LEGISLATIVE COUNCIL

Thursday, February 12, 1976

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

FOOD AND DRUGS ACT AMENDMENT BILL

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

PETITION: BUS SERVICE

The Hon. C. J. SUMNER presented a petition signed by 120 persons expressing concern about the lack of a bus service from Adelaide to Crafers, Stirling and Aldgate on week nights and praying that the Legislative Council would take steps to ensure that the Minister of Transport caused the Municipal Tramways Trust to operate such a bus service.

Petition received and read.

QUESTIONS

BEVERAGE CONTAINERS

The Hon. R. C. DeGARIS: I seek leave to make a brief explanation prior to addressing a question to the Chief Secretary.

Leave granted.

The Hon. R. C. DeGARIS: The Notice Paper shows that a Bill is to be introduced to this Council to amend the Beverage Container Act—

The Hon. N. K. Foster: What? Speak up lad.

The Hon. R. C. DeGARIS: The Beverage Container Act.

The Hon. N. K. Foster: Thank you.

The Hon. R. C. DeGARIS: My question may be answered in the contents of the Bill, but it relates to the situation in the Eastern States where deposit-free bottles of about 1¼ litres to 1½ litres have come on the market. I believe that the producers are now moving into a two-litre capacity bottle. Because these are throw-away bottles, their introduction in South Australia will have serious effects on the existing industry, and will seriously aggravate the associated litter problem. When the Beverage Container Bill was passed the Government undertook not to proclaim it until 1977. I believe that in the interests of South Australia some action should be taken to prevent this type of bottle entering the South Australian market. Not only will there be a litter problem, but the bottles could prove to be of some danger as they are of light glass manufacture covered with a non-degradable plastic. I ask the Government whether it is possible to introduce urgent legislation to ensure that such bottles do not come on the market in South Australia as a non-returnable deposit-free bottle?

The Hon. D. H. L. BANFIELD: The Government is as concerned about this matter as is the Leader. I assure him that this is the matter to be dealt with by the Bill, as the Leader indicated in asking his question. I assure him that that is the purpose of the Bill.

The Hon. M. B. CAMERON: I seek leave to make a short statement before asking a question of the Chief Secretary.

Leave granted.

The Hon. M. B. CAMERON: I understand that the majority of returnable bottles in South Australia are covered under a voluntary system and that two types of bottle are already in circulation in South Australia, apart from those that may come from other sources. They are the stubbie, and one other from a company providing soft drink non-returnable bottles. Will these two types of container be covered in the legislation of which the Minister has given notice?

The Hon. D. H. L. BANFIELD: The Bill is not mine, and I will not be introducing it. Matters have been discussed generally, and the full contents of the Bill will be made known to honourable members in a few moments if they cease asking questions.

PINE TREES

The Hon. ANNE LEVY: I direct a question to the Minister of Forests regarding the activities of a group known as Get Rid of All Pines. There has been much publicity about the activities of this group, which I think is giving the impression that the Woods and Forests Department is not itself concerned with the conservation of natural bushland. I wondered whether the Minister could tell us just what is the policy of the Woods and Forests Department regarding conservation matters. Further, in this morning's newspaper there is a report that the group has also been active in Kuitpo Forest. Has the Minister any confirmation of any damage being done to Kuitpo Forest? What steps can be taken to protect the forests from GROAP pinomania?

The Hon. B. A. CHATTERTON: The Woods and Forests Department has 25 000 hectares of native forests and woodland under its control. There are two categories—the natural forest reserves and the departmental reserves, both of which are used to retain native forest woodland. It has been the department's policy for some time to purchase only agricultural land for the planting of pines. It purchases this type of land and plants pines as long as it is a substantial area and as long as there is some justification for it ecologically. With regard to the report in today's *Advertiser* about Kuitpo Forest, I have been in touch with the Acting Conservator and he has reported to me that they have not so far seen any signs of damage in that forest.

The other point I should like to make is about some misreporting of what I said yesterday with reference to another question, when I pointed out that biological control of the Sirex wasp was being used. I was amused to hear on the Australian Broadcasting Commission news that I had said that biological control occurred in regard to pine seedlings; that is not so: the biological control applies only to the Sirex wasp. We do attempt to control seedlings in natural woodlands as much as possible, and prevent the undesirable invasion of the natural ecological vegetation system.

FISHING

The Hon. F. T. BLEVINS: I seek leave to make a short explanation before asking a question of the Minister of Fisheries.

Leave granted.

The Hon. F. T. BLEVINS: I have been contacted by many fishermen throughout Eyre Peninsula and West Coast areas regarding the legality of the State fishing regulations. A great deal of confusion exists among fishermen following the recent High Court decision on the seas and submerged lands legislation. It has been reported that trawlers from other States and irresponsible owners in this State have the idea that they can disrupt the managed fishing industries of the State, hanging their case on the recent decision of the High Court. Can the Minister inform the Council of the latest moves to resolve the present situation, which appears to threaten the managed fisheries of this State?

The Hon. B. A. CHATTERTON: Responsible members of the fishing industry are considerably concerned over the decision of the High Court. I have said here, and I have made various press releases stating this, that we in South Australia intend to continue enforcing our legislation until we are proved wrong in any court decision. I thought it would be wise to make contact with the Federal Minister and to put the position to him so that he could understand the difficulties and the uncertainties that were occurring in the South Australian fishing industry. For that reason, I saw Mr. Sinclair yesterday evening and asked him to issue a statement in support of a joint Commonwealth-State fishing policy, pointing out to him that such a precedent already existed in the rock lobster industry, where we have a joint State management policy. We spoke for about half an hour on this and on other issues and he suggested that the appropriate action would be to call a fisheries council, a council of all State Ministers of Fisheries, at the earliest possible date to discuss this issue and to try to resolve it so that we have continued stability within the industry.

RU RUA NURSING HOME

The Hon. C. M. HILL: My question is directed to the Minister of Health and refers to the Government institution at North Adelaide known as the Ru Rua Nursing Home, about which I understand there has been considerable disquiet in relation to the Government's intentions at that establishment. Have the Government's plans for improvements been delayed and, if so, what are the reasons for those delays; what is the programme of work contemplated by the Minister at this nursing home; has any money been spent already on improvements there, and how much expenditure is planned in the future?

The Hon. D. H. L. BANFIELD: I cannot give the exact figure of the amount spent. The Government has to take on an up-grading programme. It had been intended to put a new wing on the hospital if the Government purchased it. However, we ran into trouble with the planning authority in this regard. We are now making a feasibility study in connection with the up-grading so that the home will be in a fit state to take another 75 patients. We expect to be able to call tenders early in the new financial year.

The Hon. C. M. Hill: Will the Minister obtain for me the sum that has been or will eventually be spent?

The Hon. D. H. L. BANFIELD: I can ascertain for the honourable member the sum that has been spent until now on renovations. As planning is still proceeding, I cannot yet say what will eventually be spent.

ACUPUNCTURE

The Hon. J. A. CARNIE: I seek leave to make a statement before asking the Minister of Health a question.

Leave granted.

The Hon. J. A. CARNIE: On page 12 of today's *News*, in a report headed "Two near death after 'needle'", the following appears:

> Two men are in the Fairfield Infectious Diseases Hospital with hepatitis B after acupuncture treatment by a suburban practitioner. One of the men was described as "close to death". The condition of the other, a Heidelberg man, 23, is not known.

The acupuncturist, who described himself as a chiropractor, apparently sees a terrific number of people. Will the Minister say whether any similar cases have been reported in South Australia, and what safeguards exist to prevent such occurrences here?

The Hon. D. H. L. BANFIELD: I know of no cases having been reported here. Acupuncture is not banned in South Australia. However, following the publishing of this report, I will examine the position and, if some action needs to be taken to ensure that this does not happen here, the Government will examine the matter.

SUPERPHOSPHATE BOUNTY

The Hon. A. M. WHYTE: My question, which is directed to the Minister of Agriculture, relates to the reply he gave to a question asked by the Hon. Mr. Foster on the superphosphate bounty. The figures quoted by the Minister were extraordinary. Whence did the Minister obtain those figures, because there must be other figures that could be obtained? Can the Minister give me the source of his information?

The Hon. B. A. CHATTERTON: The figures quoted were consumption figures which I obtained from the Agriculture and Fisheries Department. I did the calculations on these figures to produce the value of the bounty. The figures I quoted were derived from the figures which were available, though I do not know the source of the figures. I made the calculations from the consumption figures and that is what I quoted yesterday.

The Hon. R. C. DeGARIS: I seek leave to make a statement before asking the Minister of Agriculture a question.

Leave granted.

The Hon. R. C. DeGARIS: I was surprised yesterday to hear the Minister of Agriculture, when answering a question asked by the Hon. Mr. Foster, in what was obviously a previously prepared reply, use the term "feather-bedded section of the community living on Government hand-outs".

The Hon. N. K. Foster: You may think it was obvious because you—

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

The Hon. N. K. Foster: He should speak for himself. Who does he think he is?

The PRESIDENT: Order!

The Hon. R. C. DeGARIS: The term "feather-bedded section of the community living on Government hand-outs" was used in relation to the rural community. I think it was a regrettable statement. Although the superphosphate bounty reduces the price of a vital commodity to the rural community, the bounty is, in fact, paid to manufacturers. This is the normal procedure in most industrial nations that are protected by tariff barriers, with the idea of keeping the cost of essential production to realistic limits. My questions to the Minister are: does he agree, first, that the payment of the bounty is made to manufacturers; secondly, that the superphosphate bounty will reduce costs in a presently depressed area of the national economy; thirdly, that the reduced costs in production, because of the superphosphate bounty, will increase employment in the superphosphate industry; fourthly, that increased production will stem from the payment of the bounty; and finally, that by comparison with other sections of the community, protected as they are by high tariffs, it was an unfortunate choice of words by him to refer to the rural industries as "feather bedded"?

The Hon. B. A. CHATTERTON: I think the Leader has deliberately misinterpreted what I said in reply to the question yesterday. I did not say that farmers were a feather-bedded section of the community. I said that the

rest of the community would get the impression that it was a feather-bedded section of the community depending on hand-outs. That is an unfortunate image for farmers to have.

The Hon. R. C. DeGaris: Do you agree with that?

The Hon. B. A. CHATTERTON: I do not. It is a very unfortunate type of image, and it inevitably arises from the decision. While other sections of the community have been told that they will not receive any assistance, that pension increases will be delayed, and that many other cuts are to be made in Federal Government expenditure, a decision has been been made to hand out a bounty that will cost about $60 000 000 in a full year. Many people will see this image of farmers, which was the image in the past, being revived: that is what I said yesterday. It is an unfortunate effect of the decision. Regarding the Leader's point about payment of the bounty, obviously the bounty is paid through the manufacturers but, if the Leader intends to imply that the bounty is paid to manufacturers, I do not see why the farming community should be concerned about the reintroduction of the bounty. Obviously, it is intended to benefit farmers. The fact that the mechanics of payment are through the manufacturers is irrelevant to this discussion.

Employment within the superphosphate manufacturing industry will obviously increase, because of the speculation taking place around this whole decision. It has been shown that the consumption of superphosphate so far this year has been very low. Consumption would increase, anyway, whether or not the bounty was reintroduced. Farmers have been delaying decisions about purchasing superphosphate, but they will now take their decisions because the bounty has been reintroduced. I do not think the increased production of superphosphate can be attributed to the reintroduction of the bounty. The superphosphate would have had to be purchased in any case. In reply to the Leader's question as to whether the bounty would stimulate production, I point out one of the great mistakes of agricultural policy in Australia: for too long people have thought purely in terms of production. We need to produce only if we have the markets. Over-stimulating production has in the past been a mistake and led farmers into greater difficulties than they would otherwise have been in. This total absorption in production for production's sake is the wrong approach, and one that we must not take in the future.

The Hon. N. K. FOSTER: I seek leave to make a short statement before asking a question of the Leader of the Opposition.

Leave granted.

The Hon. N. K. FOSTER: The Leader prefaced his question to the Minister with what he thought to be a long explanation of how a protective tariff applies. Obviously, he was referring to the situation of Australian industry being protected against imported articles. Would the Leader relate to this Council what percentage of the components of superphosphate is produced in Australia? Does he not agree that almost the whole of the raw material and, indeed, the whole of the manufactured article, is imported into this country? So, there is no local industry to be protected; he implied that there was such a local industry in his remarks.

The PRESIDENT: I do not know whether the Leader has any specialised knowledge of this industry.

The Hon. R. C. DeGARIS: I do not think the question has any relationship to the question I asked of the Minister.

AUSTRALIAN HOUSING CORPORATION

The Hon. C. W. CREEDON: I seek leave to make a short statement before asking a question of the Minister representing the Minister in charge of housing.

Leave granted.

The Hon. C. W. CREEDON: One of the recent financial cuts made by the Federal Government related to the Australian Housing Corporation. There have been many complaints about the housing industry being let down. The corporation provided bridging finance for home buyers at low rates of interest, and it was allocated $28 000 000 in the last Commonwealth Budget. If the corporation is abolished, the only avenue for bridging finance will be through the finance companies at 18 per cent or 20 per cent; this is too much for most people. Can the Minister say whether the Federal Government's action will have an adverse effect on the building industry, and how many prospective home buyers will be deprived of the opportunity of purchasing a home through this action?

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.

ARCHITECTS ACT

The Hon. C. M. HILL: I seek leave to make a short statement before asking a question of the Chief Secretary.

Leave granted.

The Hon. C. M. HILL: Architectural draftsmen in business on their own account and also those who are employees have been very concerned that their activities and livelihood can be seriously affected by the amendments to the Architects Act made last year. Many fear that they cannot continue to work without contravening the new legislation; this will cause unemployment. I understand that a deputation waited on the Minister recently to express concern. Has the Government's legislation the effect of prohibiting these people from continuing to work as they did in the past and, if it has, will the Government amend the legislation to help these people? If their fears are unfounded, has the Minister informed them accordingly, and is the matter now satisfactorily resolved?

The Hon. D. H. L. BANFIELD: I think in the closing stages of the debate on the legislation last year I said that I thought there must be something wrong with it because I was applauded for having introduced it! This proved to be the position. It became apparent that the effect of the Bill was wider than had been intended and that a substantial group of people would be encompassed by it. The Government had not intended that these people should be thrown out of work. As a result, I called in representatives of the Building Designers Association, the Institute of Draftsmen, the Master Builders Association, the Housing Industry Association, and the Architects Board. We thoroughly discussed the Bill, and I suggested to the representatives that they get together, discuss a mutually satisfactory solution, and then come back to me. I undertook that the legislation would not be proclaimed until the matter had been satisfactorily resolved. The representatives agreed to my suggestion, and I am waiting for them to come back to me.

CHIROPRACTORS

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

Leave granted.

The Hon. J. R. CORNWALL: My understanding is that at present no registration is required for people holding themselves out to be chiropractors, osteopaths or acupuncturists. Will the Minister ascertain the legal liability of these people in the event of their causing illness or injury to their patients in the course of treatments? If there is no legal liability at present, will the Government consider introducing appropriate legislation?

The Hon. D. H. L. BANFIELD: I am not too sure of the actual legal position in this regard, but I imagine that the patients would have some form of redress. However, if protection is not available to patients, I give the undertaking that the Government will consider the matter.

CAVAN BRIDGE

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

Leave granted.

The Hon. M. B. DAWKINS: My question deals with the railway bridge north of Cavan. For several years there have been plans for duplicating this bridge, the original plans for duplication having been drawn up during the Ministry of the late Hon. Sir Norman Jude. Preliminary steps were taken during the Ministries of the Hon. Stanley Bevan and my colleague the Hon. Murray Hill. The duplication of the existing road on either side of the bridge is almost complete and the bridge has recently had safety rails constructed along it. Despite this, a tragic accident occurred there recently, and many more lives could have been lost on that occasion. The bridge causes a very serious bottleneck to traffic proceeding along Port Wakefield Road. Only last night I noticed that the Highways Department has installed on the eastern side of the bridge a temporary level crossing that is being used while the Interdominion Trotting Championships are being held. From time to time, we have heard that this bridge will be duplicated, and this duplication is one of the most serious needs of the transport system adjacent to the northern portion of the city of Adelaide. Will the Minister ask his colleague what progress is being made in respect of the implementation of planning and when it is expected that this bridge can be duplicated, especially as the projected freeway or transport corridor, which was to run down the western side of the railway in a direction away from the bridge towards Dry Creek and Port Adelaide, has been delayed?

The Hon. T. M. CASEY: I will refer the honourable member's question to my colleague and bring back a reply.

BUILDING INDUSTRY

The Hon. N. K. FOSTER: I seek leave to make a short statement prior to directing a question to the Leader of the Government in this place.

Leave granted.

The Hon. N. K. FOSTER: On page 5 of today's edition of the Adelaide *News* appears the statement, "$50 000 000 Government cuts worry South Australian builders". Builders are protesting strongly about the position in the construction industry generally, especially in the commercial sector. Mr. Ken West (I am sure most honourable members are aware of the position he holds in this State) has forwarded a list of deferred Government contracts to the Master Builders' Federation. Strong protest is being made to the only Federal Minister from this State, Mr. John McLeay, because of the down-turn which has occurred. It is interesting to see this article in the light of the question just asked by the Hon. Mr. Hill. The article states:

Civil engineers and architects have warned the Government they have virtually nothing on their books to stem the down-turn.

The Hon. T. M. Casey: That is the Federal Government.

The Hon. N. K. FOSTER: Yes. It's election cry was "Turn on the lights," but it has turned off the lights for people in the building industry, not only architects but also builders labourers, who yesterday were referred to in another place in somewhat derogatory terms. I ask the Leader of the Government in this Council what is the State Government's policy regarding these projects and what effect the Federal Government's policy is having on the State's efforts to maintain employment.

The Hon. D. H. L. BANFIELD: No doubt there has been a down-turn in the building industry as a result of the new Australian Government's action. The full effects of that action are not yet known, but I will seek from my colleague information on the matter and bring it down for the honourable member.

MOTION FOR ADJOURNMENT: WATER HYACINTH

The PRESIDENT: I have to inform the Council that the Hon. Mr. Carnie has informed me in writing that he wishes to discuss as a matter of urgency the eradication and control of noxious water weeds in the Murray River. In accordance with Standing Order 116, it will be necessary for at least three honourable members to rise in their places to prove the urgency of the matter.

Several honourable members having risen:

The Hon. J. A. CARNIE: I move:

That the Council at its rising do adjourn until 2.15 p.m. tomorrow.

The PRESIDENT: Is the motion seconded?

The Hon. M. B. CAMERON: Yes, Sir.

The Hon. J. A. CARNIE: I have moved a motion for adjournment to enable the following matters to be considered:

(1) That the South Australian Government take immediate action in conjunction with the New South Wales Government to institute an eradication programme on the infestation of water hyacinth in north-eastern New South Wales.

(2) That the South Australian Government take the initiative to bring before the River Murray Waters Agreement a proposal that the control of all noxious water weeds in any tributary of the Murray River be the equal responsibility of parties to the agreement.

(3) That the South Australian Government press for the formation of a watchdog committee, under the auspices of the River Murray Waters Agreement, to undertake regular inspections so that any future outbreaks can be more readily and economically controlled.

"What is being done at Government level to combat the hyacinth problem at Moree, in New South Wales?" That is the first sentence of an article published in the December issue of *Riverlander*. The article is entitled "The Massive March of the Hyacinth Curse", and this sums up the reasons for my motion for adjournment. The problem of water hyacinth has been the subject of feature press articles in recent months. The *Sunday Mail* has published an article entitled "Creeping Weed", and the *Advertiser* has published another article. On December 23, 1975, a news item was published in the *Advertiser*, headed "South Australian offer to Fight Weed Pest", stating that the South Australian Government is offering to help pay for the eradication of a weed in New South Wales which threatens this State's water system. The article states:

The South Australian Government would consider any request for financial help to control and eliminate the weed.

The article goes on to state:

Mr. Corcoran, the Minister of Works, said the Agricultural Council would meet early next year to discuss financial aid and measures to control the weed.

That meeting was held, and on February 2 the Minister of Agriculture issued a press release which stated:

A programme to integrate the control of the dangerous aquatic weed water hyacinth and prevent its entry into the Murray-Darling River network has been put forward at a meeting of the Australian Agricultural Council.

Despite articles in the press and despite the Minister's press statement, I do not believe that the threat to South Australia posed by water hyacinth is fully appreciated, and I do not believe that the Government is doing enough soon enough.

The Hon. M. B. Cameron: What about last night?

The Hon. J. A. CARNIE: I will come in a moment to what happened last night. The Minister's press release also stated:

The weed is already established and spreading rapidly in Gwydir Valley near Moree, and we fear that a major flood in the area could result in its spread down the Darling and into the Murray.

The Minister there has been proved correct, because a major flood has occurred in the area. An A.B.C. news item on this morning's radio reported that one of the biggest floods in recent years was taking place at Moree, and homes and businesses were under water; the peak has not yet been reached.

Before I explain why I am concerned about something that is happening hundreds of kilometres away from our State border, let me describe briefly what water hyacinth is, and what it does. The *Encyclopaedia Britannica* describes the water hyacinth as a common name for aquatic plants, and various Latin names appear which I will not attempt to pronounce. It goes on to say:

Some species float in shallow water; others are rooted in muddy stream banks and lake shores . . . It reproduces quickly and often clogs slow-flowing streams.

That it reproduces quickly is an understatement. In favourable conditions, water hyacinth will reproduce itself in 15 days, or, putting it another way, 10 plants in one favourable season can become 650 000 plants. We know that such favourable conditions exist in Australia, because this is the rate at which water hyacinth is increasing at Moree.

As to what it does, water hyacinth is capable of making water undrinkable for humans and livestock, and depleting the oxygen content in water, killing fish and choking irrigation systems. Dependent as we in South Australia are on the Murray, it is easy to see the threat that this poses. The Murray is already polluted, owing to circumstances beyond our State border—but that is another story. This is the menace facing South Australia. Recently, a team from the Murray Valley Development League went to Moree to see for itself the nature and extent of the water hyacinth infestation. It was deeply concerned about the implications for the Darling-Murray River system and came away badly frightened. I should like to quote briefly from an article written by Mr. G. V. Lawrence, of the Murray Valley Development League. He wrote as follows:

We flew westward down the Gwydir River from Moree and suddenly there was no river. We were at the upper end of the barrier known as the Raft. The Gwydir River as such had disappeared and the water it carried was moving out both north and south in multiple streams which eventually reunited in the north to form the Gingham and the Big Leather in the south. This was the area of the water hyacinth.

As I said earlier, this whole matter is a case of too little too late. The New South Wales Government has made a special grant of $8 000 to the Boomie Shire Council to assist in eradication. The South Australian Government has offered $50 000. I understand the New South Wales Government made available a similar sum. However, I believe the New South Wales Government grant has not been spent; nor has the South Australian offer been taken up. To spend $8 000 on a programme for which $1 000 000 would not be too much is ludicrous. This amount must be spent if we are not to be faced with a multi-million-dollar eradication programme and a multi-million-dollar loss in irrigation area in a few years time, not to mention the fact that the polluted water could not be used for the Adelaide water supply. The aerial spraying programme done a month or so ago was a waste of the small amount of money available; it was done simply as a holding operation in an attempt to contain the infestation. To attack a major problem in that way is completely useless and a waste of money. That is not supposition on my part. Two weeks ago, Dr. David Mitchell, a zoologist, spoke to Mr. Willmott, a member of the Boomie shire, who had some disturbing news.

Seven miles downstream from the infestation is a place called Gingham water hole; it is a large area of almost still water, and hundreds of individual water hyacinth plants have just been discovered there. As I have said, in a given period, every 10 water hyacinth plants multiply to 650 000. This place is seven miles nearer the Barwon and seven miles nearer to the Darling. It is flooding now—floodwaters that will come down the Gwydir River through the Gingham water hole into the Darling and into the Murray. These floodwaters are capable of carrying plants and depositing them anywhere in the Murray River system.

Already there has been one serious outbreak in South Australia, at Ramco, near Waikerie, in 1939. Reports at that time proved the extreme rapidity of the plant's growth. One man who was at that time largely responsible for bringing it to the attention of the authorities was Mr. Jock Barrett of Waikerie. He saw the infestation but could not do anything about it for a month, and by that time it was beyond his power to cope with the problem. He got a friend of his to try to help him do something but, by the time they both got around to doing anything, it was beyond them. To cut a long story short, it was over 12 months before the officers of the Lands Department and the Agriculture Department got around to doing something about it, and eventually thousands of tons of water hyacinth plants had to be removed. But that was only about two years after the time when the infestation first occurred. This, then, is the problem with which we are faced. It is a problem beyond one council or even beyond one Government. It is a matter for the four Governments that are signatories to the River Murray Waters Agreement. It is a matter on which very large amounts of money should be spent now. We must spend large amounts of money on this problem or we shall have to spend larger amounts in the future. The amount of money so far spent has been totally inadequate to combat what must be regarded as a major threat to the water systems of three States. It is not a matter that can be put off while recommendations are made and programmes are instituted. The Minister said:

The South Australian Government has always recognised the seriousness of the problem, and it is largely as a result of our actions that this programme was initiated.

That may be true. The Minister may say that he recognises the threat and he may claim credit for that; but it is no good unless we follow it up now. This is not a matter for

discussion over several months: it is an urgent matter, and every day's delay while Governments and councils sort out each other's responsibilities makes matters much worse. I have a real fear that already we may be too late and the weed may be already established further downstream, undetected. I could go on and talk about the difficulties of eradication. There is no question that it is a very difficult and expensive problem.

One point I should like to make in closing is that one method of control is biological control. Work has been done on this in America and work is being done by the Commonwealth Scientific and Industrial Research Organisation in isolating insects which, apparently, they believe will eat the water hyacinth. I have also heard that funds for this research work will cease next year. This Government should make representations to the Federal Government that funds should continue to be made available for this very important research programme. I think I have clearly set out the purpose of my motion. The Murray River is vital to South Australia, and it is being threatened by the water hyacinth. We should, as a matter of urgency, work with other Governments to see that this weed is controlled and eradicated.

The Hon. M. B. CAMERON: I support the motion. I, too, express my real concern at the lack of action on the part of all persons connected with this problem. It is a case not of just one Nero fiddling while Rome burns, but of many people being involved.

It is one of those times when politics should be cast aside, at least until this problem is solved. It is essential that all Governments concerned face the fact that it is not just one State that will be affected, although in the short term South Australia is the State most likely to be seriously affected by this weed. As the Hon. Mr. Carnie pointed out, there is a very real danger of the flooding that occurred last night and yesterday bringing about a serious situation further down the river in areas where it is quite impossible for the South Australian authorities to patrol. So, we could face the situation within the next month or two that it will be necessary to patrol the river to ensure that the plants have not become established in South Australia, as they did at Ramco in 1939 and, I understand, subsequently.

This weed has caused massive destruction in the Mississippi Basin, in the United States of America and, if it gets loose in South Australia, it will cause a grave problem to the South Australian and metropolitan water supplies, quite apart from the problem in the river areas. Another weed that perhaps the department should look at urgently is salvinia, which is already in plague proportions in the water supply at Mount Isa. That water supply is now being constantly raked to try to keep it clear of this weed. This morning, I found that it is not a noxious weed in South Australia, and in fact can be sold here. I give credit to the departmental officials, as I understand they have taken action without the authority needed, merely by persuading people not to proceed with the sale, but that does not mean that it cannot be sold in other States, brought into South Australia, and introduced into our water supply.

This weed reproduces at double the rate of water hyacinth, a serious state of affairs indeed. It must be prevented, as soon as possible, from being sold in South Australia. I understand that in the Australian Capital Territory water hyacinth and salvinia can be sold without restriction. It is a matter of great concern. I know the Minister has offered the New South Wales Government the sum of $50 000, but it is not sufficient and will not in any way prevent the spread of water hyacinth from the infestations that have occurred. It is useless to say that this is in New South Wales and that it is their problem. That is not so. It is our problem, too, and any eradication will have to be shared by all the parties concerned with the Murray River, including Victoria, New South Wales and South Australia.

A real need exists for the establishment of an authority, perhaps under the River Murray Commission, which will be able to take action on water hyacinth in all States and on the river waters to ensure that any further outbreaks (if this one at Moree is ever brought under control) are brought under control through joint action between the States. Even if it is necessary to spend some of the Budget surplus the Premier keeps saying we have, that in itself would probably be the most sensible thing the South Australian Government could do. It is useless to have money sitting idle in the Treasury with such a problem coming down the river and costing more to eradicate at some time in the future. I support the motion which, in effect, suspends the Council until tomorrow, but which actually means that it is the considered opinion of members on this side of the Council that insufficient—

The Hon. C. J. Sumner: All of them?

The Hon. M. B. CAMERON: Yes. I do not indicate any responsibility on anyone, except to say that the Government is the organisation charged with the expenditure of funds and is the only organisation that can authorise the expenditure of funds, because this Council cannot spend money. The Hon. Mr. Sumner would be aware of that, because he has been in Parliament long enough to catch up with that part of the duties of this place. I call on the Minister concerned and on the Government to ensure that in future, and in the very short-term future, action is taken to ensure that more money is spent to bring about the eradication of this water pest in New South Wales and to prevent its spread to South Australia.

The PRESIDENT: Order! The time is 3.15 p.m.

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

That Standing Orders be so far suspended as to enable this debate to continue until 3.30 p.m.

Motion carried.

The Hon. B. A. CHATTERTON (Minister of Agriculture): Much of what honourable members have said in this debate is true. It is virtually impossible to exaggerate the danger of this weed to the South Australian water supply. This has been said many times by our representatives on the River Murray Commission, and they have stated quite clearly that the danger to South Australia from this weed is probably the greatest threat to the Murray-Darling system. I think this is true. The point raised is the serious danger of the weed itself in terms of the destruction of the ecology of the waterway and the rotting vegetation in it, the fishing, and so on, and of course the removal of oxygen from the water by the rotting vegetation. Another point that should be mentioned is the danger in controlling this weed. The chemical used is normally 2-4D, and if large quantities of that chemical were to be used that in itself would be a great threat to the water supply.

The Hon. M. B. Cameron: It destroys the whole ecology of the water.

The Hon. B. A. CHATTERTON: Exactly. The South Australian Government has done more than its fair share in trying to activate other Governments into taking necessary control measures. The Hon. Mr. Casey, the previous Minister of Agriculture, has raised this matter many times at Agricultural Council.

The Hon. C. J. Sumner: Is it the Liberal States that don't want to do anything about it?

The Hon. B. A. CHATTERTON: New South Wales is the area where the weed infestation is.

The Hon. M. B. Cameron: Don't bring politics into this problem.

The Hon. C. J. Sumner: Is it there, or not?

The Hon. B. A. CHATTERTON: It is their responsibility, I would have thought, to have initiated some action. The South Australian Government consistently has been initiating action, and several approaches have been made to the New South Wales Government, and also at Premier level, to try to get action in this area. So far, until recently it has been unsuccessful. At the Agricultural Council in Perth early in February, the matter was discussed again and it was agreed at that conference, in the discussions I had on this matter, that a meeting should be called between the State Ministers from New South Wales, Victoria, and South Australia, that the Chairman of the meeting would be the Chairman of the Water Resources Council of Australia (Doug Anthony), and that this meeting would discuss the control programme in relation to the weed, as well as the important aspect of funding.

The control programme outlined involves three methods. The first was the chemical previously discussed, the 2-4D spray, and some of this spraying has been carried out. The honourable member suggested that this had been stopped because of lack of funds. I would not be certain of that. I think the difficulty of the conditions in the area has prevented further work. I am not sure that it is a lack of funds that has stopped work in the area, but I will check that point. Another method suggested is the biological control method which, in the long term, is the best solution to the problem.

We have not had the correct biological agents to control this weed, but further research in the area is obviously justified. The final method of control that is considered ultimately necessary in the Moree area is the drainage of a large part of the area to destroy the environment in which the weed is growing. That sort of drainage programme is indeed expensive, and could cost millions of dollars. However, it is certainly worth while, because of the serious threat of this weed to the Murray River and Darling River system; this sort of programme should be pursued. It will depend on funding from the three States involved and the Commonwealth Government, as it is impossible for South Australia to go it alone. We have done much more than our fair share in offering funds and suggesting action to be taken by the New South Wales Government.

There is one final point which I should like to make and which has already been referred to. Dr. Mitchell, who has played a large part in this programme and who was on the joint panel examining the biological control aspect, made the point that the water hyacinth from the aquarium trade in Canberra was also a threat to the Murray system. I raised this matter at Agricultural Council, and it was taken up by the Commonwealth Minister, Mr. Sinclair, who said he would investigate it and make appropriate alterations to the regulations in Canberra if what I said was found to be true; so that matter was taken up at Agricultural Council early in February. Finally, I reiterate that the South Australian Government considers this to be a serious threat and is doing all in its power to control water hyacinth in the Murray-Darling system.

The Hon. J. A. CARNIE: I thank honourable members who have contributed to the debate, particularly the Minister of Agriculture. I made it clear when moving the motion that I accept that the South Australian Government has done much in this regard. My argument is that it is not being done quickly enough. It is not sufficient to hold meetings every now and again when water hyacinth doubles in size every 15 days. That is why I have moved this motion today. It is peak flood time in the area and, as the Minister has said, it is major floods that cause the real danger in the river system.

The Hon. M. B. Cameron: The floodwaters could be at Goolwa in eight weeks.

The Hon. J. A. CARNIE: That is so, and I am sure the Minister would realise this. I also realise that no one Government can handle this matter on its own. That is why I believe all Governments should, as a matter of urgency, at least supply equal finance.

The Hon. C. J. Sumner: That's one of the problems of federalism.

The Hon. J. A. CARNIE: I do not think so. I am disappointed to hear the Hon. Mr. Sumner trying to drag politics into this matter. This problem involves not only the South Australian Government but also the other Governments to which I have referred.

The Hon. C. J. Sumner: What sort of Governments do New South Wales and Victoria have?

The Hon. J. A. CARNIE: It is indeed an expensive business to control water hyacinth. The Minister referred to drainage, which is always expensive. Biological control is another aspect of solving the problem. If the action to which I have refered is taken, it should certainly contain the problem, so that fewer chemicals will have to be used. No-one wants vast quantities of chemicals to be put into our river systems.

The Hon. R. C. DeGaris: What sort of success have they had in connection with the Hawkesbury River?

The Hon. J. A. CARNIE: I cannot answer that question. As the tributaries of the Murray River have been the direct concern of South Australia, I did not investigate other waterways in other States. Something must be done quickly regarding this matter. I accept that the Minister is doing something, although I will not accept that it is being done quickly enough. South Australia is the State most affected by this problem, as the Murray River is more South Australia's lifeblood than it is of any other State. It is therefore up to us to initiate action. This is why I have moved in my urgency motion that the South Australian Government take the initiative to bring before the River Murray Commission a proposal that the control of all noxious water weeds in any tributary of the Murray River should be the equal responsibility of the parties to the agreement.

One of the main problems with water hyacinth is that it is an attractive plant, and many individuals have spread it unwittingly. It came to South Australia as an aquatic pond flower; that is how it came into the country in the first place. However, it has multiplied at a terrific rate, and people have cleaned out their ponds and thrown it away.

The Hon. N. K. Foster: Where does it come from?

The Hon. J. A. CARNIE: Originally, it came from South America and spread to the southern United States. It has been a real problem on the Mississippi, where I believe special cutting ships have had to be used so that they can navigate the lower reaches of the river. It has been brought into South Australia as an ornamental pond plant, and has since been declared a noxious weed. It has been spread

throughout Australia innocently by many people. I believe an education programme should be run in relation to this water hyacinth. I seek leave to withdraw my motion.

Leave granted; motion withdrawn.

APPROPRIATION BILL No. 1 (1976)

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

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

That this Bill be now read a second time.

I seek leave to have the second reading explanation of the Bill inserted in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF BILL

It seeks appropriation of $15 058 000. The Treasurer has made a full statement of the present financial position and has reported the possibility of a surplus for the year of about $25 000 000. I do not believe any good purpose would be served by my repeating those remarks. However, I would stress again that the projected surplus should be considered in the light of the uncertainties facing the Government at present; uncertainties in relation to the general economic situation that may be altered by Commonwealth Government policies, and uncertainties about those policies that may have a more direct bearing on State Government programmes.

APPROPRIATION

Turning now to the question of appropriation, members will be aware that early in each financial year Parliament grants the Government of the day appropriation by means of the principal Appropriation Act. If these allocations prove insufficient, there are three other sources of authority that provide for supplementary expenditure, namely, a special section of the same Appropriation Act, the Governor's Appropriation Fund, and a further Appropriation Bill.

Appropriation Act—Special section 3 (2) and (3): The main Appropriation Act contains a section that gives additional authority to meet increased costs resulting from any award, order or determination of a wage-fixing body, and to meet any unforeseen upward movement in the costs of electricity for pumping water. This special authority is being called upon this year to cover part of the cost to the Revenue Budget of a number of salary and wage determinations, with the remainder being met from within the original appropriations. It is not available, however, to provide for the costs of leave loadings and other special decisions of that nature. Where these cannot be met from the Governor's Appropriation Fund, a supplementary Appropriation Bill must be presented.

Governor's Appropriation Fund: Another source of appropriation authority is the Governor's Appropriation Fund which, in terms of the Public Finance Act, may cover additional expenditure up to the equivalent of 1 per cent of the amount provided in the Appropriation Acts of a certain year. Of this amount, one-third is available, if required, for purposes not previously authorised either by inclusion in the Budget or by other specific legislation. As the amount appropriated by the main Appropriation Act rises from year to year, so the extra authority provided by the Governor's Appropriation Fund rises; but, even after allowing for the automatic increase inherent in this provision, it is still to be expected that there will be the necessity for a supplementary Appropriation Bill from time to time to cover the larger departmental excesses.

Supplementary Bill: The main explanation for this recurring requirement lies in the fact that, although additional expenditures may be financed out of additional revenues with no net adverse impact on the Budget, authority is required nonetheless to appropriate these revenues. Also, the appropriation procedures do not permit variations in payments above and below departmental estimates to be offset against one another. If one department seems likely to spend more than the sum provided at the beginning of the year, the Government must rely on other sources of appropriation authority, irrespective of the fact that another department may be under-spent by the same or a greater amount.

Further, although two block figures were included in the August Budget as allowances for salary and wage rate and price increases, these amounts were not included in the schedule to the main Appropriation Act. Where these are the reasons for seeking further appropriation, honourable members are being asked to make specific allocations for part of a figure shown as a general allowance in the original Budget for the year. The appropriation available in the Governor's Appropriation Fund is being used this year to cover a number of individual excesses above departmental allocations, and this is why some of the smaller departments do not appear in the Bill now before honourable members, even though their expenditure levels may be affected by the same factors as those departments that do appear. It is usual to seek appropriation only for larger amounts of excess expenditure by way of an Appropriation Bill, the remainder being met from the Governor's Appropriation Fund.

DETAILS OF THE BILL

With these authorities in mind, the Government has decided to introduce an Appropriation Bill for $15 058 000. The reasons for this additional expenditure are detailed in the explanations that follow. It should be noted that these estimates are based on known increases in salary and wage rates and prices to date. Should further increases occur that cannot be covered by the special provisions of the Appropriation Act and the Governor's Appropriation Fund, it may be necessary to introduce a further Appropriation Bill later in the year.

Police: Salaries and wages payable by the Police Department are expected to exceed the estimate made in August last by more than $1 200 000. The majority of this excess falls within the provisions of section 3 (2) of Appropriation Act (No. 2) (1975), which, as I explained earlier, gives appropriation authority for certain wage and salary increases. However, bonus payments to members of the Police Force for additional duty over the Christmas period, flow-on payments to women police auxiliaries, and other payments of a more minor nature are not covered by this section. The sum of $200 000 has been provided for these purposes. Price increases affecting many of the operational items of the department necessitate the provision of a further $200 000 for administration expenses, and a revision of the motor vehicle replacement programme indicates that a further $100 000 will be required to enable the department to comply with replacement policy. The total provision in the Bill for Police Department is therefore $500 000.

Treasurer—Miscellaneous: In the August Budget, a provision of $836 000 was made for payments to the Electricity Trust to subsidise the supply of electricity to country areas. The trust's latest estimate of expenditure on these subsidies is $380 000 higher than the Budget figure because such costs as workmen's compensation insurance premiums and debt servicing charges are higher, and fuel

costs have increased. Appropriation is also required to cover transfers to the Government Insurance Fund to provide fire insurance cover on Government buildings. Claims on the fund as a result of Government and school buildings destroyed or damaged by fire have already exceeded the estimate made for this purpose in August last, and the indications are that a further $150 000 may be required during the remainder of this year. The total provision in the Bill for Treasurer, Miscellaneous is therefore $530 000.

Lands—Miscellaneous: Honourable members will be aware that, during the latter part of 1975, the Federal Government began to scale down its Regional Employment Development scheme. The proposed time table would have resulted in a number of worthwhile projects remaining incomplete and for this and other reasons the phase-out period was considered to be too short. Therefore, Cabinet decided that the State's metropolitan unemployment relief programme, for which a provision of $800 000 had been made in the August Budget, should be extended to include both metropolitan and non-metropolitan areas. A further $2 000 000 was allocated for expenditure on the extended programme.

Honourable members are aware of the difficulties confronting school-leavers in the present economic climate and of the programmes announced by the Government to help to alleviate this problem. The cost of these programmes is estimated to be a little over $200 000. In addition, the Government decided this week that the continuing unemployment situation required, and the improved Budget situation permitted, a further allocation of $2 000 000. These three sums, totalling $4 200 000 are included in the Supplementary Bill under Minister of Lands, Minister of Repatriation and Minister of Irrigation, Miscellaneous.

Public Buildings: An additional appropriation of $500 000 is required by this department to provide for increased costs of salaries ($300 000) and contingencies ($200 000). The appropriation for salaries is required for additional long service leave payments, greater involvement by design staff on Revenue rather than Loan Account projects, and some smaller adjustments. The higher cost in the contingencies area is again a reflection of the effects of inflation.

Works—Miscellaneous: A further step has been taken in pursuance of the Government's policy to improve the control of environmental pollution through the construction of a toxic waste disposal plant at Bolivar. This plant is designed to receive waste, which is not acceptable in the sewerage system, from industrial waste disposal contractors. A fee will be charged for the provision of this service to cover the establishment and operating costs involved. The sum of $150 000 is provided in the Bill to cover the installation and operating expenses for the remainder of this financial year.

Expenditures on preliminary research and investigations into water supplies are charged initially to Loan Account, and the cost of those projects not expected to result in future capital works is transferred to Revenue Account annually. A new allocation of $440 000 was made in the Budget to absorb these transfers. It has been established now that the number of projects that are expected to proceed to the stage at which the transfer should take place will be greater this year than was estimated in August. A futher $1 000 000 is included in the Bill for this purpose. The total sum provided in the Bill now before honourable members under Minister of Works, Miscellaneous is therefore $1 150 000.

Education: On present indications, the original Budget figure for education is likely to be exceeded by about $11 200 000, of which about $5 500 000 is covered by the salary and wage rate provisions of the main Appropriation Act. Additional salaries and wages amounting to $4 900 000 are included in the Bill to provide for further staff appointments ($600 000), temporary relieving assistants ($800 000), special language studies and migrant education ($331 000), wage adjustments for ancillary staff, laboratory assistants, release time scholars and other departmental employees ($945 000), increases in contract cleaning costs as a result of the Cleaners' Award ($2 018 000), and other minor adjustments including pay-roll tax ($206 000). In common with other departments, inflation has contributed to the higher cost of contingency items in the area of education, and a total of $800 000 has been provided in the Bill as follows:

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Primary education	200 000
Secondary education	250 000
Buses—running expenses	100 000
Further education	250 000
	$800 000

The total amount provided for the Education Department in this Bill is therefore $5 700 000.

Agriculture—Miscellaneous: It has become necessary to make funds available to the Dairy Cattle Fund to enable herd testing associations to continue their recording programmes in relation to butterfat and milk production. The Government shares equal liability with the associations for these programmes. Increased testing costs have impacted on the fund, and an advance is required until contributions have been collected from dairymen for the 1976-77 financial year. Repayment of the amount of $88 000 provided in this Bill is expected in about August, 1976.

Railways: The Budget presented to honourable members in August included a provision of $81 300 000 for the operation of the State's rail services. Of this sum $62 905 000 refers to salaries, which will be exceeded by about $1 700 000. All of this will be covered by the salary and wage rate provisions of the main Appropriation Act or from within the original estimates. However, the effects of inflation on operating expenses, which are not affected by the special provisions, have been substantial. For example, fuel costs have risen by 27 per cent and steel prices 15 per cent since July, 1975. For the department as a whole, contingencies are now expected to cost 12 per cent more than originally planned, and $2 200 000 has been included in the Bill to defray these additional costs.

Transport—Miscellaneous: The Highways Act provides for annual losses incurred in the operation of the m.v. *Troubridge* to be met from the Highways Fund. In August, Cabinet reviewed cargo freight rates, and a 10 per cent increase was approved. After this adjustment, operating losses in 1975-76 are expected to total $860 000, compared to $560 000 in 1974-75. This cost to the Highways Fund reduces the availability of funds for road purposes, and Cabinet has decided that a contribution should be made from the Revenue Account, recognising that, in some respects, the *Troubridge* is comparable with other unprofitable transport links. The sum of $190 000 is provided in the Bill for this purpose.

The clauses of the Bill give the same kinds of authority as in the past. Clause 2 authorises the issue of a further $15 058 000 from the general revenue. Clause 3 appropriates that sum for the purposes set out in the schedule. Clause 4 provides that the Treasurer shall have available

to spend only such amounts as are authorised by a warrant from His Excellency the Governor and that the receipts of the payees shall be accepted as evidence that the payments have been duly made.

Clause 5 gives power to issue money out of Loan funds, other public funds or bank overdraft, if the moneys received from the Australian Government and the general revenue of the State are insufficient to meet the payments authorised by this Bill. Clause 6 gives authority to make payments in respect of a period prior to July 1, 1975. Clause 7 provides that amounts appropriated by this Bill are in addition to other amounts properly appropriated.

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

POLICE PENSIONS ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

I seek leave to have the second reading explanation of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill provides for improved pensions and other benefits for members of the Police Force of the State and their spouses and children and revises the pension scheme under the principal Act, the Police Pensions Act, 1971-1973, so that it corresponds to the scheme for public servants under the Superannuation Act, 1974.

The pension for a member who joined the force after the commencement of the principal Act upon his retirement from the force at the age of sixty years or upon his invalidity is to be one-half of his final annual salary reduced by the proportion by which his service is or would have been less than thirty years. In addition to this the member will be entitled to be paid a lump sum of one and one-half of his final annual salary reduced in the same way. This benefit continues the present practice of paying lump sums automatically and corresponds to the benefit obtained under the Superannuation Act, 1974, where the right of commutation of the pension is exercised under that Act. The corresponding benefit for members who joined the force before the commencement of the principal Act is the same, but is reduced by a factor depending upon their age as at the commencement of the principal Act. The amount of the benefit for the spouse of a member is two-thirds of the amount of that member's benefit, as is the case under the Superannuation Act, 1974. The benefits for children of members also are to be the same as those provided by the Superannuation Act, 1974.

Whereas, at present, pensions are only payable to the widows of members of the Police Force, under the scheme provided by the Bill both widows and widowers of members are to be entitled to pensions. The principal Act, at present, provides for automatic cost of living adjustments of the benefits payable periodically under the scheme and this provision is, of course, continued by the Bill. Any departures of the scheme provided for by this Bill from the scheme under the Superannuation Act, 1974, generally continue an existing benefit or practice which meets with the approval of the police, as expressed by their representatives.

As was the case with the new scheme under the Superannuation Act, 1974, a large number of the provisions and the more complex provisions of the Bill relate to the transition from the old scheme to the new scheme. In accordance with a commitment of the Government to the police, the new benefits largely will have effect as from the first day of January, 1975.

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 amends section 4 of the principal Act which sets out the arrangement of the Act. Clause 4 amends the definition section of the principal Act, section 5. The definition of "eligible child", which determines those persons who are to be entitled to a child's allowance, is wider than the existing provision, in that students are to be entitled to the allowance until they attain twenty-five years of age, rather than, as at present, twenty-one years of age. The definition of "final annual salary", which determines the amount upon which benefits under the scheme are to be based, corresponds to the provision in the Superannuation Act, 1974. Clause 5 amends section 8 of the principal Act. These are drafting and consequential amendments.

Clauses 6 and 7 also make consequential amendments. Clause 8 amends section 12 of the principal Act by providing a new basis for determining the amount of the contribution payable by a member who joined the force after the commencement of the principal Act. The amount of the contribution will be between five and six per centum of the member's fortnightly salary depending upon his age when he joined the force. The present rate of such contribution is fixed at five and three-quarters per centum of such member's fortnightly salary.

Clause 9 substitutes two new sections for sections 13 to 17 of the principal Act. New sections 13 and 15 provide for the benefits for members who joined the force after the commencement of the principal Act upon their retirement at the age of sixty years or upon invalidity. The amount of these benefits has already been outlined. Clause 10 repeals section 18 of the principal Act which sets out a definition of a "transferred contributor", that is, a contributor who joined the force before the commencement of the principal Act. This definition is being inserted in the general definition section.

Clause 11 amends section 20 of the principal Act by providing a new basis for determining the amount of the contributions payable by a transferred contributor. This basis differs from that provided for new contributors only in that the percentage of the transferred contributor's fortnightly salary depends upon his age, not when he joined the force, but as at the commencement of the principal Act. Clause 12 repeals sections 21 to 25 of the principal Act and inserts new sections 21 and 22 which provide for the benefits for transferred contributors upon their retirement or invalidity.

Clause 13 repeals Part V of the principal Act and substitutes a new Part setting out the pensions and allowances for spouses and children of members of the Police Force. New sections 25 to 27 fix the benefits for spouses of deceased pensioners as opposed to deceased contributors, the benefits for the latter being set out in new sections 23 and 24. In the case of the spouse of a deceased pensioner who became entitled to his pension under the repealed Acts, new section 25 provides that the benefit remains the same as that presently provided by the principal Act. New section 26 provides that spouses of deceased pensioners who become entitled to their pensions after the commencement of the principal Act but before the commencement of this amending measure shall be entitled to pensions equal to two-thirds of the pensions received by those deceased pensioners, but not to the payment of a lump sum.

New section 27 provides that spouses of deceased pensioners who become entitled to their pensions after the commencement of this amending measure shall be entitled to pensions and lump sums equal to two-thirds of those received by the deceased pensioners. New section 28 recommences the payment of a former widow's pension, if the widow is again widowed. The new scheme does not stop spouse's pensions upon remarriage as is presently the case. New section 29 sets out the amount of child's allowances which are fixed upon the same basis as those under the Superannuation Act, 1974, the amount varying according to the number of the children of the member and whether or not the children are orphans.

Clause 14 repeals sections 30 to 33 of the principal Act and inserts new sections relating to the amounts of pensions. New section 30 provides an increase of one-sixth of one per centum in the amount of pensions for each complete month of service that a contributor serves after attaining the age of 60 years. New section 31 continues existing pensions and spouse's pensions. New section 32 provides that the new level of benefits largely is to have effect as from the first day of January, 1975. Clause 15 amends section 34 of the principal Act, the cost of living adjustment section, by supplementing the amount of any adjustment by one and one-third.

Clause 16 substitutes new provisions for sections 36 and 37 of the principal Act. New section 36 provides a new basis for fixing the reduction in benefits for members who retire before attaining the age of sixty years. New section 37 continues certain options relating to the amount of pensions and spouse's pensions. The first option provided would enable members and spouses to forgo the lump sum benefit and obtain pensions increased by one-third. The second option provided would enable members to obtain a higher pension until they attain the age of sixty-five years and a lower pension thereafter thereby qualifying them for the old-age pension.

Clause 17 makes drafting amendments only. Clause 18 makes a consequential amendment. Clause 19 also makes consequential amendments. Clause 20 repeals sections 43 and 44 of the principal Act and inserts a new section 43 fixing the payment to members who leave the force by resignation. Clause 21 makes a consequential amendment.

Clause 22 repeals section 47 of the principal Act and inserts a new section providing for the amount to be refunded where no further benefits are payable in relation to a deceased member of the force. A new section 47a is also inserted by this clause and this section provides for the substitution of a person who is the putative spouse of a member within the meaning of the Family Relationships Act, 1975, for the lawful spouse. Clauses 23 to 28 make consequential amendments only. Clause 29 inserts the necessary new schedules in the principal Act.

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

WATER RESOURCES BILL

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

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

That this Bill be now read a second time.

I seek leave to have the second reading explanation of this Bill inserted in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF BILL

The development and management of South Australia's water resources and hence its supplies is one of the greatest social issues facing the State. The quantity and quality of our water resources is probably the most important and generally least appreciated asset we have. It hardly needs stating that South Australia is the driest State in the world's most arid continent. Our State possesses less than two per cent of the total water resources of Australia, while accounting for 12½ per cent of Australia's land mass and more than nine per cent of its total population. This gives some indication of the problems facing the Government in conserving, developing and managing our water resources.

Increasingly the pressures of exploitation are giving rise to instances where damage to the resource, or hardship to communities and individuals, will result if sound management and conservation policies are not properly carried out. At the same time increasing industrial, agricultural and urban development are giving rise to problems of waste disposal, which, especially when accompanied by diminishing quantities of water in streams and underground, result in increasing dangers of deterioration of water quality. The existence of these pressures, felt in our State to a degree not paralleled anywhere else in Australia, and the necessity of taking positive management initiatives to overcome them, underline the importance of this measure to the State.

The purpose of this Bill, therefore, is to enable the water resources of the State to be conserved, developed and managed in the manner that is most beneficial to the people of the State, with provision for enlisting their involvement to the greatest degree in the planning and management process. This measure is the legislative expression of the South Australian Government's Water Resources Management Policy, which was announced just over two years ago.

It will make possible the achievement of the fundamental principles of this policy by:

1. Providing a framework for consolidating the responsibility and authority for the conservation and management of water resources under the one Ministry and hence preventing the fragmentation that has proved disastrous elsewhere in Australia.
2. Promoting greater opportunity to incorporate water resources planning and management within the framework of comprehensive economic, environmental and social policy at the local, regional and State levels.
3. Providing a basis for multiobjective planning and management, in which not only the objective of economic efficiency is taken into account but also the objectives of environmental quality, regional economic development, and social well-being.
4. Providing a basis for multipurpose planning and management of the State's water resources. In the past the main thrust of Government policy and activity has been directed towards the provision of water for domestic and industrial use and for irrigation purposes. It is now recognised that there are many other purposes of water use that interest and affect the community—the enjoyment of water in recreational pursuits, and the preservation of flora and fauna, to name but two.
5. Recognising the interdependence of surface and underground water, and of quality and quantity, which entails the adoption of a consistent and unified approach to each of these aspects of water resources.
6. Providing means whereby the planning and management efforts, already up-graded in tempo to meet the unique problems encountered in this State, can take the initiative. Only thereby can the

water resources of the State be enhanced, especially in quality. In contrast, if this Act were not enacted, water resources management would inevitably become a matter of attempting to remedy damage after it had been done, and of alleviating hardship after its worst effects have been suffered.

Many aspects of this policy were expressed in a statement of water resources policy that was adopted last year by all States and the Australian Government. The relevant objectives of this policy are:

(1) The provision of adequate water supplies of appropriate quality to meet urban and rural domestic needs, as well as those of viable primary and secondary industries.

(2) The conservation, development and management of water resources so that other purposes such as flood control, recreation needs and wildlife conservation are also achieved.

(3) The more intensive prevention of harmful pollution and the maintenance of high standards of water quality.

(4) The development of effective waste water treatment facilities in conjunction with water supply systems and the encouragement of recycling and re-use of water where appropriate.

(5) The adoption of water pricing policies which enable water needs to be met at a fair and reasonable price, but which provide an incentive to all water users to avoid wasteful or environmentally harmful practices and which encourage the efficient allocation of resources.

(6) The maintenance of adequate, undisturbed aquatic environments as reference areas and the preservation of appropriate wetlands for the benefit of native wildlife.

(7) The implementation of a programme of public education aimed at ensuring the proper understanding of the factors affecting the development and use of water resources and a sense of responsibility in these matters.

(8) The involvement of the public in the planning of water enterprises.

The principles on which this Bill has been based are therefore in accordance with the most modern developments in water resources management that have been evolving recently at the national level, and indeed internationally. Furthermore in its treatment of all aspects of water resources as a unified whole, it is believed to be the most advanced legislation in this field in the world. At the same time, it remains a purely South Australian Bill, designed to meet the unique and various needs of all regions of this State.

Until now, legislation related to water resources management has been provided by a number of separate Acts in the fields of surface waters, underground waters and water quality. The present situation is fragmented and inadequate from the legislative viewpoint, and as a result is fraught with administrative difficulties. Completely new and consolidated legislation is required in these three fields, and in addition new ground must be covered.

In the surface waters area, management is currently exercised using the Control of Waters Act, 1919-1975. This Act is somewhat archaic in its wording and structure, and in practice has proved to be applicable only to the management of diversions from the Murray River, which indeed require management since the resources of the river have a definite limit. There is a need for completely new legislation in the surface waters field, a need which is fulfilled by this Bill.

The management of underground waters is effected through the Underground Waters Preservation Act, 1969-1975. This Act provides for a rather wider range of controls than the surface waters legislation because by their nature underground water resources are much more liable to permanent damage or destruction by ignorant or self-interested mismanagement. Its very necessary powers are exercisable only in defined areas which at present are the northern Adelaide plains and parts of the South-East and Eyre Peninsula. It is worth noting that, in the northern Adelaide plains, underground water is being extracted three times faster than it is being replenished.

In this Bill opportunity is taken to upgrade technically the provisions for underground waters management, and to transform the management approach into one that is consistent with the approach used in respect of surface waters. Among other things, provision is made for the protection of aquifers throughout the State from faulty or inappropriate well construction. To date only certain limited aspects of water quality have been provided for in existing legislation. Only the Health Act and the Waterworks Act contain effective provisions, and these are limited to water for human consumption and, in the latter case, are confined to strictly limited areas. This Bill provides for the control of the discharge of wastes into waters throughout the whole State, and in respect of all beneficial uses of water. The method provided for exercising the necessary controls is relatively simple, and differs somewhat from the methods commonly used in other States and countries which in some respects have proved to be unsatisfactory. Some have adopted the method of classification of waters by type of use, and provide penalties for those who cause the quality of receiving waters to exceed the limits laid down. This approach is proving unenforceable.

The approach in this Bill is firstly, to prohibit the discharge of wastes into waters where such action would result in the impairment of water quality, and secondly, to provide for the Minister, by Order, to authorise the discharge of wastes into waters only in strict accordance with the terms of the Order, thus enabling a positive approach to water quality enhancement to be taken. The Bill also contains powers to take action to mitigate the resulting pollution caused by an emergency or accidental happening.

New ground is broken by the Bill in three further areas:

(1) The establishment of a South Australian Water Resources Council and Regional Advisory Committees. This provides a formal mechanism for public involvement in the management process.

(2) The establishment of an Appeal Tribunal which will provide the individual with an additional opportunity to have his or her case examined by an independent body.

(3) The provision of powers to construct works necessary for the purposes of the Act, such as those required for water quality mitigation, and further provisions to facilitate efficiency in administration.

Clause 1 is formal. Clause 2 provides for the Act to come into operation on a day to be fixed by proclamation. Clause 3 deals with the arrangement of the Act. Clause 4 repeals the Acts specified in the schedule. The definitions needed in the Bill are covered in clause 5 and the attention of honourable members is particularly drawn to the definition of "waste". Clause 6 vests the control

of and the right to the use of all waters in the State in the Crown, subject to the provisions of this Bill.

Clause 7 provides that the Crown is to be bound by the Bill. Clause 8, most importantly, provides that the River Murray Waters Agreement is not to be affected by this measure. Clause 9 establishes the South Australian Water Resources Council and provides for its constitution. It is intended that the members of the council will be drawn from a number of fields concerned with water in this State, and to this end it has been expressely provided that members shall be nominated by the Local Government Association, the Chamber of Commerce and Industry and the conservation body prescribed by the Minister. Provision is also made for the appointment of a person experienced in irrigated horticulture and viticulture and other primary production and six persons having professional qualifications in engineering, a geo-science, agriculture, environment or conservation, public health and Crown lands administration. The Chairman of the council is to be appointed by the Minister.

Clause 10 covers the terms and conditions subject to which members of the council are appointed. The appointments are for a term not exceeding four years and are subject to the standard provisions as regards dismissal and vacancies in office. Clause 11 is a standard clause providing for procedure at meetings. Clause 12 allows for the appointment of a secretary to the council under the Public Service Act. Clause 13 provides for the payment of allowances and expenses to members of the council who are not public servants. Members of the council who are public servants are to be entitled to receive travelling allowances and out of pocket expenses.

Clause 14 deals with the powers and functions of the council. Generally, the role of the council is to advise the Minister on any matters arising from the Bill or its administration and, in particular, on matters of policy. This clause also provides that the council is to have regard to factors such as the equitable distribution of water, the social well-being of people and the preservation of the amenities, nature, features and general character of a locality. Clause 15 is a standard clause protecting members of the council from liability while acting as such and validating acts of the council carried out during some defect in its membership.

Clause 16 provides for the establishment by the Minister of Advisory Committees. The powers and functions of such committees are to be as prescribed but will be flexible enough to ensure that there is an appropriate high level of regional involvement. Clause 17 establishes the Water Resources Appeal Tribunal, to consist of the Chairman, who will be a legal practitioner of seven years' standing, two standing members, one of whom will be qualified in engineering and one in science, and at least one other member drawn from a panel to be established by the Governor. No-one who is a member of Parliament, a member of the council, a member of an Advisory Committee, or a member of the Well Drillers' Examination Committtee is qualified to be on the tribunal.

Clause 18 gives the Governor power to establish the panel required for the tribunal and provides for the representation on the panel of certain interests—primary production, well drilling, industry and public health. Clause 19 is a standard clause prescribing the conditions of office of the Chairman and members of the Tribunal. In this case, the term of office is three years, with the possibility of reappointment. Clause 20 disqualifies a member of the Tribunal from sitting at the hearing of an appeal if he has any proprietary, financial or personal interest in the result.

Clause 21 provides that a decision of the majority of members shall be a decision of the tribunal and in the event of an equal division, the decision in which the Chairman concurs is to be the decision of the tribunal. This clause also provides that the Chairman will decide any questions of evidence or law or procedure. Clause 22 is a standard clause protecting members of the Tribunal from liability while acting as such. Clause 23 entitles members of the Tribunal to allowances and expenses as determined by the Governor. Clause 24 provides for the appointment of a Registrar of the Tribunal. Clause 25 begins the third part of the Bill, relating to surface waters and gives the Governor power to declare any watercourse to be a Proclaimed Watercourse.

Clause 26 prohibits any person from diverting or taking any water from a Proclaimed Watercourse without authority. Penalties for this offence range from one hundred to three thousand dollars. Because of the difficulty of proof of such an offence, an evidentiary provision has been included in this clause so that proof of the existence on any land of a channel or means of taking water shall be *prima facie* evidence that water was taken. Clause 27 clarifies the position with regard to the general law and declares that no right to take water from a Proclaimed Watercourse may be acquired otherwise than by virtue of this or any other Act.

Clause 28 grants to the owner of land through which a Proclaimed Watercourse passes the right to take water for domestic purposes and for providing drinking water for grazing stock on that land. Clause 29 provides for the grant of annual licences to use water, subject to such terms and conditions as are specified in the licence. Clause 30 is a transitional provision enabling licences granted under the Control of Waters Act to be continued in existence until they expire.

Clause 31 makes it an offence for a person to fail to comply with a term or condition of his licence, with a penalty not exceeding $1 000. Clause 32 gives the Minister power, in the case where he is satisfied that the holder of a licence has contravened or failed to comply with a condition of that licence, to serve on the licence holder an Order which revokes or suspends for the period stated in the Order the licence, or which amends or varies the terms and conditions of the licence.

Clause 33 is a provision which operates when there is, or is expected to be, a shortage in the availability of water. It gives the Minister power to restrict by notice the supply of water to licence holders. It will be an offence to take water in contravention of such a notice, with a penalty of five thousand dollars and a daily default penalty of $1 000. Clause 34 provides that a person who is convicted of an offence against clause 33 shall be deemed to have contravened a term of the licence and thus may be subject to the operation of clause 32 (that is, the revocation, suspension or variation of his licence).

Clause 35 is again for operation in times of actual or expected water shortage and gives the Governor powers to dispense with, suspend or vary any other Act, by-law, rule or regulation, for a maximum term of six months, to ensure equitable distribution of the available water. Clause 36 prevents any person from obstructing or interfering with a Proclaimed Watercourse unless authorised. Penalties provided vary from five hundred dollars to $5 000.

Clause 37 is a provision enabling an authorised officer to require an owner of land to remove any obstruction or interference in relation to the bed or banks of a Proclaimed Watercourse which flows through or contiguous to his land. There is a penalty of not more than one hundred dollars a day for failing or refusing to comply

with such a requirement. Clause 38 prohibits the carrying out of any works which would affect a roclaimed Watercourse without authority and prescribes a penalty of $2 000. Clause 39 provides for the grant of permits for works, and allows for the variation by the Minister of the terms and conditions of such permits.

Clause 40 makes it an offence, carrying a penalty of one thousand dollars, to contravene or fail to comply with any term or condition of a permit. This clause also gives the Minister power to revoke a permit on the holder of that permit being convicted of an offence under this clause. Clause 41 begins the part of the Bill dealing with underground waters. This clause allows the Governor to declare any region of the State to be a Proclaimed Region. Clause 42 prohibits any unauthorised drawing of water from wells in a Proclaimed Region. Penalties are provided ranging from one hundred dollars to three thousand dollars. An evidentiary provision provides that proof of the existence of a means of withdrawing water shall be *prima facie* evidence of withdrawal.

Clause 43 gives the Minister power to grant annual licences to withdraw water subject to such terms and conditions as are specified in the licence. Clause 44 states that it is an offence to contravene or fail to comply with a term or condition of a licence and provides a penalty of $1 000. Clause 45 allows the Minister, in the case of a contravention of a term of a licence, to serve upon the licence holder an Order revoking or suspending that licence, or varying any terms of conditions of that licence.

Clause 46 allows the Governor to declare that specific provisions of this Bill shall not apply to wells in a particular class. Clause 47 gives the Minister power to require such information in relation to any wells in an area as he specifies in a notice published in the *Gazette*, and provides a penalty of $500 for failing to comply with a notice.

Clause 48 prohibits the carrying out of any major work on a well without authorisation. This applies to drilling, constructing, deepening or plugging wells, to work on the casing or lining of wells, and to the deepening of or other work on wells which are either fully or partly exempt from the provisions of the Bill if that deepening or work would cause those provisions to apply to that well. For this offence, penalties of one hundred to three thousand dollars are provided. However, if the work carried out was urgently required to prevent pollution or deterioration of the waters of the well and it was not practicable to apply for a permit, provided that the work was carried out in accordance with any regulations relating to work carried out in such an instance and the Minister was informed immediately on the work being carried out, the person carrying out the work shall have a defence to a charge laid under this clause.

Clause 49 provides for the grant of well construction permits and for the variation of any of their terms and conditions. Clause 50 is a transitional provision allowing permits granted under the Underground Waters Preservation Act to continue in existence until their expiry. Clause 51 makes it an offence carrying a penalty of one thousand dollars to contravene or fail to comply with a condition of a permit. In this clause the Minister is given power to revoke the permit if the holder of that permit is convicted of an offence under this clause.

Clause 52 is similar to clause 48. This clause relates to the change of use of a well, and provides that it shall be an offence to allow a change in the use of a well without the consent of the Minister. It is also an offence to contravene or fail to comply with a condition of a consent. This clause carried penalties between $500 and $3 000. Clause 53 gives the Minister power, where he considers it necessary to prevent pollution, deterioration, wastage or inequitable distribution of water, to serve on the owner of land on which a well is situated an Order requiring that person to take the action specified in the Order.

Clause 54 makes it an offence to contravene or fail to comply with a provision of a well Order. The offence carries a penalty of two thousand dollars with a default penalty of $200. Clause 55, importantly, allows the Minister, if an Order has not been complied with within a period specified in the Order or a reasonable period, to take the necessary action to ensure compliance with the Order and to recover the cost of that action from the person on whom the Order was served. Clause 56 makes it an offence for the owner of land on which a well is situated to allow the well to fall into disrepair. There is a penalty of two hundred dollars and a default penalty of $100.

Clause 57 prevents any person from drilling or otherwise carrying out major work on a well unless he is the holder of an appropriate Well Driller's Licence or is working under the direct supervision of the holder of such a licence. This clause is expressed to apply to officers of the Crown as well as private persons. The penalty provided is $1 000. Clause 58 provides for the granting of Well Driller's Licences of prescribed types. Clause 59 is a transitional provision allowing licences granted under the Underground Waters Preservation Act to continue in existence under this Bill.

Clause 60 establishes the Well Drillers' Examination Committee with such members, appointed by the Minister, and such powers and functions as shall be prescribed.

Clause 61 is the first clause of the part of the Bill dealing with Water Quality. It states that no person shall, unless authorised by or under this or any other Act, cause, suffer or permit any wastes to come into contact, directly or indirectly, with waters and prescribes a penalty of $10 000, with a default penalty of $1 000. This clause is not to come into operation until proclaimed in order to give those concerned with disposal of waste time for arrangements to be made.

Clause 62 deals with Water Quality Orders. The Minister may, by Order, authorise a person to dispose, disperse, or discharge specified waste into waters, but only in strict accordance with the terms of the Order. Such orders have a maximum life of five years.

Clause 63 is applicable to situations which are considered by the Minister to warrant urgent action. The Minister may by notice addressed to a person require that person to discharge waste into any waters, or to place it on any land, or prohibit that person from discharging waste into any waters or from placing it on any land. A person acting in accordance with such a notice shall not be guilty of an offence against this Bill, but a person who contravenes the notice is subject to a penalty not exceeding ten thousand dollars. If it is considered necessary, the Minister may take such action as is required to prevent or minimise water pollution and may recover the costs of that action from the person responsible for the pollution.

Clause 64 deals with the situations in which an appeal to the tribunal will lie. An appeal lies against the refusal to grant any licence or permit against any Order and against the imposition of any term or condition subject to which a licence or permit is granted or to which an Order is made. Other than the specific instances listed, no appeal lies. Appeals must be instituted in the prescribed manner and form, and at the hearing of an appeal, the

tribunal may uphold or quash the decision appealed against. It has no power to vary a decision.

Clause 65 prescribes certain of the procedures for appeals to be heard before the tribunal. It is a standard clause covering such matters as notice to persons involved and who may appear before the tribunal. The tribunal, for flexibility, is not to be bound by the rules of evidence and is to be concerned more with the substance of matters arising before it than with technicalities.

Clause 66 gives the tribunal power to require the attendance of any person, to require the production of any books or documents, to require a person to make oath or affirmation that he will answer questions, to require a person to answer any question and to enter upon any land or premises. Penalties are provided for failure to comply with a requirement of the tribunal and for misbehaviour before the tribunal. It is, however, also provided, that a person may refuse to answer a question if the answer would tend to incriminate him, or to produce any books or documents if their contents would tend to incriminate him.

Clause 67 provides that the institution of an appeal will not suspend or affect the operation of the decision or direction which is the subject of the appeal. Clause 68 provides that the tribunal shall give reasons in writing for any decision. Clause 69 gives the Minister power to acquire land subject to the provisions of the Land Acquisition Act. Clause 70 gives the Minister power to construct works which are necessary for the purposes of this Act. Clause 71 is a power of delegation given to the Minister. A delegation under this clause may be revoked at will and does not prevent the exercise of any power by the Minister. Clause 72 gives the Minister power to appoint authorised officers for the purposes of this Bill.

Clause 73 deals with the powers of authorised officers under this Bill and provides that it shall be an offence, with a penalty of five hundred dollars, to obstruct an authorised officer, or a person assisting him, in the carrying out of his duties under this Act, or to refuse to answer any question put by an authorised officer. The fact that an answer may tend to incriminate a person is no excuse for refusing to answer a question, but that answer may not be used in evidence in any proceedings other than under this Bill.

Clause 74 provides that no liability will attach to authorised officers in the carrying out of their duties as such. Clause 75 makes it an offence to make any false or misleading statement in supplying any information under this Act and provides a penalty of five hundred dollars. Clause 76 is an evidentiary clause applying to certain allegations in complaints for offences under this Bill. Clause 77 is a standard clause explaining what is meant by the term "default penalty" in this Bill. Clause 78 allows for proceedings for offences under the Act to be disposed of summarily and provides that the Minister's consent is necessary for the commencement of proceedings. Clause 79 is the power to make regulations necessary for the purposes of this Bill. The schedule repeals the Control of Waters Act and the Underground Waters Preservation Act.

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

BEVERAGE CONTAINER ACT AMENDMENT BILL

The Hon. T. M. CASEY (Minister of Lands) obtained leave and introduced a Bill for an Act to amend the Beverage Container Act, 1975. Read a first time.

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

That this Bill be now read a second time.

This short Bill which amends the principal Act, the Beverage Container Act, 1975, is intended to give full effect to the undertaking entered into by the Government immediately before the passage of the principal Act. The principal Act, which has not yet been proclaimed to come into operation, at section 13 provided that on or after June 30, 1976, "beverage ring-pull" containers could not be sold by retail. Subsequently the undertaking was clarified and it appears desirable that this date should be extended until the thirtieth day of June, 1977, and this amendment is effected by this Bill.

Clause 1 is formal. Clause 2 provides for the commencement of the measure to coincide with the commencement of the principal Act. Clause 3 extends the period during which ring-pull containers may be lawfully sold until the 30th June, 1977. Clause 4 inserts a new section 13a in the principal Act which permits the prohibition of sales of soft drinks in certain "prescribed" glass containers. It is intended that the only containers that will be prescribed by regulation for the purposes of this section are certain non-returnable glass containers that are at the moment causing a great deal of concern.

The Hon. R. C. DeGARIS (Leader of the Opposition): I support the second reading of this Bill. It is necessary that this Bill be passed as quickly as possible. It is rather strange that I raised the question of section 13 of the principal Act and the question that June 30, 1976, as the date on which beverage ring-pull containers could not be sold by retail. I have searched *Hansard* for the Minister's reply that the Government wanted June 30, 1976, retained in the original Bill. The anomaly should perhaps have been corrected at the time, but I am pleased that the Government has introduced this Bill to correct the anomaly. Regarding the question that I directed to the Government today, I believe that a problem could quickly appear in this State in relation to lightweight plastic-covered bottles coming into the soft drink industry. I do not think that any honourable member would believe that the sale of this type of bottle would be justifiable.

Clause 4 inserts a new section 13a in the principal Act which permits the prohibition of sales of soft drinks in certain prescribed glass containers. The Government is undertaking that it will not proclaim the Beverage Container Act until June, 1977. This Bill will have to be proclaimed to contain the situation in regard to the soft drink bottles about which a question was directed to the Government today. Once again the Government should give a clear undertaking to both Houses that although the Bill will be proclaimed, the Government does not intend proceeding with its provisions, except for new section 13a. If the Government will give that firm undertaking, I believe the Council will accept it; in that case, the other provisions would not be implemented until June, 1977. I support the Bill.

The Hon. N. K. FOSTER: I support the Bill. Clear thinking people in the community have determined that the question of litter and pollution should come under some form of control. Here is the type of container that the Leader mentioned; it is ugly.

The PRESIDENT: Order! The honourable member is not allowed to produce the bottle. I think the honourable member had better hide it as quickly as possible.

The Hon. N. K. FOSTER: If you, Mr. President, had had a few such bottles thrown on your lawn, you would wish that the bottles were given much more prominence. There is a highly successful advertising campaign ready to be launched in this State in support of this obnoxious

throw-away type of bottle. It is a light-weight bottle with a capacity of 1·25 litres. The bottle is weak in comparison with other standard bottles used extensively within the trade. It can be easily broken, but the glass adheres to the plastic covering. It is a hideous invention. I wonder when responsible manufacturers in South Australia will accept responsibility for the pollution they create. They have created this hideous container at the behest of unscrupulous companies in Australia as well as manufacturers and dispensers of carbonated drinks. Where will it end?

The Hon. C. J. Sumner: Why do you think they introduced it?

The Hon. N. K. FOSTER: They are hoping to get their product on the market before the date when the terms of the original Bill are to be applied. Manufacturers did not expect that the Government would accept responsibility (as any responsible Government should do) for such containers. This container sells at a lower price in New South Wales than similar products and, for that reason, its promoters hope to capture the market. Of course, after capturing the market, as with all other similar products and activities, the price of this product will be increased.

I have criticised not only manufacturers of such containers for manufacturing them at the behest of sectors of the industry, but I also deplore and will continue to condemn the irresponsible attitude of advertising agencies, which spend vast sums recoverable from the public from the sale of the product. I refer to the vile advertising campaigns instituted to push such a product. I refer to editorials in newspapers saying that nothing more can be done about the litter problem. I refer to local newspapers applauding the fact that there should be an on-the-spot fine, yet at the same time accepting advertisements for all sorts of products which run contrary to the philosophy behind the leader articles and editorials contained in those same newspapers. I commend the legislation now before the Council.

I do not want to hear in this Council, as we have heard previously, that, having applied legislative action to this type of bottle, the Government should apply similar action to other products. Honourable members who have seen this type of container would have no hesitation on this matter, especially in the light of the size of the container and the amount of glass in it in comparison with conventional containers. There is not much glass in these new containers. The Government must start somewhere. It must awaken the public by way of legislative action that the Government is accepting responsibility in this field. Eventually people from all sections of the community will become sufficiently educated to resist the purchase of products in non-returnable or non-reusable containers. I commend the Bill to the Council. I am sure that the Minister will give the undertaking asked for by the Leader of the Opposition.

The Hon. M. B. CAMERON: I support the legislation. During the debate on the first Beverage Container Bill, before it was passed, I indicated then that I believed that glass was the worst form of litter we could have. I was concerned when I was shown examples of these containers which this legislation seeks to prevent from being sold. It is a matter of great concern that an industry, which has been extremely responsible in relation to containers, has now produced this product.

The Hon. C. J. Sumner: What do you think of the actions of the company concerned?

The Hon. M. B. CAMERON: Its action is totally irresponsible. I am extremely concerned, because it is bringing into this State something that has not previously existed in a major way. It is something which is not required and which is not wanted by the community. The acceptance of such bottles would certainly create the worst form of litter imaginable: far worse than any can litter, especially if such containers became widespread in their use. Manufacturers who have voluntarily put a deposit on their bottles will be forced, if this Bill is not passed, to produce and sell such containers and move away from the containers which have previously been so responsibly produced. Such a situation would be most unfortunate. I commend the Government for the rapid action it has taken in this matter. I understand the bottles went on sale yesterday—

The Hon. C. M. Hill: The Hon. Mr. Foster must have bought one.

The Hon. N. K. Foster: I did not buy it.

The Hon. M. B. CAMERON: I have not brought down my examples, but I, too, assure the Hon. Mr. Hill that I did not purchase them.

The Hon. C. J. Sumner: Which companies are involved in this?

The Hon. M. B. CAMERON: I am not willing to say.

The Hon. N. K. Foster: It is Cottee's.

The Hon. M. B. CAMERON: The Hon. Mr. Foster has named the company. It is up to the Government to name the company and the containers involved. I commend the Government for the action it has taken, which I hope will bring about the end of this sort of container.

The Hon. T. M. CASEY (Minister of Lands): In closing the debate I want to say how delighted I am that the Government has received such wonderful co-operation from members opposite. I am rather amused by the statement made by the Hon. Mr. Cameron that he would prefer not to name the company involved. Perhaps he is expecting to receive some financial support at the next election. This matter came to the attention of the Government only a short time ago and, as has been pointed out, the bottle concerned is a lethal bottle. It is made of thin glass with an outside plastic coating. Looking at the honourable member who has the bottle, I would say that it would be in his best interests to place it on the seat rather than to throw it on the seat, because it could explode. Such bottles must be handled carefully. These bottles are hazardous in the hands of young children.

The Hon. M. B. Cameron: Even normal bottles are inclined to explode occasionally.

The Hon. T. M. CASEY: I give an assurance on behalf of the Government that the use of this power will be extremely restricted. The Leader asked for this assurance, and it is applied only in cases of extreme importance, such as that which now faces us. It had been hoped that we could design a more limited measure, but it has been found impracticable in the time available to obtain sufficient technical information to enable a narrower provision to be written. The opportunity is also taken to further amend the Beverage Container Act to make it clear that the provisions in relation to the prohibition of ring-pull containers will not apply before June 30, 1977. This is in line with assurances given when that Act was being debated in this Chamber. It has been drawn to the Government's attention that there is some uncertainty and confusion in the industry in relation to this date provision and this measure is designed to establish the position beyond doubt. In these circumstances the Government has done everything possible to

clear up the situation or any clouded idea that people might have about this situation. We have cleared up the whole measure, and I thank honourable members for their contribution.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Ring-pull containers."

The Hon. R. C. DeGARIS (Leader of the Opposition): Briefly, a question has arisen on this clause, which amends section 13 of the principal Act. The wording "ring-pull container" is used in the principal Act. I notice there is a ring-pull container now in which the ring-pull does not completely come away from the can. It is rather difficult to ban that can where the ring pull opens the can but cannot be removed from the can. I think the intention of the legislation was to ban the ring pull where the whole thing could be pulled off and thrown away. But in this case the whole thing cannot be removed. Perhaps the legislation in relation to that can goes too far. I should like the Government to examine this matter, on the definition of "ring pull", because the ring pull available now does not come away from the can, which makes things worse from a litter point of view.

Clause passed.

Clause 4—"Prescribed containers."

The Hon. R. C. DeGARIS: I know the difficulty of prescribing a ring-pull container as far as the container that has been referred to is concerned. Can the Minister enlighten the Committee about the proposed legislation: will it be on a pressure basis or on a thickness of glass basis? How will the regulation be formulated?

The Hon. T. M. CASEY (Minister of Lands): At this stage I cannot comply with the Leader's wishes because this is a matter for the Minister for the Environment; I am acting on his behalf in this Chamber. I know the Minister has been working busily over the last two days to formulate exactly how these regulations shall be framed. However, I will take it up with him and give the Leader a written submission to show how it will be done; but I cannot comply with his wishes now.

The Hon. R. C. DeGARIS: I do not know that the Minister need go that far but I ask that, when the Council sits again next Tuesday, he give a statement from the Minister about that container and what action the Governmen may take in regard to the regulations.

The Hon. T. M. CASEY: Yes.

Clause passed.

Title passed.

Bill read a third time and passed.

ELECTORAL ACT AMENDMENT BILL (OPTIONAL PREFERENCES)

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

Consideration in Committee.

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

That the Legislative Council do not insist on its amendments.

The House of Assembly has disagreed to the amendments because they introduce matters that should properly be dealt with by a separate measure. I said when the amendments were moved that certain aspects of them should have been examined and, indeed, that the Government would examine some of those matters.

The Hon. M. B. Cameron: Which ones?

The Hon. D. H. L. BANFIELD: We talked, for instance, about the 50-kilometre aspect. It was suggested also that the Hon. Mr. Whyte might even withdraw his other amendments or possibly confine them, but he did not do so. I think another honourable member suggested that some of these amendments should have been incorporated in another measure.

The Hon. M. B. Cameron: You'd support such a measure?

The Hon. D. H. L. BANFIELD: I did not say that. I said that the Government would be willing to examine some of the amendments, but that it was not willing to have them in this Bill. Incidentally, another place has accepted that view; otherwise, it would not have disagreed to these amendments. Having considered the matter for a couple of hours this afternoon, it has taken a decision similar to that taken by the Council previously.

The Hon. R. C. DeGARIS (Leader of the Opposition): I oppose the motion. When a Bill is introduced, the corresponding principal Act is opened. In that case, either House can give an instruction that matters related to the principal Act can be dealt with. Indeed, the Government used this procedure in a Bill in the House of Assembly in the previous session, when the Government sought an instruction to include new matters in its own Bill; this is a perfectly justifiable procedure that has been used by both the Opposition and the Government. When the principal Act is opened, it is then subject to further amendment. The House of Assembly has not given reasons relating to the merit of the amendments, but the Chief Secretary has already said that there is merit in the amendments.

The Hon. C. J. Sumner: He said that the Government would consider them.

The Hon. R. C. DeGARIS: The fact that the Government will consider them means that there is merit in them. What right has the Government to stand over Parliament? There has been no argument on the merits of the amendments. First, let me deal with the question of each vote having an equal value in a Legislative Council election. Is there any debate on the merits of that matter?

The Hon. C. J. Sumner: It already exists.

The Hon. R. C. DeGARIS: It does not. The honourable member knows that that view cannot be justified. Secondly, we are asking for the establishment of a permanent postal roll. Any argument against that means that the Government is interested in preventing people, who normally have a right to vote, from casting their votes.

The Hon. N. K. FOSTER: I rise on a point of order, Mr. Chairman. We have gone through all of this.

The CHAIRMAN: Order! What is the honourable member's point of order?

The Hon. N. K. FOSTER: The Leader is saying that the matter has not been debated, but it has been debated.

The CHAIRMAN: Order! What is the honourable member's point of order?

The Hon. N. K. FOSTER: The Leader was not honest in connection with the amendments.

The Hon. R. C. DeGARIS: I object to the statement that I was not honest, and I ask that the honourable member withdraw that statement.

The CHAIRMAN: The Leader has objected to the Hon. Mr. Foster's statement that the Leader was dishonest. I call on the Hon. Mr. Foster to withdraw that statement.

The Hon. N. K. FOSTER: To retain my vote, I withdraw the statement.

The CHAIRMAN: Order! The honourable member cannot qualify it. I ask for an unqualified withdrawal.

The Hon. N. K. FOSTER: I have withdrawn it.

The Hon. R. C. DeGARIS: For the reasons I have given, I cannot support the motion. Both amendments are reasonable, and no argument has come from the other place in relation to the merit of the amendments.

The Hon. M. B. CAMERON: I am extremely disappointed that the Chief Secretary has decided to go along with the dictatorial statement of the House of Assembly in relation to these amendments, which are not unreasonable. In particular, the amendments bring about a full count of votes in Legislative Council elections; that is not unreasonable. If this amendment had been drawn up when the legislation was first put through, the amendment would have been in the legislation. This is the first opportunity we have had to bring about a democratic count of all votes in Legislative Council elections. It is wrong to suggest that that should not take place. The Chief Secretary has given no reason why this amendment should not now be passed. The will of the people should be exposed to the fullest possible extent. I warn the Chief Secretary and the Government that they will regret the non-passage of this Bill; they will regret it probably at the next State election. The Government should not complain after that election: it will find that the very reverse situation to the one it thinks now exists will take place because the Government just happens to have a percentage below the percentage required. I trust that the Government will not complain; it has failed to support what is an extremely reasonable amendment.

The Hon. Mr. Whyte's amendments are now part of the Bill, and I am surprised that a Government that pretends to be interested in the people is setting out to ensure that in many cases people will be denied the right to vote; that is exactly what the Government will bring about. I trust that the Government will take a reasonable attitude. The Government is taking its present unreasonable attitude because of petty politics, because it has a Bill that it thinks will bring about a double dissolution, and the Government will not change it. The Government will deny people's democratic rights for its own political purposes, and I have no doubt that in the future the Government will bring this Bill back. As for the Chief Secretary's statement that the Government will have another look at this matter, what absolute rot! The Chief Secretary has no intention of looking at the amendments. The Government is forgetting the people because it is concerned with political advantage.

The Hon. F. T. Blevins: That is a disgraceful thing to say.

The Hon. M. B. CAMERON: I trust that a reasonable Bill will be passed.

The Hon. N. K. FOSTER: It has been alleged that people in remote areas will be denied a vote; there is an easy way to remedy the situation. It would not have been rejected. Members opposite did not do that. They could have moved an amendment to provide that the time gap between the closing of nominations and polling day would be more than the time that was provided in the last State election, which was a snap election and which involved several other factors. Had there been a fortnight or three weeks available, there would have been ample time for all people to have availed themselves of a postal vote. The Hon. Mr. DeGaris spoke about how roughly the Government has treated him, yet I was shocked to hear him say that he agreed with me regarding the abuse of any postal roll in postal voting. The Hon. Mr. Cameron, of the Liberal Movement, agreed with me, too. It would be shocking if the amendment was carried to provide for a roll of postal voters, because neither political Party would leave those unfortunate people alone.

The Hon. M. B. Cameron: I did not agree with that.

The Hon. F. T. Blevins: He said he wanted to cut out postal voting altogether.

The Hon. N. K. FOSTER: Liberal Party, Labor Party and Liberal Movement organisations, candidates and people assisting candidates would continually approach these people. Like the Hon. Mr. DeGaris, I recognise that the postal voting system is open to abuse. How much worse will the situation be if there is a roll of postal voters? Politicians would drive those voters on the register out of their minds. I cannot accept such an amendment. How one goes about overcoming the problem of the draw in elections I do not know, but that is an important aspect. The election in 1974 was a disgrace.

The CHAIRMAN: I do not like to interrupt a member in full flight, but the motion before the Committee is that it does not insist on its amendments. I ask the honourable member to come back to that.

The Hon. N. K. FOSTER: I will come back to it. The Hon. Mr. DeGaris said the amendment had not been considered. The House of Assembly has considered it. If it does no more than say it has read the debates and what ensued in the debate and finds that the amendments cannot be accepted, does the Leader want a system in this Parliament, where one has the right to move an amendment which goes to another place and comes back, to be introduced or perpetuated so that Bills go bounding backwards and forwards until a Bill is not passed? Now the amendments have not been accepted by another place, I suggest they should be passed by this Council. I say that seriously.

Previously, members opposite have denied many people in this State the opportunity of voting in Council elections, but at least they have recognised this; they have recognised that reform was necessary. Now members opposite are undoing part of that reform. As members opposite were in fear in 1973, I say that in the same spirit they should accept this amendment.

The Hon. A. M. WHYTE: In moving my amendments I used normal Parliamentary procedure and there was no dissension from the Government's side (not that there should have been any) but the opportunity was available. Having inserted the amendments, Government members apparently received riding instructions and said that the amendments should have been introduced by way of a private member's Bill. The amendments do none of the things claimed by the Hon. Mr. Foster. They do not alter the qualifications necessary for a postal vote: they already exist in the legislation. It is nonsense to say that unfair advantage can be taken of the postal voting system as a result of this amendment, which merely allows people to register as postal voters. I ask the Committee to uphold the amendments.

The Committee divided on the motion:

Ayes (10)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Noes (10)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris (teller), R. A. Geddes, C. M. Hill, D. H. Laidlaw, and A. M. Whyte.

The CHAIRMAN: There are 10 Ayes and 10 Noes. To enable the House of Assembly to further consider its decision I give my casting vote in favour of the Noes.

Motion thus negatived.

Later:

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

The Legislative Council agreed to a conference to be held in the Legislative Council conference room at 10 a.m. on Tuesday, February 17, at which it would be represented by the Hons. D. H. L. Banfield, F. T. Blevins, M. B. Cameron, R. C. DeGaris, and A. M. Whyte.

LEGAL PRACTITIONERS BILL

Adjourned debate on second reading.

(Continued from February 11. Page 2224.)

The Hon. J. C. BURDETT: I support the second reading of this Bill. It repeals the present Legal Practitioners Act and establishes a new code in regard to the practice of the law. An independent legal profession is absolutely vital to the well-being of a free society. It follows, therefore, that this Bill, providing as it does a complete code relating to the practice of the law—

The PRESIDENT: Order! There is too much audible conversation.

The Hon. J. C. BURDETT: The conduct of that practice, the conduct of audit of trust accounts, the provision of legal assistance to the members of the public and disciplinary matters are of vital importance not only to the profession but also to the public. It is essential that this code be observed in the best interests of the public in all aspects. I trust, therefore, that the Council will be patient if I deal with the Bill in some detail.

The most important parts of the Bill result from years of hard work by the Council of the Law Society and by the Government. The Bill is sound in principle and is unlikely to make the practice of the law so very difficult for the practitioner or the public. The changes do, however, represent an important updating of the rules regulating the practice of the law. This is essentially a Committee Bill. I shall deal with the various parts of it and in regard to most of the clauses which I criticise I shall move amendments in the Committee stage. Because of the shortness of time since the introduction of the Bill, I have not been able to place amendments on file yet but I shall do that as soon as possible and before the Bill goes into the Committee stage.

It is impossible to speak at any length about the practice of the law in this State without referring to the Law Society of South Australia and its council, which has regulated the practice of the law and protected the public for almost as long as there has been a legal profession in this State. Most of the detailed comments I shall make on the Bill are in line with oral and written representations which have been made to me by representatives of the Law Society Council. These same representations in substance were made to the Attorney-General or his representatives before they were made to me. I have been a legal practitioner in this State and a member of the society for 25 years. I have never sought election to the council of the society and, as a rank and file member, would like to pay a tribute to the members of the council who have served so tirelessly over the years. They have given unsparingly of their time and talents in the interests of the profession and of the public at large. Probably, few practitioners ever realise the amount of time that members of the council of that society have spent without monetary reward. The time has been devoted to regulating the practice of the law, running the legal assistance scheme, which is run by a committee giving its time voluntarily, and watching the interests of the community in legal matters.

I refer to Part I of the Bill, the preliminary Part. Clause 4 (3) (*b*) provides for practising certificates issued under the present Act to remain in force until July 1, 1977. There should be provision for this time to be extended by proclamation, if necessary, because I doubt whether the necessary boards and machinery will be able to be set up by that date.

The definitions in clause 5 include "fiduciary or professional default", etc. This includes any wrongful or negligent act or omission occurring in the course of the practice of the legal practitioner, or a firm of which the legal practitioner is a member, whether committed by the legal practitioner himself, an employee of the legal practitioner, or any other person. This would mean that a practitioner whose safe was burgled, without any default on his part, would be statutorily guilty of fiduciary or professional default. Admittedly, the definition is used only in giving clients indemnity from the guarantee fund. In practice it causes no difficulty, but I think it is unnecessary and artificial to say that the innocent victim of a burglary is guilty of fiduciary or professional default.

The Hon. C. J. Sumner: What do you want to do with that one?

The Hon. J. C. BURDETT: Nothing. I am simply making the comment. The definition of "unprofessional conduct" includes any offence committed by the legal practitioner in respect of which punishment by imprisonment is prescribed or authorised by law. Such offences should surely be of a dishonest or infamous nature before they qualify as unprofessional conduct.

The Hon. N. K. Foster: Read out the line number.

The Hon. J. C. BURDETT: No. We are not in Committee.

The Hon. N. K. Foster: Go your own legalistic way if you want to. I thought I was putting forward a practical suggestion acceptable to a person of common sense. Yours is a trained legal mind.

The Hon. J. C. BURDETT: If the honourable member cannot find the line number—

The Hon. N. K. Foster: I never said I couldn't find them. Go ahead, for God's sake.

The Hon. J. C. BURDETT: I will go ahead. The honourable member is probably able to use the alphabet and an index, and if he looks in alphabetical order for unprofessional conduct he will not have much trouble. Part II pertains to the Law Society of South Australia, and sets out certain statutory provisions to preserve the essential autonomy and the existing rights of the society. Part III relates to the admission of legal practitioners. Clause 14 is an important new provision, setting up a Commission for

Legal Education. If we are to have such a commission, it must be properly constituted. The personnel of the commission includes three judges, three nominees of the society, and three nominees of the University of Adelaide. No-one can question the propriety of having these persons on the commission. Another member is the Attorney-General or his nominee. It is proper that the Attorney-General himself should be entitled to sit on the commission, but I do not think the entitlement should extend to his nominee. The Attorney is in a peculiar position. He is a Minister of the Crown, the one charged more than other Ministers with the duty of Party political impartiality, and he is also the Leader of the Bar. Because he holds this special position, if he wishes to sit it is he personally who should sit. No-one can adequately represent him.

The Hon. C. J. Sumner: What about me?

The Hon. J. C. BURDETT: That is another question! I do not consider that the position is made any different by the possibility that at some time we may have an unqualified Attorney.

The Hon. N. K. Foster: What do you mean by that?

The Hon. J. C. BURDETT: An Attorney-General who is not a member of the legal profession.

The Hon. N. K. Foster: Some the best Attorneys did not belong to your lousy profession. What about Tom Playford?

The Hon. J. C. BURDETT: I am not making any comments about the qualities of an unqualified Attorney. Such a person would still hold the position, and he alone should be entitled to sit. If he were absent overseas, the Acting Attorney could be appointed. Also included on the commission is a student from the university. I do not think that that is proper on a body which determines academic qualifications for admission to a profession. It seems wrong to me that the student could take his part in determining his own qualifications for admission to practice. It is like a person acting as his own examiner. I am well aware that student representation is the practice in the university, but that is a different matter. It is one thing to determine the requirements for a university degree to which employers or the public at large may attach as much or as little importance as they wish, but it is quite another thing to determine the qualifications to practise a profession. There is provision for co-opted members of the commission who do not have voting rights, and a student could be most valuable as such a member.

The Hon. C. J. SUMNER: Will the honourable member give way?

The Hon. J. C. BURDETT: Yes.

The Hon. C. J. SUMNER: I want to put the proposition that there is no real distinction between having a student on a university council participating in a decision on the qualifications or the prerequisites for his graduation and a student sitting on this commission performing the same task in relation to someone who is about to enter a profession. The distinction escapes me.

The Hon. J. C. BURDETT: I have given the distinction once, but I will do it again. All that the university does is to grant the degree. It does not allow anyone to practise a profession. Whether or not the person can practise a profession is up to the profession itself. The university simply gives a degree and a prospective employer or the public can make up their minds as to whether they are satisfied with that qualification. If one is admitted to practise a profession, that is it. The public must accept that one has that qualification. That is the distinction.

The Hon. C. J. Sumner: I do not believe it exists.

The Hon. J. C. BURDETT: Part IV of the Bill provides for the Legal Practitioners Board, which issues the practitioner's practising certificate. Clause 21 states, in part:

(2) The Board shall consist of six members appointed by the Governor of whom—

(*a*) three shall be persons nominated by the Attorney-General (of whom one shall be the master or a deputy master of the Supreme Court);

and

(*b*) three shall be persons nominated by the Society (at least one of whom must, at the time of his nomination, be a practitioner of not more than five years standing).

The two nominees of the Attorney-General other than the master need not be practitioners. That is most unsatisfactory.

The Hon. C. J. Sumner: Why?

The Hon. J. C. BURDETT: Because they are issuing certificates to practise the law. The qualifications have already been determined by another body. This is most unsatisfactory. It is essential and proper that these two nominees should be practitioners. I suggest that the junior member's qualification should be not less than seven years standing, as this is the qualification for junior members sitting on the council.

The Hon. J. R. Cornwall: What other professional bodies can that be applied to, the requirement that they be members of the profession?

The Hon. J. C. BURDETT: I do not know of many Acts relating to the professions set up in this way. This is new. The Legal Practitioners Board is new. Previously, the practising certificates were issued by the court. I do not think this could be likened to anything else, but I see no reason why there should be anyone other than legal practitioners on the board.

The Hon. J. R. Cornwall: There are other professions.

The Hon. J. C. BURDETT: There are a whole number of different professions. This Bill is somewhat complicated. It sets up the Commission for Legal Education, the board, and also the disciplinary tribunal. These are three quite separate tribunals. I can see, in the case of this Bill and in the pattern of this Bill, no reason why there should be anyone on the board other than a legal practitioner.

The Hon. N. K. Foster: All members of this board will have to be legal eagles.

The Hon. J. C. BURDETT: That is my suggestion.

The Hon. N. K. Foster: I am glad that it is only a suggestion.

The Hon. J. C. BURDETT: Part IV contains new provisions entitling legal firms to assume corporate personalities. This is a new and somewhat radical departure. It enables legal practitioners to arrange their affairs in the same way as architects were empowered to do and in the same way as the profession in other places can do.

The Hon. C. J. Sumner: Do you know where they are?

The Hon. J. C. BURDETT: Some States in America are the only ones of which I am aware.

The Hon. J. E. Dunford: What are they doing?

The Hon. J. C. BURDETT: They are practising as firms that are bodies corporate.

The Hon. J. E. Dunford: That's a tax dodge.

The Hon. J. C. BURDETT: I wish the Hon. Mr. Dunford would let me develop my argument in my own way.

The Hon. J. E. Dunford: Just tell me how much you will benefit by it.

The Hon. J. C. BURDETT: Not at all. I will tell the honourable member what are the advantages.

The Hon. J. E. Dunford: Just tell the truth. You are on trial to the public.

The Hon. J. C. BURDETT: Very well, and, if I may, I will answer the first question now. The Hon. Mr. Sumner asked in what other parts of the world this was being done. I said that it was happening in some States of America and, before I could say any more, the Hon. Mr. Dunford interjected. There is partial ability to do this in the Northern Territory. The provisions are carefully devised to ensure that the public is in no way disadvantaged by them and that the public will receive precisely the same attention and protection when dealing with a firm that is a corporation as it would when dealing with one that is not. It should be noted (and this is what I hope the Hon. Mr. Dunford will listen carefully to) that—

The Hon. J. E. Dunford: I'll be listening.

The Hon. J. C. BURDETT: —no great taxation benefits will accrue to practitioners as a result of their taking advantage of these provisions. While certain classes of relative may be shareholders, under this Bill it is unlikely that any income splitting will be effective, to any extent, for income tax purposes. With a large legal company, the pay-roll tax would, in any event, soon become prohibitive.

The Hon. J. E. Dunford: What about a small firm like yours?

The Hon. J. C. BURDETT: My pay-roll tax would not be prohibitive. However, I have suggested that no great benefit would arise from income splitting.

The Hon. J. E. Dunford: How much?

The Hon. J. C. BURDETT: There would be no significant benefit at all. If the Hon. Mr. Dunford wants to ask me a question, he should let me finish answering it. No significant benefit at all will be derived from income splitting because, although this Bill will allow income splitting to occur, it will not be effective for income tax purposes. The Taxation Department will still consider that the money earned by the company was, for taxation purposes, earned by the practitioner.

The only real benefits that these provisions extend to practitioners is that they may, without being penalised through the taxation structure, make the same provision for their retirement through superannuation funds that business men and many employees, including public servants and even members of Parliament, can already make. This seems to be a modest benefit to allow practitioners to have, when the public will not be disadvantaged in any way. I remind honourable members who, through their interjections, seem to criticise this measure in some way that this Bill is a Government Bill.

The Hon. J. E. Dunford: I am not grizzling. I am just asking you questions. How much will you rip off from this? You haven't answered yet.

The Hon. J. C. BURDETT: For the Hon. Mr. Dunford's benefit, this will not benefit me at all. It will enable me to make the same provision for superannuation for the time when I retire from the profession as public servants and similar people are able to make now. I now refer to clause 28 (2) (*a*) (v), at the end of which I suggest the words "without the approval of the board" should be included. In certain circumstances, that provision may not be objectionable. It should also be possible for shares to be transferred to another legal practitioner and prescribed relatives of any practitioner. This could arise, for example, where a practitioner was the trustee of the estate of another practitioner who had died.

I suggest that a new clause could be added at the end of this Part, perhaps new clause 31a, which could provide for the Treasurer to pay to the society 33⅓ per cent or other prescribed percentage of all the money paid to the board by legal practitioners pursuant to clause 28 of the Bill for the purpose of maintaining and improving the society's library, and that this section could be a sufficient authority to make such payments without further appropriation. I believe assurances have been given along these lines.

I suggest that in clause 32 (3) (*a*) the words "for fee or reward" should be deleted and that there would be better protection if the following was inserted in lieu thereof:

. . . provided that neither he nor his employer makes any separate charge for the preparation of the instrument.

That would be more adequate protection for the public. I suggest that the words "without the approval of the board" should be added at the end of clause 35, as a practice may not necessarily be undesirable.

The Hon. C. J. SUMNER: Would the honourable member give way?

The Hon. J. C. BURDETT: Yes.

The Hon. C. J. SUMNER: It may shorten proceedings if I tell the Hon. Mr. Burdett that some of the matters that he is raising have already been submitted to the Government by the Law Society and the Government is willing to accept them. Perhaps I could indicate to the honourable member as he goes through his points which ones are acceptable.

The Hon. J. C. BURDETT: I would prefer to go through them, as these are matters of interest, whether or not they are acceptable to the Government. Regarding clause 38, I suggest that liability should be limited to directors only and that possibly the term "directors" should be defined. I now refer to Division VII and other parts of the Bill that relate to practitioners' trust accounts. These parts of the Bill largely follow the society's recommendations. Certain council members have put in a monumental amount of work on these provisions. Unfortunately, there have been occasions when practitioners have misappropriated funds from trust accounts and clients have been left without redress. However, these occurrences have been rare, although they are calamitous when they occur.

It may be convenient to speak to all the provisions relating to trust accounts at this juncture. The client, of course, now has recourse to the guarantee fund, so that the blow is softened. Nevertheless, it is obviously desirable to do everything possible to prevent such misappropriation. Recent instances have shown that the audit provisions in relation to trust accounts have not proved effective. The new inspection provisions and provisions for supervisors and receivers are welcome protections for the public; those protections have been devised mainly by the profession itself. Clause 41 provides:

(1) Subject to subsection (2) of this section a legal practitioner shall, as soon as practicable after his receipt of any trust moneys in the course of his practice, deposit those moneys in a trust account and shall not withdraw or permit them to be withdrawn except as authorised by this Part.

(2) Where at or before the time that a legal practitioner receives trust moneys he is given a written direction by the person entitled to those moneys to dispose of them in a manner specified in the direction, it shall be lawful for the legal practitioner to act in accordance with that direction.

The kind of thing that often happens is that a client may give a solicitor a cheque payable to the State Taxes Department to pay succession duties, and sometimes the cheque is not paid into the trust account but is sent directly to the State Taxes Department. As this clause stands, this procedure would be prohibited, unless there was a written direction. I suggest that the word "written" should be deleted. Similarly, in the same clause there is a requirement that the practitioner shall keep detailed accounts of all trust moneys received by him. This would be impracticable in such a case. "To keep a record" should be sufficient.

Division IX gives authority to legal practitioners to act on behalf of persons of unsound mind in an emergency. This is a sensible provision. Division XIII gives the right of personal representatives to carry on a legal practice for a period not exceeding 12 months, subject to the conditions laid down. In Division XIV, clause 55 relates to the right of audience before courts. In the Bill, this includes any legal practitioner employed by an instrumentality of the Government of the State or of the Commonwealth. It has been suggested that this is too wide and that the only persons who should have the right of audience are the Attorney-General, Solicitor-General, and the Crown Solicitor of the Commonwealth and officers of his department. The same kind of situation should apply in the State field, including an officer of the Crown Law Department as long as he holds a current practice certificate; in addition, the provision should include persons employed by the Law Society, practitioners in private practice, and people in their employment with a current practice certificate, and also an employee of a Government bank.

The existing rights of articled clerks in the local court and the magistrates court should be preserved. There is no reason why a Government instrumentality should not use the services of the Crown Solicitor, so it does not seem necessary to give the right of audience to a legal practitioner employed by a Government instrumentality.

Part V deals with the combined trust account. It provides for a certain portion of legal practitioners' trust accounts to be paid into interest-bearing accounts to provide for the guarantee fund and for other purposes that are in the interests of the profession and the public as a whole. It has been suggested that there could be a new clause 64a, so that provision may be made for the society to engage officers and to pay salaries and expenses and to reimburse members out of the funds; this provision should be preserved. Part VI relates to the legal assistance scheme, which was devised and started by the profession. It is probably unequalled in the Commonwealth. It provides assistance for people who need legal services, but who cannot afford to pay for them. In recent years the scheme has received a considerable amount of Government aid.

Clause 65 recognises the legal advisory service, which is part of the legal assistance offered by the society. The clause contains financial provisions in relation to the service. However, the Bill does not recognise the equally important duty solicitor service, which is also part of the legal assistance provided. The duty solicitor scheme should be put on the same basis as the legal advisory service. The society should also be able to pay, through the legal assistance fund, for the provision of any legal assistance that may be established or maintained by the society. Part VII provides for claims against the guarantee fund.

Part VIII provides for investigations, inquiries and disciplinary proceedings. It sets up yet another of these organisations about which we were talking previously—the Legal Practitioners' Disciplinary Tribunal. This tribunal is to consist of nine persons appointed by the Governor, of whom three shall be legal practitioners appointed on the nomination of the Chief Justice; three shall be appointed on the nomination of the Attorney-General; and three shall be legal practitioners appointed on the nomination of the society. There can be no suggestion that the old disciplinary body was ever other than just and impartial. The profession has always been hard on itself. All nine members of the tribunal should be practitioners, and they ought to be either present or past members of the council. That is to say, they should be practitioners whom the majority of the profession has accepted as persons competent to sit in judgment on members of the profession. The Attorney-General has told me of his intentions in this matter. He has said that it is his intention to appoint two members. I suggest that the services of the Auditor-General or the other accounting expert are not needed: there is no reason why they should not be called as witnesses. As the purpose of the disciplinary tribunal is to sit as a tribunal in judgment, there is no reason why it should not be comprised exclusively of legal practitioners.

The Hon. C. J. Sumner: There are good reasons why it should not be so constituted.

The Hon. J. C. BURDETT: The honourable member can tell the Council when he speaks. Clause 87 provides for the numbers necessary to make a quorum. Five members shall provide a quorum. It is suggested that three members would be adequate for this purpose. Three members can sit on a Full Court bench; they are similar cases. It should be remembered that the members receive no payment and it could, and it has, occurred on isolated occasions that two matters could be investigated by the tribunal at the same time. Clause 90 deals with the proceedings before the tribunal. I believe clause 90 (1) should commence "Where a charge . . . " instead of commencing with the existing wording "Where a complaint . . .". The term "complaint" is used in clause 83 (2), which deals with a complaint to the Registrar. Such a complaint may be on an informal level. Therefore, to avoid confusion, I suggest that when talking about a matter before a tribunal the term "charge" is used rather than "complaint". Part IX provides for public notaries and Part X is miscellaneous. Clause 101 is important, and subclause (1) provides:

A barrister shall be entitled to recover, as a debt, his fees for professional work done by him from—

(*a*) the solicitor by whom he was instructed; or

(*b*) a client on whose behalf the professional work was done.

Clause 101 (2) provides:

A barrister shall be liable for gross negligence in the performance of his professional work to a person who suffers loss as a result of that negligence.

Presently barristers are immune from suits by their clients in regard to negligence.

The Hon. F. T. Blevins: That is disgraceful.

The Hon. J. C. BURDETT: I am not sure that it is disgraceful. I am not sure the interests of clients will be better served under this provision; in fact, they will be worse off when this clause becomes law. The clause is

based on the misconception that the reason why a barrister, practising as such, is immune to negligence suits is that he may not sue for his fees and shall—

The Hon. C. J. Sumner: That is not true.

The Hon. J. C. BURDETT: The two are linked. I will seek to demonstrate that this is not the reason for the rule. At first glance, it appears that this clause is sound. It seems to give protection to the public, and it seems to put barristers in the same position as the solicitors who instruct them and who are liable to such suits, just as in the case of medical practitioners, engineers and other professional men.

The Hon. N. K. Foster: You mean "professional people".

The Hon. J. C. BURDETT: The term is commonly used to mean people of both sexes. If the honourable member does not like it, he can lump it. First, it has not been suggested that members of the public will be deprived of redress.

The Hon. C. J. Sumner: Do you deny that there have not been such cases?

The Hon. J. C. BURDETT: If you are aware, tell me.

The Hon. C. J. Sumner: *Rondel* v. *Worsley* is such a case.

The Hon. J. C. BURDETT: The honourable member can tell the Council when he speaks. I find it hard to conceive—

The Hon. N. K. Foster: What was that?

The Hon. J. C. BURDETT: If it pleases the honourable member, I find it hard to conceive of a case where a client did suffer through a barrister's negligence and where he did not have a claim against the instructing solicitor. I also suggest that, because of the control of barristers exercised by the court presently in South Australia, it is unlikely that a client would suffer. The case which sets out the reasons to which the Hon. Mr. Sumner refers is—

The Hon. C. J. Sumner: I refer you to page 230.

The Hon. J. C. BURDETT: The honourable member can tell us about that later. The case is *Rondel v. Worsley*, A.E.L.R., 1967, vol. 3. It starts at page 993, and I refer to the judgment of Lord Pearce at page 1027, where he states:

> The obvious disadvantages of withdrawing immunity from the advocate are as follows. On occasions it is an advocate's duty to the court to reject a legal or factual point taken in his favour by the judge, or to remove a misunderstanding which is favourable to his own case. This duty is of vital importance to the judicial process.

His Honour goes on to point out that this often occurs in a minor way, and sometimes in a major way. He states:

> Moreover, in every case there is a large number of irrelevancies and side issues that seem important to the client but are not of help in deciding the case.

He goes on to point out that the solicitor, who is liable for negligence suits as a result of preparing the case, will include all such irrelevancies. It is the duty of the barrister to remove them and prune them. Often it is in the client's interests, although the client will not think so.

The Hon. C. J. SUMNER: Will the honourable member give way?

The Hon. J. C. BURDETT: No. I prefer to finish my case.

The Hon. F. T. Blevins: Another one who voted for the rule.

The Hon. J. C. BURDETT: Unlike the honourable member, I have almost on every occasion given way.

The Hon. F. T. Blevins: I did not vote for the rule.

The Hon. J. C. BURDETT: The honourable member is supposed to abide by the majority vote.

The Hon. N. K. Foster: The honourable member is discussing people who are immune.

The Hon. J. C. BURDETT: I am not: I am saying that the reason for the rule is that the barrister might be inhibited from exercising his duty to the court and his duty to the public if he were liable for negligence suits, and his immunity—

The Hon. N. K. Foster: How is the public affected?

The Hon. J. C. BURDETT: I have already explained that. The immunity in this situation has been likened to the immunity of the courts. This is necessary, because the barrister is part of the judicial process. It has been likened to the immunity which attaches to the officers of the courts and it is likened to Parliamentary immunity.

The Hon. N. K. Foster: Courts are not immune: some courts are subject to appeal to higher courts.

The Hon. J. C. BURDETT: That is all. True, courts are subject to appeal to other courts, but they are immune from civil action for negligence. I wish the honourable member would listen.

The Hon. N. K. Foster: I merely wish to make the point that the honourable member should qualify his statements.

The ACTING PRESIDENT (Hon. R. A. Geddes): Order! Let us get on with the work.

The Hon. J. C. BURDETT: The immunity must be preserved not contrarily in the interests of the public but in the interests of the public.

The Hon. N. K. Foster: Can you define the public interest?

The Hon. J. C. BURDETT: You look it up yourself; look up your own legislation.

The Hon. N. K. Foster: I am asking you to define the public interest.

The Hon. J. C. BURDETT: If the Hon. Mr. Foster will keep quiet for a minute, I wish to direct a question to the Minister. Will the Minister, in his reply, indicate whether the views of the Supreme Court judges on this matter of barristers' immunity have been sought or whether they have been offered; and, if they have, what are those views? In the Committee stage I shall be moving some amendments, but it gives me great pleasure to support the second reading of this Bill.

The Hon. R. C. DeGARIS (Leader of the Opposition): As the Hon. John Burdett has said, this is a Committee Bill. Therefore, I should like to congratulate the honourable member on the manner in which he has touched on practically every matter in the Bill. I do not wish to go through the Bill in that regard. It is a Bill dealing with the legal profession. I know that the two lawyers in this Council will be expounding their views on most matters in this Bill.

We all agree that the independence of the legal profession is essential in a free society. I want to direct my thoughts and the attention of the Council to two Parts only in the Bill, namely, Part V (clause 32) and Part X (clause 101), involving the matter recently dealt with by the Hon. John Burdett. I will begin with the latter Part, concerning clause 101. This whole question of a barrister's liability is complex; but, on consideration, my view is that such a change as the Bill contemplates is not justified.

The Hon. N. K. Foster: In your mind.

The Hon. R. C. DeGARIS: Not only in my mind but in the minds of many eminent legal people. As the Hon. John Burdett says, has the Government sought the opinion of the judges of the Supreme Court? If so, what is that opinion?

The Hon. C. J. Sumner: Do you think it is proper to do that?

The Hon. R. C. DeGARIS: Yes. It is proper in the Electoral Act.

The Hon. N. K. Foster: What a comparison! You're the bushiest bush lawyer I have ever heard of.

The Hon. R. C. DeGARIS: That may be so, but the Hon. Mr. Foster is the most troubling trouble shooter in the world. It may seem reasonable that, because in other parts of the legal profession and in other professions there is a liability to be sued for damages if a loss can be shown because of lack of skill or lack of due care, the same liability should apply to barristers. That may well seem, at first glance, to be a reasonable assumption. The existing rule of barristers not being able to be sued in those circumstances is based on very long experience that has stood the test for about 200 years. The rule has been challenged on many occasions, and on each occasion the decision has been to maintain the existing position; and that is the present rule. As all the facts on this are examined, I should like to spend more time on it because what I have been reading on this matter has been most fascinating. The present rule seems to be more efficient both in relation to the interests of the client and in relation to the interests of justice. The case of *Rondel v. Worsley* has been mentioned by the Hon. Mr. Sumner and by the Hon. John Burdett. Parts of that case, I think, make interesting reading. I quote from the All England Law Reports and from the House of Lords what Lord Reid said on this matter. He said:

The argument before your lordships has been directed to the general question of barristers, liability and has ranged widely. For the appellant it was said that all other professional men, including solicitors, are liable to be sued for damages if loss is caused to their clients by their lack of professional skill or by their failure to exercise due care; so why should not barristers be under the same liability? For the respondent it has been shown that for at least two hundred years no judge or text writer has questioned the fact that barristers cannot be so sued, and a variety of reasons have been adduced why the present position should continue.

I do not propose to examine the numerous authorities. It is, I think, clear that the existing rule was based on considerations of public policy; but public policy is not immutable and doubts appear to have arisen in many quarters whether that rule is justifiable in present day conditions in this country. So it appears to me to be proper to re-examine the whole matter . . .

There is no doubt about the position and duties of a barrister or advocate appearing in court on behalf of a client. It has long been recognised that no counsel is entitled to refuse to act in a sphere in which he practises, and on being tendered a proper fee, for any person however unpopular or even offensive he or his opinions may be, and it is essential that that duty must continue: justice cannot be done and certainly cannot be seen to be done otherwise. If counsel is bound to act for such a person, no reasonable man could think the less of any counsel because of his association with such a client, but if counsel could pick and choose, his reputation might suffer if he chose to act for such a client, and the client might have great difficulty in obtaining proper legal assistance.

That is the first reason.

The Hon. C. J. Sumner: I do not accept that.

The Hon. J. C. Burdett: If you don't want to accept Lord Reid, you don't have to.

The Hon. R. C. DeGARIS: It has been long accepted that a counsel can refuse to act. If there is a situation wherein a barrister can refuse to act for such a person as is mentioned, we shall produce a situation where barristers will dodge acting for people of a certain type and a certain character. We find the position that the client's interest is not going to be cared for in the same way as if this Bill is continued. I will continue to quote Lord Reid's remarks, as follows:

Every counsel has a duty to his client fearlessly to raise every issue, advance every argument, and ask every question, however distasteful, which he thinks will help his client's case. As an officer of the court concerned in the administration of justice, he has an overriding duty to the court, to the standards of his profession, and to the public, which may and often does lead to a conflict with his client's wishes or with what the client thinks are his personal interests. Counsel must not mislead the court, he must not lend himself to casting aspersions on the other party or witnesses for which there is no sufficient basis in the information in his possession, he must not withhold authorities or documents which may tell against his clients but which the law or the standards of his profession require him to produce. By so acting he may well incur the displeasure or worse of his client so that if the case is lost, his client would or might seek legal redress if that were open to him.

There is a second very cogent reason why there is a need to preserve the present rule. Then we come to the question raised by the Hon. Mr. Sumner, that there is a balance that one must decide upon, that there are some advantages in making barristers liable in the same way as solicitors are liable for lack of skill or for not acting with due care in the interests of their clients. There are other advantages which outweigh, in the opinion of Lord Reid, many others in this matter. The quotation continues:

Is it in the public interest that barristers and advocates should be protected against such actions? Like so many questions which raise the public interest, a decision one way will cause hardships to individuals while a decision the other way will involve disadvantage to the public interest. On the one hand, if the existing rule of immunity continues there will be cases, rare though they may be, where a client who has suffered loss through the negligence of his counsel will be deprived of a remedy. So the issue appears to me to be whether the abolition of the rule would probably be attended by such disadvantage to the public interest as to make its retention clearly justifiable. I would not expect any counsel to be influenced by the possibility of an action being raised against him to such an extent that he would knowingly depart from his duty to the court or to his profession;

Lord Reid goes on to touch on another most important point, and I quote from page 999, as follows:

There is another factor which I fear might operate in a much greater number of cases. Every counsel in practice knows that daily he is faced with the question whether in his client's interest he should raise a new issue, put another witness in the box, or ask further questions of the witness whom he is examining or cross-examining. That is seldom an easy question but I think that most experienced counsel would agree that the golden rule is—when in doubt stop. Far more cases have been lost by going on too long than by stopping too soon. But the client does not know that. To him brevity may indicate incompetence or negligence and sometimes stopping too soon is an error of judgment. So I think it not at all improbable that the possibility of being sued for negligence would at least subconsciously lead some counsel to undue prolixity, which would not only be harmful to the client but against the public interest in prolonging trials. Many experienced lawyers already think that the lengthening of trials is not leading to any closer approximation to ideal justice.

The Hon. Mr. Foster has asked me to define undue prolixity.

The Hon. N. K. Foster: I did no such damn thing. What are you telling lies for?

The Hon. R. C. DeGARIS: It is clear—

The Hon. N. K. FOSTER: Will the Hon. Mr. DeGaris give way?

The PRESIDENT: Yes, I think he will.

The Hon. R. C. DeGARIS: Certainly.

The Hon. N. K. FOSTER: You know my attitude to giving way. I think it should be confined to the highways. I have been out of this Chamber, called out on another matter, but I reckon I can pretty well judge what he has been waffling about. He is probably ignoring, and what he is quoting ignores, the fact that there are incompetent barristers. I have read the document and it is an interesting one, but finally we must come down on the side of the aggrieved person, and the aggrieved person is a member of the public. All this claptrap about public interest does not interest me in the manner in which it has been used in this debate. I would like the honourable member to say whether it affords any protection or any right to justice. That is what he should be looking at, rather than getting carried away about what was said in the House of Lords. The aggrieved party is the battler in the street, against an incompetent barrister who comes into court drunk and says, "I rest", and the bloke is done like a dinner—

The PRESIDENT: The Hon. Mr. DeGaris.

The Hon. R. C. DeGARIS: I thank the Hon. Mr. Foster for his undue prolixity in the question he has directed to me. If he had been in the Chamber he would have heard me dealing with that point. I quote once again what Lord Reid had to say, this time for the information of the Hon. Mr. Foster. Lord Reid said:

> Like so many questions which raise the public interest a decision one way will cause hardship to the individual—

that is the point he is making—

> while a decision the other way will involve disadvantage to the public interest.

There is a case where there may be an incompetent barrister who does not look after the interests of his client, but the point I am making is that, in the general interests of justice and in the interests of people who want counsel, it is best left where it is. Lord Reid comes to that decision. I do not say that the present position does not have some disadvantages. Of course it does. However, there are more disadvantages if one places the barrister in a situation where he is liable for action in regard to lack of skill or negligence. The very people the Hon. Mr. Foster is worrying about will be more disadvantaged if clause 101 passes, and that is the important point made by Lord Reid.

The Hon. N. K. FOSTER: Will you give way again?

The Hon. R. C. DeGARIS: Yes.

The Hon. N. K. FOSTER: You made a reference earlier, when I was in the Chamber, about whether the matter had been submitted to the judges. Am I correct in saying that?

The Hon. J. C. Burdett: No, he did not.

The Hon. N. K. FOSTER: He damn well did, because the Hon. Mr. Sumner interposed and asked why they should be consulted. I accept that he did; I heard it. Had it gone to the judges and had a majority of the judges concurred, would you still be opposed to that clause?

The Hon. R. C. DeGARIS: It is still a matter of judgment, another opinion. If an opinion is sought from the judges of the Supreme Court, and if they had made a decision and a recommendation, it is only fair that Parliament should see it. That was the point I was making. If the judges have been consulted, let us hear what they have said about it. It would be of assistance to us in a decision on this clause. The Hon. Mr. Foster and the Hon. Mr. Blevins think that they are the only ones in this Chamber who care about people. They have said it time and time again.

The Hon. N. K. Foster: You are telling fibs. You know damn well you are not telling the truth. On a point of order, Mr. President, if he is going to stand there making these wild accusations, I claim to be misrepresented. I have never said in this Chamber that the Hon. Mr. DeGaris is not interested in any member of the public. For him to stand up in this place in a debate of this kind is more than wilful. I know you will not uphold me.

The PRESIDENT: Order! The honourable member will resume his seat. That is not a point of order.

The Hon. N. K. Foster: He ought to be more responsible.

The Hon. R. C. DeGARIS: I think that when the Hon. Mr. Burdett was speaking a challenge was made that he should think about people. I merely say that, if we are interested in the general public and in a person's receiving good counsel, in my opinion (and it is a general opinion) clause 101 will do more damage to a person's representation than would occur if it was removed. That opinion has been held not only by Lord Reid but also by many other prominent jurists around the world. I agree that in some cases there may be grounds to say that it was not in the interest of the persons concerned that they could not take action against the barrister. Across the board, however, it is in the general interest of justice and of the client that a barrister should be guided by the present rule applying to him.

I come now to clause 32, which, as I read it, means that only a lawyer can, for fee or reward, prepare any will or other testamentary instrument; an instrument creating, transferring, assigning, modifying or extinguishing any estate or interest in real or personal property; or prepares any instrument relating to the formation of a body corporate, any amendment to the memorandum or articles of association, rules or regulations of a body corporate, any prospectus or statement in lieu of prospectus relating to a body corporate, or any instrument affecting the rights of shareholders or debenture holders in a body corporate or any scheme of arrangement in respect of a body corporate, and so on. This type of debate has ensued in the Council many times before. I refer, for instance, to the work of land brokers in South Australia. I think I am correct in saying that in every other Australian State contracts and transfers can be prepared by legal practitioners only. We in South Australia have had a system of land brokerage that has served this State extremely well. I do not know whether any more difficulty has been experienced regarding these matters in South Australia, where brokers have responsibility in this area, than has been experienced in other States. However, I do know that in South Australia we have a system under which the man in the street has been far better off financially than has his counterpart in other States in relation to the cost of preparing documents relating to house transfers, and so on.

I do not want again to go over ground that has already been covered in the debate in relation to land agents. Under that legislation, brokers would have been nearly annihilated. However, the Council jacked up to stop that happening. In this case, brokers are preserved, although I understand that a broker cannot also be a land agent; that division was made. I think an undertaking was given in the Council that, if that position was reached, brokers would be preserved in their profession, yet we see in another Bill that legal practitioners only can engage in this work.

I refer honourable members to the study done by Dr. Paul Wilson of the Queensland University on this matter. If one examines the cost of this work to the consumer in South Australia, particularly in transfers of property, one will be staggered at the savings South Australians have effected for a long time. Dr. Wilson recommends that the other States should follow the South Australian lead in this regard by creating a broking profession. I am disappointed that once again the Government is trying to push all this work into the hands of the legal profession. I do not believe that that is justified or that one can criticise the land broking profession in this State any more than one can criticise the legal profesison in other States in relation to its handling of this matter. I am disappointed that once again this matter has arisen in the Council.

I will draft amendments to ensure that the land broking profession in South Australia is still able to prepare these types of contract, particularly those for sale and purchase and for the transfer of properties in this State. Although there are other matters with which I wish to deal in Committee, clauses 32 and 101 disturb me strongly. I look forward to the support of those honourable members who are concerned about the interests of people in relation to those two matters.

The Hon. D. H. LAIDLAW: I support the Hon. Mr. Burdett and the Hon. Mr. DeGaris, because, although other honourable members may not know it, in the dim past I trained to be a lawyer and was admitted to practice in the Supreme Court as a barrister and solicitor. That was a long time ago; in fact, I was admitted in the same year as the Premier.

Subsequently, I sought an easier way of life as a manufacturer with employees who, in their wisdom, chose to join nine different unions within the metal trades. I mention this only to emphasise that I have worked both inside and outside the law. Honourable members can interpret that as they like.

The legal profession often is maligned by the public, including perhaps by certain honourable members here. However, in my opinion, members of the legal profession are an extremely hard-working group and they take pride in maintaining high ethical standards. Judging from the amount of profits they earn, they are not highly paid.

I will confine my comments to clause 101 (2) of the Bill, which takes away the immunity of barristers to claims for negligence. As honourable members know, immunity is an established principle of English common law. That is mainly so because of the special relationship between the barrister and the court. This immunity applies in England, New Zealand, and all States of Australia except Victoria. Strangely, in Victoria, in 1891, legislation was passed to take away the immunity of barristers, but I understand that that was done before the common law on the immunity of barristers was clearly established.

I am well aware that solicitors can be sued for negligence, as can other professional people, such as doctors, engineers, etc. There is also in South Australia an amalgam, so a lawyer, when admitted, may practice as either a barrister or a solicitor. Some lawyers practise exclusively in one or other field, while others do some work in each field. It may be asked whether the same principle as enunciated in *Rondel v. Worsley* should apply in South Australia where there is this amalgam, but I understand that the case of *Rees v. Sinclair* in 1973 in New Zealand (where there is still an amalgam) maintained this principle of immunity for barristers.

It must be remembered that, if a member of the public is seeking redress, he will go to a solicitor, who then turns to a barrister, or he will go to a lawyer who may be acting in the two roles of barrister and solicitor, so members of the public have redress to this extent of suing the person doing the work of solicitor.

The Hon. C. J. Sumner: Not necessarily.

The Hon. D. H. LAIDLAW: I suggest that they have. They can sue the solicitor.

The Hon. C. J. Sumner: Not if it is for the negligence of the barrister.

The Hon. D. H. LAIDLAW: Again, they then sue the solicitor.

The Hon. C. J. Sumner: I do not think so.

The Hon. D. H. LAIDLAW: I have made the one point that I wished to make, and I oppose clause 101 (2) of this Bill.

The Hon. M. B. CAMERON: I consider this Bill to be largely a Committee Bill, and the ultimate end that we ordinary members of Parliament must dread is having lawyers debate a Bill about lawyers. I suppose that the Bill has gone through a fairly lengthy procedure of examination, and every lawyer in the State probably would be an expert on it. I have heard that it has been in the process of being drawn up for the past four or five years, and one can understand that, because lawyers tend to get drawn away over even small matters, when it comes to matters affecting their profession, they would be extremely careful. We will hear debate regarding different opinions. I have much respect for lawyers, and it is interesting to note that now we have a lawyer manufacturer here.

The Hon. R. C. DeGaris: A manufactured lawyer.

The Hon. M. B. CAMERRON: I thought that we would have a seesaw between the two professions, and obviously the debate will spread more than has been expected. I am interested that a Bill of this kind has been introduced in this Council, not in the other place as one would expect it to be introduced. Bills come out of this place in much better form, and it is better to introduce them here and have them straightened out before they go to the other place. That saves much time, because of the expert knowledge that this Council can bring to Bills. I trust we will see more of this, and I give credit to the Attorney-General for his recognition of the expertise in this Chamber and for being prepared to recognise this by presenting his measures first in this place.

The Hon. M. B. Dawkins: That is more than your Leader in another place would give him.

The Hon. M. B. CAMERON: That is right, because he did not need it in those days. We had a better Government, and he did not need to go through this process to make a Bill a better thing.

The Hon. C. J. Sumner: Do you think the Government in which the Hon. Mr. DeGaris was a Minister was a better Government than the present one?

The Hon. M. B. CAMERON: I am not prepared to discuss the merits of Governments. I think the record stands for itself, and honourable members can make their own individual judgments. It is not for me to reflect on the actions of past Governments. The Bill contains some interesting points. One that causes me concern is clause 101 (2), on which I am certain we will hear a great deal of discussion.

The Hon. C. M. Hill: What is your view on it?

The Hon. M. B. CAMERON: That will come out in Committee. I am prepared to be guided by the experts.

I have read the *All England Law Reports,* and I have been well briefed on this matter by people more knowledgeable than I. They have convinced me, at the moment, that the clause is rather alarming to the profession and to its ability to represent clients. However, I have not a firm view as yet, and I will be interested to hear the arguments in favour of this clause. I should like to get some indication from the body representing the profession as to its opinion on this clause because, after all, they are the people who will be affected by it, the people who must have the best knowledge of the matter.

The Hon. R. C. DeGaris: I would correct you there. They are not the people affected by it. It will be the public, in the standard of counsel representation, who will be affected by it.

The Hon. M. B. CAMERON: I do not disagree. From the reports I have read I agree that it is a matter of concern as to whether the ability of counsel to represent might be affected. I would like to hear Government members on that, because I would need to be persuaded that such a clause was necessary. The remainder of the Bill will go through a lengthy procedure. It has been the subject of long consideration by the Law Society and by successive Attorneys-General. It has come into the Parliament under the guidance of the present Attorney-General, or the Chief Secretary. I support the second reading.

The PRESIDENT: The question is—

The Hon. C. J. SUMNER: Mr. President, after all the Hon. Mr. Cameron has said about the debate that would follow among the lawyers in this Chamber, I was surprised that you were not going to give me an opportunity to speak. Now that I have it, it gives me pleasure to be able to contribute to this debate and to comment on some of the matters mentioned, particularly by the Hon. Mr. Burdett and the Hon. Mr. DeGaris. This is a Bill for a completely revised Act, and, although it re-enacts some of the provisions of the existing Act, these are those in general relating to the legal assistance scheme and the guarantee fund. In general, the provisions are completely new ones.

As the Minister mentioned in the second reading explanation, preparation has been in progress for some considerable time. I am happy to say that much of the initiative for many of the provisions of the Bill came from the Law Society. There has been co-operation and consultation between the Government and the society at all times during its preparation. I repeat what the Minister said: the Government is indebted to the society and its members who have put so much time and effort into the preparation of the Bill. Indeed, after publication of the Bill yesterday, the society prepared a series of suggested amendments, most of which were referred to by the Hon. Mr. Burdett and many of which are acceptable to the Government. Without that assistance from the society, there could not have been the degree of consensus surrounding it. I say there is a degree of consensus generally. However, there are some areas where agreement has not been possible.

I will not comment on the non-controversial matters referred to in the Minister's speech, that is, those which the society agrees with, which the Hon. Mr. Burdett has agreed with, and which the Opposition agreed with, except the one relating to the incorporation of legal practice. This is a departure from the previous principle, as the Hon. Mr. Burdett said. It does give benefits to the profession in organising its affairs. These benefits have been outlined by the Hon. Mr. Burdett, and I agree that they will assist members of the profession in organising their affairs. I would ask the society and some of its more conservative members to note that this clause has been inserted in the Bill. Although this Government has been accused of being a dreadful socialist Government that does not wish to assist the private sector in any way, here is one instance where it has done so, as it did with the Architects Bill earlier in this session.

I also commend those comments to honourable members opposite, especially the Hon. Mr. Hill, who, on the last night of the previous sitting, gave us a graphic description of the red octopus completely surrounding Parliament House and almost everything else in sight. I put this to the members of the society and to honourable members opposite to indicate that this Government is prepared to assist the private sector where it thinks that assistance is warranted. Certainly, in the past there has been a prohibition of incorporation. I think the reasons were that an individual legal practitioner should be directly and personally responsible for the conduct of his client's affairs and not able to hide behind the corporate shield. As the Hon. Mr. Burdett has acknowledged, this Bill contains provisions protecting the public and ensuring that the interests of clients are at all times paramount. While it gives benefits to the profession, the public and the clients are still protected in their rights in case of default by a practitioner. That is the only non-controversial matter I wish to mention.

I should like to canvass the matters mentioned by the Hon. Mr. Burdett in relation to which he has foreshadowed amendments These are the same matters that the Law Society is concerned about. One of the two matters that has caused me the least concern relates to clause 14 (2) (*e*) and the provision that a student can be on the Commission for Legal Education. I strongly support this provision. I believe it is in keeping with the principle that those whose lives are affected by decisions should have some say in them. As honourable members well know, this is the general policy of this Government. It is bound up in the principle that democracy does not begin and end at the ballot box and that individuals should be able to participate in decisions affecting their lives. Provisions relating to industrial democracy are currently being implemented in various Government departments and, by consultation with the private sector, they will be introduced in that area, too. This is so that workmen on the shop floor will be able to have some say in the decisions affecting their lives. That is the general principle that I believe is contained in this clause. This is not particularly surprising. As the Hon. Mr. Burdett said, it applies in the universities and the colleges of advanced education. In fact, almost all educational bodies now provide for student membership of the faculty and councils, in the case of universities, and councils, in the case of the colleges. The objection he raised relates to the powers of the commission contained in clause 19 (1), under which the commission may, with the concurrence of the Chief Justice, make such rules as it considers necessary or expedient, prescribing prerequisites in the nature of academic qualifications and practical training that an applicant for admission as a barrister and solicitor of the Supreme Court must satisfy.

A student member of a university council, of course, participates in setting standards for admission to a degree and, although the Hon. Mr. Burdett tried to distinguish that situation from entry into a profession, I am afraid that the distinction did not impress me greatly. I think

it was splitting the thinnest of thin hairs. In my experience, student members of university councils and faculties have always acted responsibly in their deliberations on these matters, and it is hardly likely that a student would want to set rules that would ultimately make his qualifications of less value.

It is interesting to note the composition of the commission; it is to comprise 11 members, only one of whom will be a student. It is highly unlikely that that student will be able to influence the group to any great degree in lowering standards. I believe the student member will be able to participate usefully and fully as a member of the Commission for Legal Education, and that it will not be to the detriment of the standards of the profession. I strongly support that clause and will oppose strenuously any amendments moved by the Hon. Mr. Burdett.

The second matter of contention is clause 85, which relates to the composition of the Legal Practitioners' Disciplinary Board. The Hon. Mr. Burdett made the point that all nine members of that board ought to be legal practitioners. I strongly support the provision as it now stands. In fact, I was surprised to hear the Hon. Mr. Burdett say that the Attorney-General had told him that two of his appointees would be legal practitioners, which would make eight legal practitioners on the board, and only one lay person, who, as the Hon. Mr. Burdett said, is to be the Auditor-General. Personally, I think all three nominees should be lay people. I believe it is important that this tribunal have a lay component.

I am surprised at the Law Society's objection to it, as I should have thought it would welcome this provision. The Hon. Mr. Burdett seems to have been suggesting that the police should be detective, prosecutor, and judge, which is, in effect, what this provides. The investigation will probably be carried out by lawyers; the case will be put to the tribunal by lawyers; the person concerned will be defended by lawyers; and lawyers will make the decision. I do not believe that is a desirable situation from the profession's point of view. Whatever members opposite and some members of the Law Society think, there has been some public disquiet that complaints against solicitors are always heard by other solicitors, and that recommendations regarding disciplinary procedure are made by solicitors. They may have carried out their investigations completely impartially. Indeed, in all cases of which I am aware, that has happened. However, it is difficult to dispel popular belief.

The Hon. F. T. Blevins: Justice must be seen to be done.

The Hon. C. J. SUMNER: It is a good example of what has become a common cliche: justice should not only be done but should also be seen to be done. Recently, the Law Society has been concerned about the public image of lawyers, and has done much to try to correct many of the misconceptions that exist in the community about the role of lawyers. At one stage, a public relations campaign was launched by the society to this effect. One of the best things the society could do regarding public relations would be to agree to a clause such as this. It would be in the interests of the society and of the profession. I should like now to quote from a recent editorial, which appeared in the January 26 issue of the *London Times*, as follows:

There continues, too, to be public disquiet about the way in which complaints by the public against lawyers are dealt with by the professional bodies, despite the recent introduction of a lay element in their complaints procedures.

I accept the first part of that. There is public disquiet about it. The second part of the editorial indicates that in Britain at least the profession has accepted some lay component in disciplinary matters. The editorial goes on to deal with the structure of the divided profession as it exists in England, and queries whether it ought to be divided. Of course, here in South Australia the profession is not formally divided, so we do not have those problems. It is interesting to note, however, that the editorial concludes by advocating that there be a Royal Commission into the legal profession. Another point that can be mentioned is that there is a right of appeal to the Supreme Court under clause 94 (2) of the Bill. I should think that any practitioner who felt aggrieved by any action of lay representation on the board would have a right of appeal to the Supreme Court. I support clause 85 strongly, because it is in the interests of the profession to have a strong lay component on the board. I will oppose any amendments to the contrary moved by the Hon. Mr. Burdett.

[*Sitting suspended from 6 to 7.30 p.m.*]

The Hon. C. J. SUMNER: The third matter mentioned by Opposition members relates to clause 101, dealing with the liability of barristers to be sued for damages for negligence. I must confess that this matter has given me the most concern. I appreciate the discussions I have had with my professional colleagues about this matter, and I appreciate their contacting me about it. I have discussed this problem not only with officers of the Law Society but also with the profession generally. Having carefully considered it, I cannot agree with the reasons put forward by honourable members opposite.

The Hon. M. B. Cameron: If you had an opinion contrary to the opinion embodied in the Bill, would you express it?

The Hon. C. J. SUMNER: Of course I would not. We are a democratic Party—far more democratic than the Parties represented opposite. We believe in a degree of loyalty to the position that our Party decides on. In the Labor Party Caucus every person has the right and duty to express his opinion. The ultimate governing body in the Labor Party is the Caucus, which can and does upset Cabinet decisions if it believes that those decisions are wrong. Also, members of Caucus are involved in the preparation of all Bills.

The Hon. M. B. Cameron: So, you are honest until you get here, and then you are hypocritical!

The Hon. C. J. SUMNER: Our system is better than the system used by members opposite, where the Cabinet is able to dictate to the membership.

The PRESIDENT: Order! I think the honourable member should come back to the Bill.

The Hon. C. J. SUMNER: I have pointed out what an essentially democratic body the Parliamentary Labor Party is. Labor Party members participate in the decision-making process, unlike the decision-making process of the Parties represented opposite. This week, one honourable member opposite mistakenly voted with us on a Bill, and the next day the Opposition wanted it recommitted.

The PRESIDENT: The honourable member should get back to the Bill.

The Hon. C. J. SUMNER: I circulated to all members of the Caucus committee the judgment of the House of Lords in *Rondel v. Worsley*. The matter was carefully considered by the Caucus committee and the Caucus, and I considered it carefully. As a result, I have concluded that the immunity of barristers from actions of this kind should not remain.

The Hon. R. C. DeGaris: Did anyone put the opposite case in Caucus?

The Hon. C. J. SUMNER: Yes.

The Hon. R. C. DeGaris: Did you?

The Hon. C. J. SUMNER: The opposite case was put to the Caucus committee. I made sure that all members of that committee had a copy of the judgment. I put the arguments in that judgment to the committee as fairly as possible.

The Hon. J. A. Carnie: Both sides?

The Hon. C. J. SUMNER: Yes. The arguments, based on the grounds of public interest and public policy, mentioned by the House of Lords in *Rondel v. Worsley* deserve careful consideration. On the face of it, those arguments have some merit. I concede that the rules surrounding the administration of justice and, indeed, the rules surrounding the procedures of this Parlimaent are often obscure and appear anachronistic but, upon reflection, one sees that they have some reason behind them. I do not believe in changing a rule just for the sake of it. I have concluded that the reform is desirable in the public interest and I feel obligated, in view of the discussions which I have had with members of the Law Society and the arguments put by members opposite, to give my reasons in some detail. I should like to do this, too, because I hope that I will allay some of the fears of fellow members of the profession concerning this measure.

I should like to start by quoting from Halsbury's *Laws of England,* Volume 3 of the Fourth Edition, where both the principle and the problem is stated well. I refer to page 659, as follows:

If a barrister accepts a brief in a cause and receives payment of his fee, but does not attend at the trial, no action can be brought against him to recover either the fees or damages for non-attendance.

There the problem is stated, but it is asserted that the immunity exists. I should like to outline briefly a summary of the common law position. First, I turn to the common law position relating to negligence. As the Hon. Mr. Burdett knows, a duty of care arises in a situation where persons are in sufficient proximity that want of that care is likely to affect the other person injuriously. There must be a direct and close relationship for that duty of care between persons to arise. It arises in a number of situations. It arises in relation to road users; in relation to employer and employee; and it arises in relation to persons practising professions: at least, all persons practising professions except barristers, that is, solicitors, architects, dentists, and surgeons. In some respect, I believe that surgeons provide the closest analogy with barristers.

The immunity as outlined in the decision of *Rondel v. Worsley,* which is the common law position, is based on a number of grounds. I would like to summarise those before dealing with them, and I quote from the headnote in that case as follows:

That immunity was not based on the absence of contract between barrister and client but on public policy and long usage in that (*a*) the administration of justice required that a barrister should be able to carry out his duty to the court fearlessly and independently; (*b*) actions for negligence against barristers would make the retrying of the original actions inevitable and so prolong litigation, contrary to the public interest; and (*c*) a barrister was obliged to accept any client, however difficult, who sought his services.

Dealing with the first reason given by the House of Lords, namely, the duty to the court, I refer to page 227 of that case and the judgment of Lord Reid. This may have been referred to previously, but it is worth repeating because there is much confusion in the layman's mind about the duties an advocate has to the court. The position outlined on page 227 is stated, as follows:

Every counsel has a duty to his client fearlessly to raise every issue, advance every argument, and ask every question, however distasteful, which he thinks will help his client's case. But, as an officer of the court concerned in the administration of justice, he has an overriding duty to the court, to the standards of his profession, and to the public, which may and often does lead to a conflict with his client's wishes or with what the client thinks are his personal interests. Counsel must not mislead the court, he must not lend himself to casting aspersions on the other party or witnesses for which there is not sufficient basis in the information in his possession, he must not withhold authorities or documents which may tell against his clients but which the law or the standards of his profession require him to produce. And by so acting he may well incur the displeasure or worse of his client so that if the case is lost, his client would or might seek legal redress if that were open to him.

First, I agree with the statement of Lord Reid, and I certainly hope that the duty of barristers to the court continues to be maintained. However, I do not believe, and I cannot see how, this provision will affect that duty. A client may be dissatisfied with the performance of a barrister and he may want to sue him. Obviously, he has to go to a court to have that issue determined, and I am sure that, if a barrister could show that he was acting in exercise of his duty to the court, the claim for damages based on negligence would be dismissed; for example, if a dissatisfied litigant went to another solicitor and said, "I wish to sue my barrister for negligence; he referred to a case and told the judge about something that was against my interest", I am sure that the solicitor would have to say to him, "It was the duty of that barrister to tell the court and you have no claim."

In this connection it is interesting to note that a solicitor also owes a duty to the court. The Hon. Mr. Burdett will remember that discretion statements had to be filed in divorce proceedings and the solicitor was under obligation to include in that discretion statement all acts of adultery which he knew of yet, although a solicitor owes that similar duty to a court, he can be sued for professional negligence.

The second reason given by the House of Lords for the continuance of immunity at common law is that there would be continual retrials; there would be no certainty about the end of litigation, and that is certainly not desirable in the public interest. I believe that the negligence of a solicitor could lead to the same position, for example, if a solicitor was negligent and overlooked some fact in preparing the brief, or failed to include it in the brief to the barrister, there would be a retrial of many of the issues which occurred during the substantive trial. There would have to be ascertained whether that failure and the overlooking of that fact and the failure to include it affected the ultimate result of the trial.

A solicior can be sued and one can still get the situation of a retrial, so I do not see why that distinction should be drawn. I would also like to refer to a practical matter, and that is how the proposed provision has worked out in practice in Victoria. I have obtained information from Victoria indicating that there are no reported cases of barristers being sued for dereliction of responsibility.

The Hon. J. C. Burdett: Why worry about it?

The Hon. C. J. SUMNER: I was informed that there had been a number of cases taken against barristers, but that they had been settled out of court. Balancing the public advantage of making all persons, including

barristers, accountable to the general norms of the community against a possible mischief from continual retrials, which in my view is not a mischief which is likely to occur with great regularity, I believe the community is better served by subjecting barristers to the general principles of the law.

The final argument presented by the House of Lords is that a barrister is obliged to accept any brief. I made the preliminary comment that doctors are in a similar position. However, I do not wish to try to indicate to the Council that this is not a very important aspect of the administration of justice. It is very important that no one goes unrepresented, and I believe strongly that this must be maintained; but it is difficult for me to believe that the fact that a barrister may be sued for negligence would influence him in whether or not he should accept a brief. I do not believe that a barrister, an experienced and competent man, would have such a fear.

It is also important to note that, with the professional indemnity insurance that barristers can take out, such a fear would be completely unfounded. My inquiries in Victoria indicate that professional indemnity insurance can be obtained by a barrister for $260 a year, which I am sure honourable members opposite would agree is not really an excessive premium for the sort of cover provided.

The Hon. D. H. Laidlaw: There would be a premium on some people here.

The Hon. C. J. SUMNER: Is the Hon. Mr. Laidlaw suggesting that the barristers in this State are not up to the quality of barristers in Victoria?

The Hon. D. H. Laidlaw: I have a few in mind; it would be a fairly high premium for some of them.

The Hon. C. J. SUMNER: Anyhow, I repeat that I do not believe any barrister should have any fear of accepting a brief because he may be proceeded against for professional negligence. In that connection, it is well for us to remember what is involved in damages for professional negligence—the standard of care that a professional man must use is the amount of skill and ability usually demanded in the profession; it must be used honestly and diligently, with the care and skill that would be used by other competent persons in the same profession. The plaintiffs must establish more than a mere error of judgment. Lord Reid in *Rondel* v. *Worsley* referred to this, in the following words:

> The onus of proving professional negligence over and above errors of judgment is a heavy one.

So it is not every act of a barrister in court that would come under scrutiny. Honourable members opposite have mentioned that counsel may feel constrained to continue with questions in court because he may feel that his client would demand it of him when, if he was completely free to act as he wanted to, he would cut off the questioning at an earlier time, in the interests of his client. Surely, if a barrister is sued in that situation and he can establish to the court that in the exercise of his judgment he should not have continued with the questioning, I cannot see how the court could uphold an action for negligence. In the House of Lords case, this point is referred to at page 228:

> But the client does not know that. To him brevity may indicate incompetence or negligence and sometimes stopping too soon is an error of judgment.

To the client that may be indicated, but it is not the client who makes the ultimate judgment in this matter: it is a court of law. The report continues:

> So I think it not at all improbable that the possibility of being sued for negligence would at least subconsciously lead some counsel to undue prolixity would not only be harmful to the client but against the public interest in prolonging trials.

The Hon. J. C. Burdett: Do you agree with that?

The Hon. C. J. SUMNER: I believe that barristers, if they had this provision hanging over their heads, would do that and not ask further questions. They would do it only if they thought it would be in the interest of their client. If they could establish that in court, they would not be found guilty of negligence. I cannot see how the Hon. Mr. Burdett can see it in any other way.

The Hon. J. C. Burdett: Lord Reid did.

The Hon. C. J. SUMNER: I appreciate that Lord Reid did but I am having the temerity to disagree with Lord Reid in this matter. I do not believe that in a matter like this, although the House of Lords canvassed all these opinions, there is not some room for a layman's commonsense point of view being brought to bear on it.

The Hon. Anne Levy: Hear, hear!

The Hon. C. J. SUMNER: Let me refer to the medical profession. Clearly, the surgeon supervising an operation would be guilty of negligence and be liable to be sued if he left off a tourniquet and the patient bled to death. On the other hand, if he was confronted with a decision whether or not to operate and decided not to and the patient died, after he had exercised his knowledge as a surgeon, there is no way that a claim for negligence could be maintained. Likewise, if a barrister did not turn up at the court after accepting a brief and some injury was done to his client, he would take the onus for that. On the other hand, if he has engaged in a difficult trial involving his asking many questions and, in the exercise of his judgement, without being incompetent, he did not pursue a line of questioning and the case did not go well for his client, he would not expect that a court would uphold a claim for professional negligence.

Finally, I refer to two or three general points. The first is that the contrary view has been put on a number of occasions in the law courts. Although the view that barristers' immunity should be retained has prevailed, it is not the unanimous view of the legal profession. Secondly, by way of a general point, this legislation has existed in Victoria for all of this century. The information I have from Victoria is that there are no undesirable features that this has produced.

The Hon. N. K. Foster: Have any actions been taken against barristers in Victoria?

The Hon. C. J. SUMNER: I believe there have, but there are no reported cases.

The Hon. N. K. Foster: There has been settlement out of court?

The Hon. C. J. SUMNER: Yes, or the case has gone on but has not been reported.

The Hon. J. C. Burdett: Do you know of any cases of that kind?

The Hon. C. J. SUMNER: I do not know of any personally but Mr. McRae, in my presence, spoke to a barrister in Victoria. At the time the barrister did say that, although there had been actions against barristers, there was no reported cases. So, I believe that the fears of the profession and of barristers in this matter are unfounded. The proof of the pudding is in the eating. The situation existing in Victoria—

The Hon. J. C. Burdett: Where else does it exist?

The Hon. N. K. Foster: In America.

The Hon. C. J. SUMNER: I am not sure that that is a relevant comment.

The Hon. J. C. Burdett: Is the situation any better in Victoria than in South Australia?

The Hon. C. J. SUMNER: I think on balance it is. Surely the Hon. Mr. Burdett must accept that barristers can be guilty of negligence, just as solicitors can be by a mere oversight in allowing a writ to get out of time. He knows that occurs just about every day of the week. I believe the Victorian precedent is an apt one and could be given due consideration. The general proposition is that a person who is affected injuriously by the actions of another should be able to get redress for that injury. That proposition has been asserted, is maintained, and works apparently not to the detriment of the administration of justice in that State.

Those are the reasons why I support the proposition. Although my initial reaction on seeing this provision was that it was a reasonable one, after I had been referred to the case of *Rondel v. Worsley* I gave the matter a great deal of thought, and certainly the arguments in that case are worthy of consideration. In the end result, for the reasons I have given, I believe the public interest is better served by having the immunity removed. Finally, I turn to the problem raised by the Hon. Mr. DeGaris regarding land brokers. The Government is prepared to move an amendment to the Bill, and in fact will do so, to insert a new clause permitting land brokers to prepare contracts for the sale and purchase of land. I trust that covers the point he raised.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

BUILDING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from February 11. Page 2237.)

The Hon. C. M. HILL: This Bill has as its objective the setting up of a special committee to be known as the Building Fire Safety Committee, and the Government hopes through this machinery to improve fire protection and fire safety in buildings. The recent unfortunate fire in the People's Palace caused an inquiry to be made into this whole question. The action of the Government in setting up that inquiry is proper; apparently that inquiry has reported to the Government, and now this legislation is before the Parliament.

The proposition of the Building Fire Safety Committee is mentioned in clause 13 of the Bill, and the responsibilities of the committee are set out. The Bill confers strong powers on the committee, and one cannot help but make the point that it is to be hoped the committee will act in a responsible way and that some consideration will be given to the matter of costs incurred against owners when alterations are to be made. There must be some balance of the need for change to some of these buildings and the ability of owners to pay. I am willing to accept that the committee will act in a responsible way, and as time passes it will make its inspections of buildings throughout metropolitan Adelaide, so that gradually improvements will be put in train and buildings will be made safer against fire than at present.

Owners of buildings will be put to considerable expense, and we will have little opportunity to object to this. The same controls will not apply, at least to the same extent, against the Crown. One can accuse the Government of some double standards in relation to this aspect of the Bill. New section 39j deals with the responsibility of the Crown, and states:

39j. Where the Committee is satisfied that the fire-safety of a building or structure owned by or on behalf of the Crown is not adequate, the Committee shall cause notice to be given to the Minister responsible in relation to the building or structure setting out the building work or other measures that the Committee considers should be carried out to ensure that the fire-safety of the building or structure is adequate.

The matter rests there. Attention is drawn to the need for work to be carried out, yet the Government is not bound under this Bill to carry out that work. What the Government's responsibilities are to people working within that building is something about which the Government must wrestle with its conscience. It seems rather improper that, where buildings are under private ownership and the owners can be forced (and I am not saying this is an improper way) to put their buildings right in relation to fire safety, the Crown itself need not do so. In principle, that is wrong.

It is not good enough for the Crown to edge out of its responsibility simply by insisting that notice must be given to it about the need for work to be carried out on its buildings. The Crown ought to come under the same obligation as do private individuals. Apparently, the Government thinks that the Crown should be regarded as an entity a little above that of the private individual. On the one hand, this is a great pity and, on the other hand, it is bad legislation.

Taking the Bill as a whole and realising that there must be a need to improve safety precautions in buildings throughout Adelaide, I am willing to support the Bill. It may well prove to be a means of saving lives. Of course, one has a public responsibility to ensure that fire safety precautions are adequate in all buildings in which people work, live or gather for their social activities.

Bill read a second time.

In Committee.

Clauses 1 to 12 passed.

Clause 13—"Enactment of Part VA of principal Act."

The Hon. C. M. HILL: Can the Minister of Health defend the Government's position in this matter regarding the Crown's not being bound by the Bill? Although I do not want to repeat what I said in the second reading debate, I should like to hear the Government's view on this matter. Alternatively, will the Government undertake that, if the committee to be set up under the Bill brings to its notice the need for building work to be carried out on one of its buildings or a building under its control, it will, in the interests of the public servants and others who work in the building, undertake to carry out the necessary work, even though it is not bound to do so under the Bill?

The Hon. D. H. L. BANFIELD (Minister of Health): I can give undertakings only in relation to the present Government and, if its attention is drawn to a building that is unsafe, I give the undertaking that it will observe the necessary requirements.

Clause passed.

Remaining clauses (14 to 19) and title passed.

Bill read a third time and passed.

FIRE BRIGADES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from February 11. Page 2237.)

The Hon. C. M. HILL: This short Bill contains two principal clauses, the first of which is complementary to

the Building Act Amendment Bill which the Council has just passed. It gives Fire Brigade officers the right to enter buildings in relation to fire safety matters. The committee to be established under the Bill will be empowered to authorise officers to enter buildings to carry out fire safety inspections, some of which will, of course, have to be carried out by senior brigade officers. Clause 3 gives those officers the right to enter such buildings.

The other principal clause deals with the Fire Brigade's power to borrow; the power that is being given to the board to borrow is simply in keeping with the modern trend of borrowing money from, or with the consent of, the Treasurer. I have no objection to the board's having this power. Accordingly, I support the Bill.

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

GOVERNORS' PENSIONS BILL

Adjourned debate on second reading.

(Continued from February 11. Page 2238.)

The Hon. R. C. DeGARIS (Leader of the Opposition): I rise to support the Bill, although I ask the Minister of Health whether, after I have spoken on it, debate on the Bill could be adjourned to enable me to discuss certain aspects of the Bill with the Minister responsible for it.

The Hon. D. H. L. Banfield: I should like the Bill to reach the Committee stage.

The Hon. R. C. DeGARIS: Yes. It is strange that, until the introduction of this Bill, South Australian Governors have had no superannuation entitlements. This is because all Governors—

The Hon. N. K. Foster: The same could have been said regarding the long service leave Bill we kicked around the other day.

The Hon. R. C. DeGARIS: That is an entirely different question.

The Hon. N. K. Foster: Of course it is.

The Hon. R. C. DeGARIS: Until now, all Governors have been men who, on retirement, have received a military pension. That is why it has never been part of our system to provide superannuation benefits to retiring Governors. The Bill also deals with former Governors in this respect. The Bill at present provides that former Governors must apply to the Treasurer to have whatever pension they now receive increased to the amount of the Governors' pension. This is reasonable.

One of the difficult aspects of the Bill is the matter of Governors who may have served in more than one area and who have more than one pension right. Another difficulty relates to Governors who may, on retirement from another position, receive a lump sum payment but who may not have any superannuation rights. As I should like to discuss this clause with the Minister responsible for the Bill, I ask the Minister of Health to report progress when the Bill goes into Committee.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

LOCAL GOVERNMENT ACT AMENDMENT BILL (GENERAL)

In Committee.

(Continued from February 11. Page 2241.)

New clause 4a—"The Local Government Association."

The Hon. M. B. DAWKINS: Earlier, there was some doubt as to whether the Local Government Association completely agreed with this new clause. I therefore made it my business to contact the principal officer of the association, and I have been assured that it agrees with the new clause. It believes that the advantages flowing from the new clause outweigh any disadvantages. Although, I still have some misgivings about the new clause, particularly the second part of it, I will not continue to press the objections I have to it.

The Hon. C. W. CREEDON: I, too, have checked up on this new clause. The Local Government Association wants the provision. In fact, it pleaded with the Minister to insert it in the Bill. The Parliamentary Counsel thought that this was the most suitable place for the new clause. The reason for inserting the new clause is related to the sales tax advantage accruing from it. The Local Government Association agrees that, once it has the powers provided in the new clause, some restrictions should be placed on it, and that is why the new clause provides that the Minister has some say. If the Minister did not have some say, the Local Government Association could be in a position to be able to force a council to join.

The Hon. R. C. DeGARIS (Leader of the Opposition): Yesterday, I expressed my reservations on this new clause, and I still express my concern about it, irrespective of the fact that the Local Government Association and other bodies have asked for this new clause to be inserted in the Bill. Yesterday, I suspected that the new clause would force all local government into joining the Local Government Association, and I think that that is what the new clause does. The Hon. Mr. Creedon has just said that. This is one of the reasons why I have reservations on the amendment. I do not think this Parliament should tell a council that it has to join the Local Government Association if a council does not wish to join. There are local government organisations that do not wish to be placed in that situation.

The Hon. N. K. Foster: How many?

The Hon. R. C. DeGARIS: I do not know, but I would think that most local government organisations would not wish to accept that situaion. There could well be a situation where certain councils wished to form an association of their own. Adelaide is a central spot in South Australia, but it is a long distance from the South-East, from Eyre Peninsula, and from the North. We are in Parliament dictating to local government, saying that there shall be one Local Government Association, and saying that every council shall be a member of it. I am all for local government, but this Parliament is telling local government, "Thou shalt join the Local Government Association, and thou shalt abide by the rules." I cannot support that principle.

The Hon. C. W. CREEDON: I do not know whether the Hon. Mr. DeGaris has deliberately misunderstood me. I did not say that councils would be forced to join the Local Government Association: I said that the possibility existed, if the Minister did not have control, for the Local Government Association to force a council to join. It is not likely that the association would act in this way but, if it did, the Minister would step in to see that it did not take place. What the Hon. Mr. DeGaris has outlined would not happen.

The Hon. C. M. HILL: I accept that honourable members have had the time given to them by the Government to check out with the Local Government Association as to whether it really wants this new clause, and I accept that the association has replied that it definitely wants this change. I have stuck by the association ever since I became associated with local government. As a member

of a council and as a Minister of Local Government since that time, there have been some moments when my support for the Local Government Association has been sorely tried. Nevertheless, I have always supported it. Like the Hon. Mr. DeGaris, I have a serious doubt about the wisdom of this change.

The Hon. M. B. Dawkins: I have that doubt, but the association still wants it.

The Hon. C. M. HILL: I accept the concern of the honourable member. The paramount reason why the association wants this change is to obtain sales tax exemption.

The Hon. C. W. Creedon: That is right.

The Hon. C. M. HILL: It is a financial reason; it is an attempt to improve its finances. However, the association represents the third tier of government and should have its sights set far wider than mere financial advantage. Does the association understand how it is placing itself within the control of the Minister? I doubt it. Regionalism has become important in local government in recent years. There are now salaried officers in local government representing regions. They are dedicated, professional officers with modern ideas. A staff member of a regional local government body said to me tonight, "We have been trying all day to get the association to realise what it is going in for in this measure." He said, "If it is proceeded with, I believe there will immediately spring up an executive or an association of regional local government bodies that will stand out to represent local government and be independent of State Government control, as the association has been in the past, and that body will play a prominent part in acting for local government generally in the future." This measure is not as simple as the association expects. The association on the one hand is buying financial advantage and on the other hand it is losing local government representation. Thas is what might happen.

The Hon. M. B. Dawkins: It is losing independence, too.

The Hon. C. M. HILL: Yes. Those objectives are worlds apart. Although unhappy about the measure, I must be consistent and, as I have supported the association for 20 years, I am not willing now to oppose the amendment. I strongly doubt the consequences which will result from the association's placing itself in a position where its rules and constitution require the Minister's consent for change. From this time on the association will be under the control of the Minister.

The Hon. N. K. FOSTER: Much false alarm has been expressed by members opposite about this clause. The Hon. Mr. Hill may have much more knowledge and experience in these matters than I have, but I point out that the Legislature must recognise that this measure represents a package deal. I have canvassed the matter with local government officials today, too, and other people well versed in local government affairs, and I accept that situation. The Bill just dealt with concerning legal practitioners was a package deal, too. The Hon. Mr. Hill referred to a loss of independence by the association, but it is seeking only what industry generally seeks: some taxation perks, although I do not regard it that way. As the honourable member knows, one of the burdens of local government is stretching an inefficient and insufficient budget. Such a situation is a continual worry and concern of local government. If local government bodies join an association and prevail on the Government to provide a sales tax advantage, it is not doing if for itself: it is for the benefit of ratepayers. There was too much talk during the term of the Whitlam Government, irrespective of whether one supported that Government or not, about the millions of dollars poured into local government (poured in for the first time by a Federal Government). Much criticism came from recipients of those funds that they were being taken over by the Federal Government. Opposition members were largely responsible for this situation prior to the Whitlam Government's defeat. Shire councils in New South Wales were especially involved.

I refer to the position in Campbelltown and Enfield in New South Wales. Not one word was asked how the funds were to be spent. Local government was free to spend it as it saw fit. Campbelltown ratepayers were saved about $10 or $20 each, and the same position applied in the Enfield district. The Hon. Mr. Hill should not say that local government is losing its independence: it has never lost its independence. Because of the initiative of the previous Federal Government, the present Federal Government must honour its promises and make an allocation to the third arm of government, or at least investigate the situation.

We are probably the most parochial country in the world in almost every sphere. Driving about, we see signs "Save Munno Para" and "Save Walkerville". I did not know they were going to get the axe, anyway. We see signs "Save the gum trees". I would rather save the gum trees, personally. We are the most parochial nation. It is all very well to say that Adelaide is far removed from the West Coast. However, we are not in the days of the bullock drays: we have a communication system that has never been known before, far distant places being only seconds away, as it were. People will band themselves together into regions, but the honourable member condemns this. I see nothing wrong with it. I do not agree that there will be another organisation or body.

The Hon. C. M. Hill: Who condemns regionalism?

The Hon. N. K. FOSTER: You do.

The Hon. C. M. Hill: I do not condemn regionalism provided it is from the ground roots up.

The Hon. N. K. FOSTER: From regionalism will spring up an executive body that may be independent of the existing local government organisation. How many urban councils no longer belong to a local government organisation today, as they used to years ago? I understand there are only two, as against a greater number than that a few short years ago, probably during the term of office of the Hon. Mr. Hill.

The Hon. C. M. Hill: Two very large ones.

The Hon. N. K. FOSTER The Marion council and the Port Adelaide council. This may be because of a decision in each case involving a majority of only one. If we are to go on the basis of two large councils, the honourable member should not have opposed (as I think he did) the swallowing up of the smaller councils under a measure that was before this Parliament not so long ago, concerned with local government boundaries. Honourable members opposite feel that yet another organisation will come into being and will endeavour to be in dispute with the parent body. That fear is only supposition on their part. It is like the industries development committees spread all over Victoria, one in Portland and one in Hamilton; the same sort of fears are being expressed this evening. I see nothing wrong with that. I support the new clause on the basis that, if those people in local government want it, it should be supported unanimously in this Chamber,

just as any Bill is when there has been a searching inquiry; as there was in the case of the long service leave legislation before this Chamber, which received such shocking treatment.

New clause inserted.

Clauses 5 to 23 passed.

Clause 24—"Repeal of section 234 of principal Act."

The Hon. M. B. DAWKINS: I do not intend to move an amendment to this clause but I seek an undertaking from the Minister, who is at present represented by the Chief Secretary. This clause and several following clauses relate to the maximum amount in the dollar that a council may declare. I said in my second reading speech that I did not intend to oppose this amendment. I believe that most councils are responsible and will look at this sensibly. Of course, there will be the remedy of the ballot-box if they do not. I ask that the Government will watch carefully what happens after this restriction on the maximum rate is removed and, if the Government sees that in some cases the councils do not use the power wisely, will it further consider the possible reintroduction of a maximum rate in that instance.

The Hon. D. H. L. BANFIELD (Minister of Health): The only assurance I can give the honourable member is that I will draw the attention of the Minister of Local Government to the point he has raised.

Clause passed.

Clauses 25 to 33 passed.

Clause 34—"Notice before recovery of rates."

The Hon. M. B. DAWKINS: I move:

Page 8, line 13—Leave out "sixty" and insert "ninety".

I have indicated that I would not oppose the deletion from the legislation of the provision that now obtains, which allows no fine to be added to the rate if it is paid prior to December 1 or March 1, as the case may be. I also indicated that, whilst the rates, theoretically at least, are due and payable 21 days after the date of the notice at present, that provision is rarely enforced, and the extension to 60 days, which on the face of it seems to be a generous extension, does not amount to a real extension. In fact it is a reduction, really, of the situation whereby ratepayers do not have to pay until November 30 or February 28 as the case may be. The Government would be wise to consider the alteration of that clause by striking out "sixty" (which occurs in two other clauses as well) and inserting "ninety". This would give ratepayers throughout South Australia another 30 days in which to pay their rates. It is an amendment that should be favourably considered by the Government.

The Hon. C. W. CREEDON: I oppose this amendment, simply because nowadays it is general business practice to allow 60 days for accounts; we get 60 days credit. As this is normal business practice, I see no reason why it should be different in the case of local government. A council may be in the red for three or four months and paying an overdraft rate that other earlier paying ratepayers have to pay for. Some people get away with paying their rates at the last moment, whereas other people conscientiously pay them earlier to avoid costs to the councils, which are always in trouble financially and never have enough money. Therefore, they are grateful for the assistance they receive from the Federal Government. It is illogical to extend this to 90 days now when people, without interest charge, can pay their rates by instalments. They can receive four months, or even five months.

There is no reason why the term should be extended to 90 days, with another four or five months on top of that. If credit is given to those who are in trouble and unable to pay on the spot, that should be sufficient. I see no good reason why a council should be different from any other business organisation. When a person has the money he should be required to pay. The council should not be forced to work on overdraft to meet its commitments while it is waiting for its ratepayers to pay.

The Hon. R. C. DeGARIS: I have listened to the Hon. Mr. Creedon, who appears to be the Acting Minister of Local Government in this Chamber.

The Hon. D. H. L. BANFIELD: That is not right. I take exception to that. We are in Committee and every member can exercise his right to speak. What are we to infer when members opposite speak? Are they representing someone else? I take exception to those remarks. Let every speaker on this side have the right to speak, the same as has every member on the other side, without inferring anything at all.

The CHAIRMAN: I think the Hon. Mr. DeGaris might rephrase that or withdraw it.

The Hon. R. C. DeGARIS: It was not said in any unfair way whatever. We have similar comments almost daily from members on the Government side, and I could give many examples, but we do not object. The Hon. Mr. Creedon talked in the second reading debate of the interest rate of 5 per cent on fines, and I make the point that a fine of 5 per cent is applicable immediately the due date expires. It is not a question of 5 per cent as compared with the normal bank overdraft rate of 11 per cent. A council can recover its rates immediately. There is nothing to prevent it taking the normal action of a normal business to collect its rates if it so desires.

The Hon. C. W. Creedon: I have never denied that.

The Hon. R. C. DeGARIS: The honourable member made it plain that people get cheap interest, but that is not so. The rural community is particularly affected by this amendment because most rural people work on a yearly income basis. Practically the whole of their income is in the period from November to February, and a heavy burden is placed on rural people.

The Hon. B. A. Chatterton: When does the wool cheque usually come in?

The Hon. R. C. DeGARIS: In the inside areas, the local government areas, most of the wool cheque money comes in not earlier than November.

The Hon. A. M. Whyte: It wouldn't have paid the council rates in the past few years, anyway.

The Hon. R. C. DeGARIS: The majority of wool cheques come in not much earlier than November. Some in the North and on Eyre Peninsula may be earlier but the normal shearing in South Australia starts in about August and the sale takes place in the following November or December.

The Hon. R. A. Geddes: The spring shearing.

The Hon. R. C. DeGARIS: Yes. The period until February 28 was designed in rural councils to enable those people to pay their rates. I worked as a councillor in local government for a long time and the normal procedure was that, although the books were balanced on June 30, the council worked in fact from September to September. It would be square with the bank in September, work on overdraft until December or January, and then when the rates came in it would have a heavy credit, a lay-off for the overdraft in the previous period, then work through until September before being out of money again. Although February 28 in the present situation may be too long,

I believe that it would be an advantage if the period could be extended without a fine being inflicted or without councils taking action to recover those rates.

I support the amendment, because it gives this alleviation. If a council in the metropolitan area is keen to get its rates in, it could strike its budget first thing in August, get the rate notices out in the second week, and have the rates collected by November. The other method mentioned, to which the Hon. Mr. Creedon made no objection, is to give local government the right to close its books at a date other than June 30. Local government, for instance, could be allowed to close its books at September 30, as many other businesses do today. The amendment to 60 days would then be acceptable to the rural community. That is the point.

If local government cannot accept 90 days, I suggest an alternative amendment to the Government so that local government, especially in rural areas, should be given the option of closing its books not on June 30, but on September 30. The budget could be struck in October or November, and 60 days for payment of rates would take the period to the end of January or February. I do not think that suggestion can be criticised by the Hon. Mr. Creedon if he wishes to apply business principles to the situation. Unless the Government takes that action, the suggestion of the Hon. Mr. Dawkins is a reasonable one.

The Hon. M. B. DAWKINS: I indicated that I would not in any way oppose the deletion of the reference to December 1 or March 1. I can inform the Hon. Mr. Creedon that I do not leave the payment of my rates until February 28. I have paid them some time ago. The amendment would mean that, if a council got its rate notices out on September 1, the rates would have to be paid before the end of November. If the notices went out earlier, the rates would have to be paid earlier except that, if a person is in necessitous circumstances, the council has the right to arrange the payment of the balance of those rates over the following three months. This was done for a good reason, and I commend the Minister for it. It will be used, I am sure, where councils have needy ratepayers to deal with. The amendment is reasonable, and from the point of view of local government it is much better than the situation obtaining at present, where the ratepayer can leave the payment of his rates until November 30, or February 28, as the case may be. I ask the Committee to accept the amendment.

The Hon. D. H. L. BANFIELD: The Government cannot accept the amendment, believing as it does that the period of 60 days is sufficient time, especially as someone who finds himself in difficulty can make arrangements with his council. Therefore, no real hardship should be experienced in this respect.

The Hon. R. C. DeGARIS: Will the Minister comment on my suggestion that councils should be given the right, if they so desire, to have their financial year run from September to September each year? This reasonable suggestion would overcome the problems about which honourable members have been speaking. In many areas, it is normal practice for businesses to stagger the termination of the financial year. It would certainly suit councils in rural areas if they could close their books on September 30.

The Hon. D. H. L. BANFIELD: I can say merely that the Government has not, to my knowledge, been approached by local government regarding this matter, and certainly local government has not been backward in coming forward to the Government with suggestions in the past. If an approach is made to the Government by councils, I have no doubt that it will be considered.

The Committee divided on the amendment:

Ayes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins (teller), R. C. DeGaris, C. M. Hill, D. H. Laidlaw, and A. M. Whyte.

Noes (9)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Pair—Aye—The Hon. R. A. Geddes. No—The Hon. T. M. Casey.

The CHAIRMAN: There are 9 Ayes and 9 Noes. To enable this amendment to be considered by the House of Assembly, I give my casting vote for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 35—"Notice before recovery of rates."

The Hon. M. B. DAWKINS moved:

Page 8, line 20—Leave out "sixty" and insert "ninety".

Amendment carried; clause as amended passed.

Clause 36 passed.

Clause 37—"Time for payment of rates."

The Hon. M. B. DAWKINS moved:

Page 9—

Line 18—Leave out "sixty" and insert "ninety".
Line 20—Leave out "sixty" and insert "ninety".

Amendments carried.

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

Page 9, lines 19 to 22—Leave out all words in these lines and insert:

(2) Where the council, upon an application made by a ratepayer within thirty days of the date of the notice addressed to the ratepayer under this Division, decides to permit the ratepayer to pay the rates by instalment, those rates shall be paid as follows:

Amendment carried; clause as amended passed.

Clauses 38 to 52 passed.

New clause 52a—"Prohibited areas."

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

Page 14—After line 7 insert new clause as follows:

52a. Section 373 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "street or road" wherever it occurs and inserting in lieu thereof, in each case, the word "place";

(*b*) by striking out from subsection (2) the passage "street or road" and inserting in lieu thereof the word "place";
and

(*c*) by striking out from subsection (4) the passage "street or road" and inserting in lieu thereof the word "place".

New clause inserted.

Clauses 53 to 57 passed.

New clause 57a—"Powers of council as to parking stations."

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

Page 14—After line 38 insert new clause as follows:

57a. Section 475g of the principal Act is amended by striking out from subsection (2) the passage "shall be deemed a permanent work or undertaking for the purpose of this Act" and inserting in lieu thereof the passage "shall, for the purposes of this Act, be deemed to be—

(*a*) a public place;
and

(*b*) a permanent work and undertaking."

New clause inserted.

Remaining clauses (58 to 71) and title passed.

Bill read a third time and passed.

OIL REFINERY (HUNDRED OF NOARLUNGA) INDENTURE ACT AMENDMENT BILL

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

The Hon. B. A. CHATTERTON (Minister of Agriculture): I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation of the Bill incorporated in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF BILL

This short Bill is intended to give effect to an arrangement entered into between the Government and Petroleum Refineries (Australia) Proprietary Limited, being the company that is the successor in title to Standard Vacuum Refinery Company (Australia) Proprietary Limited, a party to an indenture ratified and approved by the principal Act, the Oil Refinery (Hundred of Noarlunga) Indenture Act, 1958-1967. Section 5 of the principal Act fixed a sum of $20 000 as being a sum payable annually from July 1, 1960, by the company in discharge of all liability "for general, particular, special or separate rates in respect of the refinery site and the refinery".

Since that time the general increase in property value in the area of the Noarlunga council together with the declining value, in recent times, of money has rendered manifestly inadequate an annual payment of this order. As a result, a new rating formula has been agreed with the company. This formula is inserted in the principal Act by clause 2, the only operative clause of the Bill. Briefly, this formula commences with a base of $35 000, which will rise or fall, dependent on average rate assessments by the council in future years, the average assessment in relation to a financial year being arrived at by dividing the total of the amount payable by way of general rates declared in that year by the number of ratable properties in the prescribed area in respect of which they were so declared.

Clause 1 is formal. Clause 2 amends section 5 of the principal Act in the manner indicated to provide for future movements from a base of $35 000 in the liability of the company. In this clause the "prescribed area" is defined as being a selection of three areas within the area of the Noarlunga Council. It is intended that this selection should give a fair reflection of movements in average rates in the council area.

The amendment proposed in subclause (6) is in anticipation of legislation that will in due course be introduced to cover the liability for rates of the land proposed to be excised in this subclause. This measure, as a hybrid Bill, was considered by a Select Committee in another place.

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

ADJOURNMENT

At 9.12 p.m. the Council adjourned until Tuesday, February 17, at 2.15 p.m.