LEGISLATIVE COUNCIL

Wednesday, August 7, 1974

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

QUESTIONS

LAND ACQUISITION

The Hon. R. C. DeGARIS: I seek leave to make a statement before asking a question of the Minister of Agriculture, as Acting Leader of the Government in the Council.

Leave granted.

The Hon. R. C. DeGARIS: My question relates to a matter that I raised in the Address in Reply debate concerning a programme appearing on national television channels informing the public of its rights under consumer protection legislation. Will the Minister of Agriculture suggest to Cabinet that these programmes be extended to inform the public of its rights in relation to compulsory acquisitions, which have caused concern in certain quarters?

The Hon. T. M. CASEY: I shall be pleased to do that for the Leader.

MINISTRY

The Hon. R. A. GEDDES: A recent press report stated that the number of Public Service departments was to be halved. Does the Minister of Agriculture, as Acting Leader of the Government in this Council, believe it is possible that the Ministry, too, will be halved?

The Hon. T. M. CASEY: I do not think this was ever suggested at any stage, and I am sure that the honourable member did not really mean what he said, as it would be disastrous to halve the size of the Ministry merely because the number of Public Service departments was being halved. The honourable member knows that Ministers at present have much work to do with the portfolios under their jurisdiction, so I am sure he was talking with tongue in cheek when he asked this question.

PARLIAMENT HOUSE

The Hon. JESSIE COOPER: Has the Minister of Agriculture a reply from the Acting Minister of Works to the question I asked on July 24 regarding the refurnishing of members' rooms in Parliament House?

The Hon. T. M. CASEY: My colleague states that the major portion of works being undertaken at Parliament House is for maintenance and upgrading, and refurnishing is not included in the existing approval.

The Hon. R. C. DeGARIS: Has the Minister of Agriculture a reply to my recent question regarding press accommodation in Parliament House?

The Hon. T. M. CASEY: I have been informed by the Acting Minister of Works that improvements are currently being effected in the press rooms to the north of the Legislative Council Chamber. These improvements were planned in consultation with representatives of press organizations. The improvements include ducted air-conditioning and improved lighting. The press room next to the centre steps leading to the conference room, split level, is also being redecorated.

SPEED SIGNS

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

Leave granted.

The Hon. M. B. DAWKINS: My question is not entirely unrelated to that asked by Sir Arthur Rymill about a fortnight ago regarding the new speed signs that have been in operation since July 1. In many instances, kilometre speed signs have been erected and existing signs stipulating speeds in miles an hour have for the present been left standing. In other instances, signs displaying speed limits of 45 m.p.h. and 55 m.p.h. have been removed and no new signs erected in their place. An unsuspecting member of the public may take this to mean that there is no restriction at all in such an area, whereas in some semi-rural areas, which are technically within the bounds of a city, the speed limit has been reduced to 60 kilometres an hour. Will the Minister ask his colleague to ensure that, when signs showing speeds in excess of the normal maximum speeds within city limits are being removed (for instance, signs showing 55 m.p.h. and 45 m.p.h. in cases where the new speed limit of 60 km/h is to apply), the position is made clear? Some unsuspecting people have been caught in this trap. I know of two roads in the Salisbury area (Bolivar Road and Martins Road) where this has occurred, and I have no doubt there have been other instances.

The Hon. D. H. L. BANFIELD: I shall refer the question to my colleague and bring down a reply.

ROAD GRANTS

The Hon. A. M. WHYTE: Has the Minister of Health a reply from the Minister of Transport to my recent question on road grants?

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

The Cleve-Mangalo road lies in two council areas, namely, Cleve and Franklin Harbor. Both councils carried forward substantial grant balances from 1973-74 and, if the small cost of $500 for maintenance cannot be met from local revenue, favourable consideration will be given to a grant transfer request. This road is a local road under the care and control of the councils in question and it is not considered to warrant special consideration.

The Hon. G. J. GILFILLAN: Has the Minister of Health a reply from the Minister of Transport to the question I asked on July 30 about road grants?

The Hon. D. H. L. BANFIELD: My colleague states:

Annual grant allocations cannot be sent out to councils until the terms of the Australian Government legislation covering aid for roads for the period commencing July 1, 1974, and the total receipts available to the Highways Department for 1974-75 are known. It is hoped that there will be no necessity to reduce the total grants allocation below the actual amounts made available in 1973-74 but, in view of increased costs and the expected terms of the legislation, councils should not prepare budgets based on grant figures similar to those of 1973-74. The Highways Department is aware of the financial problems facing some councils, and arrangements can be made for bridging finance in certain circumstances, provided the case is genuine. Councils should contact the appropriate departmental district engineer if difficulties are expected.

PETRO-CHEMICAL INDUSTRY

The Hon. R. A. GEDDES: The emissions and discharges from a petro-chemical plant vary with the type of raw material used. Will the Minister representing the Minister of Environment and Conservation say whether any study will be undertaken to ascertain the variation in emissions and discharges from the use of Lake Torrens brine and Cooper Basin gas in the proposed petro-chemical complex at Redcliff compared to emissions and discharges from petro-chemical plants in other parts of the world?

The Hon. T. M. CASEY: I shall refer the question to my colleague and bring down a reply when it is available.

ABATTOIR DELAYS

The Hon. G. J. GILFILLAN: I seek leave to make a short statement before directing a question to the Minister of Agriculture.

Leave granted.

The Hon. G. J. GILFILLAN: I have received information from a stock breeder and, although I have not had an opportunity to verify the figures given, I understand that at the abattoir some cattle have been in the mud for a fortnight, waiting to be slaughtered. I understand, too, that one company last week sent 1 700 lambs and that only 282 had been killed, while another owner sent 600 lambs last week, of which only 132 had been killed. My information also is that Borthwicks, Angliss, and Metro have all been blackballed as from 10.20 a.m. today and that 23 000 Kuwait wethers are likely to be affected this afternoon. Can the Minister say whether this information is correct and, if it is, whether anything is being done to overcome the problem?

The Hon. T. M. CASEY: I am unaware of the information to which the honourable member has just referred. Certainly, I will look at the problem to see just what steps are being taken, but I draw the honourable member's attention to the fact that the Gepps Cross abattoir has been the only abattoir operating to my knowledge in this State for about the last five weeks. Any stock that has been killed in South Australia has gone through Gepps Cross, so obviously a build-up must have occurred somewhere along the line. I heard this morning that the Peterborough abattoir was back in operation, and I understand also that the Murray Bridge abattoir is now back in operation. I have not had an opportunity to check this information, but, if it is correct, these latest developments could alleviate the situation. Nevertheless, I will look into the matter raised by the honourable member to see just what is the situation.

LIVESTOCK

The Hon. G. J. GILFILLAN: Has the Minister of Agriculture a reply to the question I asked on July 30 concerning the interstate movement of livestock?

The Hon. T. M. CASEY: The Crown Solicitor states:

Regarding the movement of livestock from this State to another and not directly from this State to an oversea country, the provisions of section 92 of the Commonwealth Constitution would appear to be infringed. That section of the Constitution provides that trade, commerce and intercourse between the States, whether by means of internal carriage or ocean navigation, shall be absolutely free.

The Crown Solicitor is of the opinion that it is conceivable that boycotting would amount to interference with an individual's commercial relations and movements, and, so far as this was proved, he considers that the acts would be illegal and liable to restraint by injunction or other judicial proceedings. Particular factual situations could extend to the criminal law and such indictable offences as conspiracy.

LEAVE OF ABSENCE: HON. F. J. POTTER

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

That one month's leave of absence be granted to the Hon. F. J. Potter on account of absence overseas.

Motion carried.

KINGSCOTE PLANNING REGULATIONS

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

That the regulations made on March 14, 1974, under the Planning and Development Act, 1966-1973, in respect of interim development control, District Council of Kingscote, laid on the table of this Council on March 19, 1974, be disallowed.

I refer first to the history of the planning regulations for Kangaroo Island. In 1972, regulations relating to planning for Kangaroo Island were drafted. Knowledge of the proposed environment protection regulations caused people on Kangaroo Island considerable concern, and I believe they had every right to be concerned. In November, 1972, I asked a question in this Chamber of the Chief Secretary, representing the Minister of Environment and Conservation (the Hon. G. R. Broomhill), requesting that the regulations as then drafted be delayed until Parliament next met. As will be appreciated by honourable members, the regulations were presented to people on Kangaroo Island when Parliament was not sitting. On December 12, 1972, the Minister wrote to me stating that, in view of the interest that these regulations were causing on Kangaroo Island, he would delay the introduction of the regulations until Parliament was next in session.

Several meetings were held on Kangaroo Island to consider the proposals being made by the Government in these recommendations. One such meeting was mentioned in the *Islander*, a paper circulating on Kangaroo Island. That publication's report of this meeting states:

Crowd in black mood over planning regulations. A crowd of about 150 people, many in a black mood, last week attended a public meeting called by the Chairman of the Kingscote District Council (Mr. D. G. Kelly) to explain the proposed planning regulations for Kangaroo Island. After Mr. Kelly had outlined briefly the history of the regulations and their purpose, he invited questions from the floor. These came thick and fast with shouted interjections frequently interrupting Mr. Kelly's answers. The mood of the meeting became darker and it threatened to erupt in chaos. . . . As a result of the meeting the Deputy Director of Planning (Mr. Speechley) has been invited to come to the island to clarify what many feel are unreasonable restrictions on the rural community. In addition, an extension of time for the public to consider the regulations has been applied for.

One can see from that report that there was considerable concern when the content of these regulations was known to the people of Kangaroo Island.

Following this, Mr. M. F. Bonnin, an Adelaide lawyer and an island property owner, in the same paper of Wednesday, January 31, 1973, severely criticized the proposed Kangaroo Island planning regulations, his criticisms having been forwarded to the State Planning Authority. I should like to quote briefly from the criticism of the regulations by Mr. Bonnin, as reported in that newspaper. In this criticism, Mr. Bonnin's objections are stated fully, but I intend to quote only part of them. They begin:

General. The regulations go much further than is reasonably required to carry out their main objects. The result is that a vast amount of antagonism and hostility has been aroused among the local people.

This was expressed at the public meeting, as he goes on to explain. The report then states:

It is now quite clear that the Kingscote council on the particular issue of these specific regulations acted out of accord with the feelings of residents—especially the rural community. However, the very fact of their action indicates basic support from responsible people. It would be quite wrong to conclude that the basic principles of conservation and preservation of natural beauty spots are not supported by Islanders. On the contrary, over a longer period of settlement than almost any other areas the inhabitants of Kangaroo Island have shown a much greater sense of responsibility than most areas. There is a strong local community feeling, and a real sense of pride, in all that the island has. This should be fostered and used to good purpose—not offended. It is highly desirable that co-operation and support of residents should be available if

the real objects of the regulations are to be effective. In this instance that support has been overwhelmingly lacking. That is, support from the Government and from the department. The article continues:

There is a strong distrust of bureaucratic control exercisable from a distance by people quite removed from the local scene.

I wish to quote the following points of criticism from the article:

Nowhere in the regulations can I find anything but restrictive provisions in relation to a partly developed property with at best a power to relax, but no positive assurance whatever to give effect to the statement at the end of the first schedule.

The inclusion in the regulations of all sorts of detailed controls which do not have the support of the local people will inevitably mean that they will not be observed.

The article goes on to detail all the criticisms of the regulations as they were presented to the Kangaroo Island people at that time. The quotations I have given, one from a report of a meeting on Kangaroo Island and one from an article by a well-known Adelaide lawyer, are but two of the quotations I could give to illustrate to this Council the feeling of the Kangaroo Island people when these regulations were brought down. In the rural areas of Kangaroo Island the people had no choice about how they could paint their houses. I was informed, although I did not read the regulations in this regard, by people there who knew the score that the department intended restricting rural people to using two colours of paint (brown and green) on their properties. I have never heard anything quite so ridiculous and restrictive. Having looked at the regulations, I believed that at that time they were an affront to any person in any district, and I fully supported then the views almost unanimously expressed throughout the length and breadth of Kangaroo Island. To bring this question up to the present time, I cannot do better than quote a letter, dated July 10, 1974, which no doubt all honourable members have received from Mr. G. H. Ayliffe, Chairman of the Kangaroo Island Citizens Committee. I shall quote the letter in full because, no matter what I said, I could not express the situation better than the letter does. Addressed to me, it is as follows:

You are no doubt aware that the entire Kangaroo Island area is now controlled in respect of town planning, building, conservation, etc., by the State Planning Authority under a regulation made by the Executive Council subject to section 41 of the Planning and Development Act, 1966-1973, which provides for interim control, in this case until 1976. This regulation, being subject to possible disallowance, will come to the attention of the members of the Legislative Council.

As Chairman of a local group which favours local control of matters of planning and development, I venture to present to you an outline of the situation here as it appears to us. Kangaroo Island is divided into two local government districts, viz., Kingscote and Dudley. It has been a planning area since about 1969, and in 1972 planning regulations were presented to the two councils. Objections raised in both councils led to an amendment of the first draft. A second draft was presented and tabled for public inspection as provided for in the Act, and this second draft was provisionally accepted by the Kingscote council. The Dudley council expressed continued dissatisfaction.

Following a ratepayers' petition, the Kingscote council called a ratepayers meeting, at which Dr. Inglis, Mr. Speechley, of the State Planning Authority, and an officer of the Crown Law Department were present. These gentlemen, Mr. Speechley in particular, gave an interpretation of the regulation and answered a great many questions without, however, allaying the misgivings of most of those present. A resolution was eventually passed recommending a locally prepared set of amendments to the regulation as tabled (copy enclosed) and, as a result of this meeting, the Kingscote council withdrew its support for the regulation. Many objections were lodged by residents formally, as prescribed in the Act, and the draft regulations were withdrawn for redrafting. The amendments proposed by the ratepayers at this meeting provided for a large measure of control by the councils, particularly in respect to building.

It should be noted here that the draft regulation only applied to rural land and coastal areas; the four townships of Kingscote, Penneshaw, Parndana and American River were presumably to be controlled by the councils under the existing Act. The present interim control, applying to the whole island, was introduced at the request of the two councils because the repeal of the Building Act in January last left them without effective power to control building activities. The councils, however, asked for temporary powers to be exercised by them until such time as suitable regulations should come into force. The Planning and Development Act provides for the delegation of powers of control to councils and the refusal by the authority to do this has caused local resentment.

The almost universal desire here for local control does not mean that the need for planned development is not recognized. Neither the members of the council nor the residents generally are in any way anti-conservationist; the authorized plan for the island was prepared as a result of local initiative (both councils) in 1968. Both councils are experienced in building control and have experienced staff, Kingscote in particular having an officer who is a qualified building inspector with a good knowledge also of town planning. The councils would also avail themselves of the advice of the authority if it were available under conditions of local control.

The draft planning regulations were totally unsuitable to the particular needs of the island, by reason of their fantastically restrictive nature as well as being obscure in important sections. Nevertheless, had they been amended on the lines laid down at the ratepayers meeting they would have been accepted and in operation and interim control would not have been called for. Kangaroo Island is important for its agricultural production and its tourist industry, and in each it has a large potential for expansion. Its needs and problems are varied and in some ways peculiar to itself. It is felt that local representative bodies of people having long experience in, and intimate knowledge of, the area as well as the special interest arising from personal involvement in its future are likely to exercise the necessary powers of control more satisfactorily than a "remote control" authority, however high the qualifications of its rather limited number of key personnel may be.

I could not have given a better summary of the position than that which is contained in that letter, which every honourable member of this Council and, indeed, of the Parliament has received. The interesting point is that in the original draft regulations the control of Kangaroo Island went so far as to be utterly ridiculous and, rightly so, the people rebelled against it. Now, the regulations have been dropped and the Government is assuming interim control over the whole island. This is necessary because of the repeal of the Building Act, which repeal left the towns of Kangaroo Island without any satisfactory building control. I consider that I must do all in my power to see that the clear expression of opinion given by Mr. Ayliffe on behalf of Kangaroo Island's citizens is given effect to.

Since 1972, when the first draft regulations were presented to the residents of Kangaroo Island, the Government's attitude has, in my opinion, been arrogant and unreasonable. I refer now to a letter sent by the Minister of Environment and Conservation to the member for Alexandra (Mr. Chapman), on July 24, part of which is as follows:

I refer to your letter of May 2, 1974, regarding interim development control on Kangaroo Island. The State Planning Division has insufficient resources to provide expert planning advice to all councils at present operating under interim development control throughout the State. Whilst every attempt is made to advise councils, it has been found that the officers giving such advice are often subject to further approaches from developers who have not received satisfaction from the councils. Under these circumstances, it is most undesirable for officers of the division to become too involved in providing informal advice to councils, and the possibility of giving formal advice

under section 77 of the Planning and Development Act to all councils is out of the question with the present staff.

Farther on in his letter, the Minister said:

Notwithstanding the above, staff of the State Planning Division are always available to give advice in general terms to councils on how to administer the Planning and Development Act (and regulations thereunder) together with the basic planning considerations which may be involved.

Honourable members will notice that there is a complete contradiction in those two statements. On the one hand, the Government is saying to the residents of Kangaroo Island, "You are not in any way to administer the regulations or interim control. We cannot give you any advice because we have no officers", whereas on the other hand it is seeking absolute control of the island and stating that it will administer the island itself. That is a direct contradiction, and I strongly believe that, if the people of Kangaroo Island or those in any other district want to play a part in the planning of their area under departmental advice, they should be able to do so.

I know that if the Council disallows these regulations Kangaroo Island will be left with no control at all. As I pointed out previously, because of what occurred in relation to the Building Act there has been no building control on the island, except interim control, since January. Therefore, my motion is hardly a practical course. However, I am using it to illustrate to the Council the necessity to point out to the Government as strongly as possible that there is a need to have co-operation between the people in various areas and, to give them the greatest possible degree of autonomy, co-operation should exist between the people of the area and the planning department.

I will continue to search for a means of achieving this end result, which is wanted by the people of Kangaroo Island. I hope the Government will see the point I am making, that it will adopt a more co-operative attitude, and that we can achieve the resolution of the people of Kangaroo Island to maintain a strong voice in their own affairs and development. I make no bones about this: I believe the Government's attitude to planning on Kangaroo Island is childish and, indeed, it has been so right from the beginning with the first regulations and the absolute control that it sought regarding the island. It would have been necessary for a person who wanted to shift a sheep feeder from one paddock to another to seek permission from Gawler Place to do so. That is how ridiculous it was. I think it is an insult to people who have lived, controlled, and developed a piece of South Australia for more than 130 years, and who have done a very good job in doing so. One wonders exactly where the Government's priorities lie.

The Government is applying the bureaucratic screws to this area of Kangaroo Island while struggling to establish a $500 000 000 industry on Spencer Gulf, so far without undertaking even the most superficial of studies as to the effect of that industry on the environment. The Government can, with co-operation, work with the people on Kangaroo Island in delegating its powers under section 41 to the councils concerned. That is the position the Kangaroo Island people want to reach, where they themselves are determining the development of their area with the advice and assistance of the State Planning Office. They have asked for this, and the Government has the power to grant it, but so far the answer has been a flat rejection, not even any movement at all along the co-operative road.

I am certain that any move toward a more co-operative attitude would be appreciated by the people of Kangaroo Island, and I think they accept that co-operation must be a two-way business. If the Government wants to destroy this avenue it can do so by continuing its present dog-in-the-manger attitude. Therefore, I ask that the Government take stock of its position, undertake to delegate its authority under interim control powers to the councils of Dudley and Kingscote, and undertake to act in a more co-operative way with the councils in this area. Failing any understanding on this point and any understanding by the Government of the problem involved in interim planning control, I ask that the Government state clearly the position it intends to adopt when the interim control period finishes in 1976. What will be its attitude to the people of Kangaroo Island when final regulations are adopted and interim control goes out at that time?

It would be foolish to disallow these regulations, because if they were disallowed there would be no control of any form on Kangaroo Island. However, under section 41 the Government has the power to delegate its authority to the councils of Kingscote and Dudley. I hope I can get some undertaking that the Government will pursue this course, but if the Government refuses to do that I have no avenue left to force it to act co-operatively. Further, I hope the Government will give me an answer on what it intends to do at the expiration of the interim control period in 1976.

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

COMMONWEALTH TERRITORY SENATORS

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

That in the opinion of this House the South Australian Government should institute an action in the High Court to challenge the constitutionality of the right of the Commonwealth Parliament to legislate for the provision of Senators for Territories of the Commonwealth; and that a message be sent to the House of Assembly transmitting the foregoing resolution and requesting its concurrence therein.

The Senate Representation of Territories Bill, 1973, which is now before the Commonwealth Parliament, is a Bill of such importance to the concept of Australian Federation that some expression of opinion should be forthcoming from this Council and this Parliament. The Bill came before the Senate twice and was defeated each time; on June 7, 1973, and on November 14, 1973. It is, therefore, a Bill that could become law through the weight of numbers in a Joint House sitting; indeed, it was passed yesterday. The Constitution of the Commonwealth of Australia provides for a bicameral system of Parliament. That provision is contained in Chapter I of the Constitution. Part II of Chapter I of the Commonwealth Constitution deals with the Senate, and I quote section 7:

The Senate shall be composed of Senators for each State, directly chosen by the people of the State, voting, until the Parliament otherwise provides, as one electorate. But until the Parliament of the Commonwealth otherwise provides, the Parliament of the State of Queensland, if that State be an original State, may make laws dividing the State into divisions and determining the number of Senators to be chosen for each division, and in the absence of such provision the State shall be one electorate.

Until the Parliament otherwise provides there shall be six Senators for each original State. The Parliament may make laws increasing or diminishing the number of Senators for each State, but so that equal representation of the several original States shall be maintained and that no original State shall have less than six Senators. The Senators shall be chosen for a term of six years, and the names of the Senators chosen for each State shall be certified by the Governor to the Governor-General.

Section 8 of the Constitution deals with the qualification of electors, section 9 with methods of election of Senators,

and section 10 with the application of State laws. So far, the position is perfectly clear as to the meaning and intent of the Constitution. If one reads sections 7, 8, 9, and 10, one sees that there is an insistence that the Senate shall be composed of Senators from the States. The whole philosophy concerning Part II, dealing with the Senate, is that the Senate shall be the States' House. Under the heading "New States" in Chapter VI, section 121 provides:

> The Parliament may admit to the Commonwealth or establish new States, and may upon such admission or establishment make or impose such terms and conditions, including the extent of representation in either House of Parliament, as it thinks fit.

Part II of Chapter I of the Constitution provides that the Senate shall be composed of representatives of the States. It is solely on the wording of sections 121 and 122 that the Commonwealth Government is relying for the constitutional right to provide Senators for two Territories, the Australian Capital Territory and the Northern Territory, although it appears that those provisions may not be sufficient support for the proposals to stand.

However, one point is perfectly clear, and that is that there is no easier way to undermine the whole concept of Federation as it is embodied in the totality of the Commonwealth Constitution than for the Parliament of the Commonwealth to provide for territorial Senate representation. The Parliaments of the States have, I believe, at least a clear obligation to try to ensure that the spirit of the Constitution is respected, at least until the people of Australia decide to alter the Constitution. The Leader of the House of Representatives (Mr. Daly), in introducing the Bill to the Commonwealth Parliament to provide Senatorial representation for the Australian Capital Territory and the Northern Territory, stated:

> We believe that while the national Parliament remains bicameral the people of the Territories, like the people of Australia, should be represented in both Chambers.

On first reading that, anyone could be forgiven for endorsing such a noble principle, but this proposal strikes at the very heart of the spirit of the Commonwealth Constitution. If representation in the Senate is a matter of principle at all, why is the Commonwealth Government being selective regarding the two Territories it has chosen for territorial representation? Mr. Daly continued:

> The people of the Territories should be represented in both Chambers.

Several questions arise here. Are there other Commonwealth territories to which this noble principle should be applied? The answer, of course, is that there are. What do we do about Senate representation for Cocos Island? What do we do about Senate representation for Ashmore and Cartier Islands? What do we do about Senate representation for Antarctica and Heard Island? What do we do about Senate representation for Norfolk Island? True, currently there is no permanent population living in Antarctica, but that does not mean to say that there may not be a future permanent population there. Nevertheless, Antarctica is a Territory, as are Cocos, Ashmore and Cartier Island and Norfolk Island.

If this noble principle espoused by Mr. Daly is to be followed, surely it must be followed implicitly. Therefore, the Bill interprets no principle at all and, whichever way one looks at this matter (whether the Territories as a whole should have Senators or whether certain selected Territories should have Senators), the whole concept undermines the intention of the Australian Constitution. Some people have even gone so far as to say that it completely destroys it. What does section 122 of the Commonwealth Constitution permit? Sections 121 and 122 provide:

> 121. The Parliament may admit to the Commonwealth or establish new States, and may upon such admission or establishment make or impose such terms and conditions, including the extent of representation in either House of the Parliament, as it thinks fit.
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> 122. The Parliament may make laws for the government of any Territory surrendered by any State to and accepted by the Commonwealth, or of any Territory placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit.

If one takes the view that section 122 is totally permissive, where does that take us in applying a reasonable interpretation to the total concept of the Commonwealth Constitution? Does section 122 permit the Commonwealth Parliament to pass laws providing for any number of Senators or any number of Territories? Would section 122 permit three Senators for the Australian Capital Territory as against two Senators for the Northern Territory, or any number that might suit a group that happened at the time to be able to force its will on to the Commonwealth Parliament? Could a voting system be applied to the election of territorial Senators different from that applying to the election of State Senators?

If section 122 is permissive to that extent, it means that the concept of Federation can be manipulated simply by using the permissive approach to section 122. If one consults the Constitutional Convention debates of the 1890's, some idea can be gained of the intention of section 122. This Parliament must consider the total implications of this Bill as it relates to the concept of Federation. If, for example, section 122 allows for the provision of Senators from the Territories, the question then arises whether section 122 provides those Senators with the same powers and abilities as those of Senators elected by the States.

Sections 8, 9, 10, and 11 of the Commonwealth Constitution relate to the qualifications of electors of each State. These sections, as with other sections of the Constitution, strongly suggest as a matter of law that the Senate is a States' House. Is it reasonable to assume that the constitutional provisions to which I have referred can be overcome by accepting section 122 as being absolutely permissive? If section 122 is totally permissive, the concept of all other sections can be overcome as regards Senators from the Territories. Therefore, one must question the principles on which these proposals rest.

The final point I wish to raise on this vital matter concerns the use in section 122 of the words "representation of such Territory in either House of the Parliament". The choice of these words "representation of such Territory" seems to assume some significance when one considers the Constitution as a whole. As we know, the Senate exercises control over Ordinances and regulations applying to Territories, yet no representative view of those Territories regarding these matters can be expressed in the Senate. Although the Senate is at present composed of Senators from each State, the Commonwealth Parliament does not control the regulations of the States. Therefore, it appears to me that the use of the words "representation of such Territory" falls into a different category from the role of a Senator from a State. The Senate is not a House of Representatives. The correct interpretation of section 122 may well be related to representation on matters affecting those Territories. My own view of the whole matter is that the States must exercise their right to challenge the validity of this legislation if we are to preserve the meaning and concept of Federation. Section

128 must also be taken into consideration; I quote the last part of that section:

No alteration diminishing the proportionate representation of any State in either House of the Parliament, or the minimum number of representatives of a State in the House of Representatives, or increasing, diminishing, or otherwise altering the limits of the State, or in any manner affecting the provisions of the Constitution relating thereto, shall become law unless the majority of the electors voting in that State approve the proposed law.

It can be argued that the approval of each of the original States is required before territorial Senators can be provided for. Looking at the result of the last referendum, one can predict the outcome of a reference to the people of Australia to allow, at will, Senatorial representation over and above the representation of the States. However, section 128 of the Commonwealth Constitution places a further question mark on the constitutionality of this provision.

There are several other aspects of this proposal that could alter the Senate position. At present, as we all know, the State Parliament appoints someone to fill a vacancy caused by some circumstance where the whole term for which the Senator was elected has not been completed. Since I have been in this Parliament, I think on two occasions both Houses of Parliament have met together to appoint a Senator to fill a vacancy that has unfortunately occurred.

The possibility of upsetting the balance of the Senate in such circumstances with territorial Senators cannot be ignored. How will the replacement be made when it comes to a Senator for the Territory, particularly if there is proportional representation voting and a single vacancy occurs? This assumes a vital importance to the whole matter of the future of the Senate. The balance of the Senate can be upset simply by the method of finding a replacement when a vacancy occurs. This matter certainly deserves deep consideration.

I am sure that many people in this State do not understand the effect of this piece of legislation. Several people are taking a purely emotional view about representation, and about the fact that there are people in Australia who are not represented in the Senate, but that is as far as their thinking goes. I am sure many of them do not understand the ramifications of this legislation. If they did, I am certain they would resist it strongly. No arguments can be advanced against Senate representation for Territories on a correct basis if the Territories achieve statehood or if they want representation in the Senate in respect of the Ordinances and regulations applying to them. However, the attitude of the Commonwealth authorities at present towards any Territory achieving the desired goal of statehood is remote. This Parliament at least should express its concern about this matter. One can say it is open to doubt whether or not the provision is constitutional. That question should be decided in the only way it can be decided—by action in the High Court. Unless that action is taken, we as a State House are silently abdicating our position in the Federation and will by our silence, be giving our approval to a measure that can be used to undermine the whole principle of Federation.

The Hon. J. C. BURDETT (Southern): I support the motion. The Senate is a States' House, as the Leader has said, and, if provision is made for Senators from the Territories, the possibilities in the future of whittling away the protection for the States are infinite. Section 122 is, after all, under the heading "New States". If Territories aspire to the position where they need Senators, the proper thing is for them to aspire to statehood, to become new States. It must be remembered that it is the States and the Commonwealth, not the Territories, which are parties to the Constitution. The Constitution is principally about the relationship between the Commonwealth and the States and the power of the Commonwealth. The Hon. Mr. DeGaris has set out the need to take legal action to protect the rights of the States. I wish to speak briefly and add to what he has said about the legal position, because admittedly there is not much point in urging the South Australian Government to take action to fight the move in the High Court unless it has some chance of success.

I propose to refer briefly to a textbook called *The Constitution of the Commonwealth of Australia,* annotated by R. D. Lumb and K. W. Ryan. The learned authors refer to section 122, the section under which it is argued that Senators for the Territories can be appointed. They refer to and quote the relevant portion of section 122, which provides:

. . . and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit.

The authors say:

The representation of the Territories in the Senate does raise certain constitutional difficulties. In so far as section 7 restricts membership of the Senate to persons chosen by the people of the States, it would seem that a representative of a Territory would not be a Senator but merely a representative of that Territory, and therefore his rights would be restricted to voting on matters affecting the particular Territory represented.

After all, section 122 is to be found in the portion of the Constitution headed "New States". The section provides for representation only: it does not say that the Parliament may appoint Senators to be representatives of the Territories in the Senate. It says that representation may be provided; that is all. Section 7 makes the provision for Senators, and it is only section 7 which does that; that is to be found under the heading "The Senate" in Part II of the Constitution. Section 122 does not purport to make provisions about Senators: it purports only to provide for representation in either House of the Parliament. There is a strong argument to say that, under section 7, Senators may come only from the States. Persons appointed, if any, under section 122 are not Senators but representatives to the Senate empowered to represent their Territory in the Senate in matters pertaining to that Territory. I support the motion.

The Hon. M. B. CAMERON (Southern): I do not support the motion. I do not believe that there is any point in continuing this argument that the Senate is a States' House. I was there for a short time and I recall, prior to making my maiden speech in that place, that I telephoned members of the South Australian Liberal Government (I am sure that members of that Cabinet who are here now will recall what I am talking about) to ask whether there were any problems that I could take up for them in the Senate; and I took up some such problems. I would not care to repeat the comments of people on the same side when I dared to raise criticisms of the then Commonwealth Government in the Senate. The implication was that I had to forget that the Senate was a States' House: I was there as a Liberal Party member, and I should not criticize as I did.

The Hon. T. M. Casey: In other words, it was a Party House.

The Hon. M. B. CAMERON: Of course, and anyone who thinks differently has not studied the voting pattern of the past two years or longer. It is a political House now. Unfortunately, it has gone beyond the original

intention of the founding fathers, and certainly there is now no, or very little, semblance of what it was originally supposed to be.

The Hon. C. R. Story: Do you advocate abolishing the Senate?

The Hon. M. B. CAMERON: No. I believe in a two-House system, but we can have a two-House system without having a States' House. The bicameral system provides for two Houses in other Parliaments, such as in this State.

The Hon. M. B. Dawkins: Do you support the idea of having 40 Senators from New South Wales and only five Senators from Tasmania?

The Hon. M. B. CAMERON: That stupid comment is not worth answering. The Constitution allows for Senators to be provided for the Territories, and I am amazed that honourable members should get up and say that the Territories should not have representation.

The Hon. J. C. Burdett: We did not say that.

The Hon. M. B. CAMERON: That is what some honourable members are saying, no matter what language they couch it in. I believe that all the people of Australia should be represented in the Senate. If the honourable member thinks that his arguments will be accepted in the Territories, he should speak to the people there and see what their feelings are when there is a separate Senate election, in which they do not have a voice. At such a time the people in the Territories must sit back and see what sort of Senate the rest of Australia provides for them, and they have no representation in that important House. I cannot see how anyone can justify a move to prevent these people having the right to which I have referred. It is not a matter of whether the Commonwealth Parliament is trying to provide 10 Senators on a pro rata basis. Under proportional representation there will be one Senator on each side: there will not be any imbalance. I shall be interested to see if the Commonwealth Government's move to provide representation for the Territories is successful, just how the Liberal Party candidates will be able to get up and explain how they justify nominating for positions that they do not believe should exist.

The Hon. C. W. CREEDON secured the adjournment of the debate.

EGG INDUSTRY STABILIZATION ACT AMENDMENT BILL

The Hon. T. M. CASEY (Minister of Agriculture) obtained leave and introduced a Bill for an Act to amend the Egg Industry Stabilization Act, 1973. Read a first time.

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

That this Bill be now read a second time.

Honourable members will recall that the principal Act, the Egg Industry Stabilization Act, was passed by this Council last year. Pursuant to section 49 of that Act a poll was held and 65 per cent of those voting expressed themselves as being in favour of the measure. Following this vote, the Act was substantially brought into operation. However, when the licensing committee set about its task of determining base quotas for poultry farmers it formed the opinion that the application of the Act, in its present form, could give rise to some inequities that could be avoided by its amendment. Since these inequities cover somewhat disparate fields, it would seem convenient if they could be dealt with in the consideration of the clauses of the measure.

Clause 1 is formal. Clause 2 makes an amendment to section 4 of the principal Act, this being the interpretation section, and since this amendment is entirely consequential on the amendment proposed by clause 6 of this Bill, it can be better dealt with in the explanation of that clause. Its relationship with that clause is, it is suggested, self-evident. Clause 3 proposes that the time for making an election under section 13 of the principal Act will be extended until one month after a day that will be fixed by proclamation if and when this Bill is passed. It appears the time originally provided in the principal Act for the making of an election by farmers was, in all the circumstances, rather too short.

Clause 4, by amendment to section 16 of the principal Act, proposes to remedy one apparent inequity. Honourable members who are familiar with the scheme of production control encompassed by the principal Act will be aware that it is based on the number of leviable hens kept by poultry farmers over various periods antecedent to the enactment of that Act. A leviable hen is a hen in respect of which hen levy is payable under the relevant legislation of the Commonwealth. However, in any flock comprising leviable hens, the levy is not paid on the first 20 hens. Accordingly, in the calculation of base quotas under the principal Act, no regard could be paid to the first 20 hens in any such flock. While in a flock of, say, 2 000 birds, this factor would be relatively insignificant, in a flock of, say, 50 to 100 birds this factor would result, in the licensing committee's view, in an unfair reduction of a base quota.

Accordingly, it is intended by this clause that every poultry farmer will be entitled to keep, in any licensing season, his hen quota plus 20 birds. This will place each farmer in a marginally better position than that in which he would have been if the 20 birds had been included in the figure from which his base quota was derived. The licensing committee is satisfied that in practical terms the apparent increase of about 34 000 birds that will result from this amendment can be kept in this State within the limits of the State hen quota.

Clause 5 proposes, in relation to section 20 of the principal Act, an amendment similar in both form and effect to that proposed by clause 3. Clause 6, on the face of it, by inserting a new section 20a in the principal Act, seems to confer an extraordinarily wide power on the licensing committee. However, it is proposed only after careful consideration by the committee.

The committee discovered that the strict application of the Act would bear heavily on eight or nine cases out of a total of 1 678 cases. Although it would be easy to ignore these cases, which for one reason or another do not fit exactly the terms of the Act, the committee considers that this would be fundamentally unjust. In ordinary circumstances, specific provision would be made to cover them by an amendment to the legislation, but such an amendment was found, in practice, to distort the legislation unduly or to open the door to other applicants who were, in the philosophy of the Act, without merit. Accordingly, after deep consideration it is thought better to invest the licensing committee with this discretion in the confident expectation that it will be wisely used. Clause 7 amends section 28 of the principal Act by making the application of that section quite clear.

The Hon. J. C. BURDETT secured the adjournment of the debate.

TRANSPLANTATION OF HUMAN TISSUE BILL

Read a third time and passed.

EMERGENCY POWERS BILL

In Committee.

(Continued from August 6. Page 255.)

Clause 2 passed.

Clause 3—"Declaration of state of emergency."

The Hon. C. M. HILL: I am concerned about the definition of "state of emergency" referred to in clause 2 and in clause 3 (2), which provides that the Governor may by proclamation declare that a state of emergency exists. Those honourable members who have been concerned about the Bill have found it difficult to foresee the practical situation for which the Government is seeking these amazingly wide powers. A few days ago there were prospects of an extremely severe transport strike. However, I notice from today's press headlines that South Australia's transport drivers are to return to work tomorrow. Can the Minister of Agriculture give me any practical instances of states of emergency which he or the Government contemplated and which caused the Government to introduce the Bill?

The Hon. T. M. CASEY (Minister of Agriculture): Clause 3 (1) provides that if at any time the Governor is of the opinion that a situation has arisen, or is likely to arise, that is of such a nature as to be calculated to deprive the community or any substantial part thereof of the essentials of life, the Governor may by proclamation declare that a state of emergency exists. The important words in that provision are "the essentials of life". In this respect, I refer to the movement of, say, food or fuel or, in the case of a natural disaster, the maintenance of essential services, all of which would be "essentials of life".

The Hon. R. C. DeGARIS (Leader of the Opposition): The Minister, when closing the second reading debate, said that this Bill was similar to a New South Wales Bill. To which New South Wales Bill was he referring?

The Hon. T. M. CASEY: Although I do not know its exact title, I understand that basically it covers natural disasters and practically the whole field covered by this Bill. I understand that the New South Wales Act, which was introduced in 1972 by the same political Party of which the honourable member is a member, is still on the Statute Book and has not been amended in any way.

The Hon. R. C. DeGARIS: I have examined the New South Wales Statutes, and I can find no Act containing the tremendous powers of this Bill except for one dealing with natural disasters and civil defence. Would the Minister do his homework for me and ascertain what Act in New South Wales provides the Government there with powers similar to those in this Bill?

The Hon. T. M. CASEY: I shall be only too happy to do the Leader's homework for him and to inform him as soon as possible.

Clause passed.

Clause 4 passed.

Clause 5—"Emergency regulations."

The Hon. JESSIE COOPER: I move:

In subclause (1) to strike out ", subject to subsection (3) of this section, make such regulations in relation to any matter, thing or circumstance arising out of the state of emergency as in the opinion of the Governor are necessary for the peace, order and good Government of the State" and insert "make such regulations, as in the opinion of the Governor are necessary to ensure the supply to the community of any goods and services, the shortage or lack of which, gave rise or contributed to that state of emergency".

I indicated last night that a simple amendment to this clause would substantially remove my objection to the Bill. My amendment does that, and, if it is carried, subclause (3) will be redundant. Subclause (3) seemed to cause the greatest dismay in honourable members' minds and certainly caused the greatest concern in mine, and I hope honourable members will consider favourably the amendments I have moved.

The Hon. T. M. CASEY: While the Government would agree that the Hon. Mrs. Cooper's amendment goes some way to approving appropriate powers to deal with a state of emergency, it is clear that, on the face of it, it does not go nearly far enough. I draw the honourable member's attention to the provisions of clause 3 (1), and although the situation contemplated here must be likely to deprive the community, or any substantial part thereof, of the essentials of life, it may not simply involve a mere shortage of goods and services, and the steps necessary to protect the community may go quite beyond the provision of goods and services. For example, in case of flood it may be necessary to evacuate people from the area, to enjoin people, other than rescue workers, from entering the area, to provide for rehousing, and other matters, many of which could not be encompassed within the limits proposed to be provided by the amendment. Therefore, the Government must oppose it. The Government would oppose the foreshadowed deletion of subclause (3), since it is firmly of the view that regulations of the nature prohibited have no part in the settlement of industrial disputes that may give rise to states of emergency. For those reasons, I cannot accept the amendment.

The Hon. JESSIE COOPER: In the case of an emergency such as a flood or other national disaster, surely there is occasion for emergency action of a specific nature. One does not give blanket control to any dictator for events that are likely to happen, such as a flood, fire, or a poisonous disaster. I cannot see the reason in this argument if the Government is sincere in wishing to meet emergency shortages of goods and services.

The Hon. R. C. DeGARIS: Can the Minister say what would be covered by clause 3 (1) that is not covered by the Hon. Mrs. Cooper's amendment dealing with "any goods and services"? In my opinion, flood and fire, mentioned by the Minister, have nothing to do with the Bill.

The Hon. C. M. Hill: I think that is something entirely new, isn't it?

The Hon. Jessie Cooper: It was only thought of this afternoon.

The Hon. R. C. DeGARIS: Absolutely. The Minister should tell the Committee what other matters there are under which an emergency could be declared. Is there anything, other than goods and services, that might be regarded as the essentials of life?

The Hon. T. M. CASEY: No-one could contemplate all the situations that could give rise to a state of emergency. Even the Hon. Mrs. Cooper said she would not give the Government a blank cheque in anticipation of what could happen. It is a hypothetical question. I have tried to be reasonable in saying all the things I mentioned would be covered—hospital services, distribution of food, distribution of fuel, and so on. Housing is another.

The Hon. R. C. DeGARIS: They are all goods and services.

The Hon. T. M. CASEY: It could be personnel. Is that an essential service?

The Hon. J. C. Burdett: That is covered in the amendment.

The Hon. T. M. CASEY: No-one can anticipate what will be involved. Even the Hon. Mrs. Cooper admitted that.

The Hon. Jessie Cooper: I admitted nothing.

The Hon. T. M. CASEY: The honourable member would not give the Government a blank cheque, yet she wanted all these things covered. One can strive to do the right things and be prepared in cases of emergency. One should not say that one will not give the Government a blank cheque and yet say that the Government should be doing something else. I ask honourable members to accept this provision, as it would be difficult to be more specific. I believe honourable members are expecting something without knowing what will eventuate.

The Hon. R. C. DeGARIS: The Minister has not answered my question. If the phrase "any goods and services" is not satisfactory, I suggest a further amendment tying it back to "the essentials of life", or, "any other matter essential to life". If the Minister is worried about tying it back to clause 3 (1), it can be done easily.

The Hon. A. M. WHYTE: On my interpretation, the amendment gives the Government wider powers than those given in the Bill. This amendment ties to those wider powers more responsibility and, if subclause (3) is deleted, it throws more responsibility on the Government and removes the escape clause exempting one section of the community.

The Hon. T. M. CASEY: I now give a further illustration that should satisfy honourable members. It deals with the movement of people. I refer to a state of emergency resulting in a town on the Murray from a flood. If in this situation goods and services could not be supplied to the town and the population had to be evacuated, the goods and services could not be provided under this amendment.

The Hon. Sir Arthur Rymill: Although I had intended to vote for this Bill, if it is to deal with floods I will vote against it. This is the biggest load of rubbish I have heard.

The Hon. T. M. CASEY: I was asked to illustrate how goods and services fitted into the pattern. Under this amendment, the illustration I have just given would not be covered.

Members interjecting:

The Hon. T. M. CASEY: Honourable members asked for an illustration and I have given it to them. Such action is not unrealistic, as the Hon. Mr. Burdett knows. If honourable members opposite are not satisfied, there is nothing I can do.

The Hon. J. C. BURDETT: First, the evacuation of people from a town is clearly done by providing services. Secondly, the Hon. Mrs. Cooper's amendment is in many respects tied back to clause 3, which relates to declaring a state of emergency.

The Hon. R. A. GEDDES: When past serious floodings of the Murray River have occurred, or when bush fires have occurred, the Government, either State or Commonwealth, has provided assistance for those people who lost their homes. This assistance was provided without the need for any legislation such as this now before us. I support the amendment. The Minister cannot justify his claim that it will deny the people help.

The Hon. SIR ARTHUR RYMILL: I intended to support this Bill with suitable amendments, on the basis that it was introduced to deal with the present emergency, namely, the deplorable spate of strikes from which the community is now suffering. I was disillusioned on reading subclause (3). Certainly, I will vote against the exemption. From what the Minister has said it seems that the Bill is introduced in great haste merely to deal with everyday matters such as bush fires. That is not the context in which I take the Bill and, if that is what it is for, we have every right to consider the Bill for a couple of months to see what it really means. I still do not feel right about this matter and, after what the Minister has said, I am having second thoughts. However, I will follow the stages of the Bill and see where we get to. I want the Government to have power to deal with the deplorable strikes going on at the moment. Whether the Government has the guts to do so is another matter; we shall have to wait and see about that. As this is also experimental legislation, the time of its expiry should, I suggest, be December of this year so that we can see how it is working and then renew it if we want to.

The Hon. M. B. DAWKINS: I support the amendment, for which the Committee owes the Hon. Jessie Cooper a debt of gratitude as it substantially improves the legislation. I agree with the Hon. Mr. DeGaris that the amendment could be tied back more closely to clause 3 (1), if necessary, possibly by adding further words; but I also noted the comments of the Hon. Mr. Burdett who, I believe, set out to prove that tying it back to clause 3 (1) might be redundant or unnecessary. The Hon. Mr. Whyte made a point that the Government should note—that in one sense this amendment would give the Government more power than the Bill does at present. It certainly gives it more power by removing clause 5 (3) if it is accepted but whether the Government will have the guts, as the Hon. Sir Arthur Rymill said, to use those powers is open to serious doubt. However, the Government should have these powers and it should also have the responsibility for using them should the need arise, as it appears it will. I am sorry the Minister has failed completely to say why this amendment does not meet with the Government's approval, because it provides for coping with all the obvious problems that may arise, whereas the Minister gives us the impression that he wants a completely blank cheque, in which case I shall certainly have to give further thought to the matter.

The Hon. M. B. CAMERON: I support the amendment. Even if it was accepted by the Government, which is doubtful, it would still be up to the Government to use it, and I do not believe it would. As I indicated in my second reading speech, I believe this Bill to be far too wide. That has already been proved by the few remarks we have heard from the Minister today. I should like to know what the Minister has in mind about an emergency or some problem arising in the community. If we are to come back here every time there is a flood to give the Minister power to deal with it, or with some other hypothetical situation—

The Hon. A. M. Whyte: What about a grasshopper plague?

The Hon. M. B. CAMERON: —perhaps a plague of grasshoppers, the Bill is far too wide. I agree with the statement of a leading newspaper today that we should come back and deal with each emergency as it arises. There is nothing to stop Parliament being recalled in a hurry, and I am sure members would co-operate. I support the amendment but continue my complete opposition to the Bill.

Amendment carried.

The Hon. JESSIE COOPER moved:

To strike out subclause (3).

The Committee divided on the amendment:

Ayes (11)—The Hons. J. C. Burdett, M. B. Cameron, Jessie Cooper (teller), M. B. Dawkins, R. C. DeGaris,

R. A. Geddes, G. J. Gilfillan, Sir Arthur Rymill, V. G. Springett, C. R. Story, and A. M. Whyte.

Noes (5)—The Hons. D. H. L. Banfield, T. M. Casey (teller), B. A. Chatterton, C. W. Creedon, and A. J. Shard.

Pair—Aye—The Hon. C. M. Hill. No—The Hon. A. F. Kneebone.

Majority of 6 for the Ayes.

Amendment thus carried; clause as amended passed.

New clause 5a—"Compensation."

The Hon. J. C. BURDETT: I move to insert the following new clause:

5a. (1) A person who, as the result of compliance with any regulation under this Act or while complying with or being engaged in the carrying into effect of any such regulation, suffers loss, damage or injury shall be entitled to compensation under this Act from the Minister.

(2) Every claim for compensation under this Act shall be made in a form and within a time approved of by the Governor.

(3) In default of agreement as to the amount of compensation between the Minister and the claimant the Minister shall direct that the claim shall be referred to arbitration before a single arbitrator who shall be a judge of the Supreme Court.

(4) The procedure to be followed at the arbitration shall be as determined by the arbitrator, but, subject to any such determination, the procedure shall be as nearly as possible the same as the procedure in the trial of a civil action in the Supreme Court.

It is typical of this Government that, by this Bill, it is seeking to grab for itself the most sweeping powers, while at the same time it is doing absolutely nothing to provide compensation to any people who may suffer as a result of the Government's action; for example, there is no provision in the Bill for compensating people who have their goods acquired for the purpose of supplying those who, by the emergency, have been deprived of the necessities of life. It is ironical that the Government has referred to the New South Wales legislation, which we cannot find, but it has not referred to the Victorian legislation, which covers very much the same sort of thing as we are dealing with here. The only Acts that I can find that were passed in New South Wales in 1972 (they seem to be the ones to which the Government referred) are about different matters altogether.

The Essential Services Act, passed in Victoria in 1958, covers much the same sort of thing as we are considering here. In my opinion, the Victorian Act provides for a much better method. Section 9 of that Act provides for compensation, and my amendment, suitably changed to fit the Bill now before the Committee, is based on that section. The Government may sincerely intend, when it makes regulations under the legislation, to provide for compensation, but surely that should be written into the legislation itself. It is nothing short of disgraceful that a Government should seek for itself sweeping, dictatorial powers, yet do nothing in the same Bill to protect people who may suffer as a result of those powers.

The Hon. M. B. CAMERON: I support the new clause, even though I do not support the contents of the Bill. As the Hon. Mr. Burdett said, it is important that, if the Bill passes, people have some redress against the Government, although that always presupposes in this day and age that the people will be able to afford the necessary processes of the law to get that redress.

The Hon. T. M. CASEY: While the Government is entirely sympathetic to the motives that induced the Hon. Mr. Burdett to move this amendment, I believe he went a little too far. He referred to the Victorian Act, which covers a totally different field. It would be the height of financial folly for the Government to agree to a compensation provision in the general terms expressed in the amendment. For example, if such a provision had been included in the recent legislation arising out of a petrol shortage in this State (and this is what the honourable member is driving at) the figure for compensation would have run into hundreds of thousands, if not millions, of dollars. This is not in any way to suggest that, depending on the circumstances existing during a state of emergency, the Government would not be sympathetic to claims for compensation in the case of acquisition of property and similar matters but, of its very nature, the right to claim such compensation could be considered only in the light of the circumstances existing at the time. The Government therefore opposes the amendment.

The Hon. J. C. BURDETT: It could not possibly be suggested that, under my amendment, compensation could be claimed from the Government in respect of what people suffer by virtue of the emergency. The only compensation that could be claimed would be for what people suffer by virtue of the action taken by the Government.

The Hon. R. C. DeGARIS: The 1958 Victorian Act provides for an application for compensation where the person or persons involved suffer loss because of the direct effect of Government action. There is no compensation payable as a result of the emergency. The Victorian Act deals with the supply of essential services, transport, electricity, gas, sewerage, and water to the community in an emergency. That Act provides for compensation to people who suffer loss, damage or injury directly as a result of the Government's action.

The Hon. T. M. CASEY: As a result of Government action, the stocks of petrol retailers may be frozen. A retailer could claim compensation from the Government for all the petrol that he could not sell. Members opposite are saying that, as a result of Government action, if there is any loss of trade suffered the retailers should have the right to claim compensation, although I do not know whether the situation would ever eventuate.

The Hon. R. C. DeGaris: They still have the petrol.

The Hon. T. M. CASEY: Yes.

The Hon. R. A. GEDDES: The loss referred to in the Minister's argument would have to be proved. How could a retailer prove a loss when he still had the stocks of petrol in his tank after the emergency had ceased to exist? He would still be able to sell his petrol when the emergency ended. What loss could he therefore show? He could not show a loss on that petrol, because he would still have it in stock.

The Hon. T. M. Casey: What about the staff that he has to pay? He would have to sack all those, wouldn't he? He's losing his profit margin.

The Hon. R. A. GEDDES: He would not lose anything. I ask the Minister to examine this aspect further and to prove what he has said.

The Hon. C. R. STORY: The Minister of Agriculture is saying that a person who is unable to sell his petrol might claim compensation for loss of profits. However, such a claim could not be sustained. On the other hand, if the Government decided (as it could under the regulations) that certain petrol stations must, in the case of emergencies, remain open for certain hours, over weekends or on public holidays, or that petrol sales must be rationed, the service station proprietor could, if he had to pay staff double and treble time, lose a certain amount of profit that was built into the price of the petrol he sold. If he was forced by the Government to do this,

such a person would be entitled to claim compensation. However, a reseller who was not permitted to sell any petrol could not claim compensation for loss of sales.

The Hon. J. C. BURDETT: A claim for compensation could be made only if a loss was suffered by an individual as a result of Government action. Does the Minister say that where a loss is suffered by a member of the public as a result of Government action the person involved, and not the Government, should bear that loss?

The Hon. Sir ARTHUR RYMILL: I have to agree with the Minister, as I think the provision goes too far. I cannot see that the word "loss" would not extend, for instance, to a petrol station proprietor who suffered a loss in profit by having his petrol stocks frozen. If the word "loss" was deleted, possibly the same objection would not arise.

The Hon. R. C. DeGARIS: The Minister may have one small point in his favour regarding the new clause. I agree with Sir Arthur Rymill that the question of suffering loss goes too far if a person whose stocks are frozen can claim for a loss in sales that he has sustained. However, the Hon. Mr. Story's point is valid: the Government can freeze a retailer's stocks and tell him that he can sell only a limited amount of fuel to certain persons and that he must remain open for a stipulated period, in which event he can suffer severe losses. If the Government requires that sort of action to be taken, it should be willing to compensate. However, I do not think compensation should be given if a person's stocks are frozen or rationed. If, on the other hand, the Government directs that a retailer shall remain open for certain hours beyond which it is reasonable for him to make a profit, then compensation should be paid.

The Committee divided on the new clause:

Ayes (10)—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, C. R. Story, and A.M. Whyte.

Noes (7)—The Hons. D. H. L. Banfield, T. M. Casey, B. A. Chatterton, C. W. Creedon, Sir Arthur Rymill, A. J. Shard, and V. G. Springett.

Majority of 3 for the Ayes.

New clause thus inserted.

Clause 6—"Expiry of Act."

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

In subclause (1) to strike out "thirty-first day of December" and insert "fifteenth day of September".

While we are giving wide powers to the Government, the chance to renew the legislation should be given as soon as possible after Parliament meets. By September 15 we would have completed the Address in Reply debate and the legislation could be reintroduced, if the Government required it, so that it would be kept in force. Although I think December, 1975, is probably going too far with this type of legislation, Parliament will be sitting between July and December.

The Hon. Sir ARTHUR RYMILL: This is experimental legislation, and we do not know how it will work. In those circumstances, it should not remain perforce in operation for too long. If the legislation does work it could be renewed from year to year, as is done with the Prices Act. The initial period should be shorter than is provided in the Bill or as contemplated by the Leader. We want to see how the legislation works and, as a member of this Chamber, I should like to have the opportunity, at a reasonably early date, to amend the legislation if such amendment is needed. By shortening the period we will retain some control over the legislation. I suggest that the expiry date, instead of being December 31 next year, should be December 31 this year. I have in mind that, assuming the legislation has worked reasonably well, the Government will bring along before the end of the present session a Bill to renew the period of this legislation for a further 12 months. I would support that Bill at that stage. Once the legislation has been tried for an initial period we can then, with some confidence, renew it from year to year. Am I in order in moving to amend the amendment moved by the Hon. Mr. DeGaris?

The Hon. R. C. DeGARIS: The easy way would be for me to seek leave to withdraw my amendment before the Committee deals with the Hon. Sir Arthur's proposed amendment. In those circumstances, I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

The Hon. Sir ARTHUR RYMILL moved:

In subclause (1) to strike out "1975" and insert "1974".

The Hon. T. M. CASEY: I am sorry that I cannot accept the amendment, although perhaps I could have accepted another suggestion. In case of emergency Parliament would be called together within a reasonable time. December 31 would be a very difficult date.

The Hon. Sir ARTHUR RYMILL: The Minister may be looking at this a little dogmatically, because it is not necessary to extend the legislation at the eleventh hour before it expires. It could be extended in November next to remain in force until December of next year. I think December 31 is quite a good date. Perhaps the Minister hinted that he preferred November 30, but I do not think that applies in relation to my argument. With my suggestion, the Act would run one month longer, which would give the Government more time to bring in extending legislation toward the end of the session.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

[*Sitting suspended from* 4.41 *to* 5.12 *p.m.*]

ADJOURNMENT

At 5.12 p.m. the Council adjourned until Thursday, August 8, at 2.15 p.m.