

LEGISLATIVE COUNCIL

Wednesday, August 27, 1975

The PRESIDENT (Hon. F. J. Potter) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS

PARLIAMENT HOUSE TELEPHONES

The Hon. R. C. DeGARIS: I seek leave to make a brief explanation prior to directing a question to you, Sir. Leave granted.

The Hon. R. C. DeGARIS: This morning I had occasion to ring Mr. Goldsworthy, M.P., on extension 355. I dialled that number, the number was ringing out, the dial tone was ringing, but Mr. Goldsworthy did not answer. Between dial tones I could hear another voice, which I recognised as that of the Hon. Mr. Geddes. He was speaking to another person on some matter concerning passengers' luggage. I immediately hung up on the call I had made to Mr. Goldsworthy and dialled extension 287, which is the extension of the Hon. Mr. Geddes. He answered the telephone. I told him that I heard his conversation regarding passengers' luggage when I dialled extension 355, Mr. Goldsworthy's extension. The strange part of the story is that the Hon. Mr. Geddes, in talking of passengers' luggage, was speaking in his room with his colleague, the Hon. Mr. Whyte. No telephones were in operation or off the hook in the room at the time. I ask, Sir, whether you would examine the matter, if necessary with expert advice, because it is somewhat disconcerting, and would be to many honourable members here, that private conversations in members' rooms can be heard on the existing telephone system while no telephone is in operation in the room.

The PRESIDENT: I shall certainly have the matter investigated, because it appears to be a very mysterious set of circumstances. I will see whether I can find out what caused the Leader to overhear a conversation when he was on the upper floor of Parliament House and the Hon. Mr. Geddes presumably was in the basement. I cannot understand this at all, but I will investigate the matter and report to the Council on the possible cause.

MEDICAL RESEARCH

The Hon. C. M. HILL: I seek leave to make an explanation prior to directing a question to the Minister of Health.

Leave granted.

The Hon. C. M. HILL: I refer to an article appearing in this morning's press regarding an announcement by the Australian Society of Medical Research. The article indicated that it was the society's opinion that projects which had to be either deferred or cancelled in the whole area of medical research throughout Australia included those of research into such diseases as cancer, heart diseases, and high blood pressure. It also stated that the whole problem arose through the lack of allocation of funds in the Commonwealth Budget, and went on to say that virtually every major medical centre in South Australia would be affected, including the medical schools at Adelaide University and Flinders University, as well as other major teaching hospitals. Stress was laid on the point that tragic consequences could be involved throughout Australia, as well as in South Australia. These consequences included the possible dismissal of personnel. Also, it was claimed that one of the consequences would be an exodus of key staff from these research centres

to other countries. My questions to the Minister of Health about this serious matter are: first, what is the South Australian Government's view regarding this matter; secondly, will the Government join with or make separate representations to the Whitlam Government in Canberra on this matter; and, thirdly, can any compensatory funds be made available from State sources to help offset these effects in South Australia?

The Hon. D. H. L. BANFIELD: Although I saw this morning's press article, I did not have time to obtain a report on it. However, I will obtain a report for the honourable member and let him know the position.

PRAWN FISHING LICENCE

The Hon. F. T. BLEVINS: I address my question to the Minister of Fisheries. Will the Minister furnish me with any information he possesses on the reasons for the reported refusal to grant authorisation for a prawn fishing licence in South Australia to Mr. Elio Cherini, whose problems in relation to the fishing vessel *Torres Strait* have been the subject of a great deal of press and television publicity recently?

The Hon. B. A. CHATTERTON: Before I reply specifically to the honourable member's inquiry, I should explain that authorisations to fish for prawns are granted on the recommendation of the Prawn Fishing Industry Advisory Committee, a body that was set up to advise the Minister on the practical application of management techniques in the prawn fishery. The policy for selecting applicants for prawn authorities was approved by Cabinet last year, and selection is governed by clearly defined criteria which are (or should be) well known within the industry. Regarding Mr. Elio Cherini, I assume that his application was based on the use of the vessel *Torres Strait* for prawning.

There appears to be considerable doubt about the ownership of this boat, and information which has been given to me indicates clearly that, as it is the subject of legal process involving (I understand) foreign interests, it is likely that Mr. Cherini would not be permitted to operate it, even if he was granted an authorisation. In any case, the *Torres Strait* is considerably larger than the size prescribed by the criteria laid down for prawning vessels. The Prawn Fishing Industry Advisory Committee considers that the fishery is unable to support additional boats at present, and is not prepared to recommend the issue of any new authorities. Mr. Cherini's application was considered, nevertheless, for one of five Ministerial prawning permits recently approved for exploratory fishing in certain areas of State waters, but it was not successful. I am informed that Mr. Cherini holds a class "A" fishing licence which is current to June 30, 1976, and that he has been operating the vessel *Torres Strait* in the tuna fishery.

MANNUM PRIMARY SCHOOL

The Hon. J. C. BURDETT: Has the Minister of Agriculture received from the Minister of Education a reply to the question I asked on August 13 about Mannum Primary School?

The Hon. B. A. CHATTERTON: The Minister of Education reports that while Mannum Primary School has been listed for replacement for a number of years it has not been possible to include it in the design programme because of the tremendous demands made upon available resources. I regret that it is still not possible to give any indication as to when construction of the new school will begin. I am advised that it is unlikely that a dental clinic will be established at Mannum in existing circumstances as the enrolment of a little over 400 primary students would not be sufficient to warrant it. When it becomes possible

to include secondary students in the scheme for dental treatment, the total number of students at Mannum may be barely sufficient for a static clinic. However, during that time it would be proposed to care for the dental hygiene of the primary students by using a mobile clinic.

The Hon. J. C. BURDETT: I seek leave to make a short statement before asking a question of the Minister of Agriculture, representing the Minister of Education.

Leave granted.

The Hon. J. C. BURDETT: In his reply the Minister said:

It would be proposed to care for the dental hygiene of the primary students by using a mobile clinic.

This has not happened so far. There has been no mobile clinic caring for the dental hygiene of the primary students. Can the Minister say when will the dental care of the students of Mannum Primary School be looked after by using a mobile clinic?

The Hon. B. A. CHATTERTON: I will refer the honourable member's question to my colleague and bring down a reply as soon as possible.

GAWLER HIGH SCHOOL

The Hon. M. B. DAWKINS: Has the Minister of Agriculture a reply from the Minister of Education to the question I asked on August 12 regarding further construction at Gawler High School?

The Hon. B. A. CHATTERTON: The Minister of Education confirms that the library facilities at the Gawler High School are now inadequate. It has not been possible to provide a new resource centre to date, simply because of the unavailability of finance for the provision of a building of the type planned which, as the honourable member has stated, contains additional classrooms. In fact, it will be an A type, similar to buildings recently completed at Taperoo and Blackwood High Schools. All documentation for the project has been completed, and its availability date depends on finance. My colleague regrets that currently he cannot give any projected date for occupation of the new building. The school building programme is to be examined in the light of finances becoming available.

CEREAL PROSPECTS

The Hon. J. R. CORNWALL: I seek leave to make a brief statement prior to asking a question of the Minister of Agriculture.

Leave granted.

The Hon. J. R. CORNWALL: Earlier this year much concern was expressed over the poor opening to the wheat season. Publicity was given to the fact that many farmers were waiting on rain to sow their crops. Can the Minister of Agriculture indicate at this stage what will be the potential wheat harvest in South Australia? Considering the current buoyant export market, is it possible to indicate what kind of returns producers can expect?

The Hon. B. A. CHATTERTON: There has been some improvement in this season's cereal prospects. Most of the State has received useful rain in the last few weeks, and, although the overall situation is patchy, many areas have the potential for an average season, the main exceptions being the Mallee and parts of the West Coast. At this stage the Wheat Board expects a wheat harvest of 950 000 tonnes. This compares with 850 000 tonnes early in the season. The 950 000 tonnes is equivalent to 35 000 000 bushels, which is one-third less than last year's near record crop of 55 000 000 bushels. The State wheat average is 44 000 000 bushels.

Many crops were sown late in the season and their future will depend much on September rains and an average finish to the season. At this stage it looks like prices will be around \$100 a tonne, the same as last season. This price is satisfactory for growers. Incidentally, 950 000 tonnes at \$100 a tonne will mean a return to South Australia of about \$95 000 000.

The Hon. R. C. DeGARIS: Will the Minister of Agriculture also inform the Council about the expected harvest in regard to coarse grains, such as barley and oats, in South Australia this season?

The Hon. B. A. CHATTERTON: I will obtain a report for the honourable member.

MEDIBANK

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

Leave granted.

The Hon. R. A. GEDDES: In a previous session of Parliament I asked the Minister of Health a question about Medibank. In general terms the question was whether workers needing medical attention under workmen's compensation claims would have their hospital fees paid by Medibank. The Minister was kind enough to write to me before the election and in his letter he stated:

It would not be possible for worker's compensation patients to be treated free of charge, thereby relieving the insurance companies of charges for hospitalisation of such patients.

The Minister for Social Security in the Commonwealth Parliament (Senator Wheeldon) said last Thursday that Medibank had been paying tens of thousands of dollars to insurance companies for injured victims who had been hospitalised under workmen's compensation. Is it still a fact that people receiving workmen's compensation in South Australia will not receive any direct benefit from Medibank, or has there been a change in the situation?

The Hon. D. H. L. BANFIELD: There has been no change in the situation. In connection with the medical side of Medibank, people can get treatment if they go to a surgery. If they go into hospital, there is no benefit under Medibank because they are already insured in connection with hospital expenses.

The Hon. R. A. Geddes: Senator Wheeldon said the opposite to that.

The Hon. D. H. L. BANFIELD: I cannot help what the Senator said. What I am saying is that the agreement does not provide for hospital cover for people who are otherwise insured; for example, workmen's compensation and third party insurance in connection with motor vehicle accidents.

TROTTLING LICENCES

The Hon. R. C. DeGARIS: Has the Minister of Lands a reply from the Minister of Tourism, Recreation and Sport to my question about trotting licences?

The Hon. T. M. CASEY: The Lottery and Gaming Act charges the Trotting Control Board with the responsibility to "provide for the grant (with or without conditions), refusal, cancellation, suspension and issue of such licences and permits as are prescribed, the application therefor and the manner of dealing therewith". This authority enables the board to include among the requirements for issue and renewal of licences, authorisation by the applicant to obtain information from the Police Department, should the board so desire. The ready acceptance of this measure by the overwhelming majority of licensed personnel within the industry is indicative of those persons' approval of the board's endeavours to protect their interests and the interests of the public.

It is not the intention of the board unnecessarily to invade the privacy of any individual; it seeks the information on rare occasions only. In fact, of more than 500 persons licensed and registered for the 1975-76 season, the board has not considered it necessary to approach the Police Department. Public confidence is essential to the well-being of the trotting industry, and the board must therefore be satisfied that an applicant is a fit and proper person to hold a licence to train or drive trotting horses. This policy is in line with that of controlling bodies in other States, which, similar to the Trotting Control Board, would not refuse to issue or renew a licence unless the person concerned had been convicted of serious offences.

DENTAL HOSPITAL

The Hon. M. B. CAMERON: I seek leave to make a brief statement prior to asking a question of the Minister of Health.

Leave granted.

The Hon. M. B. CAMERON: Can the Minister say when the report of the investigating committee into the dental division of the Royal Adelaide Hospital will be available to Parliament? Is it completed yet? What steps were recommended in the report to cure the situation of the waiting list at the hospital? Have the steps that may have been taken by the Minister made any difference to the length of the waiting list?

The Hon. D. H. L. BANFIELD: A report has been made available to me. It was not a full report for presentation to Parliament: it was a departmental report.

The Hon. M. B. CAMERON: Is it coming down to us?

The Hon. D. H. L. BANFIELD: I did not say it would.

The Hon. C. M. HILL: What about open government?

The Hon. D. H. L. BANFIELD: The position about the waiting list is that the only people now waiting are those awaiting urgent dental treatment.

The Hon. C. M. HILL: You mean those people with no teeth left.

The Hon. D. H. L. BANFIELD: Dental treatment as such is not provided by the State. We have a teaching hospital for the purpose of teaching dental students, with the result that we have a list made up of people who can apply to receive treatment at the training centre. True, as far as the position of dentists is concerned, when people apply to be treated by students, we have a fairly lengthy waiting list at the dental department for dentures only.

The Hon. M. B. CAMERON: How long?

The Hon. D. H. L. BANFIELD: A considerable time as far as dentures are concerned. As far as the other aspect of dental treatment is concerned, we have just about caught up with the waiting list.

TATIARA COUNCIL

The Hon. N. K. FOSTER: I seek leave to make a short statement prior to directing a question to the Minister of Lands, representing the Minister of Local Government.

Leave granted.

The Hon. N. K. FOSTER: Last week I raised the matter in this Council of the Tatiara District Council serving notice of dismissal on a number of employees. I referred to that matter following a speech made in this place by the Hon. Mr. Dawkins in regard to the terrible plight of some councils because they were not receiving sufficient funds from Commonwealth and State areas. I refuted that a couple of days after he had made that statement. Can the Minister ascertain whether or not any moneys by way of grants, etc, made available to the Tatiara council would enable it to retain in

employment the employees who, I understand, have already received notice? This matter was given wide publicity last night on the television programme *This Day Tonight*. I expressed concern previously, and I express it again in directing this question to the Minister. If funds are coming from any governmental source to the extent that they have been coming to this council, the council in principle is morally obliged, as I put it to the Minister—

The PRESIDENT: Order! The honourable member must not express opinions when asking questions. The honourable Minister.

The Hon. T. M. CASEY: I shall refer the honourable member's question to my colleague in another place and bring down a reply.

SUCCESSION DUTIES

The Hon. C. M. HILL: Has the Chief Secretary a reply to the question in relation to succession duties asked by the Hon. Mr. DeGaris on August 14?

The Hon. D. H. L. BANFIELD: The Government has announced that an amendment will be introduced to the Succession Duties Act so that a widow or widower, without discrimination, may inherit an average size family home without payment of succession duty. Other amendments are also proposed to the Act, including some relaxation of rural rebates. In addition, a moratorium on stamp and gift duties, where an interest in the matrimonial home is transferred into joint names, commenced to apply from July 14, 1975. A statement has been prepared by the Acting Commissioner of Land Tax, Stamps and Succession Duties at the request of the Treasurer to enable members to answer constituents' queries on these matters, and this will be made available to members when the amending succession duties legislation is presented to Parliament.

FOOD AND DRUGS ACT AMENDMENT BILL

The Hon. D. H. L. BANFIELD (Minister of Health) obtained leave and introduced a Bill for an Act to amend the Food and Drugs Act, 1908-1972. Read a first time.

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

That this Bill be now read a second time.

It is a short Bill providing for amendments to the principal Act consequential on certain of the amendments proposed by the Health Act Amendment Bill, 1975. It provides that the audit and accounting procedures of county boards under the principal Act be brought into line with the requirements of the Local Government Act, as is proposed by the Health Act Amendment Bill, 1975, with respect to county boards under the Health Act, 1935-1973.

Clauses 1 and 2 of the Bill are formal. Clause 2 provides that the Act shall come into operation on a day to be fixed by proclamation. Clause 3 amends section 15 of the principal Act by providing that a county board elect one rather than two auditors; the accounts of a county board be audited in the month of December in each year; and the abstract of receipts and expenditure need not be published in the *Government Gazette*.

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

INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT BILL (SEX DISCRIMINATION)

Adjourned debate on second reading.

(Continued from August 26. Page 429.)

The Hon. C. M. HILL: I support this Bill, which was one of the measures previously introduced into Parliament

but not proceeded with because of the dissolution prior to the election on July 12. The measure deals with two principal matters: first, an endeavour is made to provide adequate machinery for the introduction of wage indexation along the principles laid down by the Commonwealth Conciliation and Arbitration Commission; secondly, the Bill provides better industrial machinery than exists at present for the implementation by the Industrial Commission in this State of the principle of equal pay for adult male and adult female employees.

In relation to the first of these two matters, I believe that the Bill endeavours to provide legislation so that the principle of wage indexation now accepted by the Government (a principle with which I agree) can be implemented here in State awards through our own Industrial Commission. This acceptance of wage indexation means that the living wage provisions of the existing Act of 1972 are no longer required, and the Bill therefore repeals those sections. The concept of the living wage is therefore abandoned and the present practice of determining separate living wages for males and females is done away with by this measure.

The Industrial Commission previously had power to determine different living wages for males and females. The Government no doubt was confronted with the possibility of amending this so that it could retain the approach to males only, but it has chosen the course (which I believe is the most sensible course to adopt) of dispensing altogether with that approach. Clause 6 of the Bill provides that the proposed quarterly cost of living adjustments to wages by the Commonwealth Conciliation and Arbitration Commission will be able to flow on to employees under our State awards. I also approve the necessary transitional machinery in the measure, because obviously it will take time to prescribe rates as total wages throughout the whole of the work force.

On the question of equal pay, an endeavour is made to ensure that there will be no discrimination between adult male and adult female employees and their conditions of employment. The 1967 legislation, namely, the Industrial Code, provided for equal pay for those doing work of the same or like nature and equal value. That principle is now effective to a certain extent, but the equal pay sections in the Industrial Conciliation and Arbitration Act, 1972, are repealed by this measure, so that the strict guidelines previously laid down to the State Industrial Commission will no longer exist. I understand and accept the explanation of the Minister that the State Commissioners have in the past expressed some criticism of those strict guidelines.

Under Commonwealth awards (and I again accept the Minister's explanation of this) a satisfactory situation has developed without such strict guidelines; putting it another way, considerable flexibility has been allowed the Commonwealth commission. That same situation will apply here, taking a gradual introduction; that obviously is the Government's intention, based on the Minister's explanation. A gradual introduction of the principle of equal pay can be implemented most satisfactorily by the State commission if this flexibility is written into the Bill. Although it is not a long measure, I believe the two amendments contained in the Bill should keep us abreast with changing trends to wage indexation and further the principle of equal pay, a principle which I think is supported by all, and certainly by members of the Liberal Party.

I hope that, as a result of this Bill, the difficult fight against the major economic problem of inflation in Aus-

tralia, and particularly in South Australia, will be assisted at least to some extent, and that the continuing transition to equal pay will be accompanied by adjustments within the business and commercial fields and amongst employees, so that minimal disadvantage occurs. I support the Bill.

The Hon. ANNE LEVY: I wish to make a few remarks regarding the Bill, although I do not want to consider those aspects of it that relate to the indexation of wages, for which it provides: this aspect has been adequately covered by other honourable members. However, I certainly wish to refer to the clauses that relate to the granting of equal pay to males and females. The amendment in the Bill removes the word "sex" as a factor to be considered by the Industrial Commission in determining wages.

I wholeheartedly support the Bill, and would like to point out to the Council a few facts regarding the necessity for such a measure. We definitely have wage inequality between the sexes in Australia today. The report of a study into the role of women in the economy, carried out by the Organisation for Economic Co-operation and Development, was published by the Australian Department of Labour last year. The latest figures available relate to 1969, and I certainly agree that there have been changes in wages since then, but the survey showed that at that time only 10 per cent of the male work force was earning less than \$2 000 a year, whereas 49 per cent of the female work force earned less than that sum. These figures relate to full-time workers, both male and female, so that they are not biased by the inclusion of part-time employees. It is well known that part-time workers are predominantly female.

Likewise, at that time 65 per cent of the full-time male work force, compared to 94 per cent of the full-time female work force, was earning less than \$4 000 a year. The same applies if one looks at the higher income groups. Those earning more than \$8 000 a year in 1969 would have been regarded as being highly-paid workers at that time. Then, 3.8 per cent of the full-time male work force, compared to only 0.5 per cent of the full-time female work force, came into this category.

The same considerations apply if one examines the average weekly earnings of the sexes, again considering full-time employees only. The figures show that in October, 1972, adult males had an average weekly earning of \$96, whereas the figure for adult female workers was only \$60.70, or about 60 per cent of the male average earnings (again, this is for full-time workers).

Various questions might be asked regarding why these differences exist between the sexes. This is partly because equal pay legislation was not as far advanced then as it is now. However, that is far from being the sole reason. Some might say that it was partly because of the difference in educational qualifications of the two sexes. It is a well-established fact that, on average, girls tend to leave school earlier than do boys, and that fewer of them undertake any training after leaving school. Therefore, on average, the females in our community are less well educated than are the males and this will, of course, be reflected in the average earnings.

However, one can get around this by considering the salaries received by the sexes at the same educational level. I now refer to those full-time workers who, in 1969, had completed their Matriculation but had had no further education. The average male salary in this category was \$4 320 a year, and for females it was \$2 550, which is only a small proportion of the male earnings for exactly the same educational qualifications.

One can see that there are many jobs which require much post-secondary training. I refer, for instance, to nursing, social work, librarianship, music teaching, and so on, in all of which women are relatively numerous. These are still low-paid jobs in our community. Being regarded as women's work, they are as a result paid poorly. Even though equal pay court decisions have removed many of the differentials to which I have referred, many remain. The differences in wages are numerous.

Equal pay for equal work is now a reality, although for many women workers equal pay for equal work is a meaningless phrase. Whereas 45 per cent of women workers are classified as being engaged in clerical, service, sport or recreation occupations, only 12 per cent of the male work force falls into these same categories. These tend to be low-paid jobs, and one wonders whether they are paid poorly because women tend to do them. If one thinks of a job such as that of a typiste, for example, there are no equivalents with which to compare it. So, if one says that equal pay is being implemented in such a case, the question must be, "Equal to what?"

Our community needs a rate to be paid for the job, regardless of who performs it. The worth of a job can be determined by the Industrial Court according to the skill required, regardless of the anatomy of the person carrying out the job. This Bill will give the Industrial Court power to determine the rate for the job, regardless of the sex of the person undertaking it.

Of course, lack of equal opportunity is another major factor which explains the difference in average incomes of the sexes. This involves, first, opportunities in getting jobs; secondly, the conditions of the job; and, thirdly, the chances of promotion, a job having been obtained in the first place. Where equal pay does apply, as for example in the teaching profession or the universities, there are still large differences between the sexes in relation to the average incomes they receive. This reflects the lower status of women in these jobs and the reduced opportunities for promotion that they have.

I should now like to refer to a set of figures that were shown to me reflecting the median incomes for several professions, all requiring university degrees but being separated by the sexes. The figures I refer to show the position in 1970, and, unfortunately, these are the most recent figures available. They are set out as follows:

Graduates	Median Income	
	Women	Men
	\$	\$
Medicine	5 530	11 000
Veterinary Science	5 040	7 300
Accountancy	4 090	7 000
Social work	4 000	5 280
Law	3 800	8 830
Sciences (physics training)	3 800	7 350

These figures show the salaries paid to people with exactly the same qualifications. The median age of graduates was much the same, so that it cannot be suggested that, if the females were younger, one might expect that they would be earning less than their male counterparts. As regards both law and sciences, there is a particularly marked difference between the males' and the females' median incomes. I could give further examples to illustrate this point, but it is hardly necessary to document them. The point I am making is well known, and the figures appear to be more extreme than is often expected.

The Bill will not completely remedy the situation; it will not bring about equal opportunity for employment or equal opportunity for promotion, both these factors being

equally necessary with equal pay to achieve equality for the sexes in our work force. However, those two factors will be dealt with in a twin Bill which is currently in another place. The two Bills, taken together, will greatly affect the lives of many women in this State, and I commend this Bill to all honourable members.

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

CIGARETTES (LABELLING) ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from August 26. Page 433.)

The Hon. ANNE LEVY: In supporting this Bill, I wish to comment briefly on smoking in our community. It has often been stated that smoking is a harmful habit but, unlike the Hon. Mr. Carnie, I am not a reformed smoker: I still practise the habit. However, I am quite convinced that smoking can be harmful to the individual who practises this habit. In this debate several honourable members have suggested that lung cancer has not been proven to be caused by cigarette smoking. I accept that statement, except in the case of Beagle dogs, where it has been definitely shown that cigarette smoke has caused lung cancer. I realise that one cannot necessarily extrapolate from dogs to human beings, but there is a strong correlation that has been established between smoking and many deleterious conditions, including lung cancer.

While correlation does not necessarily imply a causation, and controversy still rages as to whether smoking is a causal agent or not, I believe that we can accept that smoking harms individuals. In passing, I point out that the Hon. Mr. Carnie said that we really need not worry about lung cancer being a major cause of death in our community.

The Hon. J. A. Carnie: I didn't say that.

The Hon. ANNE LEVY: I direct the honourable member's attention to the statistics available showing the causes of death in South Australia in 1973. From these figures one can see that cancer of all types was responsible for the 18 per cent of all male deaths in South Australia, and it was responsible for 19 per cent of all female deaths. Figures in relation to lung cancer show that, for males, 27 per cent of the deaths from cancer were due to lung cancer; that is, 5 per cent of all male deaths in South Australia were due to lung cancer. For females, the figures are different, and the lung cancer rate is such that only 1 per cent of all female deaths were due to lung cancer, and of all cancer deaths in females only 5 per cent were due to lung cancer. It is for this reason that I am not a reformed smoker. The odds are on my side.

The Hon. M. B. Cameron: How many women smoke?

The Hon. ANNE LEVY: That is another question. It is difficult to obtain an accurate figure on the proportion of people who smoke. A report in the *News* has been quoted in this debate. We were told that 30 per cent of schoolgirls and 40 per cent of schoolboys smoked cigarettes. I do not doubt the accuracy of the survey by the National Health and Medical Research Council, but I have not been able to obtain a copy of the report. However, I have seen figures on the frequency of smoking amongst adults in our community, and the incidence appears to vary according to where the sample was taken.

On Sydney's North Shore a sample, admittedly of only 500 people, showed that 51 per cent of adult males and 44 per cent of adult females smoked, whereas in Busselton, a small town in Western Australia, which is currently

co-operating in a large and comprehensive medical survey undertaken on all aspects of people's health, nutrition and other factors (the entire community is being examined), it was found that 44 per cent of adult males smoked, yet only 24 per cent of adult females smoked. So, there is certainly a variation in this respect between the sexes, but it is a variation of the same sort of magnitude as one finds applying in various communities in Australia. I would be interested to see a more thorough study done into urban *versus* rural patterns and into socio-economic classes. So the frequency of smoking, while less in women, is nothing like the differential that has been reported between the sexes in connection with lung cancer. This is yet another area in which males appear to be the weaker sex.

The Hon. A. M. Whyte: That's only because of their weakness for the weaker sex.

The Hon. ANNE LEVY: The *Medical Journal of Australia* recently published a report showing that one-third of the Sydney schoolchildren who were tested did not fully understand the meaning of the word "hazard" used in television advertisements and in cigarette packet warnings. On examining the report, I find that it is apparent that most children realise that a hazard is something unpleasant, even though they may not be aware of the exact meaning of the word. The children were aged between 10 years and 12 years, at which ages not a large number would smoke. Only 7 per cent of the children had no idea at all of what the word meant. Certainly more than 90 per cent of them knew or had gathered from the warning that smoking was unpleasant and was a hazard or dangerous or undesirable in some manner. So I think we can say that the warnings in television advertisements and on cigarette packets are getting through, to the children at least.

Society's attitude should certainly not be to ban smoking or to ban advertisements. Of course, the public needs to be well aware of the dangers associated with smoking. Our attitude should be that society disapproves of smoking and will attempt to persuade people not to smoke. It has been suggested that the present campaign in connection with cigarette advertising has failed, but that is a foolish suggestion. I would like to paraphrase the following famous statement: It has been said that Christianity has been tried and failed; on the contrary, it has never been tried. Following this line of thought, I think we can say that the campaign to warn people against cigarette smoking has not been intensive enough or over a sufficiently long period. Changes in smoking habits are occurring in the community, and we must give those changes time.

The warnings need to be intensified, rather than reduced. The effect of persuasive and expensively produced commercials on television is certainly not fully counteracted by the sepulchral intoning of "Medical authorities warn that smoking is a health hazard". It is because of the powerful enticements to smoking provided by these advertisements that they will be banned from radio and television in this country in about 12 months. At that stage there will be only the printed media in which smoking advertisements may appear. In some countries, such as Italy, even newspaper advertisements for smoking are banned, but that is not planned here. We suggest that all cigarette advertisements should have a warning indicating society's general disapproval of the habit.

The Bill does not necessarily say that the present warning will be insisted on in all advertisements; so, any criticisms of the words used are really irrelevant. The warning should act as a counter to the persuasive influence of advertising. Only if people are completely aware of the possible hazards of smoking can they make a personal

choice as to whether they should smoke. Those who oppose this Bill come into one of two categories: either they are irresponsible in that they do not wish there to be full public knowledge on this matter or, alternatively, they are completely defeatist in believing that publicity campaigns have no effect. I suggest that no honourable member would take the latter view, because to hold that view is to damn every piece of political advertising issued by every Party at every election. I doubt whether any honourable member would hold the view that advertising has no effect, or that it cannot be countered by other advertising. The Government's action is responsible, because it is providing for adequate warnings in all cigarette advertisements to educate the public and, hopefully, influence attitudes and behaviour in connection with this matter.

The Hon. M. B. DAWKINS: I support the second reading of this Bill. I want it to go into Committee because I believe that it can be improved by amendments that have been foreshadowed. The Hon. Anne Levy said that smoking can be harmful; I have no doubt that from time to time I will have cause to disagree with the honourable member, but I am pleased to agree with her on this occasion.

The Hon. Dr. Springett, who was a highly respected member of this Council, has been concerned at the high incidence of cigarette smoking and of the danger it poses to some people. Dr. Springett, who I believe is still the President of the Anti-Cancer Foundation, has indicated that pipe smoking is nowhere near as dangerous as is cigarette smoking, if pipe smoking is dangerous at all. Knowing and respecting Dr. Springett, I would not suggest that that opinion was given because he enjoys smoking his pipe from time to time! My personal experience of smoking was confined to my early teens, well and truly out of sight of my parents, and I did not persist with the habit. I intend to support the amendments foreshadowed by the Hon. Mr. Whyte and the Hon. Mr. Hill. It would be wrong for South Australia to implement this legislation if no other States implemented similar legislation. The Hon. Mr. Whyte has foreshadowed the following new subclause:

(2) A proclamation referred to in subsection (1) of this section shall not be made unless the Governor is satisfied that—

- (a) legislation similar in effect to this Act has been enacted in respect of not less than three of the other States of the Commonwealth; and
- (b) that legislation has, or is likely to, come into operation.

The Hon. Mr. Whyte has discussed this matter previously, and I shall not repeat what he has said. I agree with his comments. I would not be happy about the Bill if it reached the third reading stage and these amendments had not been carried. With regard to clause 5, I will refer, for a moment, to the new section 4 (a) (1) that it is intended to insert after section 4:

4a. (1) On and after a day to be fixed by proclamation for the purposes of this section, a person shall not publish or cause directly or indirectly to be published, or be concerned in the publication of, any advertisement relating to any cigarettes unless the prescribed health warning is presented in the prescribed manner in conjunction with that advertisement.

Penalty: One thousand dollars.

That seems a fairly substantial penalty. But I am concerned about the words "cause directly or indirectly to be published". I do not intend to proceed further with this other than to voice some concern about the wideness of that condition, and also about the words following "or be concerned in the publication of", because I believe that opens the net so wide that just about anyone who is quite

innocent may be caught in that net. I believe that the Government would be wise to accept the amendment filed by the Hon. Mr. Hill, who intends to leave out those words.

I am aware that, when this legislation was before Parliament previously, we received some assurances from the Minister. That, of course, was in a previous session and we are now in a new session. It could be said, I think, if one wishes to split hairs that the assurances that the Minister gave on that occasion do not apply at the present time and, therefore, I would be one member of this Chamber who would appreciate the Minister, in his reply, giving those assurances again. As I indicated earlier, I support the Bill at the second reading stage. I believe I would have to vote against the third reading if at least some of those amendments were not carried.

The Hon. J. R. CORNWALL: I rise to speak briefly in this debate. I support the Bill and make a simple appeal to reason. I do this because on rational grounds this Bill withstands any test to which the Council cares to submit it. My argument is simply that Governments have a perfectly legitimate role in public health programmes. This very properly involves them in several important areas of preventive medicine. Two of these areas are of paramount importance.

The first is legislation to remove public health hazards and it ranges from the eradication of major infectious diseases to industrial safety programmes. It is not an area relevant to the present Bill and I do not intend to pursue it.

The second area is legislation to promote education programmes that will make the public more aware of personal health hazards. The arguments in favour of a Government involving itself in these areas are compelling and irrefutable. If it is established beyond reasonable scientific doubt that some substance is toxic, its use is normally prohibited or restricted by law. No-one on either side of the Chamber would argue, for example, that insecticides or pesticides should not be subject to special labelling and restriction. No member, especially the Hon. Mr. Carnie, with his extensive pharmaceutical knowledge, would query the wisdom of restricting an enormous range of therapeutic substances to a "prescription only" basis. Yet some of these people on the other side, all apparently (indeed manifestly) honest, honourable and intelligent, are unable to agree on some simple extensions to this Act.

This is not an exercise for scoring political points: it is, as I said before, an exercise in logic. The fact that cigarette smoking is socially acceptable does not mean that we should not try to change the situation. I do not wish to engage in any battle of semantics with my colleague, the Hon. Miss Levy. I believe it has been established by every reputable biological and statistical test available to medicine that smoking is a major factor in lung cancer, emphysema, hypertension and coronary heart disease. There seems to me to be a moral obligation in these circumstances to take every reasonable step to deter individuals from smoking. This is important, even with old and inveterate nicotine addicts like me. It is imperative with any young person who has not yet started the habit.

I concede that present and proposed restrictions on advertising may be only marginally effective. In addition, the Government acknowledges in the Bill that a phasing-in period is necessary to avoid undue hardship to the advertising industry. But at least the restrictions are a step in the right direction. As more effective and reasonable

deterrents become available, we must accept those, too, with all sensible haste.

It seems to me that this is an area of such importance that there is no place for conservatism. Accordingly, I reject the Hon. Mr. Whyte's amendments. If all State Legislatures adopted his "after you" approach, very little progressive legislation would ever be passed. The Hon. Mr. Hill's argument of prosecuting everyone (and I say this perhaps with some levity) from the junior typiste in the advertising agency to the nineteenth man in the reserves football team is not up to his usual high standard, either, although his foreshadowed amendment may put it in perspective. The Hon. Mr. DeGaris's suggestion to let all the fish go and then cast the net, while it might not maul or mangle the Bill, will certainly macerate it. This would certainly seem to be one occasion when members of good will and intent on both sides should stand up and be counted. I support the Bill.

The Hon. D. H. L. BANFIELD (Minister of Health): I thank honourable members for the attention they have given to the Bill. There is no doubt that people, as has been said, have come to believe that the warning given, in advertising, that "Smoking is a health hazard" has done no good. I suggest that people who go to cabarets and other functions and look around and see the number of non-smokers at these functions will see there is a greater number now of non-smokers than there was a few years ago.

The Hon. A. M. Whyte: This Bill does not deal with the warning.

The Hon. D. H. L. BANFIELD: The honourable member said yesterday he felt the warning had no effect. I am saying this is one of the things that have had the effect of people not smoking at the present time. I am not saying it is the only thing, because we have conducted other public health campaigns in relation to the dangers that can be caused by smoking. But there is no doubt, as I said previously when the Bill was before the Council, that even if the warning saved only one person from getting lung cancer, it would be more than worth while. I think it was the Hon. Mr. Dawkins who referred to the following remarks made by the Hon. Dr. Springett, when he was in this Council:

Those of us concerned with the development of anti-cancer work in South Australia and elsewhere are conscious that many avenues must be explored to obtain the solution that we seek; that is, the eradication of diseases whose foundations lie with heavy cigarette smoking.

We have proven beyond doubt that there is a relationship between cigarette smoking and lung cancer.

He went on to say:

Some cynics may scoff about this, but certain facts cannot be brushed aside.

He gave the following figures showing the increasing incidence of deaths resulting from lung cancer.

The Hon. N. K. Foster: Or cancer of the throat.

The Hon. D. H. L. BANFIELD: He gave these figures:

Year	No of deaths
1955	105
1960	130
1965	201
1970	291
1972	314

A steady upward progression has continued throughout this period. Later than that we have not got exact figures, but in 1971 there were 3 400 lung cancer deaths in Australia and in the same year 3 847 deaths occurred through road accidents.

Surely the Council would act responsibly and say that, even if it saved one person from dying of lung cancer, it should be pleased to do something about it.

The Hon. R. C. DeGaris: It is not a very convincing argument.

The Hon. D. H. L. BANFIELD: I am only telling honourable members what the Hon. Dr. Springett said. The honourable member applauded his speech on that occasion, but has he convinced the honourable member? Has he convinced honourable members opposite, or has he not? They applauded him on that occasion. The Hon. Dr. Springett continued:

About one-third of all Australian adults smoke cigarettes, which means that all those Australians are running an unnecessary risk of death by lung cancer at an earlier age than should be occurring.

He went on to say that lung cancer among women was fairly rare until a few years ago, but that as a result of women starting to smoke cigarettes the figures for females were catching up with those for males. He added that the World Health Organisation pointed out that cigarette smokers, taken as a whole, had approximately 38 per cent greater mortality than non-smokers. Surely those figures should convince us that we should make some attempt to cut down cigarette smoking. The Government believes this is the way in which that can be done.

In the debate yesterday, the Hon. Mr. Hill raised the question of how the legislation is to be phased in. The phasing in is in a number of stages: first, very considerable publicity has been given to the measure which has been debated previously in this Council and to similar measures proposed in respect of the other States of the Commonwealth. It is inconceivable that anyone concerned in the advertising of cigarettes would not now be generally aware of the proposals. Secondly, if an amendment foreshadowed is accepted by this Council, and I want to indicate now that, on considering further argument from the Opposition, I may accept it—

The Hon. C. M. Hill: We will do our best to convince you.

The Hon. D. H. L. BANFIELD: I may accept it. I am in a mood today to be convinced.

The Hon. A. M. Whyte: You are not convincing us, anyway.

The Hon. D. H. L. BANFIELD: If the amendment is accepted the legislation will not come into force until it can take effect in at least three States of the Commonwealth. I agree that this is not the right way in which to have legislation. We must wait for the other States.

The Hon. J. C. Burdett: You did it in the first place.

The Hon. D. H. L. BANFIELD: That is not to say it is the way in which legislation should be introduced. We probably bowed to pressure from people on the other side who are not interested in the health of the public. In those days we had probably 16 Opposition members to four Government members, and if that is not pressure I do not know what is.

The Hon. A. M. Whyte: The Government introduced it through a private member's Bill in the other place.

The Hon. D. H. L. BANFIELD: The Hon. Mr. Whyte should make up his mind. How can the Government introduce a private member's Bill?

The Hon. M. B. Dawkins: The Government introduced an amendment in the other place to that effect.

The Hon. D. H. L. BANFIELD: The Government has given a clear indication that, in the case of advertisements of a permanent nature, exemptions will be provided for, roughly equated with the useful life of the advertisements. It is clear that the proper application of the combination of these approaches will ensure that the

advertising industry is as little disrupted as possible. Further, the Hon. Mr. Hill expressed some doubts as to the procedure for exempting advertisements by regulation and indicated that, if the Government changed its mind, there would be no exemptions and the industry would find itself in very considerable difficulty. I can assure honourable members that there is no possibility of the Government's changing its mind on this matter. I can also assure them that there is no chance of their changing the Government, let alone its mind, and further, that the "exempting out" approach is really the only feasible approach if the principle adverted to above is accepted by the Council.

It would be quite impractical to declare by regulation the sorts of advertisement that were to be controlled. Advertising is a dynamic industry and it would be impossible, as it were, to keep on chasing each new form of advertising. The Hon. Mr. Hill also raised the question as to the scope of proposed section 4a, with particular reference to the passage "be concerned in the publication of any advertisement". I can set the honourable member's mind at rest by assuring him that, in the practical sense, these words would be read down quite strictly and a multitude of prosecutions for those only remotely concerned with the publication of the advertisements is just not a practical possibility. Members on this side have had many telegrams, and I have no doubt Opposition members have been lobbied by the various sporting bodies.

Representations were made to me in my office yesterday morning regarding the position in relation to supporting cultural and sporting events, and I indicated to the people who were speaking on behalf of the sporting groups that there was no way in which this legislation could affect the position of, say, a Rothman's race, or football being sponsored by W. D. and H. O. Wills. The only time the warning would be given would be where an advertisement appeared recommending the smoking of a certain type of cigarette. In the case of sporting events sponsored by various cigarette companies, where we see, for example, that the Winfield trophy is to be presented, that is not considered to be advertising cigarettes. However, if the advertisement were to say, "Smoke Winfield cigarettes, they are the best on the market", or even if the word "smoke" was displayed, or a reproduction of a packet of cigarettes appeared, that would be advertising smoking.

When I conferred with the tobacco people before the introduction of the Bill last June, they accepted that as a reasonable proposition. The sponsoring by various tobacco companies of sporting and cultural events would not be taken as advertising cigarettes. I believe this legislation can be introduced with a minimum of disruption. Like other pieces of legislation, if people want it to do so it can work satisfactorily.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Commencement."

The Hon. A. M. WHYTE: I move:

To strike out "The Act" and insert:

(1) Subject to subsection (2) of this section, this Act;

and to insert the following new subclause:

(2) A proclamation referred to in subsection (1) of this section shall not be made unless the Governor is satisfied that—

(a) legislation similar in effect to this Act has been enacted in respect of not less than three of the other States of the Commonwealth;

and

(b) that legislation has, or is likely to, come into operation.

The amendment is similar to one introduced by the then Attorney-General in another place in the original measure of 1971. The Bill was introduced by the member for Glenelg (Mr. Mathwin) and was amended by the then Attorney-General (Mr. King) to read in much the same way as my amendment will cause this Bill to read. At least three other States will have to enact similar legislation before this Bill is proclaimed. The purpose was quite clearly seen at that time by the Attorney-General. It would be ludicrous if South Australia were to forge ahead with this legislation, leaving a great vacuum in the contribution to charities by sporting organisations.

The Bill deals not with the warning but with labelling. Throughout his speech when closing the second reading debate the Minister kept reverting to the warning that smoking is a health hazard. However, that has not been questioned in the debate. What is questioned is the need to stipulate certain sized advertisements which would cost producers about \$3 000 000. What is the point of this?

True, there is no conclusive evidence that the warning has not done any good, but we are not debating that. We are merely stating that, as well as causing further problems for producers, we will also be robbing this State of many benefits. The amendment is clear and simple and does exactly what many other members, including the former Attorney-General, who was held in high esteem for the contribution he made not only to legislation but also to the community, have said it does. The former Attorney-General saw fit to amend the legislation in 1971. I think his amendment was passed by both Houses, and there is no reason why the same provision should not be written into this Bill.

The Hon. D. H. L. BANFIELD (Minister of Health): I am not convinced by the honourable member's argument that the Bill will rob the State of many benefits, because no greater benefit can be bestowed on anyone than his health. The honourable member referred to financial benefits, but I think something that stops people from getting lung cancer is a greater benefit to the State than any financial benefit it may receive. However, the honourable member has convinced me, and I am willing to accept the amendment.

Amendment carried; clause as amended passed.

Clause 3 passed.

Clause 4—"Definitions."

The Hon. C. M. HILL: I listened with much interest to the undertakings the Minister gave, when closing the second reading debate, that the Government intended to bring down a list of the advertisements that would be exempted within the definition in clause 4. I was not convinced how wide this list, or group of advertisements, was going to be. Will the Minister give a clear explanation regarding the advertisements he intends to exempt by regulation? I spoke against the principle contained in this clause, and I am still convinced that that principle is wrong.

I, too, am convinced that it has been difficult for the Government to introduce an alternative approach to this Bill. We are therefore in a position in which we are going to pass a Bill, and all advertisements will then come within the scope of that Bill. We are trusting the Government to bring down a list of exempted advertisements, mainly those on large placards around ovals, on buildings, and so on. That list will be brought in by the Government by regulation.

Most certainly, the regulations will not be disallowed. However, it is a strange legislative process in which we

are going to pass an Act of Parliament with which many honourable members are not satisfied and which does not give any protection, at law, to the people who are involved and who have spent many millions of dollars on this kind of placard that the Government has said should not fall within the scope of the Bill.

However, the Government is including this kind of advertisement in the Bill, and we must simply sit back and trust it to bring in a list of exemptions by regulation. If honourable members, no matter from which side of the House they come, are to be satisfied with that kind of legislative process, the Minister ought to say what is and what is not going to be on that list. Surely, that is not asking too much. I therefore ask the Minister to explain the matter further so that his explanation can be included in *Hansard*. We may, of course, have to refer to it in the future.

The Hon. D. H. L. BANFIELD: Advertisements regarding which a contract for the leasing of space is still in operation will be exempted for the term of the contract and, when the contract for advertising space is due for renewal, the exemption may not apply. I have stated that the Government does not intend to regard advertisements at sporting and cultural events as coming within the scope of the Bill, unless one is advised to smoke a certain brand of cigarette. If an advertisement refers merely to a certain manufacturer, the Government does not consider that to be an advertisement for smoking. If a contract is still in operation, the advertisements referred to in it will be exempted for the term of the contract.

The Hon. R. C. DeGARIS: Am I to understand that the Government intends exempting from the provisions of the Bill any advertisement that does not encourage a person to smoke cigarettes? For example, if an advertisement refers to "Winfield", would it be exempted?

The Hon. D. H. L. BANFIELD: Yes. Some people will not even know what "Winfield" is or, indeed, that it is a cigarette. Such an advertisement would not, therefore, be advertising cigarettes or smoking. One should examine the W. D. and H. O. Wills advertisements at the Adelaide Oval. That firm has interests other than cigarettes, as has the firm of Rothmans. Indeed, most tobacco firms have other interests. How does one know, for instance, that they are not advertising their interests in land, or that sort of thing? Do honourable members opposite want us to put on those placards warnings that the purchase of land owned by, say, W. D. and H. O. Wills, is a health hazard? Is that what honourable members opposite seek? If so, we are willing to exempt it.

The Hon. A. M. WHYTE: I am pleased to see the inclusion of the exemption in this Bill, which was not included in the Bill previously considered by the Council. How will cigarette companies know when to include a warning in their advertisements? I seek clarification on this point. We suggest that there should be some guideline in respect of exemptions.

The Hon. D. H. L. BANFIELD: There is a guideline and it is that, if companies are advertising the smoking of cigarettes or if they are advertising cigarettes, the warning must be included. However, if companies are advertising the fact that, say, Rothmans is sponsoring a sporting event, a warning will not have to be included. Whenever the smoking of cigarettes is being advertised, the warning will have to apply.

The Hon. M. B. CAMERON: I cannot understand the point the Minister is trying to make. Does he mean that, if an advertisement shows a picture of a packet of cigarettes,

a warning must appear, but if an advertisement merely advertises the name, say, Rothmans, without showing a cigarette packet, the warning is not required?

The Hon. D. H. L. Banfield: Yes.

The Hon. M. B. CAMERON: I suggest that we drop the Bill, because it appears that we will achieve nothing.

The Hon. D. H. L. BANFIELD: I will explain the position to the honourable member. If we see the name "Cameron" it means nothing, but if we see "Cameron, M.L.C." we know it refers to a misplaced Liberal candidate. It immediately draws our attention to what the position is. If we see the name "Rothmans", it does not mean anything, but, if we see the name "Rothmans" on a packet of cigarettes, our attention is immediately drawn to the fact that this has to do with smoking. That is the distinction, and surely honourable members opposite can see that.

The Hon. C. M. HILL: I thank the Minister for his explanation regarding the advertisements he intends to exempt, which means that leases and other existing contractual arrangements will continue. The Minister said that he intended to classify those advertisements by regulation as being exempt advertisements.

The Hon. D. H. L. Banfield: For the period of the contract.

Members interjecting:

The Hon. C. M. HILL: I must be serious, as someone at a future time might have a prosecution lodged against him, and the judge will be concerned not with what he might read in *Hansard* about what happened in the debate on the Bill but with the law. I am satisfied with the Minister's explanation regarding that group of advertisements. However, regarding the words "Rothmans of Pall Mall" which appear on a building at the Wayville Showgrounds, there is also a motif behind those words of a tobacco leaf in a fleur-de-lis. Surely, in a prosecution, that would be regarded as an advertisement or a "class of advertisement", which are the words contained in the Bill. If a warning is not included there, it would have to be an exempt advertisement; otherwise the company could be prosecuted. Therefore, the Council should have an undertaking from the Minister that at this stage this class of advertisement will be exempt by regulation. If such advertisements are not exempt, are warnings required in such circumstances? Is that the Government's intention? Surely such advertisements must be exempt, and I do not believe it is an unreasonable approach that the Council should receive such an undertaking, before this clause is passed, that this group of advertisements throughout South Australia will be exempted by regulation. Will the Minister comment?

The Hon. D. H. L. BANFIELD: The honourable member is a greater bush lawyer than I thought he was, and the emphasis is on "bush". The Wayville building carries the sign "Rothmans of Pall Mall", and that in no way is advertising or encouraging the smoking of Rothmans cigarettes. No cigarette packet is indicated, and there is no indication that the sign has anything to do with cigarettes. There is the W.D. and H.O. Wills building in Adelaide, and the sign displaying that firm's name is not advertising their cigarettes. Whichever way one looks at it, such signs are not caught up by the Bill. If the bush lawyer believes that they are, I give him the assurance that my advisers assure me that that is not the position.

The Hon. C. M. HILL: I disagree entirely with the Minister, as I believe the words on the Wayville building would be interpreted as a class of advertisement. If that is the case, the weakness in this legislation, of putting everything in the net, letting it become law, and hoping that certain advertisements will be culled out, has been pointed out to the Council and will be highlighted in

fact. The Government does not know exactly what it is, and what it is not, going to regulate out.

I am convinced that the words "Rothmans of Pall Mall" on the building at Wayville are an advertisement. If they are not an advertisement, why did the firm put them there? The firm erected the building, and it is benefiting by using those words, which are a class of advertisement. If this place is to yield to the Government's unusual approach, at least we ought to have an undertaking from the Government as to the classes of advertisement the Government will exempt from the law in future.

If the Government does not intend to exempt from the law the class of advertisement to which I have referred, the situation will be ridiculous. This is not the best possible legislation and, if we are to improve it, now is the time to do so. There is no reference in the Bill to smoking: we are dealing with an advertisement or an advertisement of a class.

The CHAIRMAN: Order! I draw the Committee's attention to the fact that the definition of "advertisement" includes the words "promoting directly or indirectly the sale of a product".

The Hon. C. M. HILL: With great respect, Mr. Chairman, I am referring to the definition of "exempt advertisement".

The CHAIRMAN: I quoted from the definition of "advertisement".

The Hon. C. M. HILL: The definition to which you, Mr. Chairman, referred is as follows:

"advertisement" means any representation to the public or to a section of the public by any means whatever for the purpose of promoting directly or indirectly the sale of a product.

I now refer to the part of that definition dealing with any representation to the public. I agree that the words "for the purpose of promoting directly or indirectly the sale of a product" must be taken into account. I return to the question of the words "Rothmans of Pall Mall" on the building at Wayville, and I submit that those words indirectly promote the sale of a product; if they do not do that, they would not be there. Those words are a representation to the public, because the words are there for the public to see. Can the Minister say whether the Government will further consider giving a clear undertaking concerning its plans for exemptions, other than the group to which he has already referred?

The Hon. D. H. L. BANFIELD: I have already given an assurance that our information is that "Rothmans of Pall Mall" on the building at Wayville would not come within the scope of the provision. I also give an assurance that, if firms themselves or their legal advisers believe that they are still liable, we will consider the question of an exemption if they approach me about the matter. If they think that they are trapped and that there is any chance of their being prosecuted through that type of advertising, I give an assurance that they will be given a sympathetic and understanding hearing.

The Hon. R. C. DeGARIS: The Minister's undertaking is hardly satisfactory. We want to know what advertisements the Government intends exempting by regulation. It is not simply a question of someone saying to the Minister, "We are threatened with prosecution. What will you do about it?" Can he say whether a tobacconist who has on his shop window the notice "Bill Smith, Tobacconist" must also display the warning that smoking is a health hazard? Must a hairdresser who also sells cigarettes display a similar warning? Because vending machines advertise cigarettes, must they carry the warning?

The Hon. D. H. L. BANFIELD: Clearly, the notice "Bill Smith, Tobacconist" does not advise someone to take up cigarette smoking. The notice simply tells us what type of store it is. In these circumstances, the notice would not be included, because it is not an advertisement. Obviously, we do not have to exempt matters that are not related to the Bill. If Bill Smith introduces himself to someone and says, "I am Bill Smith, a tobacconist," he does not also have to say, "Smoking is a health hazard."

The Hon. C. M. HILL: Mr. Chairman, I think the Minister is saying he will be prepared to receive representations from parties who seek exemptions if this Bill becomes law. As I recall his words, he said he would give every possible consideration to such applications from such firms.

The Hon. D. H. L. Banfield: That is right.

The Hon. C. M. HILL: In his consideration of those cases, am I right in saying that his guidelines as to whether his decision will be to exempt or not to exempt will be a direct relationship within the advertisement to an encouragement to smoke, and that this will be clear in considering whether the request for exemption will be granted or not? In other words, if the wording or the advertisement by its very design is not a direct encouragement to smoke, it will be exempted; but, if there is an encouragement to smoke in the advertisement, it will come in the category of those that cannot be exempted and will have to carry the warning. I shall be satisfied with that if I know that that is the guideline the Minister will use when at some future time these applications are made to him.

The Hon. D. H. L. BANFIELD: If Rothmans put up their cigarettes, we might say that was not a direct encouragement to smoke because they left out the word "smoke". I am saying that, if they left out the word "smoke" but inserted the word "cigarette", that would be an encouragement to smoke, as well as a "direct encouragement" by putting in the word "smoke". But, if they left out the word "smoke" and put in "Rothmans cigarettes", I would say that was still an encouragement to smoke, and in those circumstances they would have to insert a warning. If the word "Rothmans" is there alone, they do not have to put in the warning. If they put in any reference to a cigarette, whether it is a direct encouragement to smoke cigarettes or not, it will come within the legislation.

The Hon. R. C. DeGaris: What about Craven A?

The Hon. D. H. L. BANFIELD: The same applies. If they have other interests than cigarettes, it is only a direct approach to people to smoke their cigarettes. It comes within that ambit. I cannot give a straight-out direction because, in those circumstances, they would still have to come back and say, "All right, we left out the word "smoke", so it is not direct encouragement."

Clause passed.

Clause 5—"Regulation of advertisements of cigarettes."

The Hon. C. M. HILL: I move:

In new subsection (1) to strike out "or be concerned in the publication of,"

I explained yesterday that the new clause inserted by the Bill was a clause dealing with the regulation of advertisements of cigarettes, and it read:

On and after a day to be fixed by proclamation for the purposes of this section, a person shall not publish or cause directly or indirectly to be published, or be concerned in the publication of, any advertisement relating to any cigarettes unless the prescribed health warning is presented in the prescribed manner in conjunction with that advertisement.

The penalty is \$1 000. I said yesterday that I thought the third qualification (if I can call it that), being the words "or be concerned in the publication of", carried the matter too far, and I quoted the example where, in my view, a junior copy boy in, for example, a publishing house or in the *Advertiser*, when that publishing house or the *Advertiser* published an advertisement for cigarettes that infringed this measure, would be ensnared in this clause and be liable for prosecution. I do not believe that that is what the Government has ever intended.

Nevertheless, in my view (and I take the *Advertiser* simply as an example) anyone involved on the staff of or working for wages in that organisation must in some way be concerned with the publication of the *Advertiser* newspaper. If he is concerned in some way with the publication of the *Advertiser* newspaper, he must, I think, be concerned with the publication of its contents. Part of its contents is the advertisement to which I have referred. Therefore, this Bill takes the matter too far, and it would be bad law if there was any opportunity for a prosecution to be launched against a junior person in such an organisation.

If the amendment is carried, I point out that the offence will still stand for a person who publishes or is directly or indirectly concerned with publishing. Surely, that goes far enough. But, to take it to the final degree and say that the offence involves anyone who is concerned with the publication takes the matter too far, and I think it would be better legislation if these words were deleted. That is why I placed the amendment on file.

The Hon. J. C. BURDETT: I support the amendment. If it is carried, the relevant part of the clause will read, "shall not publish or cause directly or indirectly to be published any advertisement". We must remember that this is a penal clause. It creates an offence, with a substantial penalty of \$1 000. The way in which the clause would read, if the amendment was carried, would create a comprehensive offence set out in language that the courts are used to interpreting; in my opinion, it is unnecessary to take it any further: the words would then be clear. The Bill goes so far as to say "directly or indirectly". That will be quite sufficient to catch any person who should be caught; but, with the Bill in its present form providing "or be concerned in the publication of any advertisement", those words can mean anything or nothing. As the Hon. Mr. Hill has said, it is difficult to say just who could be said to be concerned with the publication of the advertisement.

In his reply to the second reading debate, the Minister gave an assurance that these words "or be concerned in" would be read down and not harshly interpreted. But this is a clause that creates an offence, and in such a case we should not be relying on assurances. The danger in accepting assurances has been mentioned in this Council previously. We know perfectly well that we can accept the personal assurance of this Minister in regard to what he says and while he is the Minister, but he will not always be the Minister. It is our duty to see that legislation that creates an offence does not catch innocent people. The offence must be spelt out in the Bill. I support the amendment.

The Hon. D. H. L. BANFIELD: I am always impressed by what a lawyer, as opposed to a bush lawyer, says. In these circumstances, I accept the amendment.

Amendment carried; clause as amended passed.

Clause 6 and title passed.

Bill reported with amendments.

ADJOURNMENT

At 4.20 p.m. the Council adjourned until Thursday, August 28, at 2.15 p.m.