LEGISLATIVE COUNCIL

Thursday, October 10, 1974

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

EXPLOSIVES ACT AMENDMENT BILL

His Excellency the Governor, by message, intimated his assent to the Bill.

PETITION: COUNCIL BOUNDARIES

The Hon. R. C. DeGARIS presented a petition from 119 residents of the District Council of East Torrens expressing dissatisfaction with the first report of the Royal Commission into Local Government Areas, alleging that the Royal Commission had erred in its recommendation concerning the western boundary of East Torrens, and praying that the Legislative Council would reject any legislation to implement the recommendations of the Royal Commission in respect of the East Torrens district.

Petition received and read.

QUESTIONS

PHARMACEUTICAL ADVERTISING

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

Leave granted.

The Hon. R. C. DeGARIS: At the request of the National Health and Medical Research Council, the National Therapeutic Goods Committee investigated and reported on the controls necessary over the advertising of drugs and appliances to the medical and allied professions. That report was submitted to the Health Ministers' Conference in April, 1973. Following discussions at that conference, the matter was referred back to the National Therapeutic Goods Committee for discussions with the media, the pharmaceutical industry, and other bodies. Following those discussions, the committee agreed to modify its original proposals, and the modifications of the original submissions were reported to the Health Ministers' Conference in August, 1974. Following the August conference, a number of conflicting versions were reported in the media, whether television, radio or other media. Can the Minister provide any accurate information on this matter to clarify the position, as the proposals being discussed have a drastic effect on all sections of the media, as well as on the pharmaceutical industry and the retailers?

The Hon. D. H. L. BANFIELD: So that there will be no further confusion in the matter, I shall get a copy of the resolution carried at the last Health Ministers' Conference and bring it down for the Leader.

SALT CREEK CROSSING

The Hon. J. C. BURDETT: I seek leave to make a brief explanation prior to directing a question to the Minister of Health, representing the Minister of Local Government.

Leave granted.

The Hon. J. C. BURDETT: My question relates to the Salt Creek crossing on the Murray Bridge to Palmer main road, where Salt Creek crosses the road over a concrete ford. Over a period of time, the ford has been eroded, partly because of heavy transports using the road, and in the past few days part of the ford has collapsed completely. This has caused considerable danger to traffic, and it has been reported to me that some cars and heavy transports have almost overturned. I went through the crossing at the time and I can verify that it is dangerous. The road was temporarily closed, but the District Council of Mobilong is unable to carry out any work because water is still flowing over the crossing. I am informed that, over the years, the district council has approached the Local Government Office with a request that a bridge be built at the crossing or that at least something be done about the crossing, which has been unsatisfactory for some time. However, no reply has been received. There is a considerable amount of traffic on this road, including a school bus (which is an important matter), and also much heavy transport travelling from Melbourne to the northern part of South Australia uses the road. It diverts at Murray Bridge and proceeds via that road to the Barossa Valley, thus by-passing Adelaide and the Adelaide Hills. Will the Minister of Local Government consider giving some assistance by building a bridge or upgrading the crossing; and, if so, what assistance?

The Hon. D. H. L. BANFIELD: I will refer the honourable member's question to my colleague and bring back a reply.

LAND COMMISSION

The Hon. C. M. HILL: Has the Minister of Lands a reply to a question I asked last month about the Land Commission and when building allotments would be available to the public of South Australia through that instrumentality?

The Hon. A. F. KNEEBONE: It is expected that the South Australian Land Commission will have residential allotments available for sale in metropolitan Adelaide during the current financial year.

LOCAL GOVERNMENT

The Hon. R. C. DeGARIS: Has the Minister of Health a reply from the Minister of Local Government to my recent question about local government finances?

The Hon. D. H. L. BANFIELD: My colleague states that the Government appreciates the difficulties being faced by local government owing to current inflationary trends. Similar difficulties are being faced by the Government itself. The Government is also aware that many councils are rating close to the maximum permitted and, because of this, consideration will have to be given to increasing this maximum, but in the light of the effect that such a move will have on ratepayers. One of the reasons for instituting an inquiry into boundaries was this financial situation of councils, and we must appreciate that boundaries revision will assist in overcoming the problem. As the honourable member is aware, councils now have access to the Commonwealth Grants Commission and they have been informed of financial assistance allocated for the current year. These grants should assist the councils in their present situation. As far as possible State assistance is concerned, the matter will be investigated.

GLEN OSMOND ROAD CROSSING

The Hon. Sir ARTHUR RYMILL: Has the Minister of Health, representing the Minister of Transport, a reply to a question I asked a week or two ago about the Glen Osmond road crossing?

The Hon. D. H. L. BANFIELD: My colleague states that no further improvement to the timing of these signals can be effected with the existing controller and detectors at this installation. It is proposed to install equipment that will co-ordinate the traffic signals along Glen Osmond Road from this intersection to the city. This will include a master controller that will override the local controller and improve the traffic flow along this section of road. Subject to the availability of the necessary equipment, this work is expected to be undertaken in mid-1975.

The Hon. Sir ARTHUR RYMILL: I seek leave to make a statement before asking a question of the Minister of Health, representing the Minister of Transport.

Leave granted.

The Hon. Sir ARTHUR RYMILL: I am pleased to hear that something is to be done some distance hence about this matter. When asking my question, I said it was difficult for back-benchers to get anything done. I hope I got my message across. I said then that, if nothing could be done on this occasion, I would offer suggestions to help the department along its way. Will the Minister therefore kindly refer to his colleague the suggestion that I am about to make, namely, that, as an interim measure, the department consider stopping right-hand turns being made from Glen Osmond Road into Kenilworth Road, as this is a junction and not an intersection? As I travel in this area nearly every day, I know that this would immensely improve the traffic situation without our having to wait until the middle of 1975 for something to be done.

The Hon. D. H. L. BANFIELD: I will submit the honourable member's suggestion to my colleague. However, I must inform him that no prizes are given for the best suggestions that are put into the box.

MURRAY RIVER FLOODING

The Hon. J. C. BURDETT: Has the Minister of Health a reply from the Minister of Local Government to a question I asked recently about Murray River flooding?

The Hon. D. H. L. BANFIELD: My colleague states that any requests for reimbursement by councils for costs associated with the flooding of the Murray River are being considered by the River Flood Committee, which is being administered by the Minister of Works and Irrigation. Consequently, the Highways Department will not reimburse councils for any costs associated with operating boat services during periods when ferries are inoperative owing to the flooding. In such cases, the department is prepared to accept the costs of employing permanent ferry employees on roadworks. The Commissioner of Highways is informing councils of these arrangements and the terms applicable to such employment.

WHEAT

The Hon. C. M. HILL: I seek leave to make a short statement prior to directing a question to the Minister of Agriculture.

Leave granted.

The Hon. C. M. HILL: I refer to the annual general meeting of United Farmers and Graziers of South Australia, Inc., in July of this year. In the reports tabled at that meeting was a report from the grain section, whose Chairman dealt with the Wheat Industry Stabilisation Scheme and discussed some of the political aspects and problems arising from the implementation of that scheme. He then said:

A late development has involved the subject of the owner-operator allowance in wheat costs of production. Although State Ministers have agreed to the Australian Minister of Agriculture's decision that the wages paid to the Australian wheatgrower should not move annually in line with inflation and other internal economic pressures, we voiced our strongest possible protest to Senator Wriedt. We made it clear that, as one sector of the community, we should not have been singled out for that type of action when no move has been made for the Government to peg wages and salaries to the rest of the community.

Did the Minister agree that the wages content of the owner-operator allowance should not be moved annually and, if he did, what were his reasons for doing so?

The Hon. T. M. CASEY: If the honourable member did his homework on this matter, he would know that the owner-operator allowance is taken into account not in relation to stabilisation but by the wheat index committee, which fixes the price of wheat for home consumption. That is a different matter altogether, and the honourable member should be corrected on that point. Most of the Ministers of Agriculture who attended the Agricultural Council meeting are members of his own Party. Indeed, only two (the Minister from Tasmania and I) are Ministers of Labor Governments, and Tasmania does not produce wheat, anyway, but gets most of its supplies from South Australia. Senator Wriedt gave us an undertaking that this whole matter of the owner-operator wage structure would be taken into account within 12 months. On that basis, we agreed to do nothing about it, realising that the industry would not benefit at this late stage. Senator Wriedt gave an undertaking, and that is the situation.

OMBUDSMAN'S REPORT

The PRESIDENT laid on the table the Ombudsman's report for the year ended June 30, 1974.

APPROPRIATION BILL (No. 2)

In Committee.

(Continued from October 9. Page 1365.)

Clause 3—"Appropriation of General Revenue."

The Hon. A. F. KNEEBONE (Chief Secretary): Yesterday, when I was absent on Government business, this Bill was before the Committee and questions were asked by the Leader about this clause. I have obtained the information requested by him. First, the changes being sought in the Appropriation Bill this year are as follows:

(*a*) Extension of the automatic appropriation authority to cover increases in the liability of Government departments to pay pay-roll tax when wage tribunals vary awards. This becomes necessary because departments once again are required to pay pay-roll tax, and it is not clear whether the old wording covers pay-roll tax.

(*b*) Extension of the automatic appropriation authority presently available to the Government in respect of wage awards which affect Government departments. The extension is intended to provide similar automatic authority in cases where an organisation in receipt of Government assistance requires an increase in the level of that assistance because of wage awards.

Secondly, an approximate comparison of the extent of automatic authority given by the Bill which is before the Council and which was altered to include only pay-roll tax and not wage awards affecting subsidised organisations would be as follows:

	Present Bill $	Subsidised Organisations Excluded $
Public Finance Act (1 per cent)	6 000 000	6 000 000
To meet costs of wage awards only:		
Appropriation Act—Government departments . . .	43 000 000	43 000 000
Appropriation Act—Subsidised organisations . .	5 500 000	—

Thirdly, if the extension of authority to cover subsidised organisations is not granted, the Government will have $6 000 000 available at its discretion to cover cost increases in its own area of responsibility and applications from non-Government bodies for additional assistance to meet the cost of wage awards. If the extension is granted, the

Government will still have $6 000 000 available at its discretion, but it will not have to apply any of this towards the cost of extra assistance to non-Government bodies to meet the cost of wage awards. It will have a little more flexibility in its own area of direct responsibility.

The Hon. C. M. HILL: This clause deals with the total appropriation of $613 453 000. I have listened to the replies given by the Chief Secretary to the questions asked by honourable members during the second reading stage. Perhaps I am wrong, but I did not hear him comment on the high cost of the Treasurer's oversea trips during the past year. Parliament approved the sum of $16 000 as the estimated cost of the Treasurer's oversea trips in the year ended June 30, 1974. However, $50 885 was spent. At present Parliament is being asked in this Bill to appropriate $30 000 for oversea trips in the current year. If the Treasurer takes more money than that which Parliament approves this year in the same proportion as the excessive amount he took last year, about $100 000 will be spent. This sort of thing is naturally causing much adverse comment throughout the State. We, who are sent here by the people to act as their watchdogs over the expenditure of public money, have understandably raised the matter at this appropriate time. If the Chief Secretary did not refer to this matter earlier, can he assure the Committee that the allocation of $30 000 for the Treasurer's trips in the current year will be kept well in mind and, in the public interest, will not be exceeded?

The Hon. A. F. KNEEBONE: I think the honourable member would realise that in some instances it is necessary in an emergency to make trips for the good of the State.

The Hon. R. C. DeGaris: And come back?

The Hon. A. F. KNEEBONE: Yes—and come back to consider approaches to the Commonwealth Government in connection with the State's finances. I assure the Hon. Mr. Hill that the matter will be kept before the Government, which will keep an eye on expenditure of money in this regard.

The Hon. F. J. POTTER: I listened with interest to the Chief Secretary's reply to the question asked yesterday by the Hon. Mr. DeGaris. At least the reply helps one in trying to unravel the new words added in subclause (2). I must say that I have found it most difficult to understand exactly what the provision means. However, in the light of the explanation given today, it is obvious, first, that the provision now appropriates a second amount additional to the 1 per cent available to the Government by Governor's Warrant under section 32a of the Public Finance Act and, secondly, that both the 1 per cent and the additional amount appropriated to take care of salaries and wages for prescribed establishments are to be appropriated by means of the Governor's Warrant; I think that that is correct. This is a rather unusual way of virtually amending section 32a of the Public Finance Act. It seems to me rather surprising that, if this is what the Government wants to do (to give itself the "1 per cent plus" as an emergency fund), it did not actually amend section 32a of the Public Finance Act to bring that about; that would have been a clear move on the part of the Government. I am not sure that I agree to the method adopted.

The Hon. R. C. DeGARIS: What the Hon. Mr. Potter has said is correct, and I agree with him that it is difficult to unravel the meaning of the additional words in the Bill, but I think I now know what the position is. This Bill adds to the 1 per cent available to the Government under the Governor's Warrant. Like the Hon. Mr. Potter, I do not agree that this is the best way of doing it, and I cannot assure the Government that it could get away with increasing the amount for the Governor's Warrant. I object to this Bill being used as a means of extending the 1 per cent available to the Government under the Governor's Warrant under the Public Finance Act by introducing extra words into the Bill; I am pretty certain that that is what it means. This Committee has virtually no control over situations that may arise, because we do not even know what establishments the Government may prescribe. Clause 3 (4) provides:

> In this section "prescribed establishment" means any establishment in respect of which a grant towards its operation or maintenance has been included in the estimates of expenditure for the financial year ending on the thirtieth day of June, 1975.

One can see that that definition covers a tremendously wide field, including subsidised hospitals, nursing homes, old folks homes, grants to various art establishments and hundreds of other organisations that could come under the definition. I object to this procedure, which extends the amount available under section 32a of the Public Finance Act beyond the 1 per cent by using the new wording in this Bill.

The Hon. C. M. HILL: Under the line "Department of Transport" we see that $2 714 was spent last year on the item "Overseas visit of wife of Minister", but no expenditure is shown under that line for an oversea visit of the Minister. Elsewhere in Parliamentary Paper No. 9, when instances occur of Ministers and their wives going overseas it is clearly stated what has happened; for example, under the line "Minister of Works Department" we see the item "Overseas visits of Minister, Minister's wife (where approved) and officers". The allocation of money is stated alongside the item. Therefore, again I make the point that I made a few moments ago: I believe I have a responsibility to query any expenditure of public money by the Government of the day, no matter how small or how large that expenditure may be. This is the occasion when that questioning should take place. Can the Leader of the Government in this House give me any further information regarding this matter? For example, why is not the oversea visit of the Minister mentioned here? Why is it that of the wife only? Is there some explanation for this?

The Hon. A. F. KNEEBONE: If the honourable member had continued on to page 83 of Parliamentary Paper No. 9, he would have seen the item, near the bottom of the page, relating to oversea visits of the Minister and officers, where $14 500 was voted for the year 1973-74 and the actual payments amounted to $10 991. As to why the amounts are separated, one appearing on page 82 and the other on page 83, I am not able to inform the honourable member.

The Hon. C. M. HILL: I thank the Chief Secretary for that explanation.

The Hon. R. C. DeGARIS: I quote from the reply given to the Council yesterday by the Minister of Agriculture. In the second reading debate, I quoted from the Minister's second reading explanation of the Pay-roll Tax Act Amendment Bill, as follows:

> The effect of this increase will be an estimated additional $5 000 000 of revenue accruing to this State for the remainder of this financial year and an additional $7 000 000 of revenue in a full year.

I pointed out that this figure was not accurate. In his reply yesterday, the Minister of Agriculture stated:

> The Leader has seen fit to imply that the Government is not honest in providing information to Parliament in connection with taxation legislation. This is an implication that should be made only after thorough investigation. I am therefore disappointed that he has chosen to make it on the basis of what I suspect is a misunderstanding

of the information provided. For the Leader to imply that the Government was being dishonest in the information it provided to Parliament on this measure because it did not say that the increase in the tax rate would yield $40 000 000 is just not right. The estimate used in the Budget of receipts from pay-roll tax is made up roughly as follows:

	$ million
1973-74 receipts	54
Carry-over of 1973-74 rate increase	3
	57
Increase in wages and employment	13
	70
Increase in rate (4½% to 5%) for 9 months	6
	76
Government departments	18
	94

I compare that with the statement I have just quoted from the second reading explanation on the Pay-roll Tax Act Amendment Bill. The relevant increases are detailed as follows:

	$ million
Carry-over of 1973-74 rate increase	3
Increase in wages and employment	13
Increase in rate (4½% to 5%) for 9 months	6
	22

So the real increase in pay-roll tax is $22 000 000. I think I was perfectly justified in making those comments, as the figures will show. I appreciate that Government departments will be contributing $18 000 000, but if one reads my comments one will see that I said:

Considering that the actual receipts for pay-roll tax in 1973-74 amounted to $54 276 000, a rise of $5 000 000 in one year does not appear to be very much if looked at as a percentage rise. However, these figures are most conservatively drawn. The increase will be more than that. Indeed, owing to the rise in pay-roll tax and the increase in wages paid, it is possible that the increase in the 1974-75 receipts will be about 30 per cent above the $54 000 000 collected last year.

On the figures supplied yesterday by the Minister, leaving out Government departments, the increase will be from $54 000 000 in 1973-74 to $76 000 000 in this financial year, so I think my estimate of 30 per cent is absolutely correct.

The Hon. C. M. HILL: For the second time, I thank the Chief Secretary for giving me the explanation in reply to my earlier question. As the Hon. Mr. DeGaris has been speaking, I have been able to look more closely at the matter. I am mystified as to why the allocation for the Minister, his officers and his wife, under the Estimates for the Minister of Transport, is recorded differently from allocations for other Ministers who also had trips of this kind with their wives and their officers. For the purposes of comparison, I refer again to the situation in relation to the Minister of Works, where the document states: "Oversea visits of Minister, Minister's wife (where approved) and officers", and then the sum of money is shown. That is perfectly clear: it appears at page 49 of Parliamentary Paper No. 9, and I believe it is the usual provision. However, when we come to the Transport Department, under the heading "Administration and Planning Division" we have an item "Oversea visits of officers" and then under "Contingencies" a line appears "Oversea visits of Minister and officers", the amount being shown.

It seems to me there must be some explanation, which I do not understand at this moment, of the manner in which these items have been recorded. The numbers in the first two columns on these pages, which I imagine are code numbers for departmental and Treasury use, are 10 and 40 alongside the line dealing with officers under "Administration and Planning Division" and the same numbers appear under the "Contingencies" heading. When I go back to the figures for the Minister of Works, the same code numbers (10 and 40) appear, indicating that those are the normal codes relating to oversea trips being taken by Ministers, officers, and Ministers' wives. In a separate line under the Transport Department, we see "Oversea visit of wife of Minister", and the code numbers are slightly different: 10 to 41.

I do not expect that the Chief Secretary has this information at his fingertips, but there should be uniformity in the way the Estimates are presented. There must be some reason that I cannot see why the actual payments have been set down separately, as they are in the department's estimates. Will the Chief Secretary look at this in due course and perhaps by correspondence give me the explanation I need to satisfy me completely?

The Hon. A. F. KNEEBONE: I will endeavour to help the honourable member. I point out to him that the payments from revenue in the Transport Department are separated into their various categories—Administration and Planning Division, Highways Department, Railways Department, and so forth, right through. The cost of the oversea visits by officers and the Minister came under the Highways Department because it was a Highways matter. I am sure that, if other costs had been charged to the Highways Fund, the honourable member would have been the first to ask why that had been done because we could not load the Highways Department with the costs of a person who was not doing a job in that department. That is the only explanation I can think of. If there is any other mysterious reason for it, which the honourable member seems to imply, I will try to find out what it is for him and bring down a reply; but I am sure the Minister's department has been most careful in its costs in regard to the Highways Department and other departments under the Minister's control.

The Hon. R. C. DeGaris: Are these the figures for this year?

The Hon. A. F. KNEEBONE: They deal with the last financial year. This has nothing to do with the figures for this year to which the Leader has drawn my attention. However, the honourable member is within his right in asking for an explanation. I shall endeavour to inform myself of the position, to satisfy myself; if I am wrong, I will make sure that the honourable member gets the right information. I will seek the information from the Minister of Transport and give it to the honourable member in due course.

The Hon. C. M. HILL: I thank the Chief Secretary for the assurance that he will get me a reply. I now deal with the general matter of the expense of wives going on oversea trips. In my second reading speech, I criticised the principle involved, and I again criticise it. In times when the finances and the economic situation of the State are worrying, does the Government intend to hold to this decision it has apparently made, giving Ministers the right, at public expense, to take their wives with them overseas periodically when they make oversea trips? Has the Government, in view of the situation in which the State finds itself, given any further consideration to its decision or would the Government look into this matter so that, in economic times such as these, this Cabinet decision might be either suspended or deferred so that the people of the State could be a little more satisfied that a more responsible attitude towards the expenditure of public money was being adopted by the Government of the day?

The Hon. J. C. BURDETT: The Estimates include a line for expenditure in the Premier's Department, and this includes some expenditure on the Classification of Publications Board. I have before me a letter, and I will ask the Chief Secretary whether he can tell me whether it is proposed that money shall be spent in relation to the board to try to combat the sort of thing raised in this letter. I would have raised this matter during Question Time but I noticed there were children in the gallery during the whole of that time. However, it does concern the expenditure of public money and I intend to deal with the matter now. I would not, of course, expect an answer immediately. The letter is not addressed to anyone in particular. The member of the public who gave it to me assured me that his name had been taken from the telephone directory, because there was some inaccuracy in the address. The letter is from Euro-Discount, Denmark, and reads:

Dear Sir, You never received a letter from us before, and it is up to you whether this letter is going to become the first and last. At any rate, we hope that this will not be the case. To come all out from the very beginning: we are one of the largest and oldest sex consignors in Scandinavia. Three million customers in more than 20 countries buy from us anything sexy and erotic. We carry stocks at all times of approximately 500 different porno and sex films and more than 1 000 different sex magazines, dias, photos, books, etc.

There will be something for any taste: group sex, homosexual love, lesbian love, animal love (sexual relations between young women and various animals), beautiful girls with giant breasts, children's love (boys and girls at the age of between six and 14 having sexual intercourse), anal love, fellatio, spanking, bondage, and sadism, toilet orgies (young couples piddling each other in the face or in the open mouth), trick sex.

In order to offer these greatly varied themes properly in words and pictures, we issue colour catalogues several times a year; these are automatically dispatched to our customers free of charge. We are preparing for you, too, for the period of three months a colour catalogue in your language, loaded with sex photos and offers of any kind. Send us by air mail the coupon on the back of this letter (without any further obligation for you) discreetly and neutrally by post. When you open the letter, you will never stop being surprised. With kind sex regards, Euro-Discount.

I know the Chief Secretary could not possibly provide an answer immediately, but can he say whether money will be spent through the Classification of Publications Board in trying to combat this sort of thing?

The Hon. A. F. KNEEBONE: If I could have the address of those people (it is difficult to prosecute people outside the State, I know) I might be able to do something about it. The honourable member asked whether the board would spend money in this way. I understand that it will.

Clause passed.

Remaining clauses (4 to 8), schedule and title passed.

Bill reported without amendment. Committee's report adopted.

WHEAT INDUSTRY STABILISATION BILL

Adjourned debate on second reading.

(Continued from October 9. Page 1367.)

The Hon. G. J. GILFILLAN (Northern): I rise to support this Bill, which was so ably covered by the Hon. Mr. Story yesterday. I cannot help but think that, whenever one picks up a newspaper these days, there seems to be disaster in the headlines. Indeed, if one looks at this afternoon's copy of the *News*, one sees the main headline "2 000 fired at Leyland". In other words, another 2 000 people are to lose their jobs. In this sort of climate, it is refreshing to find an industry which is probably more viable now than it has been for many years and which is certainly one of the most viable primary or secondary industries in Australia. Both wheat and barley are in demand overseas, and future markets for them look bright.

The history of agriculture in the past two years has been a sorry one. We have seen many prosperous industries go downhill because of oversea markets and the political climate at home. The removal of many taxation benefits to people on the land, as well as increased taxation and the previous revaluation of our currency, placed export industries at a great disadvantage. To the best of my knowledge, about the only sort of concession remaining for wheatgrowers is at the State level, where they can register a commercial motor vehicle at a concessional rate. This is done because for most of the time such vehicles are driven around on only one property. Also, in the income tax field, one still has the right, if one receives less than a certain income, to have one's rate of tax averaged out over a period of years to help soften the blow of one's fluctuating incomes. However, these benefits are not gifts.

Wheatgrowers and barleygrowers are standing four square on their own feet and, as well, are heavily subsidising Australian consumers. I do not believe people realise just how valuable this industry is to the country and to every man, woman and child in it. The export income it earns alone is a significant factor. Indeed, in the 1973-74 pool year, it is expected that export income from it will exceed $900 000 000. That is a large sum of money that will be earned for the benefit of the community.

It is expected that the average export return for wheat during that period will be about $3·60 a bushel. I am told that today the price of wheat on the grain exchange in the United States of America passed the $4 (Australian) mark. As far as I know, this is probably the first time in the history of wheatgrowing that this has happened. In contrast, the Australian home consumption price is $1·93, or a little more than half the estimated average export price for the 1973-74 pool year and, of course, less than half of about $4 a bushel. It is estimated that the subsidy to the Australian consumer amounted to $120 000 000 in 1973-74. Every 35c a bushel means about 1c on a 1 kg loaf of bread. The industry is therefore subsidising bread at the rate of almost 5c a loaf.

This industry is tremendously important, and we must ensure, as much as possible, that political interference does not ruin it. It is in a healthy position at present and able to stand on its own two feet. I am concerned to see in the Bill that the board will be under the complete direction of the Commonwealth Minister. I do not know where he stands in the batting order; sometimes he makes announcements on behalf of the Minister for Agriculture. Then the Treasurer has a word to say. Apparently he is one higher up in the batting order. Then we have our ever-absent friend, the Prime Minister, who, I believe, is to visit Australia shortly. We also have Dr. Cairns in China. Mr. Whitlam went to China with a flourish some time ago, diplomatically recognising that country and announcing that he had made a massive sale of Australian wheat to it. At the same time, however, he alienated Taiwan, which buys much of our barley.

The hard facts of life are that China was looking for wheat in a world that was becoming short of coarse grains and, of course, it was only too eager to buy our produce. This will always be the position: it will buy its needs to the best possible advantage. The Wheat Board has been selling wheat to China for many years, and Mr. Whitlam had no authority whatsoever under existing legislation to sell wheat to anyone. Under the provisions of this Bill the Commonwealth Minister can not only direct the board in its operations but also direct the sale of wheat to a

country of his choice, although the Treasury must sustain any losses if a loss occurs as a result of non-payment when such a direction is given.

The Australian Wheat Board has developed a series of markets throughout the world, and it has done its best to meet its commitments so that we are not over-committed in supplying only one area in particular. This system has worked most successfully. In one year we had a massive crop following a drought. At this time wool prices were low, and there was a large concentration of wheat growing throughout the world. Australia had a large wheat surplus, and a quota system was introduced. Since that time the board has gone about its business successfully selling grain throughout the world.

The board is respected, and the quality of our grain is respected, and I see a bright future for the whole wheat industry. Few people realise exactly how the board works in its handling of wheat. Many people believe, because they read in the press that wheatgrowers are to receive so many millions of dollars, that in some way this is a grant to the industry. That is not correct. The board operates as a business identity and makes payments to growers from funds obtained either from loans or through the sale of wheat. The board's first big intake of grain occurs when growers make their first delivery. The first payment is made to growers soon after this delivery to carry them through until further sales are made. Funds for payments are obtained from the Reserve Bank, or any other lending institution that the Minister approves. The board pays normal commercial interest rates on that money and, as sales are made, payments are made in respect of the crop delivered, but it may be some years before payments for a crop are finalised.

I make clear that the board is a businesslike board, which obtains its finance through normal commercial channels and which carries out a business operation and is not subsidised by the taxpayer at all; on the contrary, the taxpayer is subsidised, by a home consumption price, to the extent of $120 000 000 a year. I hope that nothing will be done by the Government to prejudice in any way the future operations of the board. I am sorry to see the Minister in such absolute control. Under the Bill, he has to authorise payments, and I can understand the need for that, because this is a financial measure and the Minister has an obligation should the taxpayer be called on to make up a deficiency.

The stabilisation fund is the fund into which surplus funds are paid to provide for the payment of additional amounts should the price of wheat fall below a defined figure. The fund is set at $80 000 000, about $40 000 000 being collected on the 1973-74 crop and another $40 000 000 to be obtained on the current crop. Any sum collected above the $80 000 000 will go to growers. It is significant that there is a limit of $30 000 000 on the amount that can be withdrawn from the fund. Reference is made in the Bill to the State Minister and the Commonwealth Minister, and I am not sure where the seniority lies. However, in respect of the total operations of the board, the Commonwealth Minister is in charge. The well-being of this industry is important to everyone, including children taking their examinations prior to leaving school and seeking a position in the work force. These people are more dependent on the well-being of an industry such as this than they are on any actions of a benevolent Government. Indeed, it is strange that their future employment prospects could be affected more by the threat of rust to the Australian wheat crop or by an increase in the resistance to insecticides by grain weevil than by actions which a Government may take with widespread publicity.

The Hon. Mr. Story covered the Bill well yesterday. I have already questioned the situation in which the Commonwealth Minister has absolute control and can direct the board in any of its operations. The Bill provides that the board can direct the delivery of wheat. This provision could be used as a form of transport control, although I cannot see the board doing this. However, definite control over the movement of wheat is provided. According to this legislation, wheat can be used only on the farm on which it is grown, but "farm" is not defined in the Bill, nor is the clause referring to this matter sufficiently explicit. Will the Minister say just what exactly constitutes a farm? If there are two parcels of land with a road running between them, is one area a separate farm from the other? If there are two areas of land 5 km apart, are they to be regarded as two separate farms? I know of many instances where people work several farms from one headquarters, sometimes located in the home town. Indeed, I know of one man who works several properties, with his headquarters and silos for seed wheat located in a town. He takes the seed wheat with him during his seeding operations. This is an important consideration, and, if the provisions of the Bill were ever enforced, they could catch innocent people going about their normal daily operations. The introduction of this restrictive provision could cause problems, and I point out that it has been introduced merely to catch one or two big operators who do not even operate in South Australia.

The penalties provided under the Bill are severe. The penalty is an amount calculated in respect of the quantity of the wheat in respect of which the offence is committed at the rate of $200 a tonne, or imprisonment for six months, or both. That is $200 for every 36 bushels, which is several times the value of the grain itself. I do not believe that it was ever intended that such a situation should occur where a landowner has to get permission to shift grain from one property to another, but if we leave the Bill exactly as it stands this situation will obtain. It has been made very restrictive to every operator, just to catch one or two operators who are transgressing; this is undesirable. I support the Bill.

The Hon. B. A. CHATTERTON secured the adjournment of the debate.

SAVINGS BANK OF SOUTH AUSTRALIA 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.

It is to some extent related to another measure (that is, the State Bank Act Amendment Bill, 1974) which will also be before this Council. It provides for the payment by the bank established under the principal Act, the Savings Bank of South Australia Act, 1929, as amended, of an annual sum in aid of the general revenue of the State. This measure, it goes without saying, is one of a series of amendments designed to enhance the revenue position of the State. If enacted it will result in a payment to revenue in this financial year of the order of $500 000 based on the declared surplus of income over expenditure of the bank for the financial year 1973-74.

Honourable members will recall that the State Bank and the Savings Bank of South Australia are not required to pay income tax. If these institutions were required to pay such tax at this time they would be required to pay

47½ per cent of their profits by way of taxation. It does not seem unreasonable that such a contribution should be required, as it were, in lieu of the income tax otherwise payable. The State Bank Act Amendment Bill, which will later be considered by honourable members, lifts the levy on the State Bank to 50 per cent of its net profits. This Bill proposes the creation of a similar arrangement in relation to the Savings Bank of South Australia. In the case of that bank, however, one additional factor has to be taken into consideration. During the period January, 1946, to September, 1952, the sum of $8 000 000 was lent to the Government by the bank at the clearly concessional rate of 1½ per cent per annum interest, repayable on a credit foncier basis, over 42 years. Of this amount about $4 000 000 was outstanding in January of this year.

In addition, since 1964 the bank has from time to time advanced moneys to the South Australian Housing Trust at concessional rates of interest. In the discussion between the Government's advisers and the management of the bank it was suggested that this advantage to the Government arising from the concessional rates of interest referred to above should be taken into account. This point is readily conceded by the Government, and appropriate provision has accordingly been made.

Essentially the Bill consists of one operative clause, clause 2, which repeals section 65 of the principal Act and re-enacts a new section 65. Although on the face of it the proposed new section 65 looks a little complicated, in principle it is comparatively simple. It is based on the surplus of income over expenditure of the bank which may be characterised as "profit". From this profit in relation to a particular year is deducted the prescribed deduction for that year; the prescribed deduction is either $202 000 or $61 000, depending on the year under consideration. This prescribed deduction represents the monetary value of the concessional rate of interest adverted to above. Necessarily the value of this concessional rate declines as the loans to which it relates fall due. The sum payable by the bank as the "prescribed amount" is half the balance arrived at after that deduction.

In addition, provision is made to cover the somewhat remote possibility that in any year the "profit" of the bank will be less than the "prescribed deduction". In that case an appropriate carry-forward will be provided for. The balance of the "profit" remaining in the bank's hands after its obligations to the Government are satisfied will, of course, continue to be dealt with as the needs of the bank require. Clause 3 is purely consequential on clause 2.

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

STATE GOVERNMENT INSURANCE COMMISSION 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.

It has only one operative clause, clause 2, to which the attention of honourable members is particularly directed. It removes the present limitation in section 16 (*a*) of the principal Act on the investments that may be made by the commission to what may be generally termed "trustee securities" and replaces it with a considerably wider power of investment. The only limitation now proposed is that the investments must be approved of by the Treasurer. It goes without saying that the investment policy of the commission will be a prudent one, if for no other reason than the existence of section 15 of the principal Act. The plain economic facts of the matter are that, in these inflationary times, an investment programme limited to relatively long-term and relatively low-interest trustee securities is just not capable of keeping pace with the economic situation.

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

GAS 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.

It is one of a series of measures intended to enhance the revenue position of the State. The need to find new sources of revenue, particularly those which have a "growth" element, has, it is suggested, already been amply demonstrated. There are in this State two suppliers of piped gas, and here the term is used in contradistinction to bottled gas. These supplies are the South Australian Gas Company and the Mount Gambier Gas Company. Essentially, this measure seeks to provide the legal framework within which these suppliers and any new entrants into the field will be required to hold an annual licence. The consideration for the grant of the licence will be a fee related to the gross amount received by the proposed holder for the price of gas supplied during a period antecedent to the period to which the licence relates.

It goes without saying that, in the drafting of this measure, somewhat more than passing regard has been paid to the constitutional implications of a recent decision of the High Court in *Dickensons Arcade Pty. Limited v. The State of Tasmania,* where the constitutional validity of the Tobacco Act, 1972, of the State of Tasmania was considered. In that case, the principal matter in issue was whether the method of calculating the licence fee for a licence to sell tobacco by retail set out in that Statute could be enacted validly by the State of Tasmania. This method is substantially the method proposed in this Bill. For present purposes it is sufficient to observe that in that case the High Court affirmed what has come to be regarded as a bench mark in Australian constitutional law relating to this method of computation of licence fees, that is, *Dennis Hotels Proprietary Limited v. The State of Victoria* (1960) 104 C.L.R. 529.

Clause 1 is formal. Clause 2 amends the long title to the principal Act by setting out the new matters proposed to be covered. Clause 3 inserts in section 5 of the principal Act, the interpretation provision, a number of new definitions, the need for which will become evident during the consideration of the remaining clauses of the Bill. Clause 4, first, repeals section 5a of the principal Act, this being the section that provided for a person to be proclaimed as a "gas supplier" for the purposes of this Act. In view of the licensing system now proposed such a provision is otiose and has, in terms, been replaced by the definition of "gas supplier", as to which see clause 3 (*b*) of the Bill. In addition, this clause proposes the insertion of a number of new sections which for convenience will be dealt with *seriatim.*

New section 5a provides that the licensing provisions of this measure will come into operation on and from a day to be fixed by proclamation. This will enable appropriate administrative arrangements to be made after the measure is enacted into law. New section 5b provides for applications for and the grant or renewal of a licence, and subsection (2) of this section in effect ensures that existing gas suppliers will have the right to be granted a licence. New section 5c makes it clear that the licence is an annual

licence. New section 5d is commended to honourable members' close attention, since it sets out the method by which the annual licence fee is to be determined. In the case of existing suppliers, this fee is ascertained by reference to gross payments for the price of gas supplied during the financial year immediately preceding the licence period in respect of which the licence is to be granted or renewed.

In the case of a new supplier where no such supply would have taken place, the amount of the first licence fee will be determined by the Treasurer. In its terms the method of computation proposed follows broadly that set out in our present Licensing Act in relation to fees for certain licences under that Act. Applicants are, pursuant to subsections (3) and (4), required to provide the Auditor-General or the Treasurer, as the case requires, with material on which a determination of the licence fee may be based. Subsection (6) of this section provides that a determination of a licence fee is final and conclusive. New section 5e provides for the payment of licence fees in quarterly instalments and also provides an appropriate sanction for non-payment of the fee.

Clause 5 repeals an exhausted provision. Clause 6, by inserting a new section 25a in the principal Act, provides for a general regulation-making power in matters relating to licences and, by paragraph (*b*) of subsection (1) of this section, also provides for the imposition on any gas supplier of conditions and restrictions similar to those at present imposed on the South Australian Gas Company by certain specified provisions of the principal Act. Clauses 7, 8, 9 and 10 are also proposed in furtherance of the legislative philosophy given effect to by the latter portion of subsection (1) of new section 25a already adverted to. Briefly, this approach is to ensure that, so far as the regulating aspects of the law are concerned, all suppliers will be on an equal footing.

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

STATE BANK 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.

Section 34 of the principal Act, the State Bank Act, 1925, as amended, provides, amongst other things, that nine-twentieths of the net profits of the State Bank, established under that Act, are to be paid to the Treasurer for the credit of the Consolidated Revenue. This contribution required of the bank approximated the amount that the bank would, at the time, have been required to pay by way of income tax were it liable for a tax of this nature. The present rate of taxation that, but for its exemption from tax, would be applicable to the bank would be 47½ per cent of the net profits of the bank.

This short Bill is one of a series of measures designed to improve the revenue position of the State and, as has already been indicated, this need arises from the reluctance of the Australian Government to increase its grants in aid of the revenue of the States. The Australian Government's position in this matter was made clear at the recent Premiers' Conference. This Bill accordingly proposes that the present contribution by the bank will be lifted from 45 per cent of the net profits to 50 per cent of the net profits. This measure impacts the financial year just concluded, that is, the 1973-74 financial year and each subsequent financial year, and the additional revenue that will accrue to the State, if this Bill is enacted into law, in respect of the financial year 1973-74 is of the order of $60 000.

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

LOCAL AND DISTRICT CRIMINAL COURTS ACT AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

The Commissioner for Prices and Consumer Affairs has power to receive and, in appropriate cases, act on complaints by consumers concerning excessive charges for goods or services or unlawful or unfair commercial practices leading to infringement of a consumer's rights. The Commissioner may take such action by negotiation as in his opinion is appropriate and proper in relation to any such complaint. He also has power, where he is satisfied that it is in the public interest or proper to do so, to institute legal proceedings on behalf of the consumer, seeking a settlement of the matter raised in the complaint or taking legal action to see that justice is done. In most cases the Commissioner has been able to secure a satisfactory resolution of matters in dispute.

Where the matter does not fall within the scope of the Commissioner's function or it is not appropriate for him to exercise his power to institute proceedings, the only remedy available is to seek redress through the courts of law. However, the position is that the average person who has a complaint is generally overawed by the prospect of taking court action in the ordinary way, with its uncertainty and likely expense and the possibility of lengthy delay before any determination is made. It is clear that people with sound legal claims are not having them heard because the amount involved is not great enough to justify the cost of litigation in the ordinary way. Our system of administration of justice is designed to sift carefully truth from falsehood, sound reasoning from fallacious reasoning, right from wrong. This is admissible and necessary. But it is too time consuming (and therefore expensive) to be a satisfactory way of dealing with small claims.

Solicitors are obliged to advise their clients with small claims against going to court and they do not in practice go to court. Much the same is true of other kinds of dispute where the sum of money or the injuries are too small to justify the costs of litigation: a dispute with a landlord concerning repayment of a security bond, for example, a claim for arrears of wages where the claimant has no trade union, or a claim for minor damages to a car where the claimant does not have full insurance or does not want to lose his no-claim bonus by involving his insurance company.

Fear of courts, no doubt, plays a great part in discouraging people from using them. But the overriding discouragement, the thing that prevents the most fearless litigant from litigating, is expense. The expense lies not in the court fees but in the fees payable to solicitors. The winner, of course, recovers a part of his costs from the loser, though not necessarily enough to meet his full expenses. But, even if full costs were recoverable by the winner, no case is so absolutely cast-iron that the average small claimant would be prepared to disregard the risk of losing and therefore of having to pay out in costs to the other side and his solicitor a sum which might be twice or three times the size of his claim.

If, therefore, persons with small claims need to have the opportunity of bringing them to court, it is necessary to

devise a nice simple system, admittedly second best and admittedly less thorough than is necessary for more important and complex matters, but for those very reasons less expensive. It is necessary to have procedures for small claims in which some of the rules and protections which one legal system provides are sacrificed to the necessity of relating the cost to the amount involved in the case. This Bill aims at providing a system whereby a speedy, informal and cheap method for settling, according to law, disputes involving claims of up to $500 is established within the framework of the existing court structure. The Bill also increases by 50 per cent many of the expressed monetary limits in the original Act and raises all the jurisdictional limits to $20 000.

When this matter was being debated in another place, the Attorney-General indicated that the Law Society opposed the proposal to increase the Local Court's jurisdiction to $20 000. My colleague has given me some additional matter, and I say to the honourable member opposite who is holding a copy of the printed second reading explanation that I will get him a copy of what I will read now to add to the material he has. The Attorney-General wrote as follows:

In the House of Assembly I indicated that the Law Society opposed the proposal to increase the Local Court's jurisdiction to $20 000. Dr. Eastick asked the reasons for the Law Society's opposition, and I stated that I did not have the letter setting out those reasons. A letter has now come to hand, dated October 7, 1974. I think that in fairness to the Law Society its reasons should be available in the Legislative Council, and I suggest that you read the letter during the course of the debate on the Bill. I do not think that there is substance in the Law Society's arguments. I believe that the Local Court judiciary is entirely competent to handle claims up to $20 000. The increase in jurisdiction will have the effect of relieving pressure on the Supreme Court and reducing the waiting time for the trial of cases in that court. The criticisms made by the Law Society of the Rules of the Local Court in their application to larger claims may have merit. This can be remedied by changing the rules and I have referred the Law Society's suggestions to the Senior Judge of the Local Court for his consideration.

I will now read the Law Society's letter, for the information of honourable members, which is as follows:

Dear Mr. Attorney,

Local Court Jurisdiction

I refer to your letter of August 13, 1974, seeking the society's views on the proposition that the jurisdiction of the Local Court of full jurisdiction be increased in all matters to $20 000. That proposition has been considered by the Common Law Committee, which made a recommendation to council which, in turn, adopted that recommendation. The council notes that the proposal was not limited to road accident cases or even to common law matters. The resolution of the Common Law Committee which was adopted by council is: "That this committee recommend to council that it oppose very strongly the proposal that the jurisdiction of the Local Court be increased to $20 000."

However, the committee and the council therefore by adoption would wish to voice no objection to an increase in the jurisdiction in personal injury claims to $12 500 on the basis that inflationary trends since the limit of $10 000 was fixed would justify such an increase. Council recognises that litigants certainly should use the Local Court in appropriate cases and agrees that there are too many cases entirely fit for hearing in the Local Court which are brought to trial in the Supreme Court. The council doubts if the present provisions for penalising such litigants in costs are as strong as they might be. Whilst recognising the discretionary nature of the power of a judge to make orders for costs, council recommends that consideration be given to making appropriate amendments to the Act and rules to penalise litigants more strongly when they use the Supreme Court instead of the Local Court in cases where the Local Court should clearly have been the right court to have been used. Neither the Common Law Committee nor council thought that this society should merely offer opposition to the proposed increase without offering the reasons for it.

Coincidentally with your letter, the Common Law Committee had before it, as it has had for some time, the question of delay in the hearing of actions in the Supreme Court. In the previous month that committee had considered and opposed a suggestion put forward by a practitioner for an increase in the jurisdiction of the Local Court. That practitioner offered that suggestion solely on the basis that it would help to reduce the number of cases in the Supreme Court and therefore reduce the delay. He was concerned mainly with long commercial cases which often took some time to come to trial and then at the end of a week had to be adjourned until some time in the future because the judge was committed to another list of cases in the following week. On that score, the view of the Common Law Committee was that the right way to deal with the matter would be to appoint more judges to the Supreme Court. Council recognises that your letter did not speak of delay but council wondered whether the question of the delay in the Supreme Court might not have been a reason for the present proposal for increase. The main reason for the committee's opposition to the increase to the jurisdiction of the Local Court is the interest in litigants. A man who has a claim for or "worth" some $10 000 to $20 000 has a claim which to him is of very great importance indeed. It is neither a small matter nor a small amount of money. It may well be, at least temporarily, the most important thing in that man's life. Council thinks that he is entitled to have such a matter litigated by the court of highest jurisdiction and highest standing in the State. Even on today's standards and allowing for a possible increase for inflationary trends, council did not think a matter of this size one that really should be tried other than in the Supreme Court.

The Local Court is an unsatisfactory venue for large claims because of unsatisfactory provisions and rules for interlocutory proceedings. In fact, the committee understands that until recently magistrates were exercising jurisdiction in interlocutory applications in full jurisdiction matters. Even in the conventional collision case, interlocutory matters are often of great importance and, of course, in matters of contract or matters of a commercial or business nature they can be of very great importance indeed. The Local Court Rules do not, in council's opinion, provide adequately for precise and binding pleadings. The Local Court Rules are not completely satisfactory in relation to discovery. There is no provision requiring a litigant to file an affidavit verifying that the documents which he has mentioned are the only ones which he has or has had and there is no provision for the taking of steps if a litigant suspects on reasonable grounds that his adversary has other documents. Nor is there a provision as there is in the Supreme Court for discovery before the commencement of an action.

The Local Court provisions about offers to consent to judgment are not satisfactory, as the rules, as they stand, despite a rather tenuous view amongst some members of the profession, seem to require actual payment of money into court, which is old-fashioned. There are some matters as to which the Local Court Rules are silent. Although one would have thought that the provision for the adoption of Supreme Court Rules in such matters would apply, it often happens that a practice which has grown up in the front office of the Local Court is maintained as being the right practice, even if it may not be quite consistent with the practice of the Supreme Court in such a matter.

No doubt these matters could be dealt with, and if in fact it is decided to proceed with the increase in the jurisdiction, council asks that these matters be considered and also respectfully asks if any proposed amendments could be considered in advance by the society. In response to another part of the letter dealing with the question of the removal of jurisdiction under the Guardianship of Infants Act of the Family Court, that has been before the Common Law Committee but has been sent back to it for further consideration.

Yours sincerely, R. G. Matheson, President.

Clauses 1 and 2 are formal. Clause 3 defines a "small claim". A small claim is a claim for a pecuniary sum not exceeding $500—

(*a*) upon a contract, or by way of damages for breach of contract;

(*b*) in respect of *quasi* contractual obligation;

(*c*) by way of damages for tort; or

(*d*) upon a cause of action arising under the Consumer Transactions Act or the Manufacturers Warranties Act.

Clause 4 is formal. Clause 5 amends section 31 of the principal Act and raises from $8 000 to $20 000 the jurisdictional limits of local courts of full jurisdiction. Clause 6 repeals section 32a of the principal Act, abolishing the distinction now drawn between claims arising from the negligent use of motor vehicles and other claims. Clause 7 amends section 42 of the principal Act. The purpose of this section is to discourage actions being commenced in the Supreme Court which should be started in a local court. This clause provides that if, in an action in tort in the Supreme Court, a plaintiff recovers less than half the amount of the jurisdictional limit of the Local Court costs shall not be awarded unless a Supreme Court judge otherwise orders.

Clause 8 amends section 46 of the principal Act and raises the value of property for which an action of replevin may be commenced in the Supreme Court from $200 to $300, in the case of a corporeal or incorporeal hereditament, and from $40 to $60 in the case of rent, damage, or goods seized. Clause 9 amends section 58 of the principal Act to raise the limits below which an appeal may not lie to the Supreme Court without leave from $200 to $300. Clause 10 repeals and re-enacts section 135 of the principal Act. The section is redrafted for two reasons. First, it provides that a body corporate may be represented by an officer or employee of the body corporate authorised to conduct the action or proceeding on behalf of the body corporate. Secondly, the section is amended to provide that the provisions of section 135 relating to representation in local court proceedings are subject to the specific provisions relating to representation in the small claims provisions.

Clause 11 is the major provision of the Bill. It enacts Part VIIA of the principal Act, which deals with small claims. Section 152a gives a local court wide powers in relation to the hearing and determination of a small claim. First, it provides that the court is not to be bound by the rules of evidence, but may inform itself upon any matter relating to the claim in such manner as it thinks fit. Secondly, it imposes upon the court an obligation to assist a party who does not appear to be able to present his case adequately without assistance. Thirdly, it provides that the court may at any stage of the proceedings make amendments to the statement of claim, or other pleadings, as it thinks fit.

New section 152b limits the right of parties to small claim proceedings to have professional assistance. No party is to be represented by a legal practitioner or an articled clerk, unless all parties to the proceedings agree and the court is satisfied that such representation will not unduly prejudice another party, or unless the proceedings have been instituted or defended by the Commissioner for Prices and Consumer Affairs under the Prices Act. A party may, however, receive assistance from a person who does not hold legal qualifications, if the court is satisfied that the party requires such assistance, that the person by whom he is assisted appears without fee or reward, and that no other party will be disadvantaged by such assistance being allowed. New subsection (3) provides that the above limitations do not prevent a body corporate from being represented by an officer or employee of the body corporate or an interpreter from receiving a fee for assisting a party in the presentation of his case, provided that his fee does not exceed an amount fixed by the court at the hearing.

New section 152c provides that the court may exercise powers of conciliation in relation to a small claim. New section 152d prevents a court from awarding costs for getting up a case for trial, or by way of counsel fees, unless all parties to the proceedings were represented by counsel or the court is of the opinion that there are special circumstances justifying the award of costs of this nature. New section 152e provides that there shall be no appeal from a judgment upon a small claim, except by leave of the Supreme Court. New section 152f provides that the determination of an issue in proceedings based upon a small claim shall not estop the parties to those proceedings from litigating the same issue in other proceedings based upon a different claim.

Clause 12 amends section 165 of the principal Act, raising from $200 to $300 the amount below which a court may suspend execution of a judgment in case of illness. Clause 13 amends section 168 of the principal Act to raise from $40 to $60 the value of goods which are exempt from execution. Clause 14 amends section 181 of the principal Act to allow the amount of compensation that may be awarded in vexatious cases to be increased from $40 to $60. Clause 15 amends section 196 of the principal Act to allow the removal into the Supreme Court of a judgment in excess of $300 instead of the previous limit of $200.

Clauses 16 and 17 amend sections 216 and 228 respectively to raise the value of yearly rent below which a landlord may commence an action in the Local Court for recovery of premises from $2 120 to $3 180. Clause 18 amends section 259 of the principal Act, increasing the special equitable jurisdiction of the Local Court to $20 000, in line with its other jurisdictional limits. Clause 19 amends section 271 of the principal Act, which provides for the arrest of a debtor. The amounts in question in the section are raised from $20 to $30 and from $100 to $150.

Clause 20 amends section 277 of the principal Act and allows the court to order payment of up to $90 (previously $60) to a debtor arrested without good cause. Clause 21 amends section 279 of the principal Act and increases from $60 to $90 the amount which a court may order as compensation to a defendant. Clauses 22 and 23 amend sections 284 and 285 respectively of the principal Act to raise from $60 to $90 the amount of a claim above which an order may be made for the examination of witnesses unable to attend the court.

The Hon. F. J. POTTER secured the adjournment of the debate.

BUILDERS LICENSING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 9. Page 1369.)

The Hon. J. C. BURDETT (Southern): I rise to speak to the second reading of this Bill, which is fairly good in principle if one accepts the principal Act. However, I do not completely accept the Act and, particularly, I do not accept its application. I agree that the licensing of builders is necessary. However, the main feature of the principal Act sems to be the harassment of builders and cost increases rather than protection of the public. I am reminded of what the Hon. Sir Arthur Rymill said yesterday in speaking in the debate on the Appropriation Bill. It seems to me that what is likely to happen is that, when the Government through this kind of legislation has forced the private builder, especially the house builder, out of business, it will say that something is wrong with the system and that it will have to nationalise the industry.

The important aspect of this Bill is the provision of the Builders Appellate and Disciplinary Tribunal. Previously, only the board existed, with an appeal to the Local Court,

but now the functions of the board have been separated to a certain extent, and under this Bill we have the establishment of the tribunal, as well as the board, with an appeal to the Supreme Court. This principle is good. The board is the licensing authority and can now get on with its investigations and routine business, and the tribunal will deal with appeals from the board and complaints against builders made by the board to it. I believe the separation of these two functions is good. The Hon. Mr. Gilfillan drew attention to the fact that new section 18 (1) provides:

The board may upon receipt of a complaint of any person on whose behalf the holder of a licence has performed any building work, or of its own motion, conduct an investigation in order to ascertain whether the holder of a licence has carried out building work in a proper and workmanlike manner.

Under Division II, "Jurisdiction of the Tribunal", new section 19j (1) provides:

The tribunal may, on the complaint of the board, or of its own motion, conduct an inquiry into the conduct of any person who holds a licence under this Act.

The Hon. Mr. Gilfillan was critical that either the board or the tribunal could conduct investigations of its own motion without any complaint being made. I believe that the board should, of its own motion, be able to conduct an investigation without complaints having been made, because the board will handle the routine investigations, and it is the licensing authority. However, I object to the words "or of its own motion" in relation to the tribunal, which is a *quasi* judicial body comprising a local and district criminal court judge and four other persons defined in the Bill. The tribunal's job is to hear appeals from or complaints made by the board, and I believe it should not be able to go beyond its job. It is a *quasi* judicial tribunal, and I refer to a court in a similar situation.

The Hon. R. C. DeGaris: Has the board the right to investigate matters without a complaint?

The Hon. J. C. BURDETT: Under this Bill, yes.

The Hon. R. C. DeGaris: What about under the Act?

The Hon. J. C. BURDETT: I think so, although it does not say so. I do not object to the board being able to do this; it is the licensing authority, dealing with the capacity and qualifications of builders. However, the tribunal should have similar powers to those of a court, which, except in extraordinary circumstances, does not initiate matters of its own motion, but deals with matters brought before it by someone else. Courts themselves almost never initiate proceedings. True, after proceedings have been initiated, in some circumstances a court might take certain steps of its own motion without application by either party, but in the same way as a court gets on with the business brought before it by other people I believe this tribunal should get on with the business brought before it by people and should not have the power to do things of its own motion. It should deal with complaints made by the board, or appeals brought to it from decisions of the board.

The tribunal may function better if in some respects it is aloof from the ordinary day-to-day investigations of building matters, if it stands apart and does not deal with such matters, dealing only with complaints concerning disciplinary matters made by the board, as well as appeals from decisions of the board. The board itself has some disciplinary powers and, therefore, it is fair to assume that disciplinary matters brought before the tribunal will be those which the board considers to be of a serious nature. The Hon. Mr. Gilfillan referred also to the fact that a complaint made to the board must, pursuant to the Bill, be made within two years of the completion of the building work. I agree that two years is a long time. There is no sort of guarantee attached to this; the Bill merely states that the board "may upon receipt of a complaint of any person on whose behalf the holder of a licence has performed any building work, or of its own motion, conduct an investigation in order to ascertain whether the holder of a licence has carried out building work in a proper and workmanlike manner".

It seems fair to expect that a person who is having a house built for himself should be able to determine in a much shorter time than two years whether or not he is satisfied that the person holding the licence has carried out the building work in a proper and workmanlike manner. It appears that the consumer in today's society has to some extent been molly-coddled. It is fair enough to expect the Government to help those who help themselves, but it is reasonable to expect that people who have had a house built for themselves will exercise some measure of care in their own interests and that they will inspect the work themselves and engage professional help, if necessary, to assist them in doing that.

With consumers generally, I believe it is still fair enough, even in these days of consumer protection, to expect people to take some steps themselves to ensure whether or not they are satisfied that they are getting what they bargained for. I believe that any person who takes any reasonable steps to help himself and to see whether he is satisfied or not that the work he has had done has been carried out in a proper and workmanlike manner should be able to decide whether or not he wants to make a complaint in a much shorter time than two years. I believe one year would be more than adequate.

The Hon. Mr. Gilfillan referred also to the composition of the tribunal. The Chairman is to be a judge or a person holding judicial office under the Local and District Criminal Courts Act. There are to be four nominated members, that is, persons with a wide knowledge of, and experience in, the building industry appointed by the Governor on the nomination of the Minister. To a certain extent, I agree with what the Hon. Mr. Gilfillan said. Certainly in practice the legislation is likely to be invoked mainly in regard to house building. Of course, it is not restricted to such matters: it applies to all building matters but, in the case of commercial buildings, most people who think they have a grievance will settle it by reference to arbitration or to the courts. So, it would be fair to say that most matters arising under the legislation would relate to house building. It would be fair to write into the Bill that at least some board members should have knowledge and practical experience of house building.

I do not think I would go as far as would the Hon. Mr. Gilfillan, who suggested that all of them should be persons of that kind. I point out that the legislation provides for all builders, including commercial builders. There should be flexibility as to who should be appointed to the board. The Bill should specify that at least two of the four lay members of the board should have had house building experience. It could be written into the legislation that at least one member should be nominated by the Housing Industry Association and at least one by the Master Builders Association.

The Hon. Mr. Gilfillan also referred to the fact that unfortunately the legislation is frequently abused by persons who have houses built for them by a builder. The legislation will be even more abused if this Bill is passed. If the legislation merely protected the public from malpractice, carelessness, exploitation and poor workmanship, that would be good; however, frequently people who have a house built for them get possession, sign a certificate of clearance

saying they are satisfied with the work done, and then complain to the Prices and Consumer Affairs Branch and simultaneously to the board about the quality of the workmanship simply to delay payment, because they are having difficulty in meeting the final payment. Of course, a builder incurs considerable costs in the course of his building work, and it is often true to say that the cream on top of the milk is the last payment. The previous payments may have covered the building costs, and the profit that the builder expects to make is likely to be in the last payment. It is therefore not proper, as frequently occurs, that the builder should be so delayed in receiving payment.

I have considered possibilities of overcoming the abuse of the legislation. If this Bill is passed, the builder may be abused to a greater extent, and he may fear that he will lose his licence. When the consumer goes to the Prices and Consumer Affairs Branch and to the board and makes a complaint, it costs him nothing. He gets professional, skilled assistance from the officers of those two authorities. The builder, however, fearing that he may lose his licence, may need skilled professional assistance. He therefore gets his solicitor's assistance in the conduct of his case in the hearing of the complaint, and it may cost him a large sum.

It may be possible to provide that, before a person who has had a house built for him can lay a complaint, or simultaneously therewith, he must deposit in a trust fund the balance due under the contract to the builder to abide the outcome of the complaint. I realise that there would be difficulty in this regard, because in most cases the final payment would have to be made by a financial institution, and it may be difficult to write this sort of thing into legislation. One thing that certainly could be done is to provide a power to the board that, where it was satisfied that the complaint made by the person who had the house built was frivolous, trivial, vexatious, or otherwise than for a genuine purpose of complaint about workmanship, the costs incurred by the builder should be paid. These matters should be considered during the Committee stage. I support the second reading of the Bill.

The Hon. F. J. POTTER secured the adjournment of the debate.

MORPHETT STREET BRIDGE ACT AMENDMENT BILL

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

ADJOURNMENT

At 4.28 p.m. the Council adjourned until Tuesday, October 15, at 2.15 p.m.