LEGISLATIVE COUNCIL

Tuesday, February 26, 1974

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

PETITION: FILM CLASSIFICATION

The Hon. C. M. HILL presented a petition signed by 57 electors of South Australia praying that the Legislative Council would reject a provision in the Film Classification Act Amendment Bill, passed by the House of Assembly, to the effect that the State laws relating to obscenity and indecency should not apply to any film passed by the Commonwealth Film Censorship Board.

Petition received and read.

QUESTIONS

LAND TENURE

The Hon R. C. DeGARIS: Has the Minister of Lands read the report of the commission into land tenure appointed by the Commonwealth Government, under the chairmanship of Mr. Justice Else-Mitchell; if he has, can he tell the Council whether its recommendations are supported by the State Government?

The Hon. A. F. KNEEBONE: I have had a chance to glance through that report but have not studied it. Therefore, at this stage I cannot answer the honourable member's question. However, I will consider it and bring down an answer.

HILLCREST HOSPITAL

The Hon. M. B. CAMERON: I seek leave to make a short explanation before asking a question of the Minister of Health.

Leave granted.

The Hon. M. B. CAMERON: My question concerns Hillcrest Hospital, over which there was some publicity last weekend. It is evident that there is not to be a further expansion there in the next 12 months, in the words that I heard the Minister use on television I have also heard recently that the Premier has said that the financial position of the State Government has improved considerably. Has the Minister of Health transferred funds from Hillcrest Hospital to Glenside Hospital, or is there to be a transfer of expenditure in the Minister's department concerning those two institutions? Does the Minister support a higher priority for the purchase of private bus lines or for the badly needed extensions at Hillcrest? Is the extra $2 500 000 revenue, which I understand is forecast for the Woods and Forests Department, to be spent on capital expenditure in that department, on Hillcrest Hospital, or is it to be spent on the nationalization of the private bus lines?

The Hon. D H. L. BANFIELD: Two of the honourable member's questions do not come within my portfolio.

The Hon. M. B. Cameron: But surely you'll get replies to them.

The Hon. D. H. L BANFIELD: We inherited the archaic conditions at Hillcrest when we came into Government in 1965. We have spent a considerable sum on Hillcrest and Glenside. We are continuing to upgrade the Hillcrest psychiatric hospital, which was left in an archaic condition by the previous Government and which had been in that state for many years. It is untrue to say that I have transferred money from Hillcrest to Glenside or that we are not spending any money on Hillcrest, because a contract has just been let for the upgrading of the administration building at Hillcrest.

The Hon. M. B. Cameron: Does that help the patient?

The PRESIDENT: Order! Interjections are out of order during Question Time.

The Hon D. H. L. BANFIELD: We are spending about $750 000 on Hillcrest to upgrade various wards. During 1970-71, a new central linen store was constructed and occupied in July, 1970, at a cost of $87 000 and a new combined chapel was opened and dedicated at a cost of $40 000 During 1971-72, work began on a new entrance road to Hillcrest at a cost of $83 000; this work is combined with the provision of additional car parking facilities and bituminizing of ward car yards. Wards 5 and 7, which accommodate about 60 repatriation patients, were redecorated during 1971-72; true, the Repatriation Department met the cost of the renovations. During 1972-73, extensions were carried out to the hospital canteen at a cost of $18 000 to provide additional storage and delivery areas. A new security hospital at Northfield, built at a cost of $900 000, was opened on November 30, 1973. So, the Government is sympathetic to the upgrading of psychiatric hospitals and has no intention of letting Hillcrest down. We had to make a decision. We had a certain sum on my lines, and it had nothing to do with transport or anything else. I had to face up to the problem that money had to be spent on Glenside because of the archaic condition in which it was left by the previous Government. In my wisdom, or otherwise, I decided that I had to spend money on Glenside, with the result that it was necessary for me to defer the rebuilding of Litchfield House, which is where the problem has arisen. The Government has not cut down but intends to go ahead with the work as soon as it has the necessary money.

The Hon. R A. GEDDES: I seek leave to make a statement prior to asking a question of the Minister of Health.

Leave granted.

The Hon. R. A. GEDDES: My question relates to Litchfield House, about which this morning's *Advertiser* reports that the outdated carpetless building would drag a happy man down into a state of depression, let alone what it must do to the 600 patients who go through it each year. The article in the press also says that the Government is unable to provide about $700 000 to upgrade the building, which caters for mentally disturbed people. Accepting the Minister's argument that there is insufficient money, I ask him whether he will consider upgrading as soon as possible the ablution facilities and some dormitory facilities for a smaller sum so that there will be some measure of compassion shown for these mentally disturbed patients.

The Hon. D. H. L. BANFIELD: I have the deepest sympathy not only for the patients but also for the staff members, who have to work under the conditions referred to. I do not think it would be wise to spend a large sum on upgrading the bathrooms and toilet facilities if we are able to proceed with the deferred project when next year's Loan funds become available. It is expensive to upgrade bathrooms but, if the project is deferred for a long time, we will upgrade more of Litchfield House than we are doing at present. Some minor renovations are proceeding at present but, if there is a long-term deferment (and I do not think there will be), we will look at the question; indeed, we are already looking at it. I appreciate the conditions under which the staff members are working. They are very loyal employees and dedicated to their patients. If it were not for that loyalty and dedication the patients would be at a bigger disadvantage. In the interests of the staff and the patients I am most anxious to replace Litchfield House, instead of just renovating the old building.

CHARTER BUSES

The Hon. J. C. BURDETT: Has the Minister of Health a reply from the Minister of Transport to my question of February 19 about charter buses?

The Hon D. H. L. BANFIELD: My colleague informs me that no permits are required for bus operators to undertake charter work within the metropolitan area. Therefore, the acquisition of private metropolitan route services by the Municipal Tramways Trust will have no effect on the viability of country route operators who wish to undertake charter work in the city area.

PARLIAMENT HOUSE

The Hon. A. M. WHYTE: I seek leave to make a short statement before asking a question of the Chief Secretary, as Leader of the Government in this Council.

Leave granted.

The Hon. A. M. WHYTE: I am ready to accept the fact that during the present renovations to Parliament House honourable members must be inconvenienced. I noticed in today's press that the possibility of bringing skilled stenographers into the country might be investigated, to assist the Public Service. As a member of Parliament I believe that I, too, serve the public, and I am very disappointed to find that there is only one telephone in the centre of the room I occupy with two colleagues. It is a great disadvantage, because it means we cannot cope with the number of telephone calls that we would like to cope with. Each honourable member using the telephone has to carry his correspondence to a central place in the room. I am handicapped in any case, because I am without a gadget which I need to assist me when I receive calls. I therefore ask the Chief Secretary whether he will take up the matter to see whether phones can be installed for honourable members for the rest of the session in the rooms they are now occupying, regardless of whether the phones have to be taken away later. It is not a great deal to ask, but it is a big problem for me to cope with my work at present.

The Hon A. F. KNEEBONE: I will discuss the matter with the Minister of Works and bring down a reply as soon as possible.

TEACHERS' ACCOMMODATION

The Hon. J. C. BURDETT: Has the Minister of Agriculture a reply to the question I asked on February 19 in relation to teachers' accommodation?

The Hon. T. M. CASEY: My colleague has furnished the following report:

Each financial year, priorities for housing are established by the Education Department and housing is provided within the limits of available finance. The programme covers the replacement of old houses, the building of new houses, and the purchase of existing suitable homes. Houses and flats are rented from the South Australian Housing Trust for married and single teachers. At this juncture the resources of the department and the South Australian Housing Trust are fully committed to the end of the financial year. The department is currently conducting inquiries concerning the possibility of renting flats from private enterprise for teacher accommodation in country areas. In certain districts, two-bedroom transportable units would be acceptable. The present position is that a number of specific offers have been received and investigations are proceeding. It is expected that leases will be finalized for flats in several country areas in the near future. The department is not aware of any promises relating to the provision of houses that have not been fulfilled, and would be pleased to investigate any specific cases known to the honourable member.

The Hon. R. C. DeGARIS: I thank the Minister for that reply from his colleague, who has asked for specific cases. I ask him to look specifically at this question as it relates to the Penola school and the Kalangadoo Area School, where there are serious accommodation problems.

The Hon. T. M. CASEY: I will refer the question to my colleague.

COUNCIL RATES

The Hon. C. M. HILL: Has the Minister of Health a reply to a question I directed last week to the Minister of Transport regarding the proposal to amend the Local Government Act to provide for quarterly rates notices to be sent out?

The Hon. D. H. L BANFIELD: My colleague has provided the following reply:

It is the intention of the Government to introduce legislation to enable ratepayers to make quarterly payments of council rates. However, in view of the changes necessary to enable this to be done, legislation will not be introduced during this current session.

EUROPEAN CARP

The Hon. J. C. BURDETT: Has the Minister of Agriculture a reply to a question I asked on February 19 regarding European carp?

The Hon. T. M. CASEY: The Government is well aware of the problems associated with the introduction of European carp into the Murray River eco-system. My colleague, the Minister of Fisheries, has informed me that the research section of the Fisheries Department has undertaken preliminary research resulting in an approach to the Australian Water Resources Council for funds to carry out an in-depth study in order that a plan can be produced to deal with the problem.

UNDERGROUND WATERS

The Hon. R. A. GEDDES: I wish to direct a question to the Minister of Lands, and I seek leave to make a short statement before doing so.

Leave granted.

The Hon R. A. GEDDES: I direct this question to the Minister of Lands, but it may need referring to other departments With the fantastic rains in Central Australia and the northern areas of South Australia in recent months, one would imagine that the intake into the artesian basin or the underground aquifers would be of some consequence. Can the Minister say whether it would be possible for the appropriate department to make tests to see the general effect of these rains on the underground water basins of the State? If some attempt is made to do this, since it has been said that these rains have been greater than any recorded in the history of the white man in this country, this could be of major benefit to future generations in this State and in Australia.

The Hon. A. F. KNEEBONE: I understand the Minister of Works has announced that investigations will be taking place soon regarding the flow in the Cooper Basin. I am not a scientist, so I do not know what is entailed in getting accurate figures. However, in relation to the artesian basin, I know that the farther north one goes the deeper one must go to the water level, in some areas even to a depth of thousands of feet.

The Hon. R. A. Geddes: I am referring to bores that may have a different rate of flow.

The Hon. A. F. KNEEBONE: The honourable member has raised an interesting question, and I shall see whether it is possible to do what he is asking.

EYRE HIGHWAY

The Hon A. M. WHYTE: Has the Minister of Health, representing the Minister of Transport, a reply to my recent question about Eyre Highway?

The Hon. D. H. L. BANFIELD: Funds are allocated for road construction according to overall priorities, and no funds have been transferred from other works in the western district to finance the construction of the Eyre Highway.

MOUNT GAMBIER HOSPITAL

The Hon. R. C. DeGARIS: I seek leave to make a brief explanation prior to asking a question of the Minister of Health.

Leave granted.

The Hon. R. C. DeGARIS: I recently received a complaint from a person in Mount Gambier who had to undergo eye surgery but who, because of the limited number of beds available to that specialty in Mount Gambier Hospital, had to go to Naracoorte Hospital to be attended by an eye specialist. Will the Minister examine this question to see how many beds are available for specialist services in Mount Gambier and what reason exists for people to be transferred from Mount Gambier Hospital to Naracoorte Hospital for specific operations?

The Hon. D. H. L. BANFIELD: I shall be happy to get a report for the honourable member.

HIGHWAYS EXPENDITURE

The Hon. C. M. HILL: I seek leave to make a short statement prior to asking a question of the Minister of Health, representing the Minister of Transport.

Leave granted.

The Hon. C M. HILL: The Auditor-General's Report for the year ended June 30, 1973, stated that $4 210 000 was outlayed by the Highways Department for the acquisition of land for freeways for the financial year 1972-73; an increase of 51 per cent over the $2 780 000 spent in 1971-72. How much has been outlayed for similar purposes for the six months ended December 31, 1973?

The Hon. D. H. L. BANFIELD: I shall be happy to convey the honourable member's question to my colleague and bring down a reply.

CLASSIFICATION OF PUBLICATIONS BILL

Adjourned debate on second reading

(Continued from February 20. Page 2123.)

The Hon. M. B. DAWKINS (Midland): I do not intend speaking at length on this Bill, because it has been dealt with at length already by several other honourable members. I am unable to support the Bill in its present form but, I believe it may be (and I emphasize the word "may") a good thing for publications to be classified provided it is done effectively. I see no point in doing this unless power is contained in the legislation to ban some publications that have already become available and have proved to be salacious or to prevent publications which are extremely damaging to immature people. I do not agree that clause 13 (3) does what is required here. No-one can suggest that this clause provides the power: it only provides power to refrain from assigning a classification. It does not give power to ban a publication.

I agree with the Hon. Mr. Burdett when he addressed himself to this Bill some three months ago and chose to disagree with a comment made by the Chief Secretary. I do not wish to be construed as taking the Chief Secretary to task personally, because the comment he made was part of the prepared second reading explanation. He said:

There are some who see the relaxation of censorship as symptomatic of a general decline in morality. In fact, this is a mistaken view.

The Hon. Mr. Burdett said that he begged to differ from that comment, and he indicated his reasons for so doing. I agree completely with the honourable gentleman's contention and with the reasons he gave, though I do not wish to repeat them at this stage. I believe we have had a most regrettable decline, and for this reason we must be doubly careful, in my view.

If I could indicate for a moment some of the vastly different standards that we have today from those that obtained a few years ago, I could draw honourable members' attention to a little song that some of them know entitled *The Foggy Foggy Dew*. I suppose it must be said that that little song was a little bit naughty but, believe it or not, it is only a few years since that piece of music was banned by the Australian Broadcasting Control Board from all A.B.C. or other broadcasting stations as being quite unsuitable for the morals of those people who were immature. That may be one extreme, and perhaps it was. It may seem ludicrous at present to ban such a song but, if that took this matter to one extreme, we have now gone to the other. For that reason we must be very clear about what we do.

I do not wish to suggest for one moment that I am satisfied with the present situation, but I do not believe that this Bill as it is set out is the answer. Some matters have been mentioned by other honourable members and, whilst I do not wish to bore the Council, I think that some underlining of what has been said would not be out of place. I mention first clause 12 (1), which refers to standards of morality, decency and propriety that are generally accepted by reasonable adult persons. I do not believe that any two persons in this Chamber, let alone outside, would necessarily define that phrase "reasonable adult persons" in the same way. There would be vastly different interpretations of that phrase.

For that reason, I believe that subclause (1) of clause 12 is relatively ineffective. Also, I agree with the previous speakers who referred to clause 12 (2) (*a*), which provides:

that adult persons are entitled to read and view what they wish in private or public.

Does this entitle people to flaunt material in public that would be damaging to some immature people? Putting that into the Bill makes it completely clear that it is quite safe and legal to do this. I oppose that. Clause 13 provides:

(1) Where the board decides that a publication—

(*a*) describes, depicts, expresses or otherwise deals with matters of sex, drug addiction, crime, cruelty, violence or revolting or abhorrent phenomena in a manner that is likely to cause offence to reasonable adult persons—

here we get that phrase again—

or

(*b*) is unsuitable for perusal by minors—

people of 17 years of age or under—

the board shall classify that publication as a restricted publication.

Subclause (2) provides that the board can classify a publication as suitable for unrestricted distribution, if it so decides. Subclause (3) provides:

The board may refrain from assigning a classification to a publication where the board is satisfied that to assign a classification to be the publication or to impose conditions in respect of the publication, could not give proper effect to the principles that the board is bound to apply.

Exactly what that means, except that the board does not have to assign a classification, I do not know. It certainly does not mean, in my view, that it has the power to ban a publication that may be very damaging.

The other clause to which I should like to refer is clause 19, which provides:

Notwithstanding any law relating to obscenity or indecency, it shall not be an offence (*a*) to print or produce a publication so that it may be submitted to the board for classification.

That means that the board has no power whatsoever to stop publication, or at least the production or printing of a publication which may be highly offensive; it can deal with it only after the event, so to speak. Subclause (*b*) provides that it shall not be an offence—

to sell, distribute, deliver, exhibit or display a publication that has been classified as suitable for unrestricted distribution.

Subclause (*c*) provides that it shall not be an offence—

to sell, distribute, deliver, exhibit or display a publication in compliance with conditions imposed by the board.

All I can say is that I believe clause 19 really gives the Minister the opportunity to opt out of his responsibilities. With great respect, I believe that in matters of censorship both the present Minister and the previous Minister of this Government have shown a regrettable desire to opt out of their responsibilities when they could involve them in action that might seem to be unpopular.

Generally speaking on this Bill, R films may be bad enough (goodness knows, some of them are bad enough) and that is merely a measure of where we have gone from the days when the little song I mentioned earlier was banned from public broadcasting; but films at least do pass by on the screen and are gone. If anyone wishes to see them again and digest whatever good or bad material is in them, he has to pay to see them again. At least there is some attempt to keep R films away from children between the ages of two and 18 years, but books, papers, and magazines can be much worse They remain—they are not like a film that flits by on a screen. They can be read, reread, and passed on and there is no way in which immature people in particular can be prevented from getting that material indirectly.

The Bill is designed primarily to effect what is contained in clause 19. In other words, while the Minister has shown little desire to carry out this portion of his responsibilities, the Bill is designed to help him evade completely those responsibilities. Therefore, I am unable to support it in its present form.

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

FILM CLASSIFICATION ACT AMENDMENT BILL (No. 2)

In Committee.

(Continued from November 27. Page 1981.)

New clause 2—"Film not to be exhibited unless classified."

The Hon. A. F. KNEEBONE (Chief Secretary): When we were last considering new clause 2, I asked that progress be reported so that I might study it. I have studied the new clause. I was disappointed when the Bill was split into two. To be consistent, I continue to oppose the action that has been taken; therefore, I oppose the new clause.

The Hon. F. J. POTTER: Because of the Chief Secretary's opposition and because of the months that have elapsed since we last considered this legislation, I think I ought to remind the Committee that the purpose of the new clause is two-fold: first, it represents a redraft of the existing section 4, which is incomplete; I think this matter was overlooked when the legislation was originally passed.

Section 4 provides that a film may be classified by the Commonwealth or by the Minister but it does not give any machinery for the Minister to make any classification or fully spell out, as is necessary, the consequences of such classification or what principles the Minister must follow when exercising his right. All section 4 does is give the Minister the right to classify or reclassify a film; it does not provide any machinery or spell out any principle. Therefore, this new clause is necessary, and would have been necessary in any case. The opportunity has just arisen to study section 4 again to realize its deficiencies, which, I think, are greatly attended to by the new clause

The other reason why it is important that the Committee should consider a redraft of section 4 is that it is necessary for a redraft in this fashion if the Committee wishes to support a subsequent amendment, to clause 3, to be moved by the Hon. Mr. Hill. I will support that amendment, which will not work unless there is a redraft of section 4 along the lines now before the Committee. Accordingly, I ask the Committeee to support new clause 2.

The Committee divided on the new clause:

Ayes (11)—The Hons. J. C. Burdett, M. B. Cameron, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, C. M. Hill, F. J. Potter (teller), Sir Arthur Rymill, C. R. Story, and A. M. Whyte.

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

Majority of 5 for the Ayes.

New clause thus passed.

Postponed clause 3.

The Hon. C. M. HILL: I move to strike out new section 11b (1) and insert the following new subsection:

(1) Subject to subsection (2) of this section, where

(*a*) a classification has been assigned to a film by the Minister;
or

(*b*) a classification has been assigned to a film in pursuance of a corresponding law and a certificate has been issued under subsection (3) of this section,

then, notwithstanding any law relating to obscenity or indecency, it shall not be an offence to distribute or exhibit the film in this State.

and to insert the following new subsection:

(3) The Minister may issue a certificate stating that he has personally viewed the exhibition of a film to which a classification has been assigned in pursuance of a corresponding law stating that the classification so assigned is, in his opinion, the appropriate classification for that film to bear.

I entirely agree with the comments that the Hon. Mr. Potter made a few moments ago. If this amendment is carried, people in South Australia will have the right for the first time to appeal to the Minister in charge of censorship if they believe that a film should not be shown. They will be able to make that appeal for a classification and a certificate to be issued by the Minister. Once a certificate has been issued by the Minister the people will not have the right to go to the court; that was the object originally. However, if the Minister is not willing to listen to the appeal, the right remains for them to go to the court. It is machinery by which an opportunity is given to lodge an appeal to the proper quarter, the Minister in charge of censorship. This amendment is a great improvement on the Government's approach to this measure. When the Minister introduced this Bill he said that it was clearly ludicrous that people should have the right to go to court. I cannot see how any Minister in charge of censorship could object to the people having such a right. It is a clear responsibility of the Minister to adjudicate in such matters when there is grave public concern. I therefore hope that the Government will accept the amendment.

The Hon. M B. CAMERON: Because it cuts right across the spirit of the Bill, I do not support the amendment. I supported the previous amendment because the intention behind it was fairly clear. It would be much more honest of the mover of the amendment now before the Chair to vote against the whole Bill, as it will destroy the whole purpose of the measure.

The Hon. A. F. KNEEBONE: I, too, oppose the amendment. I hope that, if it is carried, honourable members will bear it in mind when we subsequently introduce a Bill providing for an additional Minister. As I interpret the provision, the Minister in charge of censorship would spend all of his time going to picture theatres. He might have to make a decision on every film. Although censorship has been under the control of the Attorney-General, under a recent rearrangement of portfolios it is now under the control of the Premier, and I cannot imagine how the Premier could run the State and also carry out the duties referred to.

The Hon. T. M. Casey: I think eight people do this work for the Commonwealth.

The Hon. M. B. Cameron: It is clearly ludicrous.

The Hon. A. F. KNEEBONE: The Premier would have to view films personally.

The Hon. C. M. HILL: This Committee and the public are fully aware that Ministerial responsibility for censorship has been transferred from the Attorney-General to the Premier, but that has no bearing on the debate, although it is an interesting subject in itself. I refute the claim that the Minister in charge of censorship will be plagued with appeals. Only one appeal has been lodged in South Australia since Commonwealth classification was introduced in 1971.

The Hon. T. M. Casey: Which production are you referring to?

The Hon. C. M. HILL: *Oh! Calcutta!*

The Hon. T. M. Casey: It was not a film.

The Hon. C. M. HILL: I am referring to the film. The film appealed against was *Oh! Calcutta!* There has been only one appeal, and it is obvious that the people who are concerned about pornography and the permissive society generally, joined as they are in an association, will not appeal to the Minister against every film but, when the appropriate occasion arises, they may do so

The Hon. A. F. Kneebone: It cost them money to take the matter to court, but it will not cost them anything to take it to the Minister.

The Hon. C. M. HILL: We have had only one appeal up to the present, yet the Chief Secretary now says that we will be plagued with appeals. This is perhaps the most important obligation that the Minister in charge of censorship has. It may not mean much to Government members but it means much to the community. In view of the history of this question, I do not agree that the Minister will be overcome by the number of appeals that will be made to him.

The Hon. R. C. DeGaris: Will the honourable member explain again the process through which appeals will go if the amendment is carried?

The Hon. C. M. HILL: I shall start with the existing position. The machinery for the classification of films in Australia was that there was a Commonwealth film censor and at the same time the States retained the right to classify. The States agreed between themselves that it would be a good thing (and I did not object to this at the time) that in the general cause of uniformity the task should be left to the Commonwealth authority, and that authority has been classifying films.

The Hon. F. J. Potter: And that situation will exist substantially in the future.

The Hon C. M. HILL: That is quite right. The present and future position is that when a film is classified by the Commonwealth and given an R classification people who object to it or those who distribute it and wish to make a further appeal, as was the case previously with the film *Oh! Calcutta!*, instead of going in the first instance to the court—

The Hon. A. F. Kneebone: Which would cost them money.

The Hon. C. M. HILL: Yes, if the Minister wants to drag the red herring of money into the question.

The Hon. R. C. DeGaris: Why should they not have free access?

The Hon C. M. HILL: As the Hon. Mr. DeGaris says, rather than being put to such expense people should have the right to go to the Minister in this State, a member of the Government elected by the people, telling him that, in their opinion, the Commonwealth censor has erred, and that a certain film, rather than having an R classification, should not, in the public interest, be shown at all.

The Minister can himself issue a certificate, and if he does that the matter rests there. This amendment then follows the Government proposal that people cannot go to court. However, if the Minister will not face the responsibility placed on him because of an appeal to him by the electors, the right still remains for people to say, "The Minister is not interested, we do not agree with the R classification of the Commonwealth authority, but we believe that the film should not be shown", and the right remains for them to go to court, as was the case previously.

The Hon. F. J. POTTER: I said earlier that I would support the amendment. When the Bill was introduced, the purpose of the clause was to do only one thing: to take away the right of any appeal to the court once a classification had been given by the Commonwealth authority; in other words, the essential point about this whole amendment is that the law relating to obscenity or indecency in this State is not to apply. That is what the Government wanted in the first place; where the classification was made by the Commonwealth the State laws in relation to obscenity and indecency were not to apply, which was only another way of saying that there would be no freedom or no right of access to the courts on this question.

The amendment of the Hon. Mr. Hill simply says that, if this situation should arise, if there should be no access to the court, then there should be access to someone to review the existing classification. The amendment puts the onus on the Minister in charge of this legislation, whoever he may be. Instead of going to the court, people would go to the Minister and ask him to review the Commonwealth classification. There has been talk about the cost of going to the court, but an approach to the court will mean costs not only to the objectors who want the film banned, but also to the distributors. We have had too much talk about the cost; of course, the payment of money to go to court is some kind of a deterrent, but that should not be the criterion adopted.

The Hon. M. B. Cameron: Do the distributors support this amendment?

The Hon. F. J. POTTER: I would say they would be very much in favour of it.

The Hon R. C. DeGaris: Is that the point, to satisfy the distributors, or are you looking at something deeper?

The Hon. F J. POTTER: I do not approach this amendment from the point of view of the distributors. I

do not know their attitude, but if I were a distributor I would much prefer this amendment to the previous situation where the Government tried to tackle this problem by abrogating the law on obscenity. At least I would know where I stood, and if I had doubts as a distributor I could go to the Minister.

The Hon. C. M. Hill: Before going to any expense.

The Hon. F. J. POTTER: That is right. If I wished to show an R film and I thought it might be challenged by some section of the community with a phobia about R films, I could ask the Minister to confirm the R classification; if he did that I could go ahead and the obscenity law would not apply. As a distributor, I would be very much in favour of this amendment. We must be absolutely clear on what it is all about: it is about whether or not the State laws relating to obscenity and indecency shall or shall not apply. I support the amendment.

The Hon. A. F. KNEEBONE: I have had letters from many people and I know the various shades of opinion on R films. I know, too, that some people are more sensitive on this issue than are others. The Hon. Mr. Dawkins said that *Foggy Foggy Dew* was banned only a few years ago, and there are people today who are sensitive enough to take that attitude. The only thing stopping those people from going to the courts is that such an action might cost them some money. The Hon. Mr. Potter said that the distributors would be going to the Minister, because it does not cost them anything to do that. What I have said is true: as a result of this amendment, many approaches will be made to the Minister. I go along with some of the various shades of opinion in the community. I am not a prude, but I am not sufficiently "way out" to enjoy something that I do not approve of This amendment would cause the Minister responsible for film classification to spend most of his time viewing films to which someone in the community was objecting, or which some distributor was asking him to see. There must be a Minister to take control of this, and a major part of his work would be to deal with the situation created by the passing of this amendment.

The Hon. R. C. DeGARIS: The only opposition that has been raised to the amendment is the question of the Minister being overworked by having to go along and watch films. While I believe that is a ridiculous suggestion, as refuted by the Hon. Mr. Hill in the illustration he gave—

The Hon. D. H. L. Banfield: Well, vote against the amendment.

The Hon. R. C. DeGARIS: —nevertheless, I am going to accept it as a valid argument. Therefore, if we can find a way around this point, which has tremendous merit, it will mean that the Government and other people will support the amendment Some of the emotional matters that have been suggested stagger one's imagination. I have heard that if this amendment were passed it would open up Pandora's box; also I have heard vague references to the Hon. Mr. Hill's honesty. I believe the amendment has much to recommend it.

The Hon. A. F. Kneebone: I have not said anything about the Hon. Mr. Hill's honesty.

The Hon. R. C. DeGARIS: I accept that, but there was some reference to it in this Chamber. People in the community should have the right to complain about some of the material that has been shown and will be shown if total authority is left in the hands of the Commonwealth Government; that is the crux of the whole argument.

The Hon. T. M. Casey: I believe that all State Ministers agreed on this matter.

The Hon. R. C. DeGARIS: It does not worry me in the slightest whether all State Ministers agree to anything. What I am saying is that South Australians have the right to lodge complaints about any film that is shown in South Australia which can be shown to offend certain standards accepted by the community. At present we have a complete relaxation of censorship in the hands of that master of censorship in Canberra, Senator Murphy, and we have coming into this country a flood of material which, to the majority of people, is objectionable. I am sure that not one honourable member in this Chamber would stand on his feet and say that is not true, because it is true.

No matter where one goes in the community he will find a growing concern about this matter. As far as I am concerned I am not prepared to trust someone in Canberra with censorship, and I believe South Australians should have the right to be heard on this matter. How do we achieve censorship with a minimum of trouble and a minimum of offence to a person appealing against a decision, and how also do we consider the rather difficult position in which distributors are placed (a matter referred to by the Hon. Frank Potter) if we wish for any kind of second control in this State?

I believe that the Minister being overworked by going to every film can be overcome by a compromise, and therefore suggest that after "he" first occurring in clause 3 (3) we insert "or his nominee". I also believe Ministerial responsibility is required in this matter, but that if there is to be responsibility it must rest with the Minister, nowhere else. Time and time again while this Government has been in power we have seen a complete shift of responsibility to committees or other bodies to enable the Government to shuffle out of responsibility. I do not care which Government is in power. I do believe the Minister should accept his responsibility and make his decision: it is the only way the problem can be handled. Those people who wish to hand over all power to Canberra regarding this or any other matter are not acting in the interests of this State, nor are they reflecting the views of South Australians. I therefore ask the Hon. Mr. Hill whether he will consider the small change I have suggested to his amendment, as I believe that will overcome the arguments that have been put against his amendment.

The Hon. C. M. HILL: I ask leave to insert the words "or his nominee" after "he" first occurring in clause 3 (3).

Leave granted.

The CHAIRMAN: That the words proposed to be inserted be inserted.

The Committee divided on the amendment:

While the division bells were ringing:

The CHAIRMAN: We are dealing with the amendment regarding section 11 of the principal Act.

The Hon. M. B. CAMERON: On a point of order, I understood that the bells had been rung because there was a division on that amendment.

The CHAIRMAN: The ayes will pass to the right of the Chair and the noes to the left

Ayes (10)—The Hons. J. C. Burdett, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, C. M. Hill (teller), F. J. Potter, Sir Arthur Rymill, C. R. Story, and A. M. Whyte.

Noes (7)—The Hons. D. H. L. Banfield, M. B. Cameron, T. M. Casey, B. A. Chatterton, C. W. Creedon, A. F. Kneebone (teller), and A. J. Shard.

Majority of 3 for the Ayes.

Amendment thus carried.

The CHAIRMAN: The next question is to "leave out subsection (1)".

The Hon. C. M. HILL: With great respect, I was going to suggest that the Committee deal with the amendment including the insertion of the words "or his nominee".

The CHAIRMAN: We are not on that for the moment: we are dealing with leaving out subsection (1), which was not in the former Bill. The question is that subsection (1) be struck out.

Amendment carried.

The CHAIRMAN: The question now is that new subsection (1), including the words "or his nominee", be inserted.

The Hon. A F. KNEEBONE: On a point of order, I understood that the words "or his nominee" came into new subsection (3), not this amendment.

The CHAIRMAN: I think the Chief Secretary was querying whether "or his nominee" was being inserted in new subsection (1) or in new subsection (3). It is clear that the words are being inserted in new subsection (3).

Amendment carried.

The CHAIRMAN: Finally, the question is that new subsection (3), including the words "or his nominee", be inserted.

Amendment carried; clause as amended passed.

The Hon. F. J. POTTER moved to insert the following words after the title:

Be it enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Motion carried.

Title.

The Hon. F. J. POTTER moved:

That the title of the Bill be "A Bill for an Act to amend the Film Classification Act, 1971, as amended".

Amendment carried.

Bill reported with amendments. Committee's report adopted.

OMBUDSMAN 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.

Before giving the second reading explanation, I inform honourable members that the House of Assembly Bill is available to them. There is one printing error in the numbering of the clauses. After clauses 1 and 2, clause 4 becomes clause 3, and so on. I draw honourable members' attention to that to prevent possible confusion. This short Bill arises from certain recommendations made by the Ombudsman to the Government Since the recommendations relate to disparate matters, they can conveniently be considered in relation to the clauses of the Bill. Clause 1 is formal. Clause 2, at paragraph (*a*), amends the definition of "authority" by providing that the Council of the University of Adelaide will be an authority for the purposes of the Act and hence subject to the jurisdiction of the Ombudsman. The need for special mention of this body is because, in terms, it does not fall within the general description of an authority since no member of it is appointed by the Governor or a Minister of the Crown This amendment appears desirable to ensure that the University of Adelaide is in no different position from the Flinders University of South Australia, whose Council is already subject to the jurisdiction of the Ombudsman, as are all other tertiary institutions in this State.

At paragraph (*b*), this clause amends the definition of "department" by removing the necessity for declaring each new department created under the Public Service Act to be a department subject to the jurisdiction of the Ombudsman In practice, such a procedure has been found time-consuming and unnecessary. Accordingly, as amended, the definition will provide that all departments for the time being constituted under the Public Service Act will be within the jurisdiction of the Ombudsman unless for some reason they have been specifically removed from his jurisdiction. Paragraph (*c*) of this clause provides for the revocation or variation of proclamations made under the preceding provisions of this section. Clause 3 provides that the Ombudsman will make his annual report directly to Parliament rather than through the agency of a Minister of the Crown. This procedure, in the Ombudsman's view, with which the Government agrees, reflects more accurately the independence of the Ombudsman and also indicates his special relationship with Parliament

Clause 4 is a drafting amendment to resolve an apparent conflict between section 30 of the principal Act, which prevents the Ombudsman or any of his officers from giving evidence before a court on any matter coming to his knowledge in the exercise of his functions under the Act, and section 28 of the principal Act, which enables his jurisdiction to be determined in the Supreme Court. The proposed amendment makes clear that the restriction on giving evidence will not apply where the very jurisdiction of the Ombudsman is in question. Clause 5 is consequential on the amendments effected by clause 2 (*b*) already adverted to.

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

ADJOURNMENT

At 3.44 p.m. the Council adjourned until Wednesday, February 27, at 2.15 p.m.