ELECTRICITY TRUST OF SOUTH AUSTRALIA ACT AMENDMENT BILL (GENERAL)

Adjourned debate on second reading

(Continued from November 27. Page 1965.)

The Hon. G. J. GILFILLAN (Northern): I support this Bill which, although it had a long second reading explanation, is comparatively short. The first part of it deals with

money held by the trust for providing for retiring allowances and other benefits for officers and other employees; and it also enables the Treasurer to guarantee this amount of money from the general revenue of the State. That is quite a sound provision. The rest of the Bill is taken up with the problems associated with acquisition of land and property by the trust.

When the trust was formed in 1946, the original legislation was comparatively short, considering it was such a large undertaking. The trust took over the working of the old Adelaide Electricity Supply Company under that company's Act of 1922, which in turn went back to the South Australian Electric Light and Motive Power Company's Act of 1897. The Electricity Trust should have the power of acquisition of a public authority because of the work it is required to do and the ever-increasing problems that arise with an expanding population, which needs more and more power throughout the State.

I have no objection to the trust's having this power of acquisition, as it is confined by the provisions of the Land Acquisition Act, 1969-1972, and will therefore be able, as an instrumentality, to act similarly to Government undertakings. I have one question for the Minister. Clause 4 amends section 40 of the principal Act by striking out paragraph (a1), which states the purposes for which the trust can acquire land. I should like to know why those purposes are not mentioned in this clause. It is usual to state the acquisition powers of an undertaking but, as I read it, the power of acquisition can be very wide, which will enable the trust to aquire land for any purpose whatsoever, not necessarily connected with the trust. I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Additional powers of the trust."

The Hon. G. J. GILFILLAN: Has the Minister a reply to the question I asked during the second reading debate?

The Hon. T. M. CASEY (Minister of Agriculture): I cannot give the honourable member an explicit reply at this stage, but I will give it to him later if that is convenient to him.

The Hon. G. J. GILFILLAN: In the circumstances, I ask whether the Minister is willing to move that progress be reported.

The Hon. T. M. CASEY: Yes.

Progress reported; Committee to sit again.

Later:

The Hon. T. M. CASEY: The Hon. Mr. Gilfillan asked why paragraph (a1) was being struck out. It was struck out because, under the old Act, it allowed acquisition of land only for substation purposes. New section 40 (2) provides:

> The trust may acquire land, or any interest in, over or affecting land, in accordance with the provisions of the Land Acquisition Act, 1969-1972.

So, the trust can now go ahead under the Land Aquisition Act as it thinks fit.

The Hon. G. J. GILFILLAN: I thank the Minister for his explanation. I had the opportunity of discussing this matter with him earlier. The Land Acquisition Act covers the point I raised, in that the trust can operate only for the purposes for which it was set up under the authority of its own Act.

Clause passed.

Remaining clauses (5 to 7) and title passed.

Bill read a third time and passed.

WEST BEACH RECREATION RESERVE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 27. Page 1966.)

The Hon. C. M. HILL (Central No. 2): I support the Bill. I compliment the personnel from local government who have served as members of the West Beach Recreation Reserve Trust since 1954. I have been told on good authority that it was Sir Thomas Playford who originally conceived the idea of the trust. Sir Thomas hoped that the Henley Beach, West Torrens and Glenelg councils would join together and manage the area as a regional local government recreation area. However, the Henley Beach council did not wish to enter into the arrangement. So, the trust was formed with three people from each of the West Torrens and Glenelg councils.

Over the years the trust has successfully administered the reserve. It is a feather in the cap of local government that men were able and willing to give their time to do the work and maintain an exceptionally fine reserve. I pay a particular compliment to Mr. Frank Lewis, who was the Chairman of the trust for many years. He accepted the role of Chairman as almost a full-time interest in latter years and, as a result, he should be proud of the service that he has given to the community. I have always maintained a very great admiration for him.

I have watched the progress of the reserve and the great influence that Mr. Lewis has had on the success of the reserve. He always took a great interest in maintaining the natural sand dunes that formed part of the reserve. A few years ago Mr. Lewis showed me how he was ensuring that the sand dunes would remain in their natural state. At that time there was a great controversy raging about the loss of sand dunes in the Normanville area.

Qualified people, who were strongly supporting the conservation cause, were claiming that the Normanville sand dunes were the last remaining sand dunes within 40 miles (64·37 km) of metropolitan Adelaide. It was amusing to me to note that at that time in the heart of metropolitan Adelaide there were natural sand dunes that were being maintained.

The Minister has now seen fit to make changes, and I cannot help saying that, in introducing the changes, he is delivering a smack in the eye to local government. Instead of a trust comprising six persons who came directly from councils, we now have a proposal for a trust of seven persons, every one of whom will be appointed by the Minister. Admittedly, four of the persons will be appointed by him after he has consulted with the Glenelg and West Torrens councils, but what does that really mean? The Minister could go to the Glenelg and West Torrens council chambers and have his consultations in 10 minutes, and he could then appoint people to the trust who might not be the nominees of the councils.

The proof of the pudding is in the eating. People who have come directly from the two councils have made such a success of the West Beach reserve that the whole concept of the composition of the trust should not be changed by the Minister. As so often happens in these circumstances, another trust is being formed, not necessarily from the recommended nominees of the councils; instead, they will be appointed by the Minister himself. I can only say that I hope that the proposed change will be successful.

I hope that in future there will be a balance between, on the one hand, the whole question of the reserve helping the community and, on the other hand, the question of the

continuation of the economies that the previous trust invoked. It is easy, once moneys are borrowed on semi-government arrangements and when loans are guaranteed by the Treasurer, for large sums to become involved. It is the old story: someone always has to pay.

Some people contend that, if a loan is guaranteed by the Government, one does not have to worry about how much is borrowed or how much is spent. However, it is really the people's money that is being spent. I can well recall the old West Beach area, where the caravan park was being extended and where a great concentration was being made on the park to serve the people and the revenue from which was a great contributory force in the general economy of managing that area.

I hope that we do not go into such change whereby large sums of money will be expended for very little income, by comparison, coming from the newly set-up West Beach region. In truth, it should be developed as a regional local government recreation area to serve adequately the members of the community who live within the boundaries of the three councils that border it. More regional reserves of this kind are now and will be needed in the future in metropolitan Adelaide. I wish the new trust well and I hope that it can go on further improving.

I hope that the trust will manage very well the new Marineland development, which the Government intends to purchase. Obviously Marineland will become part of the new trust's responsibility. Marinelands, wherever located, bring great joy and pleasure to local people, especially children, and provide a considerable tourist magnet. I have been to two such developments in Queensland, which draw many tourists and which bring great pleasure to those who visit them. I hope that our Marineland can be further improved and that it will be an important feature of the future reserve.

I support the Bill and hope that, when the new body is set up, it will approach its new responsibilities with caution. I hope also that it will watch its expenditure most carefully and that it will do everything possible to provide a new recreational concept for people from the local government areas in the surrounding regions.

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

ROAD TRAFFIC ACT AMENDMENT BILL (WEIGHTS)

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos. 5 to 11 and that it had disagreed to amendments Nos. 1 to 4.

No. 1 Page 2—After line 25 insert new clause 3a and 3b as follows:

3a. Section 11 of the principal Act is amended by inserting after paragraph (*c*) the following paragraph:

and

(*d*) a person representative of the interests of primary industry nominated by the Minister of Agriculture.

3b. Section 12 of the principal Act is amended by inserting in subsection (4) after the passage 'two members of the board' the passage 'or, in the case of an equality of votes, concurred in by the chairman or acting chairman and one other member'.

No. 2 Page 4, line 10 (clause 10)—Leave out "The" and insert "Subject to subsection (3a) of this section, the".

No. 3 Page 4 (clause 10)—After line 12 insert new subsection (3a) as follows:

(3a) At least one member of the advisory committee must be a person representative of the interests of primary industry nominated by the Minister of Agriculture.

No. 4 Page 5 (clause 10)—After line 19 insert new subsection (5a) as follows:

(5a) Where—

(*a*) a vehicle is owned by a person who is engaged in the business of primary production;

(*b*) the vehicle is being used for the carriage of grain or fruit from the land of that person to a point at which the grain or fruit is to be stored or processed, or from which the grain or fruit is to be carried by some other form of transportation;

and

(*c*) the distance to be traversed by the vehicle in the carriage of the grain or fruit does not exceed one hundred kilometres.

Consideration in Committee.

Amendment No. 1:

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

That the Council do not insist on its amendment No. 1.

The Hon. C. M. HILL: This was the amendment that sought to include on the Road Traffic Board a person nominated by the Minister of Agriculture being a person representative of primary industry. I can only emphasize that the amendment would improve the Bill and satisfy a considerable number of the objections that have been made to honourable members by people outside, particularly people in rural areas.

It is from rural areas that fears have been strongest in regard to some of these provisions. Within the rural community it has been mainly people who are not involved in commercial transport as an industry but who use trucks as part of their farming plant and equipment.

These people fear the future so much regarding this measure that they want someone in authority who has an intimate knowledge of their affairs. They do not wish to be unfair regarding their representation and they do not wish to gain a special advantage over any other group within the community, but they simply want an assurance that when a person lives far from Adelaide, where communication with the department and the Registrar is not easy to maintain because of distance, he ought to have someone representing him on the Road Traffic Board. I support this amendment.

The Hon. T. M. CASEY: The Road Traffic Board is constituted of professional men who have an intimate knowledge of road traffic matters. I can understand the honourable member's concern for primary producers who operate vehicles, but he must realize that other people, too, operate vehicles in this State. In fact, they probably operate their vehicles more often than do primary producers. Why not put one of these people on the board as well? The board consists of professional men who are competent to make judgments and who are all experts in their fields. I cannot see how the honourable member can justify his argument, because he is asking that we differentiate between primary producers and everyone else. If we do that we might as well go the whole hog and put half a dozen different representatives on the board. How can he justify singling out primary producers and disregarding all other people concerned with road transport?

The Hon. R. A. Geddes: You could put them on the board.

The Hon. T. M. CASEY: One cannot go to that extent, because there is a limit. Primary producers are a pressure group, and they are vitally concerned, but they do not use their trucks to the same extent as other people in the community do.

The Hon. R. C. DeGaris: There are more of them.

The Hon. T. M. CASEY: But that is not the reason this amendment was moved. We must keep professional men

on the board, as we have now, because they have done their job well and will continue to do so. Why should we clutter the board with unprofessional people? I support the motion.

The Hon. C. M. HILL: Originally, the board was constituted of professional men, such as the Commissioner of Police, the Commissioner of Highways and the Executive Engineer. The affairs of metropolitan Adelaide mainly concerned the board then, and it is of interest to note that someone said, "We have technical and highly professional men on the board, but as we are receiving many complaints we ought to put someone on the board who has a general knowledge of the metropolitan area, because it is in that area that the board's affairs are involved." A local government clerk (not necessarily a professional man) was added to the board to carry out a surveillance of the board's activities as they affected metropolitan Adelaide's roads, traffic situations and so forth.

That is a different concept altogether from the picture just painted by the Minister. We have now reached another stage in our development when for the first time the board's activities are to be spread throughout the length and breadth of the State. Therefore, the Opposition is saying that, because there is on the board a representative of local government with an intimate knowledge of metropolitan Adelaide, surely it is not unreasonable for someone with agricultural knowledge, involved in primary production, to be given a chance to sit on this board, and to make known the needs and problems of rural areas.

This amendment gives the Minister of Agriculture the right to appoint such a person to the board to carry on the successful practices that have occurred since the local government representative was elected to the board. I ask the Committee to vote against the motion.

The Hon. M. B. DAWKINS: I do not support the motion. The Minister said not once but half a dozen times that this was a professional board. It is professional in the sense that the Commissioner of Highways (for whom we have the greatest respect and whom we believe is highly qualified) and the Commissioner of Police are on the board. I do not know what professional qualifications the Commissioner of Police has, but obviously he has a good knowledge of the administration of the Police Department. The Minister implied that he would be unable to find anyone in primary industry with professional qualifications. The amendment provides for a person representative of the interests of primary industry and nominated by the Minister of Agriculture. If the Minister is unable to think of anyone who has professional qualifications in the agricultural industry I can give him several names. However, some of them may not be entirely interested in primary production. For the Minister to imply that it is impossible to put a suitably qualified person with primary industry experience on a professional board is ludicrous. The reason for the amendment is quite obvious. The Road Traffic Board has much to do, but until recently it has not had to do very much in country areas. It has no-one on the board with any professional experience in or any real knowledge of country areas, as highly qualified as the present board members may be in other respects. In this amendment, the Hon. Mr. Hill is advocating something that could strengthen the board.

The Hon. A. M. WHYTE: I support the amendment. The appointment of a primary producer representative would assist the Government in that it would have a liaison officer between the board and the industry, and to some extent this would relieve the pressure on the Government. It is not true that people with expertise cannot be found within the industry. If the Minister of Agriculture had been present at some of the meetings where evidence was taken by the very highly qualified committee of inquiry, he would have seen men who were well able to present their case. I have in mind especially one gentleman at Port Lincoln who had been a road haulier for 10 years, who was a professional mechanic, and whose evidence to the committee was quite astounding. The professional men on the committee were greatly impressed by his knowledge and his ability in relation to primary industry and the mechanical aspects of various vehicles. It would not be hard to find a truly useful representative, and such a course would allow closer co-operation and liaison between the board and primary industry. The Hon. Mr. Hill has stressed that this Act is very much broader than anything else we have attempted so far in this line; another category of people has been brought within its ambit.

The Hon. M. B. CAMERON: Although on a previous occasion I supported this amendment, I will not do so now. However, I will vote for the amendment that gives primary industry a member on the advisory committee. The Minister has a point in saying that it would be difficult to pick one person to represent all aspects of primary industry. It is essential that somewhere along the line advice should be given on the problems of primary industry and rural production, but I cannot support the motion.

The Committee divided on the motion:

Ayes (8)—The Hons. D. H. L. Banfield, M. B. Cameron, T. M. Casey (teller), B. A. Chatterton, C. W. Creedon, A. F. Kneebone, Sir Arthur Rymill, and A. J. Shard.

Noes (10)—The Hons. J. C. Burdett, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, C. M. Hill (teller), F. J. Potter, V. G. Springett, and A. M. Whyte.

Majority of 2 for the Noes.

Motion thus negatived.

Amendments Nos. 2 and 3:

The Hon. T. M. CASEY moved:

That the Legislative Council do not insist on its amendments Nos. 2 and 3.

The Hon. C. M. HILL: These amendments deal with the proposal that a person representative of primary industry and nominated by the Minister of Agriculture should be on the advisory committee, which committee advises the Registrar of Motor Vehicles on the whole question of gross vehicle weights. It is simply an advisory committee. We do not know how many persons are to be appointed and we have no information on the intended size of the committee. All the amendment seeks is that in the general composition of this advisory committee a voice should be heard representative of the interests to which I have referred. I do not think it is unreasonable. It is what may be termed a back-room committee. The Registrar of Motor Vehicles is not bound even to accept its advice, but it is there to advise him. Surely a contribution could be made by a person who, it is suggested, should be on the board in the best interests of the decisions that the Registrar makes on gross vehicle weights.

Motion negatived.

Amendment No. 4:

The Hon. T. M. CASEY moved:

That the Legislative Council do not insist on its amendment No. 4.

The Hon. A. M. WHYTE: I appeal to the Committee to support this amendment. Its purpose is to provide an exemption for the cartage of grain and certain other primary commodities so that they may be received at

proper receival points as quickly as possible. Although there is already an exemption clause in the Bill, this is the correct and proper procedure to adopt to facilitate the handling of those commodities and to make this legislation work more smoothly.

Motion negatived.

Later:

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

The Legislative Council agreed to a conference, to be held in the Legislative Council committee room at 9 a.m on Thursday, November 29, at which it would be represented by the Hons. T. M. Casey, B. A. Chatterton, M. B. Dawkins, C. M. Hill, and A. M. Whyte.

MINING ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

Honourable members will remember that last year the Mining Act was amended so as to give the Minister power to exclude a person from a precious stones field where that person had been convicted of certain offences relating to mining. During the passage of that amending Act through this House, the effect of the provision was limited to one year from the commencement of that Act. This means that as from January 25, 1974, the Minister will no longer have the power to exclude persons from precious stones fields. The Government believes that the mere existence of the power has had a beneficial effect and that in order to preserve and foster peace on precious stones claims the Minister must continue to have power to exclude offenders from these fields. It is virtually a power to prevent further offences and, as such, serves the purpose of cooling down the explosive situations that so easily arise in the mining of precious stones.

The Bill seeks to extend the life of the provision for a further three years from next January. The situation may be reviewed again at the end of that period. Clause 1 is formal. Clause 2 amends section 74 of the principal Act so that the power of the Minister to exclude persons from precious stones fields and orders made by him for that purpose may continue in force for four years from the commencement of the Mining Act Amendment Act, 1972 (that is, January 25, 1973).

The Hon. R. C. DeGARIS (Leader of the Opposition): The Bill extends for four years the provisions of the Bill we passed last year empowering the Minister to prohibit a person from entering a precious stones field who has been convicted for certain offences relating to mining. It is a simple Bill of one operative clause that strikes out 12 months and inserts four years. I believe that the Bill we passed last year in regard to this matter has been of service to the precious stones industry (the opal industry in particular), and I have much pleasure in supporting the Bill.

The Hon. A. M. WHYTE (Northern): I support the Leader's remarks. Opal miners have asked for the protection the Bill affords them, but it is only part of the solution to the problem. They appreciate, of course, that the legislation is on our Statute Book. Illegal mining is one of the problems associated with the opal industry at present and, despite the concerted and appreciated efforts of the Police Force, illegal mining is still very much of a problem in the opal-mining industry. This Bill empowers the Minister to prohibit a person who has been convicted of certain offences relating to mining from entering the precious stones fields. This power has already been invoked and has had some effect, but it is not the complete answer to the problem. I think that miners generally would appreciate anyone who could come up with the solution to this problem. Although the Bill is not the ultimate step it is a step in the right direction, and I have pleasure in supporting it.

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

MOTOR VEHICLES ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos. 1 to 13 and disagreed to amendment No. 14.

Consideration in Committee.

The Hon. V. G. SPRINGETT: I am sorry that the House of Assembly has seen fit to disagree to this amendment. Yesterday I contacted the Australian Medical Association and got its views. I am perturbed, as many other people are, at the increasing onus placed on the patient. I admit that we all have a general responsibility to the whole community, but the day is going when a patient went to his doctor without fearing the consequences. I feel very strongly that the amendment gave the patient the chance to make a decision, and I believe it is the patient who should make the decision in this matter. However, it is obvious that the President of the Australian Medical Association in South Australia has accepted last night's debate with a certain amount of caution. I am not frightened because of that, but I am aware that when an article appears in a newspaper and when journalists embellish certain statements (I am not saying that that is what has happened in this case) we are not doing anyone any good (the patients, the doctors or the legislators) by leaving a smouldering issue in the Parliamentary records.

The Hon. D. H. L. BANFIELD (Minister of Health): I move:

That the Council do not insist on its amendment.

The Hon. Mr. Springett said that yesterday he thought that the onus should be on the patient and that what was done was in line with the wishes of the Australian Medical Association, but this afternoon's newspaper says that that is not the wish of the Australian Medical Association. The association says that doctors have a responsibility in connection with people who are not fit to drive.

The Hon. M. B. CAMERON: Yesterday the Minister said that it was not compulsory for the doctor to perform the duty and that the doctor had a right not to pass on the information.

The Hon. D. H. L. BANFIELD: The doctor must be completely satisfied that the patient is unable to drive. There is no action that can be taken against the doctor, and there is no penalty on him. The doctors have agreed to notify the Registrar of Motor Vehicles.

The Hon. M. B. Cameron: Is there any civil action that can be taken?

The Hon. D. H. L. BANFIELD: There is no penalty, anyway.

The CHAIRMAN: I draw honourable members' attention to the motion. I do not know whether honourable members want to go into a second reading debate.

The Hon. V. G. SPRINGETT: I point out that a doctor does not have to put the exact diagnosis on the certificate: he can indicate simply that the patient has, for example, respiratory trouble. He does not have to go into the details of a patient's illness.

Motion carried.

MOTOR FUEL DISTRIBUTION BILL

The House of Assembly intimated that it had agreed to the Legislative Council's alternative amendment in lieu of its amendments Nos. 1 to 6.

LAND AND BUSINESS AGENTS BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

ADELAIDE FESTIVAL CENTRE TRUST ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 27. Page 1982.)

The Hon. V. G. SPRINGETT (Southern): The purpose of the Bill is to hand over formally to the Festival Theatre Trust certain properties and equipment. Originally the centre was built by the Adelade City Council under the authority of the Act that became known as the Adelaide Festival Centre Trust Act. Honourable members will be aware that it has always been recognized that such an arrangement would be of a temporary nature and that there would be a formal handing over of the theatre by the council to the trust. The purpose of the Bill is to provide a means whereby the handing over may take place.

Clauses 1 to 3 are formal. Clause 4 amends section 4 of the principal Act which contains the definition of "council" and inserts a new definition. "Festival theatre" now means not only the festival theatre building, but furniture, instruments, fittings, equipment, etc.; in other words, all the theatre and its belongings.

Clause 5 amends section 23 of the principal Act by making it clear that the ownership of the hall vests in the council only until the vesting day. Clause 6 ensures that moneys paid by the Government will be made available to the trust. A considerable sum of money has been spent on the running of the theatre. Clause 8 vests in the trust a further small piece of Elder Park. I believe it is right and proper that the trust has this extra space and ground. I support the Bill, and hope that in years to come everyone will be able to enjoy the festival theatre and that it will become more and more a focal point in Adelaide's life.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Progress reported; Committee to sit again.

Later:

Remaining clauses (3 to 12) and title passed.

Bill read a third time and passed

ADELAIDE FESTIVAL THEATRE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 27. Page 1983.)

The Hon. V. G. SPRINGETT (Southern): I rise to support this Bill, which is a short measure. Obviously, the Bill is linked closely to the Adelaide Festival Centre Trust Act Amendment Bill just considered, and is somewhat complementary to it. This Bill assists in providing the basis on which the transfer of ownership of the festival theatre can be made by the Adelaide City Council and ensures, therefore, that the body which is to run the festival centre will take over in the fairly near future. Clause 3 amends section 3 of the principal Act and, as with the previous Bill, this Bill provides a "vesting day" as being the day fixed for the vesting of the festival theatre in the trust.

Clause 4 amends section 3 of the principal Act by limiting the expenditure of moneys. I believe that South Australians would, bearing in mind that there is another theatre complex and opera house in Australia, be pleased that section 3 of the principal Act limits the expenditure of moneys on the construction of the festival hall to matters where costs are incurred before the vesting day. I am sure that we are all glad that the theatre complex here is a very good one. Money has not been thrown away to astronomical heights, as has happened in another part of Australia. Clause 6 makes a number of substantial amendments to section 7 of the principal Act, this being the section that deals with the respective financial obligations of the Adelaide City Council and the Treasurer.

The principal amendments here are to increase the total liability to about $4 900 000, and to provide for certain expenditure by the Treasurer over this amount, by which the council is to be reimbursed for anything it spends on approved alterations and additions to the theatre. Clause 7 inserts a new section 7a in the principal Act, which limits the liability of the Treasurer to make payments to the council in respect of the construction of the festival theatre to the liability which will be incurred before the vesting day. I do not know why the Minister mentioned that in his explanation, because I can imagine that the vesting day will be occurring very soon. At least, that is the impression I get.

I also get the impression that certain liabilities made by arrangement under the principal Act will lead to the eventual disposition of the property known as "Carclew". I do not believe that any honourable members in this Chamber need to be reminded of Carclew's possible inception or introduction as the festival centre some time ago. I am sure, too, that most of us would agree that the present site is superior to Carclew.

The Hon. Sir Arthur Rymill: We do not all agree with that.

The Hon. V. G. SPRINGETT: I said that many would.

The Hon. R. C. DeGaris: I think some would.

Mr. Hill: Don't start that argument again.

The Hon. V. G. SPRINGETT: Anyway, I am sure that most honourable members would agree that the present site is far better. Clause 8 repeals section 8 of the principal Act, which provides for a subsidy of about $40 000 a year to be paid by the Treasurer to the council to offset losses in the operation of the festival theatre. I am afraid it is sad that all over the world buildings and centres that care primarily for our so-called cultural side of life have great difficulty now in making themselves pay, because expenses are extremely high. Since the council will no longer be operating the festival theatre the present section 8 will be unnecessary. One wonders who will be footing the bill this year and next year if the trust incurs a debt. Section 17 of the principal Act is added by clause 9, and is really the winding up of the Adelaide Festival Appeal Fund. Adelaide is indeed fortunate to have such a beautiful centre on the Torrens River, and anything we can do to facilitate its development and substantial growth we ought to do. I support the Bill.

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

HARBORS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 27. Page 1983.)

The Hon. C. M. HILL (Central No. 2): I support the Bill, which introduces two principal changes. First, it makes adjustments regarding the payment of pilotage fees where the services of pilots are sought but not required at the time arranged. The Government seeks the right to increase these fees, and I support that view.

The Bill increases penalties, many of which have not been adjusted since 1881 under the provisions of the Marine

Board and Navigation Act, and since 1913 under the provisions of the Harbors Act. The other main object of the Bill is to permit the authorities to issue pilotage permits (which has not been possible in the past) in cases where certain vessels frequently enter ports for such operations as dredging and other excursions.

Apart from those main purposes of the Bill, I find as a result of my review of the measure that several of the clauses effect amendments to the Harbors Act already effected by a recent Statute Law Revision Bill. I shall vote against the relevant clauses (clauses 3, 4, 20, 37, 38, and 39) since they no longer have any effect. I ask the Minister to support me in that opposition.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Acquired lands may be leased when not required."

The Hon. T. M. CASEY (Minister of Agriculture). This and certain other clauses mentioned by the Hon. Mr. Hill have been dealt with in the recent Statute Law Revision Bill, and therefore this clause is not necessary in the Bill. The same applies to the others mentioned by the honourable member.

Clause negatived.

Clause 4—negatived.

Clauses 5 to 19 passed.

Clause 20—negatived.

Clauses 21 to 36 passed.

Clauses 37 to 39 negatived.

Title passed

Bill read a third time and passed.

Later:

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

COMMUNITY WELFARE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 27. Page 1968.)

The Hon. A. M. WHYTE (Northern): I have no objection to the Commonwealth Government's taking over a major role in Aboriginal welfare, but to introduce such a Bill at this time in the Parliamentary session is absolutely ridiculous. I wonder how many Aborigines in South Australia know that this Bill is before Parliament. It is all very well to say we expect the Commonwealth Government to pay up for these people and therefore it should have the right of control, but in South Australia we have never asked for control of Aborigines. South Australia has a record of having done its very best with these people: I go back to the days of Sir Glen Pearson, who played a major role in the advancement of their education. I will not say "of their acceptance" because they have always been accepted, in my country anyway. We have advanced a long way, and I think the South Australian Aborigines appreciate this. I know that the Premier rates very high with them for what he has done on their behalf. If we look at what the various States have done, we see that South Australia is among the leading States in moving for the advancement of the Aborigines.

The Hon R. C. DeGaris: Do you think the Commonwealth will legislate for the ownership of the actual land in the reserves, in the long run?

The Hon. A. M. WHYTE: That is what I am concerned about, because the Commonwealth has had jurisdiction over the Aborigines in the Northern Territory for many years and, although I know of many Aborigines from the Territory moving into South Australia, there has been no great migration to the Northern Territory from any of the States. As a matter of fact, I would be prepared to say that perhaps the Northern Territory Administration is running well behind the Administrations of the States.

The Hon. T. M. Casey: It is going very well in the Northern Territory now.

The Hon. A. M. WHYTE: How long ago—last week?

The Hon. T. M. Casey: Six months ago it had improved out of sight from what I had seen two years previously. I have been there and made a personal assessment of the situation.

The PRESIDENT: Order!

The Hon. A. M. WHYTE: The Minister can tell me that, but I am fairly conversant with this situation. I am not averse to seeing the Commonwealth play a major role. In fact, in 1967 by a referendum we gave the Commonwealth certain powers that have never been fully used. The Commonwealth can play a much greater role than it is playing at present, without this absolute sell-out. When I go back, confront some of the Aborigines and say, "We have handed you over from Mr. Dunstan to Mr. Whitlam", they will be staggered. They are not fools; they understand much more about legislation and the running of our country than most people give them credit for. There was a move today to put off a Bill for six months. If we could do that with this Bill, that would be the best thing we could do.

The Hon. A. F. Kneebone: Doing that would have the effect of killing the Bill.

The Hon. A. M. WHYTE: Judging merely by this last week, the Commonwealth can write Bills at the drop of a hat. I want a Bill that is acceptable to the people it most affects. We are dealing with something of major importance, admittedly to a minority of people. Even in this last Commonwealth Cabinet there has been a reshuffling of Ministers, taking the portfolio from Mr. Bryant and giving it to Senator Cavanagh, so it is all very confusing.

The Hon M. B. Dawkins: Do you think that was jumping from the frying pan into the fire?

The Hon. A. M. WHYTE: I would not say that. I imagine Senator Cavanagh is loyal to South Australia, but I would not know what he knows about Aborigines. Those people have a right to make some determinations of their own. We have set up in this State councils on the various reserves, and they are working well. Do we now go back and tell them, "We were only joking about that. What you have said is really of no consequence. As a State, we are not really interested in you; we shall hand you over to the Commonwealth"? If we talk to them for long enough and tell them what we are trying to do, they may accept it, but, if we rush this Bill through without consulting them and give such sweeping powers of acquisition and that type of thing to the Commonwealth, that is entirely wrong. I have spoken against the Bill, and I will vote against it.

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

MARINE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 27. Page 1982.)

The Hon. R. C. DeGARIS (Leader of the Opposition): This Bill follows a Bill we have just passed to amend the Harbors Act and, if the Minister wants to strike out any clauses, I shall be only too pleased to assist him.

The Hon. T. M. Casey: It will not be necessary on this occasion.

The Hon. R. C. DeGARIS: If the Minister changes his mind, I shall be only too pleased to assist him. The principal object of the Bill is to increase charges. The second reading explanation used the expression "pecuniary penalties", a euphemistic way of saying "charges".

The Hon. A. J. Shard: That is better than "Socialistic".

The Hon. R. C. DeGARIS: It is almost the same, really; it is not much different. The amounts mentioned in the Act were fixed in the year 1881.

The Hon. A. J. Shard: Time for a change!

The Hon. R. C. DeGARIS: Yes; it is time for a change, as is made obvious by the Bill. Also, the Bill proposes to extend the shipwreck and salvage provisions of the principal Act to cover fishing vessels as well as coastal trade ships. I do not think there could be any objection to that matter. The Bill brings more into line with the Commonwealth Navigation Act the holding of examinations for certificates of competency for masters of coastal trade and river ships. I do not think there could be any objection to that provision. The important part of the Bill deals with increased charges. I support the Bill, but I repeat that, if the Minister wants to strike out any clauses, I shall be only too happy to assist him.

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

RED CLIFF LAND VESTING BILL

Adjourned debate on second reading.

(Continued from November 27. Page 1989.)

The Hon. G. J. GILFILLAN (Northern): I support the Bill with some concern, because of the hasty passage of legislation through Parliament at this time. I say "concern", because land acquisition is always a grave step to take when it affects people. I realize that there is little time for us to investigate fully the entire ramifications of the Bill before we rise tomorrow. It has been said that time is of the essence and that the land in question would not normally be recognized as highly-productive or valuable land. I should like to hear from the Minister (as no map is available in the Chamber) whether the land involved will include what are now viable holdings and whether people will be completely reimbursed for their losses, because many intangible losses are involved when compulsory acquisition interferes with land usage.

I understand that the land to be acquired is a neck of land (if I could describe it as such) connected with a spur line to the existing railway, and that it is intended to use some of the adjacent scrub area as a buffer area between the proposed petro-chemical plant and the surrounding countryside, part of which will be developed as a reserve. No reference to housing is made in the Bill. I understand that the complex will be built in isolation and that housing will not be immediately adjacent to it. This raises an interesting question. Two cities are located nearby (Port Augusta more so than Port Pirie), but the complex will not be located in either of those council areas.

I can easily foresee that a sizeable city could grow near the complex and this could lead to the further compulsory acquisition of land, perhaps land better than that immediately adjacent to the gulf. I would have preferred to be given a greater overall picture of what the future holds for this area. I realize that the one remaining day left of this part of the session presents problems to the Government in making this land available rapidly to the consortium. However, the Bill differs from the normal acquisition of land Bill: it contains no provision for objection, although it contains appeal provisions to the court on valuation. The land will be vested in the State Planning Authority, and the Bill gives the Minister overriding authority to see that all or part of the land is transferred to the consortium at the appropriate time.

The Bill retains many of the features of the Compulsory Acquisition of Land Act that protect present landowners. However, it goes further, in that clause 10 (2) enables the Government to vary the provisions of the Land Acquisition Act in regard to this acquisition if landowners' rights for compensation are prejudiced. It is a far-reaching step to allow an Act to be varied by proclamation. As it is intended that this legislation is for the protection of landowners, I give the Government credit in this respect. As the Government's intentions regarding compensation are valid, I do not oppose this provision.

The Hon. M. B. Dawkins: It's one time when you're in favour of proclamation instead of regulation?

The Hon. G. J. GILFILLAN: Yes. However, I hope that this is not a precedent. Because of the benefit that will accrue to the State as a result of this large enterprise, I hope that the Government will be as generous as possible to the people who will be dispossessed of their land to make way for the consortium. I support the second reading of the Bill.

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

COMMERCIAL MOTOR VEHICLES (HOURS OF DRIVING) BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment No. 7, it had agreed to the Legislative Council's amendments Nos. 1 and 2 with amendments, it had disagreed to the Legislative Council's amendments Nos. 5 and 6, and it had disagreed to amendments Nos. 3 and 4 but had made an alternative amendment in lieu thereof.

Schedule of the amendments made by the House of Assembly to amendments Nos. 1 and 2 of the Legislative Council:

Legislative Council's amendment No. 1:

Page 1, line 16 (clause 3)—Leave out "4" and insert "5".

House of Assembly's amendment thereto:

Leave out the figure "4" and insert figure "4·5".

Legislative Council's amendment No. 2:

Page 3 (clause 4)—After line 34 insert new subclause (2a) as follows:

(2a) Where the driver of a commercial vehicle has at a certain time reached a point within fifty kilometres of his destination, as shown in his log book, without having driven for more than twelve hours in the period of twenty-four hours immediately preceding that time, then he may, notwithstanding the provisions of paragraph (*b*) of subsection (1) of this section, proceed to complete his journey to that destination.

House of Assembly's amendment thereto:

Leave out the word "twelve" from proposed subclause (2a) and insert the word "eleven".

Schedule of the alternative amendment made by the House of Assembly in lieu of amendments Nos. 3 and 4 of the Legislative Council disagreed to by the House of Assembly:

Clause 6, page 6, lines 10 to 21—Leave out subclauses (5) and (6) and insert subclause as follows:

(5) A person who—

(*a*) forges or fraudulently alters an authorized log book;

(*b*) with intent to evade any provision of this Act, or to enable any other person to evade any provision of this Act, lends an authorized log book to, or allows an authorized log book to be used by, any person other than the person to whom it was issued;

(*c*) makes a false or misleading statement under subsection (2) of this section knowing it to be false or misleading; or

(*d*) makes a false or misleading entry in an authorized log book knowing it to be false or misleading;

shall be guilty of an offence and liable to a penalty, not exceeding five hundred dollars or imprisonment for six months.

Schedule of the amendments made by the Legislative Council to which the House of Assembly has disagreed:

No. 5, page 6, line 26 (clause 7)—Leave out "three" and insert "one".

No. 6, page 6, line 30 (clause 7)—Leave out "three" and insert "one".

Consideration in Committee.

Amendment No. 1:

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

That the Legislative Council do not insist on its amendment.

The House of Assembly has amended this clause so that the weight is now to be 4·5 tonnes, which is a difference of only half a tonne from that suggested in the Legislative Council's amendment. It is quite a good compromise, and I ask the Committee to accept the amendment.

The Hon. A. M. WHYTE: I moved originally that the weight should be increased from four tonnes to five tonnes, but in consultation with the Minister of Transport a compromise was reached. This compromise extends throughout all these amendments which I believe are in accord with the co-operation we received from the Minister. If we are speaking of only the first amendment, I am willing to accept it.

Motion carried.

Amendment No. 2:

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

That the Legislative Council do not insist on its amendment.

I ask the Committee to accept this amendment, which deletes the word "twelve" and inserts the word "eleven".

The Hon. A. M. WHYTE: The original amendment gave a concession of 50 kilometres to any driver within that distance of his destination. The House of Assembly's amendment shows that, if a man has driven for 12 hours, he cannot take advantage of the 50-kilometre provision. If he has driven for more than 11 hours but less than 12 hours, then he has a concession of 50 kilometres in which to reach his destination. I believe this is fair enough, although it does not give all the grace we asked. However, it enables the driver within striking distance of his destination to reach it without breaking the law.

Motion carried.

Amendments Nos. 3 *and* 4:

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

That the Legislative Council do not insist on its amendments.

These are alternative amendments made by the House of Assembly, and I ask the Committee to accept them.

The Hon. A. M. WHYTE: The redrafting of clause 6 is in accord with our wishes. It was a bone of contention; all the penalties were brought within the one section and all misdemeanours incurred the same penalty, whereas there was a great difference between a fraudulent declaration and some of the lesser offences.

The Hon. M. B. DAWKINS: In common with the Hon. Mr. Whyte, I spent some time in consultation with the Minister over these amendments. With the exception of the amendments to clause 6, I believe the result has been very good. The penalty for a person who forges or fraudulently alters an authorized log-book is not to exceed $500 or imprisonment for six months. While that may not be excessive, the penalty remains the same for offences covered by paragraphs (*b*), (*c*) and (*d*), and is in those instances still excessive. I realize it is a maximum penalty and I do not suggest that the Committee should insist on its amendment, but I express my disappointment with the Minister's drafting of those paragraphs and the lack of a lesser penalty for them.

The Hon. R. A. GEDDES: There appears to be a typographical error in the schedule, which refers to the leaving out of subclauses (5) and (6). There was no subclause (6). That should be noted to avoid any misunderstanding.

The Hon. C. M. HILL: Some further assurance will be needed on this aspect. I agree with the Hon. Mr. Whyte that, in the general discussions that have taken place outside the Chamber in an endeavour to see whether a compromise can be reached between the two Houses, there was an effort to meet the wishes of this Council by categorizing the various misdemeanours or offences in order of seriousness, and the court would, in interpreting the legislation, assume that that was the purpose of the four categories of offence that have now been listed. It is confusing that, whilst the arrangement of these offences into four groups has been written into the measure, the same penalty as was in the measure previously remains. Can anyone explain whether this new proposal is more effective than the previous one was? If there is no improvement, it may have to go back for reconsideration.

The Hon. Sir Arthur Rymill: The Hon. Mr. Whyte objected to the severity of the penalty.

The Hon. C. M. HILL: Yes, and I am with the honourable member in that. This amendment was put forward by the Minister to try to overcome the Hon. Mr. Whyte's original objection to the severity of the penalties.

The Hon. M. B. Dawkins: I understood that the penalty would be less according to the severity of the offence.

The Hon. C. M. HILL: Yes, the general opinion was that it would vary according to the severity of the offence, and that the group of minor offences would carry with it the penalty proposed by the Hon. Mr. Whyte's original amendment—a maximum fine of $300 and no imprisonment.

The Hon. Sir Arthur Rymill: Don't you think you can leave that to the courts?

The Hon. C. M. HILL: That is what I want further assistance on, based on expert knowledge.

The Hon. M. B. CAMERON: Not having attended the private conference at which some agreement was reached between the various groups, I have become confused about what was and what was not agreed to. What was agreed to as regards penalties?

The Hon. T. M. CASEY: I will attempt to satisfy the Hon. Mr. Hill, if possible. This is a distinct improvement on the original provision, where for two clauses separately a $500 penalty was stipulated. In the new amendments the four groups of offences committed have been segregated and the maximum penalty to cover them has been incorporated in the maximum fine of $500. I am sure the courts will decide which offences warrant the maximum penalty.

The CHAIRMAN: As the Hon. Mr. Geddes has pointed out, a correction is needed to the schedule. The references should be to subclauses (4) and (5), not (5) and (6). The question is "That the Legislative Council's amendments Nos. 3 and 4 be not insisted on."

Motion carried.

The CHAIRMAN: The question now is "That the House of Assembly's alternative amendment be agreed to."

Motion carried.

Amendments Nos. 5 and 6:

The Hon. T. M. CASEY moved:

That the Legislative Council do not insist on its amendments.

The Hon. A. M. WHYTE: I do not intend to suggest that the Council insist on these amendments. They would, I believe, have saved the hauliers some book work, because these records will have to be duplicated under the Road Maintenance (Contribution) Act. It seems unnecessary for them to have to compile and keep this record, in duplicate, for three months. However, it is not a very contentious point, and I accept the decision made by another place.

Motion carried.

WHEAT DELIVERY QUOTAS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

WHEAT INDUSTRY STABILIZATION ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

PORT FLINDERS VESTING BILL

Adjourned debate on second reading.

(Continued from November 27. Page 1988.)

The Hon. A. M. WHYTE (Northern): It is of interest to realize, as I did today, just where Port Flinders is. It is on Weeroona Island, which is well known to many of us by that name. The island is a small outcrop of land that is periodically cut off from the mainland by high tide. The island has an interesting history. On August 12, 1849, Sir Henry Edward Fox Knight, Lieutenant Governor of the province of South Australia, granted unto Alexander Lang Elder, John Ellis and Joseph Gilbert, trustees of Mount Remarkable Mining Company, all that section of land containing 100 acres (40·47 ha) and numbered 1 situated at Port Germein, Spencer Gulf. It is interesting, because the history of the mining company was as remarkable as the mountain of the same name. These young men raise about £10 000 sterling to float a mining company, which they later profitably sold at Mount Remarkable. When one considers how much £10 000 sterling would be today, one realizes it was quite an enterprise.

The township was surveyed and covered the whole of the island, apart from a few buildings and some recreation facilities. However, it never developed, and little interest was shown in the land until the 1960's. With the passing of the Real Property Act in 1945 the Surveyor-General found that almost all the titles to the island were held under an old conveyance and were difficult to trace. In 1965, in order to preserve some kind of equity for landholders, the Surveyor General agreed to have the town resurveyed.

The survey was completed in 1972. All titles were recalled and the plan, after being publicized, was accepted by all interested landowners. The intent of this Bill is to facilitate a survey and the allotment of titles, which will allow for the development of Weeroona Island (or Port Flinders, as it is called in the Bill). I am sure honourable members will not oppose this measure, and I support the second reading.

The Hon. R. A. GEDDES (Northern): I could not let this Bill pass without making a comment about Mount Ferguson, or Port Flinders, as being a place where I fished and crabbed as a boy, a place I know extremely well. In my fascination with this story that unfolded in the Bill, I obtained from the Parliamentary Library *The Story of the Flinders Ranges*, by Hans Mincham, to trace the story as he told it. For posterity I will read pertinent parts of the book that are relevant to the Bill.

Alexander Lang Elder, the first of the Elder family to come to Australia, was part of the wellknown Elder Smith Goldsbrough Mort company. Alexander was 24 when he came to Australia in George Elder's schooner *Minerva*, a mere cockleshell of 89 tons (90·4 t). Because Elder came from Kirkcaldy, Scotland, he came well-heeled with rum, whisky, brandy, tar, fish, biscuits, tinware, gunpowder, merchandise, agricultural machinery and seed to start his fortune in the new colony. Elder and the gentlemen named in the Bill set up the Mount Remarkable special survey, as it was first called. It was impossible at that time to get a mining lease, and the only way to go about it was to secure a mining discovery (as it was called) by purchasing the land in which the minerals were located. The Government would not undertake a special survey of less than 20 000 acres (8 090 ha), for which the minimum sale price was £1 an acre (·45 ha).

The Mount Remarkable special survey undertaken for Elder and Dutton (contrary to the names mentioned in the Bill) extended to the foot of Mount Remarkable itself, but did not include it. The Mount Remarkable Copper Mining Company (referred to by Hans Mincham) was not a successful venture. In 1853 Alexander Elder left Australia and went home to England. According to the Bill, it was in 1853 that the company was wound up. These people faced problems in trying to get rid of 20 000 acres (8090 ha), of which this 100 acres (40·47 ha) was part. It is interesting that the dates quoted by Mincham and those quoted in the Bill, presumably done with greater diligence, are comparable. In the *Register* of January 22, 1853, the 20 000 acres (8090 ha) was offered for sale, and was described as follows:

> . . . rich agricultural, pastoral, and mineral land, dairy stations, slate quarries, magnificently timbered lands, quartz, and gold formations, water-power creeks—

and this is supposedly somewhere near where Redcliffs is to be—

> and other appreciable advantages, and the romantic township of Melrose, the business site of Bangor township, and the waterside privileges of Port Flinders where is reserved forever the Free Wharf of this desirable and leading port of the Spencer's Gulf.

Reference is made in the Bill to the difficulty surveyors had in finding the actual surveyed area of Port Flinders. In 1853 an advertisement appeared that referred to pegs and marks of subdivision of the property which had been maliciously and feloniously removed and obliterated. A reward of £100 was offered for such information as would lead to the conviction of the offender, offenders or instigators.

Finally, I refer to Joseph Gilbert, the pioneer of the Barossa Valley. His home was at Pewsey Vale, and his name is still well known in the Barossa Valley. In this Bill some of South Australia's history has been mentioned in relation to land where pioneers hoped they would find copper, the only mineral at that time which was making money. Burra had been discovered not long before and so, too, had Kapunda, and the success and failure of such enterprises is portrayed in the first pages of this Bill. I support the Bill.

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

LOTTERY AND GAMING ACT AMENDMENT BILL (T.A.B.)

Adjourned debate on second reading.

(Continued from November 27. Page 1994.)

The Hon. R. C. DeGARIS (Leader of the Opposition): The Bill before us appears to revolve around the financial venture by the South Australian Totalizator Agency Board into the field of manufacture and supply of equipment for on-course totalizator operations. Over quite a long period of time I have been directing questions, not of a critical nature, but designed to seek information and the facts of the case, on the T.A.B. involvement in this matter of the provision of on-course totalizator operation facilities. At the outset, I should like to state that I do not wish to be critical. It is easy to sit back, when a possible mistake has been made, and be critical of a mistake in judgment. That would be an easy road to take. Nevertheless, in dealing with what may well be termed a semi-governmental operation, there is also a need to make sure that moneys belonging virtually to the public are correctly handled.

In July, 1971, the board became involved with a firm known as Dataline Systems Proprietary Limited, a firm involved in the manufacture of computer equipment for on-course totalizator systems. This decision alone by the T.A.B. to become involved in on-course totalizator development and on-course totalizator facilities seems to have been a decision somewhat outside the general concept of the function of the T.A.B. In my opinion (and it may not be correct, of course), there has been a view held by some people that the Totalizator Agency Board should exercise a much greater influence on the racing industry than the original Parliamentary concept of the operation of the board. Once again, I do not make that statement intending to be critical or controversial, but in my opinion it is the view held by some people.

I believe the venture into the arrangement with Dataline Systems Proprietary Limited is a continuation of this philosophy held by some people. The T.A.B. having become involved with Dataline, in the same month of July, 1971, the board became a shareholder in Dataline Holdings Proprietary Limited, and this shareholding cost the board $150 000. Dataline Holdings Pty. Ltd. acquired the share capital of Dataline Systems Pty. Ltd. and the board's shareholding was 46 per cent of the total shareholding of that company. Twelve months later the board acquired the remainder of the share capital in Dataline Holdings Pty. Ltd. for a payment of $27 000. I ask the Council to note those figures. In that period 46 per cent of the share capital was bought for $150 000, and 12 months later 54 per cent was bought for $27 000. This represents a staggering decline in the value over a period of 12 months.

Later in 1972 the board sold to two employees of Dataline Holdings Pty. Ltd. 18 per cent of the shares for $7 200, a further decline in the value of the shares. The board has since become involved in a series of financing arrangements that has committed it to an expenditure in total of more than $1 500 000. The Minister, in his explanation, had this to say:

It is clear that, whatever the future of the system is, the board has an asset which, in any event, is greatly over-capitalized. At the moment the precise degree of this over-capitalization cannot be ascertained, and will not be known until the future of the development is clear.

In this I think that Parliament (and maybe the Minister) have been kept in the dark a little as to the policy being followed by the board. The Minister might have known of the project and the policy being followed by the board.

The Hon. A. F. Kneebone: No.

The Hon. R. C. DeGARIS: I said he might have. I do not know; I am simply making that comment. One thing is quite certain: Parliament knew very little about the operation and I am not, in saying that, accusing the Minister.

The Hon. A. F. Kneebone: They kept it very close to the chest.

The Hon. R. C. DeGARIS: Quite. I am stating the facts as I know them. Parliament knew very little—practically nothing, except what has been dribbling through the grapevine over the past six to nine months. I was tempted to ask some cutting questions and I tried to seek information on this whole matter. I do not wish to discuss this aspect further, except to say that I hope that in the future, when an organization such as the Totalizator Agency Board is involved in what I think is an extension of what Parliament originally envisaged for the board, Parliament or at least the Minister should be informed of what is going on; and Parliament should know the undertaking that has been given.

I suggest that in the future the Auditor-General be the auditor and that a report be made to Parliament on this board. I have studied its balance sheets over the years; I see there were some investments but I have no knowledge of exactly what it was all about. If more time was available, I would consider—

The Hon. A. J. Shard: Don't you think it would be better to wait until the report came out?

The Hon. R. C. DeGARIS: I do not know when that will be.

The Hon. A. J. Shard: No-one knows.

The Hon. R. C. DeGARIS: No, but I feel so strongly about this matter that I considered introducing an amendment to this Bill, that the Auditor-General do the auditing and present a report on the operations of the board in his next annual report. The committee appointed to inquire into the racing industry will encompass the operations of the Totalizator Agency Board.

The Hon. A. J. Shard: In full detail.

The Hon. R. C. DeGARIS: Yes. I hope that one of the committee's recommendations will be that the Auditor-General should do the auditing and should present a report to Parliament on it. That is the correct procedure. I do not want to be critical because one could say that, if this venture had come off, we would all be patting each other on the back for a job well done. However, in a situation like this, when Parliament considered the matter back in 1966 or 1967 and passed the Bill, the board has gone further than Parliament then thought it would.

The Hon. A. J. Shard: But you don't have to believe it has gone further: it is not a belief—it is actual fact.

The Hon. R. C. DeGARIS: I am trying to view it in the best possible light and do not want to be critical in this case after the horse has bolted.

The Hon. A. J. Shard: I am not talking of Databet but of other things—off-course betting, where it has gone further than Parliament ever intended.

The Hon. R. C. DeGARIS: I refer to the Globe Derby Park loss of about $70 000 in the arrangement there. The Totalizator Agency Board was set up to do a certain job, and that job is what it should be restricted to. If it wants to go further, the Minister, in consultation with Parliament, should be informed of what is going on.

. . .

The Hon. A. J. Shard: I agree there.

The Hon. R. C. DeGARIS: With those few remarks, which are not meant to be critical, after a possible mistake has been made (we do not know yet whether or not a mistake has been made) I repeat that the board has gone beyond what Parliament originally intended it to do. I have some feelings on this matter, and I know the Hon. Mr. Shard has, too. The second reading explanation did not explain any future policy to be followed in relation to the Databet system. The only thing I want to mention in that explanation is:

Indications are that expenditure to bring Databet to a successful operating position will exceed $2 100 000 if it can be brought to such a position.

However, it is still uncertain whether the Databet system can be a success. It is unfortunate that I have had to speak in this way, but some important things are involved here. I hope that future legislation will bring about wider Parliamentary control of the situation and that, if a board such as this is set up to do a job and wishes to go beyond the concept of the legislation, the Minister and Parliament will know exactly what the policy of that board will be.

The Hon. A. F. KNEEBONE (Chief Secretary): I thank the Leader for the manner in which he has dealt with this Bill. I do not think he was being over-critical—he was being moderate and careful in what he said. The Government was and is worried about the situation. I assure the Leader that I am looking at it closely and shall wait for the report of the committee of inquiry to come out. However, we have done something to help to get to the bottom of the situation to see what can be done to recover lost ground. We have appointed a new chairman of the board who is reporting to me progressively.

The Hon. C. M. Hill: Who is the Chairman?

The Hon. A. F. KNEEBONE: Mr. Max Dennis. I wrote to the Chairman of the inquiry committee telling him what we were proposing to do in this Bill, and he said he agreed with it.

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

SOUTH AUSTRALIAN MUSEUM BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos. 1, 2 and 5 but had disagreed to amendments Nos. 3 and 4.

Consideration in Committee.

Amendments Nos. 3 and 4:

The Hon. T. M. CASEY (Minister of Agriculture): The amendments have been disagreed to by the House of Assembly because they would restrict the effective operation of the Museum Board. For that reason, I move:

That the Council do not insist on its amendments.

The Hon. JESSIE COOPER: I hope that the Committee will insist on its amendments, one of which covers the functions of the board as spelled out in clause 13 (1) of the Bill. The amendment passed by the Council was to strike out paragraph (*g*). The doubts which I had and which I expressed in my second reading speech were well-founded. If the proposal is not acceptable to the Government, the autonomy of the Museum Board would certainly be threatened.

The board has controlled the museum's affairs for over a century, and I would say that it has done this magnificently. The board has always comprised distinguished members of the community who have all been experts in their own fields and who have served the State with no thought of recompense. They have served under difficult conditions with very little money and very poor accommodation. Has the Government not been satisfied with the work of the present board? I cannot understand the reason that the House of Assembly gives for disagreeing to the amendments—that they restrict the effective operation of the South Australian Museum Board. Has the museum not been functioning properly? The Minister said:

The Bill was drawn up by the present and past directors of the museum, who have insisted that paragraph (*g*) is an integral part of the Bill and do not wish it to be deleted.

The officers referred to are the former Director, who now becomes the Director of the Environment and Conservation Department, and the new Director. That seems to be strange indeed. I should have thought that the board was just as important in decision making. The Minister also said:

In those circumstances, while the honourable member and people outside that she has spoken to—

This is a very sarcastic remark indeed. The people outside were the members of the board who, I repeat, have done a magnificent job. I do not consider that it is right that only the directors, the paid servants of the board, should be consulted and that the board members should be ignored. It would be more honest for the Government to say it wishes to strike out paragraphs (*a*) to (*f*) and have only the functions contained in paragraph (*g*)—that is, that the board is to perform functions of scientific, educational or historical significance that may be assigned to it by the Minister. That is what the rejection of my amendment really means.

The Hon. R. A. GEDDES: I support what the honourable member has said. The autonomy of the State Library Board is all-embracing: it has complete control over the distribution of books and over the types of book. No free library in the State can buy books without the board's approval. The Minister has no control over that. The Museum Board has had autonomy and has shown an ability to build up a wonderful museum, but it is now being brought under unreasonable control.

The Hon. R. C. DeGARIS: I agree with what the Hon. Mrs. Cooper has said. I am at a loss to understand the reason given by the House of Assembly for its disagreement to the Legislative Council's amendments—that the amendments restrict the effective operation of the South Australian Museum Board. Rather, the Bill itself, if not amended, could restrict the operations of the board. There is a way around the matter. Perhaps there could be an alternative amendment along the lines that it will be a function of the board to perform any other prescribed functions of scientific, educational or historical significance that may be assigned by regulation. In that case, Parliament would be able to look at any regulations that were introduced.

The Hon. T. M. CASEY: I do not want to buy into a confrontation between certain persons outside; such a confrontation would not be in the interests of the museum or the Bill. The Bill is a good piece of legislation. Why should the Minister not issue directions in connection with functions of scientific, educational or historical significance that may be of benefit to the State?

The Hon. R. C. DeGaris: Why should Parliament not have a look at them?

The Hon. T. M. CASEY: Why should it? Surely everything does not have to be introduced by regulation? If that were necessary we would be bogged down in administration.

The Hon. Sir Arthur Rymill: This gives the Minister legislative functions, as it is drawn at present. That ought

to be done by Parliament, or by regulations and supervised by Parliament.

The Hon. T. M. CASEY: I cannot see any confrontation here. If the board has been assigned to do something by the Minister, it is not a direction. The Hon. Mrs. Cooper is implying that an assignment is a direction. The board could point out that a certain matter was not feasible, and the board could talk to the Minister about it. The confrontation is between parties outside, and it should not influence this Committee. Paragraph (*g*) is very important to the museum and to the State as a whole. I think we are getting carried away as a result of a confrontation going on outside.

The Hon. JESSIE COOPER: What is special about paragraph (*g*) that makes it so important for this State? There is nothing in paragraph (*g*) that has not been enumerated in paragraphs (*a*) to (*f*).

The Hon. R. C. DeGaris: Except the Minister's power.

The Hon. JESSIE COOPER: Yes. That is the only thing we are debating.

The Hon. T. M. CASEY: Why should the honourable member oppose this measure just because the Minister is to assign something to the board? I cannot see anything wrong with that; it probably happens in many other cases.

The Hon. R. C. DeGaris: It doesn't happen in any other educational institutions. The Minister does not have this power in relation to colleges of advanced education.

The Hon. T. M. CASEY: But this is a scientific institution as well. This amendment defeats the whole purpose of the Bill, and everything in paragraphs (*a*) to (*f*) may as well be excluded.

The Hon. Jessie Cooper: And say that the Minister is now the boss of the whole thing.

The Hon. T. M. CASEY: I cannot see the honourable member's point.

The Hon. Sir ARTHUR RYMILL: The Minister keeps referring to confrontation. I do not believe it exists here and cannot see what it has to do with this measure. What I object to in paragraph (*g*) is that it gives the Minister absolute power and by-passes Parliament. Paragraphs (*a*) to (*f*) could be excluded altogether if (*g*) is left in and one could just say that "the functions of the board are to perform any functions of scientific, educational or historical significance that may be assigned to the board by the Minister", and nothing more. I believe the Hon. Mr. DeGaris's suggestion is good, because it will mean that further powers and functions can be assigned to the board by regulation and that Parliament will have an opportunity to look at it. I interjected that paragraph (*g*), as it stands, gives the Minister complete legislative powers over the functions of the Museum Board. If "Minister" was deleted and "regulation" was inserted it would accord with the normality of legislation, as other powers could be assigned.

The Hon. R. C. DeGARIS: Perhaps the Minister will be prepared to withdraw his motion so that I can move an amendment as an alternative to the House of Assembly's amendment No. 4, by striking out "Minister" in paragraph (*g*) and inserting "regulation"?

The Hon. R. A. GEDDES: The Minister must well know that universities do much research and that a Minister of the Crown cannot direct a university except on matters of finance. The Minister would be aware, too, that the Commonwealth Scientific and Industrial Research Organization cannot be directed by the Minister, and the same applies in other scientific organizations.

The Hon. T. M. Casey: That is my point; we are not directing the board.

The Hon. R. A. GEDDES: Surely, performing any other functions assigned to the board by the Minister is directing it.

The Hon. JESSIE COOPER: Perhaps the Minister will tell us why the Museum Board is the one board connected with tertiary institutions that is losing its autonomy when all other institutions have gained it?

The Hon. Sir ARTHUR RYMILL: Clause 20 gives the Governor complete regulation-making powers, and supports the Hon. Mr. DeGaris's foreshadowed amendment.

The Hon. R. C. DeGARIS: Will the Minister withdraw his motion so that I may move the amendment I have already mentioned?

The Hon. T. M. CASEY: I seek leave to withdraw my motion.

Leave granted; motion withdrawn.

The Hon. R. C. DeGARIS moved:

That the Legislative Council's amendment No. 3 be not insisted on and that the following alternative amendment to the Legislative Council's amendment No. 4 be agreed to:

Clause 13, line 20—Leave out "Minister" and insert "regulation".

Motion carried.

POLICE OFFENCES ACT AMENDMENT BILL (FEE)

Returned from the House of Assembly without amendment.

PRISONS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

The Hon. A. F. KNEEBONE (Chief Secretary) moved:

That Standing Orders be so far suspended as to enable the conferences on the Road Traffic Act Amendment Bill (Weights) and the Workmen's Compensation Act Amendment Bill to be held during the adjournment of the Council and that the managers report the results thereof forthwith at the next sitting of the Council.

Motion carried.

At 10.50 p.m. the Council adjourned until Thursday, November 29, at 2.15 p.m.