

LEGISLATIVE COUNCIL

Wednesday, February 18, 1976

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

LONG SERVICE LEAVE (BUILDING INDUSTRY) BILL

At 2.17 p.m. the following recommendations of the conference were reported to the Council:

As to Amendments Nos. 1 and 2:

That the Legislative Council do not further insist on these amendments but makes the following amendment in lieu thereof:

Clause 2, page 1, line 7—Leave out the words “a day to be fixed by proclamation” and insert in lieu thereof the words “the first day of April, 1977”.
and that the House of Assembly agree thereto.

As to Amendment No. 5:

That the Legislative Council do not further insist on its amendment but makes the following amendment in lieu thereof:

New clause 22a.—“Misconduct on part of worker”—

22a. Where the board is satisfied that a worker who has less than one hundred and twenty months effective service with a particular employer ceased to be a worker in relation to that employer in circumstances arising out of serious and wilful misconduct on the part of the worker, the board may, after affording an opportunity for the worker and the employer to be heard, direct that that worker shall not for the purposes of this Act accumulate any effective service entitlement in respect of his service with that employer and upon such a direction being given this Act shall apply and have effect accordingly.

and that the House of Assembly agree thereto.

Consideration in Committee.

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

That the recommendations of the conference be agreed to.

The Hon. C. M. HILL: I support the motion to approve the recommendations of the managers at the conference this morning. I believe that the managers from this Council applied themselves in the usual traditions of managers from this place at such conferences. After several hours of discussion and debate, the arrangement outlined by the Minister was arrived at by the managers of the respective Houses.

The amendments can be grouped under two headings, the first perhaps more important than the second. It deals with a subject previously inserted in this Chamber by way of amendment to the original Bill, namely, the matter of some delay in the proclamation of the Bill, that delay being fixed by a movement in the consumer price index which would reflect some curb of the general price spiral in the community. The point was pursued by the managers from this place that, with rampant inflation and with responsible legislators endeavouring to prevent further escalatory pressures, until there were signs that inflation was becoming controlled some measure of delay was in the best interests of the community—and in that group one must include those who plan to build new houses.

It was finally agreed that the consumer price index approach would be pursued, but in lieu thereof the date of April 1, 1977, was fixed in the hope that some check in the price spiral might be apparent by that date and that then the extra benefit the Bill would give to a section of the community could be afforded. Agreement was reached at the conference on that first important amendment.

The second matter dealt with the risk of an employee losing the benefits of long service leave if he was dismissed for misconduct. The proposal now before the Committee was agreed to. The conference has altered the wording. The term “misconduct” has been further clarified by the insertion of the words “serious and wilful” immediately preceding it, but in essence there is not very much difference, in my view, between that amendment and the original one supported in this Chamber.

The Hon. J. A. CARNIE: I support the motion. I believe that, when the conference met this morning, it achieved a very real compromise. I supported the amendment of the Hon. Mr. Laidlaw of trying to allow for inflation, because I believed that the economy, especially as it related to the building industry, was not in a fit state to allow such imposts to be brought on immediately. I also believed that the smaller builder was being forgotten in this debate, and I thought he should be given time to budget for this extra charge.

I did accept (and I do accept) the concept of a fixed date rather than tying it to some nebulous thing, such as the consumer price index, although I think that unless the consumer price index does drop to a figure of 8 per cent or 10 per cent this country will be in real trouble. I will be watching the efforts of the new Federal Government in this regard, and I hope it will achieve success.

The managers from the House of Assembly made it quite clear that they would not accept the basis of the consumer price index. On that basis, and in a spirit of compromise, the managers from this place were prepared to accept a date instead. I believe that the second amendment is probably an improvement on the original one, and that its wording is more in line with the provision in the Long Service Leave Act.

The Hon. R. C. DeGARIS (Leader of the Opposition): I, too, support the motion, and I wish to raise one point. Although I do so not in a nasty manner, this is a matter that I think the Committee should consider. Standing Orders provide that conferences shall not be held while the Houses of Parliament are not sitting.

The CHAIRMAN: That has been altered.

The Hon. R. C. DeGARIS: That is so. We agreed to change the system, so that Standing Orders could be suspended to enable conferences between the two Houses to take place when the Houses were not sitting. In the past, before the change in procedure, the results of conferences were first reported to Parliament. Always, when Standing Orders were suspended to allow conferences to take place when the Houses were not sitting, the conference managers were told that reports on the results of conferences were not to be made to anyone until they were first reported to the Parliament. Under the spirit of the Standing Orders, that procedure still stands.

The Hon. N. K. Foster: Are you seeking a ruling?

The Hon. R. C. DeGARIS: No, I am making a point. When there is a disagreement between the two Houses and a conference is held outside actual sitting times, I believe the practice of reporting nothing to the press or anyone else before the results of the conference are reported to Parliament should be maintained. This is an extremely important matter to which I draw the Minister's attention. This happening may have occurred on this occasion without anyone intending to do the wrong thing. However, I draw honourable members' attention to the fact that a full report of the conference was given before a report was made to Parliament. This action should be frowned upon, and I hope that in future this does not happen again.

The Hon. D. H. LAIDLAW: I will not say much now, having had much to say this morning. I think the compromise that has been reached is satisfactory, and I thank my fellow managers for the part they played at the conference. It will be interesting to see whether the consumer price index drops below the suggested figure in two quarters in the period before April 1, 1977, in which event the Bill would not be proclaimed earlier. However, it is now to be a fixed date, and I am satisfied with the compromise.

The Hon. M. B. DAWKINS: I should like briefly to endorse what the Hon. Mr. DeGaris has said. Certainly I intend in no way to be unduly critical. I point out to honourable members, however, that although it is usual for the Council and another place to agree to the findings of a conference, this does not always happen and such a result is certainly not obligatory. From time to time the Council or another place may disagree with the findings of a conference. It is therefore important that the results of such conferences should not be made public until after the Council and the House of Assembly have dealt with the matter.

The Hon. N. K. FOSTER: I support the motion. Much has been said about a compromise. However, I make the point that the whole matter should never have gone to conference. Members of the Opposition should have been able to see their way clear to pass the Bill because of what transpired in a Select Committee. Such committees are often the cause of comment, particularly from Opposition members, who have the petty-minded attitude that a conference is the be all and end all. Opposition members believe that a conference gives some standing to this place or to the members of the Opposition. If Opposition members take offence at this, I make no apology. It is an out-dated system that ought to be done away with. Speaking personally, I will give careful thought to seeking a change in the system, if the will of the people is such that the numbers in this place will enable that to be done.

I refer now to the criticism made (and I take it as criticism, because of what has happened in the House of Assembly this afternoon) of the Minister and of the way in which he conveyed information to people concerning the result of the Bill and the compromise, if one wants to put it at that level. The Minister had no alternative; he probably thought that there was some slight transgression in the Parliamentary sense in connection with the action he took, but the Hon. Mr. DeGaris may well know that the meeting held on the steps of Parliament House was extremely well conducted and well behaved. It did not get uptight as a result of his refusal to come down and address it; he was afforded a democratic opportunity to do so, but he refused. So, the Minister had every right to do what he did in the public interest (to use the Leader's phrase); he was honest and open in what he did. Not only union members but also passers-by could hear what happened. It is far better that the Minister should do it in that way than to follow the method used by some previous Ministers, who would not go out and see a group of people on the steps of Parliament House.

The CHAIRMAN: Order! The Hon. Mr. DeGaris raised a question of procedure, not a question of the morality or otherwise of what was done. The Hon. Mr. Foster is entirely on the wrong track here.

The Hon. N. K. FOSTER: Everyone has the right to his opinion, including you, Mr. Chairman. I believe that it is far better to do it in the way in which it was done today than in the way in which some members opposite did it in previous years.

The Hon. C. J. SUMNER: As a manager at the conference, I support the motion. It is certainly a compromise, and a compromise satisfies no-one, really. There was a considerable concession by the Labor Party which we were not particularly happy about. Nevertheless, after considerable discussion, a compromise was arrived at, and I commend those who took part in the conference and reached the compromise. I was particularly happy that the provision relating to the consumer price index was removed from the Bill, because I thought there were some dangers in this proposal put forward by the Hon. Mr. Laidlaw. The first danger was that to use the consumer price index as a complete economic indicator was something of a mistake. Clearly, while the consumer price index may come down, and it may be an indication that inflation is coming down—

The Hon. N. K. Foster: Not necessarily. What if the Federal Government interferes again and tries to have taxes removed from it?

The Hon. C. J. SUMNER: Yes, but I am talking about it as it is presently. Certainly, it is no overall economic indicator, and unemployment may soar while inflation is abating, and the building industry could be in a worse position than it is in now. The second point is that it appeared that this Parliament was trying to engage in economic management, which is somewhat irrelevant to the inflationary process. It is like saying that a group of workers in a small industry should forgo a wages claim which has been granted to the rest of the community because it would have an inflationary effect.

The management of inflationary problems in Australia will not be simple. That must be said, because the causes of inflation are largely conditioned by external problems, and its management must take place principally, I believe, at the Federal Government level. The attempt to engage in a little economic planning by this Council was somewhat misguided. I am pleased to see that the compromise has removed the consumer price index from the Bill, because I believe there were several dangers in it. I support the motion.

Motion carried.

Later:

The House of Assembly intimated that it had agreed to the recommendations of the conference.

QUESTIONS

ADELAIDE SINGERS

The Hon. C. M. HILL: I seek leave to make a short statement prior to directing a question to the Chief Secretary, representing the Premier.

Leave granted.

The Hon. C. M. HILL: I refer to the situation reported recently in the press concerning the Adelaide Singers and the possibility that these people may have to discontinue their performances as a result of the economic circumstances confronting the Australian Broadcasting Commission. All honourable members will agree that, if this choir is disbanded, music lovers throughout South Australia and people interested in the arts generally will be saddened by the loss from the music scene of this choir.

The Hon. N. K. Foster: Why don't you tell Malcolm?

The Hon. C. M. HILL: Will the Premier make a grant, through the Arts Development Section—

Members interjecting:

The PRESIDENT: Order!

The Hon. C. M. HILL: —in keeping with the generosity from that section towards the arts generally when applications have been received for financial assistance in the past in this State, to the Adelaide Singers, thereby ensuring the continuity of this most popular choir?

The Hon. D. H. L. BANFIELD: I am delighted to hear that the Hon. Mr. Hill is disappointed about the Federal Government action which has brought this situation about. I would have thought that the honourable member would have made representations to his Leader in the Federal Parliament; after all, he controls the purse strings. I think I detected some disappointment on the part of the Hon. Mr. Hill because he voted for the present Commonwealth Government. He is disappointed about the priorities determined by Mr. Fraser for economising—

The Hon. C. M. Hill: You are entirely wrong.

The Hon. D. H. L. BANFIELD: —but I will refer the honourable member's question to the Premier.

FORESTRY COMPANIES

The Hon. ANNE LEVY: I ask these questions of the Minister of Forests. I have had a number of complaints recently about the activities of two afforestation companies that are attempting to sell forestry bonds in South Australia. In fact, one of them left a pamphlet in my letterbox, and in every letterbox in the street where I live. These two companies, which are Willdana Limited and Forestry Management Proprietary Limited, are promoting plans to develop forestry ventures in South Australia. I understand that Willdana Limited intends to plant at Kongorong and that Forestry Management Limited is contemplating setting up near Port Lincoln. What is the attitude of the South Australian Woods and Forests Department to these proposed ventures and what advice would the Minister or the department give to South Australians as to the advisability of investing their money in these ventures?

The Hon. B. A. CHATTERTON: The two forestry companies concerned mentioned by the honourable member have caused some concern to my department, and we have prepared some details on them. I think it is essential that investors in South Australia should be well aware of the situation before they make any decision to put any of their savings into these companies. Willdana Limited has an address at 464 St. Kilda Road, Melbourne. This has been looked at by the South Australian Woods and Forests Department because of inquiries made by the Victorian Office of Corporate Affairs. It has been investigated by the Victorian Office of Corporate Affairs as there have been a number of companies in the same group, and a pamphlet is now available from the South Australian Woods and Forests Department, published by the Victorian Office of Corporate Affairs, which gives technical information about these ventures.

The other one mentioned by the honourable member, Forestry Management Limited, is at Port Lincoln. The Woods and Forests Department has investigated this scheme located at Coffin Bay. The practice, from the department's point of view, is that it does not buy any land in that area as it is believed that the combination of the soils and rainfall is too marginal for commercial pine planting. Again, intending investors are advised to consult their bank managers and the Department of Prices and Consumer Affairs before committing themselves to investing money in the venture.

FURTHER EDUCATION

The Hon. M. B. DAWKINS: On February 5, I asked the Minister of Agriculture, representing the Minister of Education, a question about further education and in particular with regard to the fees paid by teachers for some of the classes in that department. Has the Minister a reply?

The Hon. B. A. CHATTERTON: My colleague the Minister of Education informs me that for many years teachers in the Education Department and the Department of Further Education have been granted fee concessions on several bases. Additional concessions flowed on to teachers as a result of the introduction of the Commonwealth Government's Fees Abolition Scheme, whereby all members of the public are provided with free tuition in further education classes of a vocational nature. Prior to the recent Cabinet decision on fees concessions, the following applied:

- (1) Teachers were granted a full-fee concession in further education classes of a vocational nature which were included in the Commonwealth Government's Fees Abolition Scheme and also in further education classes which were part of a recognised teacher training course.
- (2) Teachers were granted a full-fee concession in a variety of other further education classes where a senior member of the teacher's department certified that the study undertaken would improve the teacher's competence. All of these concessions remain unchanged.
- (3) Teachers, along with age pensioners, widows and others were granted a half-fee concession in leisure interest or personal enrichment classes conducted by the Department of Further Education. The recent Cabinet decision abolished this concession for teachers and allowed all pensioners, their dependants, Aborigines and those experiencing genuine hardship a full-fee concession; and the Government intends to reserve the granting of concessions in such classes for those in the community who suffer some genuine financial hardship or other disadvantage.

RIVER CRAFT

The Hon. N. K. FOSTER: I seek leave to make a short statement prior to directing a question to the Minister of Tourism, Recreation and Sport.

Leave granted.

The Hon. N. K. FOSTER: The Minister may or may not be aware that there have been considerable increases in the charges for hiring those craft on the Murray River that ply for hire as riverboats.

The Hon. Anne Levy: Houseboats.

The Hon. N. K. FOSTER: Houseboats. There has been some public criticism of the steep increases in charges levied by the South Australian Government Tourist Bureau, which I am sure is incorrect criticism. Does the South Australian Government Tourist Bureau act merely as an agent and does it play no part in fixing a rate for the hire of these craft?

The Hon. T. M. CASEY: The Government Tourist Bureau acts only as an agent for the riverboat owners. People come in and book through the Tourist Bureau; they pay a deposit and further money is paid later. That money is handed over to the owner of the riverboat and, in those circumstances, the bureau receives a small commission.

The Hon. C. M. Hill: What is the rate?

The Hon. T. M. CASEY: I do not disclose these sorts of rates; they are for the business world itself. I am sure the honourable member would have a good idea. The bureau has no control on the charges levied by the owners of the riverboats: that is up to the owners themselves. They make a charge and the bureau gets only a commission for booking.

VOTING

The Hon. D. H. LAIDLAW: I seek leave to make a brief statement before addressing a question to the Chief Secretary.

Leave granted.

The Hon. D. H. LAIDLAW: During the past two or three weeks, the Chief Secretary has suggested on several occasions that the Liberal Party got 43 per cent of the first vote in the election of December 13. The Commonwealth Electoral Office in South Australia, which used to be called the Australian Electoral Office in the bad old days, has published figures showing that in the Senate in South Australia, the Liberal Party received 351 818 votes, or 51.45 per cent of the 683 000 total, whereas the Australian Labor Party received 227 800 votes, or 40.62 per cent. Is it possible that the Chief Secretary has been misinformed about the 43 per cent that he continues to quote in this Council?

The Hon. D. H. L. BANFIELD: There is no way in the world in which I am being misinformed. When I have indicated that the Liberal Party received 43 per cent of the vote, I have gone on to say that it gained 68 seats. I inform the honourable member again that my figures are correct. The Liberal Party, for the Lower House, received 43 per cent of the vote, and the Labor Party received 43 per cent, but the Liberal Party has 68 seats while the Labor Party has 36 seats. If that is the sort of gerrymander the Hon. Mr. Laidlaw thinks is correct, what he was saying yesterday about the electoral legislation was just so much rubbish.

The Hon. C. J. SUMNER: I seek leave to make a brief statement prior to asking a question of the Hon. Mr. Laidlaw.

Leave granted.

The Hon. C. J. SUMNER: The Hon. Mr. Laidlaw referred to certain voting figures and a certain number of votes obtained by the Liberal Party in this State during the recent Federal election.

The Hon. D. H. LAIDLAW: Primary votes.

The Hon. C. J. SUMNER: Yes. We are aware that the Prime Minister, during the election campaign, spoke of honest government, and in fact he did not seem to have very much else to say for almost the whole of last year, yet we find that, within a month or six weeks of the Federal Government's election to office, one of the Ministers, one of Mr. Fraser's closest confidantes, is now charged with bribery. Does the Hon. Mr. Laidlaw know how many of the votes the Liberal Party obtained in the recent Federal election were obtained by bribery?

The PRESIDENT: I am sure the honourable member does not have any special knowledge of that.

UNEMPLOYMENT BENEFITS

The Hon. N. K. FOSTER: My question is directed to the Hon. Mr. Hill as a result of a speech he made in this place, I think yesterday, in which he referred to many innocent sufferers in our community as dole bludgers. I direct a question to him in regard to that. Would the

honourable gentleman care to stand in this Chamber and tell us who are those people in the community that he considers to be dole bludgers? Would he also—

The Hon. D. H. LAIDLAW: How do you spell that?

The Hon. N. K. FOSTER: There are some dull bludgers in here, on that side of the Chamber.

The PRESIDENT: Order! The honourable member must not reflect on others.

The Hon. N. K. FOSTER: I did not reflect. I answered his interjection capably and well. "Dull" is a word in the English dictionary and "bludger" was a term introduced by members of the Liberal Party. I want the honourable member to stand here and qualify his statement as to who are the dole bludgers in this community. Does he consider that those people who were sacked in the last 24 hours by his Prime Minister are dole bludgers? Does he expect us to accept, on this side of the House, that the singers about whom he has asked a question today are dole bludgers if they qualify for benefits from the Social Security Department? Does he consider also, with the cuts to be made in the Australian Broadcasting Commission, that those people who have rendered a fine service to the community on the only real television station in the Commonwealth, as far as I am concerned (and I am sure I do not speak only for myself in this matter), are dole bludgers? If Garland is sacked from the Government because of what he did, is he to be a dole bludger? Let us have some qualification of this shocking Liberal term being applied to some of the more unfortunate younger members of our community.

The PRESIDENT: There seems to be a tendency recently for questions to be asked of ordinary members in the Council. The basic purpose of Question Time is to enable ordinary members of the Council to question Government Ministers. It is possible to ask individual members questions, but they must be related to the business before the Council or to matters of which the members have some special knowledge. It seems that, if we are getting to a situation when Question Time is to be used for ordinary members to ask other ordinary members of the Council to explain what they said on a previous day or to give some analysis or parsing of the words they used, this is not the proper time for that to be done. I will ask the honourable member if he cares to answer, but I will rule that I do not think he must.

The Hon. C. M. HILL: I am interested in the honourable member's comment, which he repeated on several occasions, that I used the words "dole bludger" yesterday.

The Hon. N. K. FOSTER: I don't care if it is in *Hansard* or not. You used it.

The Hon. C. M. HILL: The honourable member has just said he does not care whether it is in *Hansard*—

The Hon. N. K. FOSTER: You could strike it out of *Hansard*.

The Hon. C. M. HILL: —but he also said, by interjection, "You used it."

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

The Hon. C. M. HILL: I have not checked yesterday's *Hansard* proofs yet in any detail, and so I cannot categorically deny that those words were used, but I say most emphatically that I would not choose in any circumstances to use those words in a debate here or in discussion outside unless I was under extreme provocation to use them. I do not think that I did use them yesterday. However, I want briefly (in conformity with your request, Mr. President, as I interpret it) to reply to the honourable member. The

people to whom I referred yesterday were people who apply for unemployment benefits and who are not interested in working.

The Hon. N. K. Foster: Who are they?

The Hon. C. M. HILL: Never mind who they are. That is the group to which I referred. Reference was made to that group of people by the Liberal Party in the recent Federal election, and it was an issue on the hustings of some considerable importance.

The Hon. C. J. Sumner: Like honest government.

The Hon. C. M. HILL: Judging by the manner in which people voted for the Liberal Party on December 13 last, I would say that the public at large was opposed to giving hand-outs to people who claimed they were unemployed, who could work but would not, and who would falsely make declarations and apply for unemployment relief, and then have it granted by the Labor Government. That is the category of people to which I referred yesterday, and I must add that I stressed yesterday that those who are genuinely unemployed should, in my opinion, receive proper and adequate benefits. I am totally in favour of that. Some of the later questions in the tirade of questions of the Hon. Mr. Foster referred to the Adelaide Singers and other people. Unfortunately, owing to the policies laid down by the Government elected so successfully on December 13, the Government that announced that we would tackle inflation (and that is just what the Government is doing), many people are going to be hurt. No-one in the Liberal Party will deny that the process is going to hurt many people, but that process has to be applied if the economic mess in which this Government found itself is to be corrected.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr. Hill was asked to explain his use of the words "dole bludgers". We are getting away from that.

The Hon. C. M. HILL: In deference to you, Sir, I will not continue with my reply, but I trust that I have answered the question to the satisfaction of the honourable member.

MIGRANTS

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

Leave granted.

The Hon. C. J. SUMNER: Under the Federal Labor Government, and particularly while Mr. Grassby was Minister for Immigration, a new approach was adopted in this country to the problem of immigrant groups. I believe the policy of wholesale assimilation was modified, so that immigrant groups could obtain assistance to learn satisfactorily the English language and the Australian culture, and become useful members of our society. At the same time, they were encouraged to retain their cultural and linguistic identity, a policy that previously had not existed. Grants were therefore made both for the teaching of English to disadvantaged immigrant groups and for the teaching of the language of their countries of origin. I refer to a report in yesterday's *News*, in which it is stated that the Federal Government's axing of the R.M.I.T. interpreters' course would set back by decades the intergration of immigrants. In view of my statement, will the Minister comment on the previous Australian Government's policy towards migrants? Secondly, have cuts in Federal expenditure adversely affected immigrant groups in our community, particularly in relation to education programmes involving them? Thirdly, can the Minister identify the areas that have been affected by these cuts?

The Hon. B. A. CHATTERTON: I heard the same report to which the honourable member has referred on this morning's A.B.C. programme *A.M.*, and it caused me considerable concern. I will refer the honourable member's question to my colleague and bring down a reply as soon as possible.

METROPOLITAN TRANSPORT

The Hon. J. A. CARNIE: I seek leave to make a brief explanation before asking the Minister of Lands a question.

Leave granted.

The Hon. J. A. CARNIE: Yesterday, I think, the Hon. Mr. Hill asked the Chief Secretary a question regarding replies to questions still outstanding by tomorrow, when the Council is to rise. In reply, the Minister said that many questions required research, and that he would try to ensure that replies to questions already asked were given to honourable members tomorrow, although in some cases this might not be possible. On February 11, I asked a question about metropolitan transport. It followed a Question on Notice which I had asked on the same matter, the reply to which I had received the previous day. Last week, I said that the Minister had dodged the issue. My question last week was as follows:

Can the Minister say whether any property is being acquired on any of the freeway or expressway routes recommended by the Metropolitan Adelaide Transportation Study; if so, on what routes is this land being acquired?

I do not believe much research would be required on that question, as it involves basically a "Yes" or "No" answer. Will the Minister of Agriculture try to obtain the reply to that question by tomorrow? Otherwise, it will seem that he is still dodging the issue.

The Hon. T. M. CASEY: I will do my best to see that the honourable member is given a reply to his question. I can give no guarantee, as this matter is out of my jurisdiction, but I will refer it to my colleague.

PAY-ROLL TAX

The Hon. R. C. DeGARIS: Has the Minister of Health received from the Premier a reply to my recent question about pay-roll tax?

The Hon. D. H. L. BANFIELD: My colleague reports that an increase in revenue of about \$500 000 would accrue in a full year from doubling the general exemption and phasing it out, so that it would be completely eliminated at a pay-roll level of \$104 000. A further increase would accrue from the new provisions, which prevent the use of the device known as "company splitting". The reason for the increase in this case is that these provisions would not only prevent further avoidance but would also affect those taxpayers who had already adopted the practice. There is insufficient evidence available to estimate the effects of these provisions. The Government's intention in introducing these amendments was to provide a concession to the smaller business while protecting the revenue, by ensuring that the larger enterprise could not avoid the tax by artificial means. Although this is still the Government's objective, further amendments to the Pay-roll Tax Act have been developed which will ensure that the previous minimum exemption level does not diminish. It is estimated that these further concessions will result in a reduction in revenue of about \$2 500 000.

GUMERACHA BRIDGE

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

Leave granted.

The Hon. J. C. BURDETT: I refer to the matter of questions just raised by the Hon. Mr. Carnie. On February 4, I directed a question to the Minister of Transport regarding the Gumeracha bridge. This was a small matter that could have been replied to promptly. As I asked the question more than a fortnight ago but have not yet received a reply, will the Minister ascertain whether he can procure a reply by tomorrow?

The Hon. T. M. CASEY: I will do my utmost to comply with the honourable member's wishes.

LAND COMMISSION

The Hon. C. M. HILL: Has the Minister of Lands a reply to my recent question about the Land Commission?

The Hon. T. M. CASEY: I am indeed pleased to be able to give the honourable member the reply to his question. The report by Dr. Bentick referred to in the question was commissioned by the Urban Development Institute of Australia (S.A. Division) Incorporated. At the request of Dr. Bentick, the Chairman and staff of the Land Commission co-operated in the preparation of the report by supplying information and by discussing relevant aspects of the report with Dr. Bentick. The Urban Development Institute has organised a public seminar to discuss the report, at which the Chairman of the Land Commission will be one of the speakers, to be held on February 25 at the University of Adelaide.

In the publicity leaflet for the seminar, the institute states, "The object of the seminar is to discuss this report, and to make recommendations to the Government on its implementation." Any submission by the Urban Development Institute of Australia on this matter received by the Government will be considered.

GLENSIDE HOSPITAL

The Hon. C. M. HILL (on notice):

1. When will stage II of the redevelopment plans at Glenside Hospital be commenced?

2. What is the estimated date of completion of stage II?

3. Which ward will be built first, and in what order will the other wards be constructed?

4. Has stage II been subdivided into a further three stages?

5. Have the plans as approved by the Public Works Standing Committee in September, 1975, been amended in any way at all?

The Hon. D. H. L. BANFIELD: The replies are as follows:

1. Commencement of redevelopment will be with the calling of tenders in August, 1976.

2. The redevelopment is expected to require four years, with the completion date being in the latter part of 1980.

3. The first ward for completion will be the 128-bed psychogeriatric ward, followed by a 64-bed psychiatric subacute ward, and a 41-bed maximum care ward, in that order.

4. Stage II redevelopment has been subdivided into three stages to coincide with each ward to be constructed, in order to regulate cash flow on the projects.

5. There have been no alterations to the plans as approved by the Public Works Standing Committee in September, 1975, other than minor architectural technical changes.

BELLEVUE HEIGHTS PRIMARY SCHOOL

The PRESIDENT laid on the table the report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence, on Bellevue Heights Primary School.

HARBORS ACT REGULATIONS

Order of the Day, Private Business, No. 1: The Hon. C. M. Hill to move:

That the regulations made on October 2, 1975, under the Harbors Act, 1936-1974, in respect of pilotage fees and laid on the table of this Council on October 7, 1975, be disallowed.

The Hon. C. M. HILL moved:

That this Order of the Day be discharged.

Order of the Day discharged.

POLICE OFFENCES ACT: PARKING REGULATIONS

Adjourned debate on motion of Hon. J. A. Carnie:

That the regulations under the Police Offences Act, 1953-1975, in respect of penalties for parking offences, made on January 22, 1976, and laid on the table of this Council on February 3, 1976, be disallowed.

(Continued from February 4. Page 2060.)

The Hon. R. C. DeGARIS (Leader of the Opposition): These regulations allow an increase in the expiation fee for parking offences. I understand the Hon. Mr. Carnie's interest in this matter. Whenever there is an increase in parking fees, there is some reaction in the community. Whilst I have some sympathy for the motion, I point out that the matter has been before the Subordinate Legislation Committee, which has made no report to this Council. The Adelaide City Council wants the regulations, and there is no great opposition to them from motoring organisations. People are deliberately leaving their cars at the kerbside all day, and are willing to pay the expiation fee, which is often cheaper than the cost of using parking stations. I point out that we are dealing only with an increase in the expiation fee: it is not an increase in the meter charges. I cannot support the disallowance of the regulations.

The Hon. A. M. WHYTE: True, the Subordinate Legislation Committee studied evidence from the Adelaide City Council and the Royal Automobile Association. I am convinced that the regulations are justified. As the Hon. Mr. DeGaris has pointed out, the present expiation fee has fallen out of proportion with parking station fees, and it is cheaper for people to pay the expiation fee each day than to pay parking station fees. The need for the regulations arises from the council's determination to see that there is a continual flow of traffic. We must remember that parking spaces belong to all citizens and, consequently, there should be as quick a turn-round of traffic in parking spaces as possible. Business people readily agree that, unless people are penalised for over-staying at parking meters or in prohibited areas, business will be disadvantaged, because the number of customers able to visit shops will be greatly reduced. Although I dislike seeing an increase in fees, I believe the regulations are proper.

The Hon. M. B. CAMERON: I support the motion. I am not a great supporter of parking meters at any time, and I do not believe that it is necessary to impose a 100 per cent increase. I have listened to the Hon. Mr. Whyte. No doubt people gave evidence with convincing arguments, but the argument about the number of people shopping at stores would be relevant if the parking spaces near

stores were the only spaces where there were parking meters, whereas in fact parking meters are spread throughout the city. They are used as a means of revenue, and they are in areas where there are no shops. Obviously, this move is associated with the City Council's financial difficulties. It is very difficult for people always to arrive back on time at a parking meter. It is an enormous burden if people suddenly find that they are faced with a \$4 fee for the sake of being one minute late. Everyone knows that parking inspectors wait like hawks; they do not give any time at all to a late motorist. The motorist has to return to his car right on time; otherwise, he is gone. I have never yet seen parking inspectors take a lenient attitude. I would have thought the Government would take a more lenient attitude towards this problem, which affects the little people of this State—the sort of people that the Hon. Mr. Foster worries about. Now, such people will have to pay this extra sum out of their weekly wages.

The Hon. J. C. Burdett: If they have committed an offence.

The Hon. M. B. CAMERON: It is a poor show if it is regarded as an offence if one leaves a car in a spot for one extra minute. I do not think we should see that as an offence. Occasionally, a person's watch may stop and, just because of that, this terrible offence occurs! It may be a hot day, with the result that people cannot walk as fast as they would otherwise be able to walk.

The Hon. T. M. Casey: In some countries, the authorities tow the vehicle away.

The Hon. M. B. CAMERON: I would not be surprised if that was the present Government's intention. Does it intend to move in that direction?

The Hon. Anne Levy: They do it in Sydney.

The Hon. M. B. CAMERON: It must have been started under the previous Labor Government in New South Wales. I ask the Council to support the motion, which is designed to ensure that the little people are not faced with these increased fees. It will be no problem for half the community to pay the extra sum, but what about the people in the lower wage bracket, if they are faced with this enormous fee? A single mother would have to pay the increased fee, and it is therefore wrong that this increase should be imposed.

The Hon. J. A. CARNIE: I thank those honourable members who have taken part in the debate, but I am disappointed that not one Government member has spoken. It is clear what their attitude is from the interjections made while the Hon. Mr. Cameron was speaking. My reasons for moving the motion have not changed. I do not believe that any organisation can justify a 100 per cent increase in its fees. Everywhere we turn we are faced with increases, yet we get calls for restraint from Canberra, from this Government, and from every responsible organisation in the community. Only yesterday, this place inserted in a Bill an amendment dealing with the consumer price index. As members know, it was altered subsequently, but this shows the thinking of people exercising responsibility in our community. There should be some form of restraint in relation to indexation.

The Hon. A. M. Whyte: Since 1968 the consumer price index has not increased by 100 per cent.

The Hon. J. A. CARNIE: That is correct, and it sums up my argument entirely. Even so, that is not my main reason for moving my motion and sticking to it. Parking meters were sensibly installed originally to provide proper

turnover of parking spaces. In 1956 when the original Bill was introduced in this Council it was stated that meters were not to be a revenue-raising measure, but somehow the revenue derived from meters has always been maintained, and the Adelaide City Council still looks on parking meters as a means of raising revenue.

The Hon. Mr. Cameron referred to parking meters installed in areas where there was no requirement for the efficient turnover of parking spaces where there were no businesses: meters have been installed in every available location merely to obtain revenue for the council, and this fact is borne out by the following statement made in July, last year, by the Lord Mayor:

All-day parking charges for selected city streets and higher "sticker" fees are among revenue measures being sought by Adelaide City Council.

In September, it was further stated:

The Adelaide City Council will install 902 parking meters in the next few weeks to raise finance refused by the Federal Government.

There is no pretence even that it is anything but a revenue-raising measure, and this is the basis of my argument. It was stated that parking meters were not to be used to raise revenue. Another reason for my motion is that I believe increased charges will cause much harm to businesses located in areas where meters are installed. In September, 1974, the council doubled meter fees, and now it seeks to double expiation fees. Such increases cannot help but cause further harm to businesses in the city area, and this view is borne out by a member of the council. In September, 1975, it was suggested that meters be installed in O'Connell Street, North Adelaide, and a statement was made by a councillor—

The Hon. M. B. Cameron: What was his name?

The Hon. J. A. CARNIE: He was Councillor F. R. B. Forwood, and the report to which I refer states:

Councillor F. R. B. Forwood said meters in O'Connell Street would hasten decay of shopping there.

Surely doubling these fees will have the same effect as the installation of parking meters. The council is continually saying that it is trying to stimulate business and encourage the return of business to the city square mile, but is that really the case? Reference was made to the relationship between parking station fees and parking meter fees, but I do not think that is a valid argument, because I believe both forms of parking are much too expensive. The argument merely emphasises that parking in the Adelaide council area is becoming so expensive that business activities will be transferred to suburban shopping centres, where ample free parking space is available. This is a queer way to stimulate business—to take steps to drive business away.

I regret that other Opposition members will not support my motion, because I would have thought that members on this side of the Council would support free enterprise. The people who will be hit by this measure are the traders, both large and small, existing in the city area. Traders in this area have already been hard hit by very high city rates. The other people who will be hit by this increase are motorists who cannot avoid coming into the city. I would have thought that the Liberal Party would support the principles of free enterprise and the freedom of the individual which I believe are embodied in my motion.

It appears that this is not to be the case, and the time has come for honourable members to stand up and be counted. I ask the Council to disallow the regulations so that new regulations more in keeping with reality can be framed. True, there must be a case for some increase in

these charges, but I argue that the increase should not be 100 per cent. I ask the Council to support my motion.

The Council divided on the motion:

Ayes (4)—The Hons. M. B. Cameron, J. A. Carnie (teller), M. B. Dawkins, and D. H. Laidlaw.

Noes (16)—The Hons. D. H. L. Banfield, F. T. Blevins, J. C. Burdett, T. M. Casey (teller), B. A. Chatterton, Jessie Cooper, J. R. Cornwall, C. W. Creedon, R. C. DeGaris, J. E. Dunford, N. K. Foster, R. A. Geddes, C. M. Hill, Anne Levy, C. J. Sumner, and A. M. Whyte.

Majority of 12 for the Noes.

Motion thus negatived.

PLANNING REGULATIONS: MOBILONG

Order of the Day, Private Business, No. 3: The Hon. J. C. Burdett to move:

That the regulations made on July 17, 1975, under the Planning and Development Act, 1966-1975, in respect of interim development control—District Council of Mobilong and laid on the table of this Council on August 5, 1975, be disallowed.

The Hon. J. C. BURDETT moved:

That this Order of the Day be discharged.
Order of the Day discharged.

AMENDING FINANCIAL AGREEMENT BILL

Adjourned debate on second reading.

(Continued from February 17. Page 2404.)

The Hon. R. C. DeGARIS (Leader of the Opposition): The purpose of this Bill is to ratify, by legislation in this State, an agreement made between the six States and the Commonwealth in February of this year to amend existing details of the Financial Agreement in so far as it relates to the national debt and other Australian Loan Council procedures. Other States and the Commonwealth Government, of course, will be introducing legislation similar to this. The schedule of the Bill contains the actual agreement that has been reached. Under section 105A of the Federal Constitution, the Commonwealth makes arrangements with the States in respect of the public debt of those States.

The original Financial Agreement was entered into in 1927 and provided certain details as to the takeover of the existing State debts and the establishment of a Loan Council, to be responsible for all loan raisings and allocations to the States, those loan raisings to overcome one of the problems existing when all States were in the same market seeking loan funds. It can be said that the Loan Council has worked very well so far.

The Loan Council has possibly until only 1980 or 1985 to run with its present powers. I have touched on that matter before and I will raise it again in this Council. The actual changes that are taking place now are arrangements made as far back as 1970 between the States and the then Federal Government under John Gorton and then William McMahon. The arrangements made then have continued until the present time. Some constitutional lawyers make the point that the Loan Council, which has been established since 1927, has possibly until only 1980 or 1985 to hold its present powers, and such eminent authorities as Bailey and Sawyer have stated quite clearly that the Loan Council's significant powers in major areas of the agreement will end in the 1980's. They say that the latest that the Loan Council can lose its total powers is 1985, and there is a need quickly for the States and the Commonwealth to look at this matter in relation to the future of the Loan Council.

There is no question that the earliest that the Loan Council can lose its powers will be 1980, and there will still be a Loan Council after 1985, with one of three sets of powers: first, it can be a Loan Council with all of its

current powers, which will continue to operate for 53 years after the last new issue or conversion for a State; or, secondly, it can be a Loan Council with power over the costs, but not over the amounts, of Government borrowing for temporary purposes (for example, overdrafts) but with no other powers; or, thirdly, it can be a Loan Council with no powers at all.

I have dealt with this matter at length previously and do not wish once again to go through all the reasons of Sawyer and Bailey for making this prediction. Briefly, Part III of the Financial Agreement is referred to in the prescribed powers of the Loan Council in six places. The words are used in this way:

while Part III of this Agreement is in force.

It is Sawyer's and Bailey's contention that Part III of the Financial Agreement will not be in force after 1980 or between 1980 and 1985. I believe that, as we are now in 1976, this is a problem that should engage the interests of the States and of the Commonwealth as to the future of the existing Financial Agreement because, unless the agreement can be renegotiated—or supposing the agreement loses its powers, say, in 1980—the impact on our present accepted principles of Federalism could be absolutely destroyed. We could have the situation where the States, after 1980, might well decide not to renew the agreement and to go back to 1927 and raise their own loans; and they could not only raise their own loans but they could also finance the States by massive loans and then move into taxation areas that the States are at present precluded from entering. I know that is conjecture, but this is a very important matter that should engage the attention of the State Parliaments and the Commonwealth Parliament as to the future of the agreement reached in 1927 and the effect of section 105A of the Federal Constitution.

I know that those remarks do not have any great bearing on this Bill; yet it is a Bill that amends the Financial Agreement, and I have mentioned this matter before. I hope that Parliament will at some stage in the future take up this matter, because it is of vital importance to the future of Federalism in Australia. The Bill carries out the agreement that has been reached between the Premiers and the Federal Government in relation to the policies laid down. I wish to make no further comment other than to support the second reading of the Bill.

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

PUBLIC FINANCE (SPECIAL PROVISIONS) ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from February 17. Page 2400.)

The Hon. R. C. DeGARIS (Leader of the Opposition): This Bill extends the life of a Bill passed earlier in the session amending the Public Finance (Special Provisions) Act. The reason for the original Bill was that, because of the difficulty the Federal Parliament had in passing the Budget, there was a need for an amendment to the Public Finance Act to enable the Treasurer to find money to carry out functions already agreed to by the Federal Government but for which the money could not be appropriated. Now we have a Bill which seeks to extend this period from the end of January to the end of June.

It may seem rather odd, now that the Federal Budget has been passed, that there is a need to extend the provisions of the legislation passed towards the end of last year. However, as I understand it, a couple of areas in relation to Commonwealth reimbursement to the States have not been satisfactorily resolved. One, of particular

concern to the Government, relates to the standardisation agreement in relation to railways in South Australia. As I understand the position, the Commonwealth has difficulty in appropriating money for the standardisation agreement because of the declared date in recent legislation concerning railways, which passed this Parliament.

It means that, to maintain the work on the standardisation programme, the Commonwealth has also to undertake this part of the programme until there are legislative changes in relation to Treasurer's Advances. As we know, such advances are not easy to obtain, nor can they be quickly obtained. To overcome this problem, the Government is asking that the special provisions allowed it towards the end of last year be extended to June 30. I think the case is reasonable. The moneys to be found for this purpose are assured of eventually coming from the Commonwealth, and it allows the State Government to continue with its programme without any upset to the work force from the financial viewpoint. I have pleasure in supporting the legislation.

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

GOVERNORS' PENSIONS BILL

In Committee.

(Continued from February 12. Page 2326.)

Clause 2—"Definitions."

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

Page 1, after line 4, insert—

"deceased Governor" means a Governor who died while in office as Governor;

The amendment is self-explanatory.

The Hon. R. C. DeGARIS (Leader of the Opposition): In supporting the amendment, I thank the Chief Secretary for deferring consideration of the Bill to enable some discussion to take place between members on this side, the Premier, and the Deputy Premier. We put certain questions to the Government, and I think the Government in some ways saw the validity of some of the arguments. In the end, however, the Government decided it wanted the Bill as it was, although I think there was an appreciation that one or two of the points raised were worth examining in the future. I see no further reason to delay the Bill, and in supporting the amendment I indicate my thanks for the co-operation of the Chief Secretary in enabling the Bill to be held over while negotiations took place.

Amendment carried; clause as amended passed.

Remaining clauses (3 to 6) and title passed.

Bill read a third time and passed.

Later:

The House of Assembly intimated that it had agreed to the Legislative Council's amendment.

MOTOR VEHICLES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from February 17. Page 2374.)

The Hon. A. M. WHYTE: The purpose of the Bill is to take away as much as possible the working parts of the present Act and to replace the legislation to a large extent with regulations. It can be shown that, in general, fees are imposed at present by regulation. In all Acts there should be a certain amount of flexibility, but there is little flexibility in a fee set by regulation, more especially if it is imposed at a time when Parliament is not sitting and becomes effective from the time of its gazettal. All too often we find fees being increased by regulation. Once

the fixing of fees becomes a regulatory part of the Act, fees can be increased without much consideration by Parliament.

The Hon. M. B. CAMERON: Like parking fees.

The Hon. A. M. WHYTE: That is one type. Many fees are dealt with by regulation.

The Hon. M. B. CAMERON: It is hard to get support for them to be stopped.

The Hon. A. M. WHYTE: It is indeed, and it is hard to gain a Parliamentary debate on a regulation, more especially if it is imposed when Parliament is not sitting and is in operation for several months before it is tabled. Although I realise the need for flexibility in legislation, I believe that regulations are being abused when so much of our legislation is now controlled by regulation and not by the Parliament. One of the provisions of the Bill is to allow for the registration of vehicles by regulation. The Bill does not contain any of the criteria previously included in the Act. If a formula exists, it would be interesting to find it. Such a formula exists in the principal Act, and one can calculate what one's registration fee should be, in accordance with the various criteria that are laid down. That situation seems no longer to obtain, and registration fees are to be imposed by regulation.

The Bill also contains a new provision relating to motor vehicle accessories. Clause 4 (g) strikes out from the Act the definition of "weight", and inserts therein the following new definition:

"Weight" of a vehicle includes the weight of any prescribed accessories or equipment carried (either habitually or intermittently) upon the vehicle.

I should be interested to know what the prescribed accessories will be. For instance, it will be extremely interesting to know whether stock crates, which are used only once or twice a year, wheat bins, which are used for carting grain for only a couple of months each year, or the tanks needed to cart water in various parts of the State, are to be prescribed as accessories and, if they are, whether they will all be aggregated. I should like the Minister in reply to say what is intended by the new definition of "weight". Unless the Minister can satisfy me in this respect, I may find it necessary to move an amendment to clarify the Government's intention regarding the matter.

I refer also to the reduced registration fee, which is also to be set by regulation. Clauses 36 and 37 deal with the misuse of trader's plates. As the Minister said in his second reading explanation, the Bill is designed to close certain loopholes in the Act, and the trader's plate aspect is obviously one of the matters that have been examined, the loophole regarding it having been closed.

Clause 44 (b) strikes out subsection (2) of section 75, and inserts a new subsection (2), which provides that a licence shall be in a form determined by the Minister, and shall contain such conditions as the Registrar thinks fit to include therein. Once again, the price of the licence is to be set by regulation. It will be interesting to see what that licence form will contain.

In future, a person's driving licence will last for three years. Although this may be convenient not only for the Registrar and the department generally but also for the public, the question arises whether, in case of hardship, a person should not have the option to apply for a one-year licence. A family with two or three drivers in it may experience hardship if the licences expire and must all be renewed at about the same time. If a person had the option to apply for a one-year licence, he could, I suggest incur a surcharge for that privilege. For instance, an

extra 50c could be charged for a one-year licence. Although this could deter persons from applying for a one-year licence, I do not believe it would be a deterrent, as the average driver would prefer to have a three-year licence.

However, I believe this option should be open to the public. In practically every other field, the Government, backed by the Opposition, is doing its best to ease the payment of rates by providing for quarterly instalments. In the Bill, we have gone the opposite way, and are denying people the right to apply for a one-year licence. I intend in Committee to move an amendment that will give a person the option to apply for a one-year licence instead of the three-year licence for which the Bill provides. Although a family with three drivers in it may be unable to pay the licence renewal fees when they fall due together, the family car would still be available. Therefore, the possibility of someone's driving without a licence would be increased, especially if the family had no option regarding the driver's licence fees it had to pay. Clause 54 (3) provides:

A person who drives a motor vehicle within the State in pursuance of subsection (1) or subsection (2) of this section shall, while doing so, carry with him at all times his licence or permit, and upon being requested by—

- (a) a member of the Police Force;
- (b) an inspector; or
- (c) an inspector under the Road Traffic Act, 1961-1975, to produce that licence or permit, shall forthwith comply with that request.

The penalty of \$200 seems pretty severe for a person who may be visiting this State for only a short period; he may have left his licence at home in another coat. It does not seem necessary for the penalty to be so severe. Time should be allowed for the person to produce the licence.

Most of us are aware that the tow-truck industry has always been fraught with problems. It has been suggested that it is a pirate's trade, a rough-neck trade. It has been suggested that, to be a successful tow-truck operator, one has to be proficient in the art of fisticuffs or one has to pay someone proficient in that art to accompany the tow-truck driver, but that suggestion is not quite correct. Many tow-truck operators conduct their businesses very well, and they do their best to alleviate the suffering of road accident victims by guiding traffic around the scene of an accident.

In the main, the tow-truck operators are satisfied that the provisions of this Bill go a long way toward correcting anomalies in the principal Act. Some people will never advance far in the industry: they are freelancers who do not deal regularly with a company. They pick up a vehicle and take it to a backyard operator, instead of taking it to a wellknown crash repair firm. At the scene of the accident, they tell the owner of the damaged car that it would take three or four weeks to have the car repaired by the firm that the owner suggested; as a result, the car finishes up with a backyard repairer. It has been suggested that some tow-truck operators work in conjunction with backyard operators for a fee, but I cannot prove whether that suggestion is correct. On the other hand, qualified and wellknown companies provide an excellent service. True, many companies can listen to police reports and ambulance calls.

The tow-truck operators say that this Bill will help in overcoming problems, and they have made only two comments of any real consequence. First, I refer to new section 98j (3), which provides:

A member of the Police Force present at the scene of an accident may, by oral or written direction, revoke an authority under this section if he considers that—

- (a) the particulars to be entered in the authority have not been fully or correctly entered;
- (b) the authority has been obtained in contravention of a provision of this Act;
- or
- (c) the motor vehicle should be preserved as an exhibit for future court proceedings.

The question has been raised as to whether a tow-truck operator, having produced the certificate and having the prescribed authority signed by the owner of the vehicle and having hooked the vehicle on to his truck, should then have his authority revoked by a policeman for no good reason. The question arises as to whether a tow-truck operator should have some right of appeal. Should he be able to go to someone the next day and say that a constable revoked his authority? Should he be able to ask for reasons for that revocation? The companies complain that, if they send a man to the scene of an accident, they have to pay him; subsequently, the authority could be revoked and the job could be given to another firm for no good reason.

The Hon. N. K. Foster: Hurry up, Arthur.

The Hon. A. M. WHYTE: Just dry up. You have been nagging all the time. Just shut up. I take less time to go through a serious piece of legislation than you take to condemn honourable members.

The Hon. N. K. Foster: If the truth hurts, that is your bad luck.

The Hon. A. M. WHYTE: Under new section 98j (2) it is required that the name and address of a person to whom the authority is to be given and the number of his tow-truck certificate are to be provided at the scene of an accident before the tow-truck operator can take a vehicle away. I believe it is justly contended that there is no reason why the tow-truck operator's name and address should be given on that certificate. The certificate shows the name of the driver's company, and it shows his authorised certificate number as a tow-truck driver. There is no problem in that situation of locating the driver who works for a specified company, which has a 24-hour telephone service. An accident victim, perhaps suffering shock, should be able to locate his car merely by ringing the company without seeking recourse to the driver's personal address.

Instances have been referred to of the wife of a tow-truck driver receiving telephone calls at 2 a.m. or 3 a.m. from a motorist seeking to know the whereabouts of his vehicle, yet the tow-truck operator is still out on the job, his wife knowing nothing of the accident or of the car's whereabouts. The need for three or four of these telephone calls to be made in an evening appears to be unjustified when the information on the operator's certificate shows exactly where the driver can be located. I intend to move an amendment to correct that position. Although I support the legislation, I shall move two or three amendments in Committee.

The Hon. M. B. DAWKINS: I rise to support the Bill, which makes several amendments to the principal Act to overcome anomalies and to close existing loopholes. I commend the Hon. Mr. Whyte who, under some difficulty, made an excellent speech—

The Hon. N. K. Foster: Can you drive?

The Hon. M. B. DAWKINS: —but who would have been able to make an even better speech if he did not have to contend with extraneous and rather foolish interjections.

The Hon. M. B. Cameron: Audible conversation?

The Hon. M. B. DAWKINS: Audible conversation, but not sensible conversation. This Bill seeks to make three main changes, and I draw the attention of

honourable members to the formula in relation to the registration of a vehicle which will be determined by regulation and not by Statute. This situation applies also in relation to registration fees and other fees which can be charged. Another important change is to the period during which drivers' licences are valid. As much as I regret the alteration to the determination of fees by regulation, I point out that one cannot seriously argue against such a change, because this is the method under which most fees are determined in recent legislation, and therefore I do not intend to oppose that provision. It is regrettable that such a change must be made because, as honourable members are aware, regulations become effective from the time they are gazetted, and it can be some months, especially if Parliament has just risen, before anything can be done about regulations which are regarded as unsatisfactory.

Concerning licence fees and the period over which licences extend, the Government is to be commended for its extension of the period from one year to three years, although I believe there is room for an extension in some cases of up to five years. The three-year period provided in Victoria is similar to the provision the Government seeks to include here. In New South Wales I understand there is an optional period of one year or three years. I believe that is what the Hon. Mr. Whyte referred to, and I agree with him if that is the case. The Government does not intend all its changes to apply immediately, and it has prepared plans under which this changeover will be gradual, with persons of certain ages being issued with the new three-year licences and those of other ages being issued, in the first instance, with a one-year licence, whilst others will be issued with a two-year licence. The effect of the changeover will spread out evenly in that way. The Hon. Mr. Whyte referred to a family comprising several members of a certain age who might each have to pay for a three-year licence. Such a situation would be regrettable and should be avoided.

Another change which I view with apprehension concerns the definition to which the Hon. Mr. Whyte referred regarding the weight of a vehicle. "Weight" of a vehicle includes the weight of any prescribed accessories or equipment carried (either habitually or intermittently) upon the vehicle. That definition is wide and, if the intention is to include every possible accessory within the dragnet, it could probably achieve that aim. The Hon. Mr. Whyte referred to the situation in the country where it is customary for primary producers and carriers to carry stock crates at certain times of the year in order to cart stock to market. The same vehicles are then often used to carry grain bins for one or two months each year to transport grain to the silos. I am concerned that the heaviest accessory could be the accessory deemed to be used to determine the gross weight of a vehicle. It could be a grain bin.

The Hon. T. M. Casey: You are only guessing.

The Hon. M. B. DAWKINS: I hope that what I have just said is not so, and I hope the Minister will give us information about the Government's intentions when he closes the debate. I express concern that this definition is drawn as widely as it is. I do not intend to speak at length on this Bill, which has been dealt with in considerable detail by the Hon. Mr. Whyte. I have expressed my concern about some of the changes that occur in it. As the Hon. Mr. Whyte led the debate, I do not intend, at this stage at any rate, to move an amendment to the Bill; but I will reserve the right to discuss the matter in Committee. At this stage, I support the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Interpretation."

The Hon. A. M. WHYTE: Can the Minister give some further indication of what the "prescribed accessories" will comprise?

The Hon. T. M. CASEY (Minister of Lands): I cannot give any specific reply, because the regulations have not yet been drawn up. I think the words in the clause in relation to whether a vehicle is used habitually or intermittently cover the situation. No doubt the Minister of Transport would be in close contact with interested parties. The honourable member may be thinking, for instance, of United Farmers and Graziers of South Australia Incorporated or the Stockowners Association, as well as other interested organisations. Until the regulations are brought down, it is not possible to be specific, but that will not be done for some time because of the amount of research involved. When that happens, I am sure the fears of honourable members will be dispelled. I do not think it is true to say that, if regulations come at the end of a session before Parliament goes into recess, they can be acted upon and would be difficult to remove. When the regulations are tabled in both Houses of Parliament, information can be conveyed to the Subordinate Legislation Committee, and these matters can be thrashed out. The Minister has indicated that he will converse with interested people, as he has done in the case of other legislation. That should dispel the fears of honourable members.

The Hon. M. B. DAWKINS: I am concerned about this definition. I appreciate the difficulty of the Minister, who is dealing with the Bill of the Minister of Transport in another place. However, I should like more information. Would the Minister consider asking that progress be reported while he discusses the matter with the Minister of Transport? I reiterate my concern and that of other honourable members.

The Hon. T. M. CASEY: I have discussed the matter with the Minister of Transport. I do not know (and I do not think the Minister of Transport knows) whether, for instance, sheep hurdles and water trucks would be included. Whatever is used intermittently on a vehicle would have to be taken into account. In my opinion, sheep hurdles could not be classified if they were to be used only once or twice a year.

The Hon. M. B. Dawkins: What if they were used 10 or 12 times a year?

The Hon. T. M. CASEY: That is another matter. Something else could be used more often on the truck. I do not think we can be specific, and we must wait until the regulations come down.

Clause passed.

Clauses 5 to 51 passed.

Clause 52—"Term of licence."

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

Page 12, line 28—Leave out "for a term of three years" and insert:

(a) for a term of one year;

or

(b) for a term of three years, in accordance with the application for the issue of that licence.

The amendment is to provide an alternative for the person who cannot afford to pay for a three-year licence when it becomes due, giving him an option to elect whether he will have a licence for one year or for three years. In every possible case, I am sure people would take the three-year licence. This is an excellent move, and the

Government is to be commended for taking this action. However, there is no reason why a let-out should not be provided for the person who cannot afford a three-year licence. If honourable members believe that families do not reach this state of economic impossibility, they should go to the country, where they would find many instances of people with several licences and time-payment commitments falling due at the same time. They would be pleased to have a 12-month licence instead of having to pay for a three-year term.

The Hon. T. M. CASEY: I am afraid that I cannot agree with the honourable member and, therefore, cannot accept his amendment. Although I sympathise with his argument that some people may find it more convenient to pay only \$5 for a one-year licence rather \$15 for a three-year licence, I remind the honourable member that such a system has been tried in other parts of the world and has worked well. From the administrative point of view, it is desirable to have a longer-term licence. In this respect, it is interesting to note that some of the honourable member's colleagues in another place wanted to increase the licence term to five years.

The honourable member has referred to the economics of the situation. However, if a young man can afford to purchase a motor vehicle, he should certainly be able to pay for a three-year licence. The Government is trying to streamline the administration of the Motor Registration Division by providing for the issue of three-year licences. Of course, not everyone will receive a three-year licence immediately, as the system will be gradually phased in. If people have an option, it will complicate the administration of the division. I think all honourable members favour a three-year or longer-term licence. Such a scheme has worked well in England for many years.

The Hon. M. B. DAWKINS: I support the amendment and suggest that there are good reasons why this provision should be similar to that which obtains in New South Wales. Under the Bill, a person, on reaching the age of 69 years, can obtain a shorter-term licence. Therefore, the Bill is catering for people who are getting old but not for those who must move from South Australia to, say, Great Britain for further study, or to Victoria, New South Wales or even to another country for business reasons. Any such person could well know that within a year he had to go overseas to study or represent the firm for which he worked. Why, therefore, should he have to pay \$15 for a licence when he knows that he will be able to use it for only one year of its three-year term?

The Hon. T. M. Casey: He could obtain a refund. Look at subclause (8).

The Hon. A. M. Whyte: To obtain a refund would be even more unwieldy than my amendment.

The Hon. T. M. Casey: How many people travel overseas all the time?

The Hon. M. B. DAWKINS: For various reasons, the number is increasing all the time. The Hon. Mr. Whyte's amendments have much to commend them. Surely, if this system works well in other places, there is no reason why it should not work well here. I thank the Minister for drawing my attention to subclause (8). However, as the Hon. Mr. Whyte said, that process could be more unwieldy than the honourable member's amendment, which I support.

The Hon. J. R. CORNWALL: It seems to me that honourable members opposite are splitting split hairs. On the one hand, the Hon. Mr. Whyte has moved an amendment that could help the needy. Although that may be commendable, it destroys the intent of the Bill, which is

to effect considerable savings in administration costs. On the other hand, the Hon. Mr. Dawkins wants to look after those people who travel abroad for a considerable period. It seems hard to reach a consensus, if we are to split hairs at each end of the spectrum. On the one hand, we are looking after the needy, and on the other we are looking after the greedy. By and large, only a small percentage of the population travels overseas, and the Minister has already pointed out in the Bill a clause providing for the circumstances to which the Hon. Mr. Dawkins has referred. For this reason, I can see no real value in the amendment.

The Hon. A. M. WHYTE: I do not believe I was splitting hairs. The case to which I referred is a common one and, indeed, one regarding which the Government has acted to help; I refer to the quarterly payment of rates. I do not think people should be forced to pay for a three-year licence if they do not wish to do so. New South Wales has an optional system, and 12½ per cent of licensees take advantage of the option that is open to them. This does not result in greatly increased administration costs. I believe that that 12½ per cent of the public is worth considering, and should have the option of spreading the payment for their drivers' licences, as happens in relation to the payment of rates.

The CHAIRMAN: I would like to ask the honourable member whether, if I have to give my casting vote, he does not think that, if a person is given this option, 97 per cent of the people will take advantage of it and take out a one-year licence. I understand that a high percentage of people pay their water rates quarterly, instead of annually.

The Hon. A. M. WHYTE: I doubt that very much, Sir. I refer to the New South Wales experience; in that State, 12½ per cent of the people avail themselves of the option that is open to them. Perhaps that is some sort of gauge to what could happen here. For the sake of convenience, I cannot imagine people wanting to opt for a one-year licence when they can obtain a three-year one. Persons in necessitous circumstances would probably be the only ones wanting to take advantage of this option.

The Hon. M. B. CAMERON: I support the amendment. I, too, have some sympathy for the views that have been expressed. Difficulties may be created for certain people. As has been intimated, many people opt to pay their rates at quarterly intervals. In New Zealand, one can get a five-year licence. Indeed, one can choose a licence period of between one year and five years. It must be remembered that many people work on a tight budget.

The Hon. R. C. DeGaris: What about oversea visitors who want a licence for only a short period?

The Hon. M. B. CAMERON: That is an excellent point. It is possibly the reason for the optional period in New Zealand. I support the amendment.

The Hon. R. C. DeGARIS (Leader of the Opposition): When quarterly instalments were introduced for water rates, honourable members asked whether such instalments would add to the administrative costs of the Engineering and Water Supply Department. In reply, it was stated that it would not make any difference whether there were quarterly accounts or annual accounts, because of computerisation. However, we are now told that an optional period will add tremendously to the administrative problems of the Motor Registration Division. I do not accept that argument. I congratulate the Government on introducing three-year licences. I would have been willing to support five-year licences. However, we must also make allowance for tourists who may want a

one-year licence. Of course, there may be other reasons for opting for one-year licences. Probably no more than 10 per cent to 20 per cent of the people will require one-year licences; if they want them, they should be able to have them, but I believe that most people will opt for three-year licences.

The Committee divided on the amendment:

Ayes (8)—The Hons. J. C. Burdett, M. B. Cameron, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, C. M. Hill, D. H. Laidlaw, and A. M. Whyte (teller).

Noes (12)—The Hons. D. H. L. Banfield, F. T. Blevins, J. A. Carnie, T. M. Casey (teller), B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, R. A. Geddes, Anne Levy, and C. J. Sumner.

Majority of 4 for the Noes.

Amendment thus negatived; clause passed.

Clauses 53 to 56 passed.

Clause 57—"Enactment of Part IIIc of principal Act."

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

Page 18, lines 36 and 37—Leave out "the name and address of the person to whom the authority is to be given and".

The tow-truck operators believe that it serves no good purpose for the tow-truck driver to be compelled to give his own home address to the person whose car he is about to tow away. It must be remembered that the driver must prepare a document showing the registered number and the name of the company, with its address and telephone number. If the driver gives his home address, it often happens that his wife has to answer the telephone two or three times a night to give particulars to someone whose car has been damaged and towed away. If the driver's name was not on the authority, the owner of the car would then telephone the company, which has a 24-hour service. There is therefore no reason why the driver should give his home address; he has a number by which he can be easily identified.

Some drivers have left the industry for this reason. They believe it is unjust that their wives and children can be woken up when they know nothing about the accident, the business, or where the car is, yet the drivers are required to provide such details before they can obtain authority to tow a car away. The company owning the tow-truck and employing the driver can be contacted on its 24-hour telephone service. It is unjust that these people should be so inconvenienced.

The Hon. T. M. CASEY: I cannot accept the honourable member's amendment. I would want to see the credentials of a man who was to tow my car away.

The Hon. C. M. Hill: He carries his credentials on the ticket.

The Hon. T. M. CASEY: One must have the identity properly available.

The Hon. C. M. Hill: There is the card number.

The Hon. T. M. CASEY: That is not sufficient. I believe the operator should carry identification. One must be absolutely certain. There have been many anomalies in the tow-truck industry over the years.

The Hon. R. C. DeGaris: What do you mean by anomalies?

The Hon. T. M. CASEY: Tow-truck operators have on occasion competed ruthlessly. We are trying to seal completely all loopholes in the industry. I cannot accept the amendment.

The Hon. C. M. HILL: Is the Minister properly aware of what a tow-truck operator presents to a driver when he seeks authority to tow a vehicle away? He must present his tow-truck certificate, and the driver can read the name and address and see the certificate number, as well as the operator's photograph on that card. The Hon. Mr. Whyte has indicated his agreement to the inclusion of the number of the certificate of the tow-truck owner, that is, the name and the address of the registered owner of the vehicle. All that information must be supplied. It is the employee who has appealed to Opposition members to resolve some of the problems which result from the providing of the information currently given. The tow-truck driver is willing to show his certificate and identification, which he must do, but he believes he should be entitled to withhold his name and private address.

The Hon. A. M. WHYTE: Because there is no need for the tow-truck driver's name to be suppressed, I might seek to change my amendment. The objection is to the providing of his private address, because he may have to work for another six hours, yet his company has a 24-hour telephone service from which information can be obtained. That is the appropriate means of an accident victim making contact with the tow-truck driver.

The Hon. N. K. FOSTER: What about an owner-driver? He might have no separate business address as such. How will he comply with such a requirement? Members opposite are confusing the issue because, although a company may have a business address, the owner-operator may have only one address.

The Hon. A. M. WHYTE: There should not be any confusion, because the authority given will cover the point raised by the Hon. Mr. Foster. The name of the owner of the tow-truck must appear on the authority.

The Hon. T. M. CASEY: If I sought the name of the operator, I would also want his address. One can be given any name. At least one has some way of communicating with the operator.

The Hon. C. M. Hill: How could one give a false name if it is written on the certificate?

The Hon. T. M. CASEY: What is so important about the leaking of an address? I do not believe it is important. There is no stipulation for a private address.

The Hon. A. M. Whyte: One is not supposed to give a false address.

The Hon. T. M. CASEY: Members opposite have two addresses—Parliament House and their home address. The name and address is applicable in this matter. We are splitting hairs.

The Hon. M. B. CAMERON: This is not splitting hairs. It is a simple request from people who do not want the privacy of their homes invaded merely because of the type of business in which they are engaged. It is a simple and fair request. It would be easy to give a false address, and the Minister has not made a valid argument against the amendment, which I ask him to accept. It is a simple matter.

The Hon. R. A. GEDDES: I request that the Hon. Mr. Whyte leave in the name of the employee.

The CHAIRMAN: I was about to ask the Hon. Mr. Whyte what exactly the amendment was. From some suggestion he made in the course of the debate, I think that perhaps the word "business" before "address" may solve the problem.

The Hon. A. M. WHYTE: Someone else can move that if he likes. My amendment covers what I want to do.

I am prepared to leave the operator's name there. A Municipal Tramways Trust driver does not have to disclose where he lives.

Members interjecting:

The CHAIRMAN: Order!

The Hon. J. A. CARNIE: It seems to me that the main argument here is that a driver should not be interfered with in the privacy of his home. Perhaps the amendment should state "the name and business address". That would answer the question raised by you, Mr. Chairman. If he is a driver and his business address happens to be his home address, that is tough luck.

The CHAIRMAN: I think we can test the feeling of the Committee on that matter. The Hon. Mr. Whyte said he was not prepared to alter his amendment. I do not know whether he has changed his mind.

The Hon. A. M. WHYTE: I do not want to, because a business address is already on the prescribed form. Further on in the form we see "name of driver", etc., and then the address. Drivers are not interested in giving their address, because already the business address is on the form.

The CHAIRMAN: We should test the feeling of the Committee. If the amendment fails, we can consider another amendment.

The Hon. T. M. CASEY: The way I read it now is that we have here the name and the number of his tow-truck certificate. What is the name? Does the name mean the name of his car, or what?

The CHAIRMAN: I see the point. I think the honourable member has moved really to leave out "and address". It seems to me that the amendment should read as follows:

Page 18, lines 36 and 37—Leave out "and address".

The Committee divided on the amendment:

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

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

The CHAIRMAN: There are 10 Ayes and 10 Noes. I think the matter should be considered by the House of Assembly. I should not be a bit surprised if it did not suggest an alternative amendment. I give my casting vote for the Ayes.

Amendment thus carried; clause as amended passed.

Remaining clauses (58 to 71) and title passed.

Bill read a third time and passed.

The House of Assembly intimated that it had agreed to the Legislative Council's amendment.

PASTORAL ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from February 17. Page 2400.)

The Hon. A. M. WHYTE: The Minister, in his second reading explanation, said that this was a consequential measure that repealed Part X of the Pastoral Act and made provision for that Part to be included in the Water Resources Bill. Part X of the Pastoral Act dealt with the control of waters throughout the pastoral areas. It was well administered by the Pastoral Board and it was not always easy, perhaps, to adjudicate. However, I cannot recall any problems that were not able to be resolved by the various

Pastoral Boards during my time in that industry. On one occasion a bore had been struck by a French drilling team in its search for oil, and the French contractors were satisfied that there was no product of any consequence. Their enterprise was about to close the artesian flow by explosives, and it was only by the persistence of the Pastoral Board that the Government of the day paid sufficient money for that French drilling team to cap the flow, and a valuable water supply was provided for that area. I disagree slightly with what the Minister says here:

The provisions of this Part have been included in the Water Resources Bill, which integrates the management of the waters of the State, and it is now no longer necessary for the Pastoral Act to deal with water.

It does not quite do that, and there are parts of the Pastoral Act, in addition to Part X, which are not included in the Water Resources Bill. I have spoken to the Minister about this and, as a consequence, amendments have been drafted in my name. As a result of discussions with the Minister, I was able to point out that the provision was not included in the new water resources legislation, and the amendments I have on file correct that. I am pleased to support the legislation.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Divisions."

The CHAIRMAN: Actually, the Hon. Mr. Whyte is asking the Committee to vote against the whole of clause 3.

The Hon. A. M. WHYTE: Yes; it is necessary to strike out clause 3.

The CHAIRMAN: I take it this is linked to the other amendments, so I will permit the honourable member to explain them all.

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

Page 1, lines 10 and 11—Leave out all words in these lines.

I hope there is no opposition to what I intend to do. In Part X of the Pastoral Act provision was made whereby the Pastoral Board could make provisions, but the one that concerned me about a water supply being available in a certain area was a sufficient supply to provide water for the neighbouring stock. It should also be included in this new legislation: there should be provision for a man to appeal to someone. It seemed a little vague as to whom he should appeal for a right to request his neighbour to supply a certain amount of water. That is the only provision I believe the Pastoral Board should have some jurisdiction over. My amendments cover that.

The Hon. T. M. CASEY (Minister of Lands): Yes; I agree with what the honourable member has said. I compliment him for raising this matter, because it is very important. There are certain sections in the Pastoral Act which, if this matter had not been attended to, could have caused not necessarily unpleasantness but some anomalies in the pastoral areas: for example, where there were two adjoining properties, one of which had water and the other had not, and it was feasible to pump water from one property to the other, as is done in many instances in the pastoral areas. It was desirable that this matter be attended to at this stage in order that these provisions be inserted in the relevant Act. I have no hesitation in supporting the honourable member's amendment.

Amendment carried; clause as amended passed.

Clause 4—"Repeal of Part X of principal Act."

The Hon. A. M. WHYTE moved:

Page 1, line 12—Leave out all the words in this line and insert the following clauses:

4. Sections 100 to 111 (inclusive) of the principal Act are repealed.

5. Sections 113 and 114 and the heading thereto of the principal Act are repealed.

Clause 4 negatived; new clauses 4 and 5 inserted.

Title passed.

Bill read a third time and passed.

Later:

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (GENERAL)

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 on Thursday, February 19, at 11.30 a.m., at which it would be represented by the Hons. F. T. Blevins, M. B. Cameron, B. A. Chatterton, M. B. Dawkins, and R. C. DeGaris.

SOUTH AUSTRALIAN MUSEUM BILL

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

PEST PLANTS BILL

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

HEALTH ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment.

FURTHER EDUCATION BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment No. 1 without any amendment and had amended the Legislative Council's amendment No. 2 by leaving out paragraph (b) and inserting in lieu thereof the following paragraph (b):

(b) provided by a school, or institution, or a school or institution of a class declared by regulation to be a school or institution, or a class of schools or institutions to which this part applies.

Consideration in Committee.

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

That the House of Assembly's amendment to the Legislative Council's amendment No 2 be agreed to.

Motion carried.

INDUSTRIES DEVELOPMENT ACT AMENDMENT BILL

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

[Sitting suspended from 5.58 to 7.45 p.m.]

PUBLIC AUTHORITIES (EMPLOYEE APPOINT- MENTS) BILL

The House of Assembly intimated that it had disagreed to the amendments made by the Legislative Council.

Consideration in Committee.

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

That the Council do not insist on its amendments.

Yesterday, when these amendments were considered by this Committee, they were fully canvassed. You, Mr. Chairman, suggested that the House of Assembly might like to have another look at them. Having done that, it

has disagreed to them. I think it has gone as far as it can go; it is unfair that it should go further. For the reasons given by the House of Assembly for its objections to the amendments, which objections I think are well founded, I move this motion.

The Hon. D. H. LAIDLAW: I am extremely disappointed that the House of Assembly has not seen fit to agree to our amendments. I suggest that, for the reasons already expounded at length, this Council should insist on its amendments.

The Hon. M. B. CAMERON: I think we should insist on our amendments. I can see no argument put forward by the Chief Secretary; in fact, there was no argument. Therefore, there is nothing to dissuade the Committee from its original course.

The Committee divided on the motion:

Ayes (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.

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

Pair—Aye—The Hon. T. M. Casey. No—The Hon. C. M. Hill.

The CHAIRMAN: There are 9 Ayes and 9 Noes. To enable this matter to be considered further, I give my casting vote for 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 House of Assembly conference room on Thursday, February 19, at 10 a.m., at which it would be represented by the Hons. J. A. Carnie, T. M. Casey, J. E. Dunford, C. M. Hill, and D. H. Laidlaw.

SUPERANNUATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from February 17. Page 2377.)

The Hon. R. C. DeGARIS (Leader of the Opposition): This is a machinery Bill making several alterations to the principal Act, which was passed some 12 months ago.

The Hon. N. K. Foster: Any retrospectivity in it?

The Hon. R. C. DeGARIS: There is no retrospectivity in it, I am glad to say. On that point I cannot raise any objection. I could detail each of the clauses, but it is really a Committee Bill and there is nothing objectionable in it. I support the second reading.

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

JURIES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from February 17. Page 2375.)

The Hon. J. C. BURDETT: I support the Bill. As is set out in the Minister's second reading explanation, the main thing it does is to remove a most inconvenient anomaly. At present, the whole jury panel for a month must be summoned even when only one trial is to commence on a certain day. This situation is obviously ridiculous and

is cured by the Bill. The other parts of it are minor and incidental, concerned mainly with the present practice of ignoring all difference between the sexes, and so we have provisions relating to spouses instead of to wives, and so on. In some respects these amendments are quite sensible. The existing Act provides an exemption for police officers and their wives. With the number of policewomen we now fortunately have, it is quite appropriate that their husbands should be excluded. The main point of the Bill is to remove this anomaly. It is sensible and I support it.

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

[Sitting suspended from 8.47 to 9.13 p.m.]

WATER RESOURCES BILL

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

LICENSING ACT AMENDMENT BILL

Adjourned debate on second reading

(Continued from February 17. Page 2375.)

The Hon. J. C. BURDETT: I support the second reading of this Bill, the purpose of which is to close a loophole in the existing law providing for the fixing of licence fees. This loophole has made it possible for licensees to avoid payment of licence fees intended in the original legislation and to gain advantage over licensees who operate in the ordinary way contemplated by the legislation. It is desirable, of course, to make taxing legislation of any kind as nearly as possible devoid of loopholes, and I entirely applaud this Bill so far as it closes the loophole for the future. However, to make taxing legislation retrospective, as this Bill does, is wholly iniquitous. To make penal or taxing legislation retrospective is almost always wrong, because a man is entitled, when dealing with the law, to take it as he finds it at the time the relevant act is done.

The Hon. N. K. Foster: It is wrong to make a penal measure retrospective! What were you trying to do last week with another piece of legislation, industrial in character? How do you fellows live with yourselves?

The Hon. J. C. BURDETT: When you have finished I will start again. I will wait until you have stopped.

The Hon. N. K. Foster: It wouldn't be a bad idea. I am drawing your attention to the fact that you have no conscience whatever.

The Hon. J. C. BURDETT: I take offence, and I call on the honourable member to withdraw.

The Hon. N. K. Foster: You have got a withdrawal. Sail on.

The PRESIDENT: Will the honourable member withdraw?

The Hon. N. K. FOSTER: Yes, I did. He heard me.

The Hon. F. T. Blevins: He had his fingers crossed.

The Hon. J. C. BURDETT: That must be a reservation.

Members interjecting:

The PRESIDENT: I think the honourable member must be allowed to make his speech. There is too much interjection and too much audible conversation.

The Hon. J. C. BURDETT: In these days and with this Government, it is hard enough to keep up with the law as it is, particularly in relation to fee collecting and taxation. It is unreasonable and oppressive to expect a citizen to assess, when he does a particular thing, what legal effect might be attached to that act retrospectively in future.

When applying for a licence to which a substantial fee is attached, one is quite entitled to expect the fee to be payable as provided by the law at that time. One is entitled to expect that the fee will not be subsequently changed retrospectively. This is so, however cunning the taking advantage of the loophole is, and however great the gain derived therefrom.

The loophole should be closed for the future, but if the legislation is so drawn that anyone has taken advantage of it, as far as the past is concerned that is too bad. It must be closed for the future. Almost the only exception to the principle that taxing Statutes should operate from the day on which they are passed is that it is obviously necessary to make many taxing Statutes as part of a budgetary measure or otherwise date from the day when the Bill or Budget is introduced. If we countenance retrospective legislation in other than enabling Bills we are throwing away the rule of law. We are resorting to Rafferty's rules, destroying confidence in our governmental system. I propose to quote a section from *Maxwell on Interpretation of Statutes*. Before doing so, I would say that I fully appreciate that Parliament has the power to legislate retrospectively. I also appreciate that in this case no question of interpretation arises, because clause 2 of the Bill is nakedly and unashamedly retrospective. However, I will relate the quotation I intend to read to the principle involved. I shall quote from page 215, under the heading "Retrospective operation of Statutes", as follows:

Upon the presumption that the legislature does not intend what is unjust rests the leaning against giving certain statutes a retrospective operation. They are construed as operating only in cases or on facts which came into existence after the statutes were passed unless a retrospective effect is clearly intended. It is a fundamental rule of English law that no statute shall be construed to have a retrospective operation unless such a construction appears very clearly in the terms of the Act, or arises by necessary and distinct implication. The statement of the law contained in the preceding paragraph has been "so frequently quoted with approval that it now itself enjoys almost judicial authority."

I have quoted this passage for the first sentence, that while this is not a matter of interpretation because this Bill is clearly retrospective, the first sentence states that upon a presumption that the Legislature does not intend what is unjust rests the leaning against giving certain Statutes a retrospective operation. The basis of the rule is the presumption that the Legislature does not intend what is unjust. The clear implication is that retrospective legislation is unjust. I believe that Parliament should not be unjust.

The foregoing quotation is cited with approval in Pearce on *Statutory Interpretation in Australia*; and Ken Gifford, Q.C., who is known to many members in this Chamber, in his book *How to Understand an Act of Parliament*, says that it is a very far-reaching step to make an Act of Parliament operate from a date prior to the day on which it was passed by Parliament. I concede, of course, that clause 4 (a) (1c) provides that the application for reassessment must be lodged with the clerk within three years after the day on which the court fixed the fee in respect of which reassessment is sought. I acknowledge that the real retrospectivity is three years and not until 1967. I also acknowledge that clause 15 (1c) of the Bill states:

The court shall not entertain an application by the Superintendent of Licensed Premises under subsection (1b) of this section unless the Minister has, by instrument in writing, authorised the application.

Virtually, there must be a fiat of the Attorney-General before proceedings can be taken. Nevertheless, retrospective taxation legislation upsets the faith of the taxpayers in the law, and in Committee I shall oppose clause 2. In the meantime, I support the second reading.

The Hon. M. B. CAMERON: I, too, support the second reading, but, like the Hon. Mr. Burdett, I am extremely concerned about clause 2. I wondered, when I first read clause 2 of the Bill, whether it was an ancient measure that had been forgotten. Then, I realised that a later date appeared in the Bill. To use the words "This Act shall be deemed to have come into operation on the twenty-eighth day of September, 1967" is surely taking matters a little too far. I realise that the Bill affects only the last three years. Nevertheless, one gets the distinct impression that it is retrospective right back to 1967.

I wonder whether the Minister, when he realised that there was a loophole in the Act and that people were taking advantage of it, told those concerned that such retrospective legislation would be introduced. That would have been the proper action to take at the time. Surely, there have been plenty of opportunities for Parliament to take action to close a loophole if one existed. I do not intend to support retrospective legislation of this type, because I do not believe that it is proper for people, operating within the law as it stands, to be subjected to this sort of rearguard action.

The member for Mitcham in another place (Mr. Millhouse) has stated that this Bill is aimed at one person. If that is so, I do not believe the Government is taking proper action. This sort of retrospective provision should be left out of the legislation. If one person has found a loophole in the Act and is operating within the legislation, it is up to the Government immediately to take action to remedy the situation. This legislation has been on the Statute Book since 1967, and surely someone must have realised that the loophole exists.

I have no objection to closing loopholes in legislation. In this respect the Minister is taking the correct action, although he is probably doing it a little late. If the Council passes this Bill, what will it pass next? We could, for instance, go back and double land tax and water rates, and nothing could be done about it. Indeed, after the parking fees problem anything is likely to happen.

The Hon. B. A. Chatterton: You aren't going to introduce a private member's Bill, are you?

The Hon. M. B. CAMERON: I would do so if I had support to halve the sum involved. Unfortunately, however, this Council cannot take such action. I do not think it is proper to pass this type of legislation. Honourable members would be foolish if they supported the Bill as it now stands, without taking out the retrospective provision.

The Hon. R. C. DeGARIS (Leader of the Opposition): I do not think much more can be added to what the Hon. Mr. Burdett and the Hon. Mr. Cameron have said. The sentiments they expressed are also my sentiments. The Bill seeks to block a loophole that exists in South Australia's licensing laws and to protect the State's revenue. To that part of it the Opposition in this Council has no objection. It is not necessary for me to deal with the details of the Bill, as all the facts are well known to honourable members. The only part of the Bill that I oppose is clause 2, which allows the Bill to operate retrospectively from September, 1967. Although the Hon. Mr. Burdett has pointed out that the fee collection will operate retrospectively, the actual sting involved will relate retrospectively to the last three years, but not back to 1967.

This Council has always stood against retrospective legislation, and every time the Government has tried, without exceptional reasons (the Hon. Mr. Burdett has referred to that aspect), to introduce such retrospective

legislation, the Opposition has opposed it. The last such legislation that came before the Council related to the Myer Queenstown development. Once again, the Government tried, by retrospective legislation, to make illegal action that had been taken by a company in good faith and within the law. The Council (I believe correctly) defeated that legislation.

Regarding this taxation Bill, the Government can make out no good case for making it operate retrospectively for three years. The point has been made that no respect could be held for any law if the Council agreed to this Bill unamended. No law could be taken to mean what it really meant, because Parliament could legislate retrospectively at any time to make what a person had done previously within the law an illegal act. I hope the Council will not accept the principle that the law can be brought into disrepute and that no-one can ever again rely on the rule of law in our community. I ask honourable members to think of the chaos that will result if other taxation legislation is amended to operate retrospectively for any period.

I am not asking whether the existing law has been exploited. Although one can oppose such exploitation, the point is nevertheless clear that the law has not been broken, and it is untenable, in my opinion, to amend legislation so that an action taken within the law will be caught. I support the views expressed by the Hon. Mr. Burdett and the Hon. Mr. Cameron. This Council has always questioned retrospective legislation, and in some cases honourable members have stood firm and said "No" to attempts to pass such Bills. This is a classic example of such retrospective legislation that the Council should oppose. Although I support the second reading, I will not support clause 2.

The Hon. N. K. FOSTER: In connection with fears about retrospectivity, I hope members opposite will be consistent. That was the reason for my outburst in connection with industrial legislation.

The Hon. J. C. Burdett: What legislation?

The Hon. N. K. FOSTER: The honourable member ought to know. Is the "give way" rule still in operation?

The PRESIDENT: We decided to give the rule a try until the end of this session. So, we have another two days.

The Hon. N. K. FOSTER: I have a great deal of respect for anyone who can beat the law or beat the system. The legal fraternity is a privileged group, but it should not be so privileged.

The Hon. J. C. Burdett: Is that why you're annoyed?

The Hon. N. K. FOSTER: I have not had the opportunity to touch anyone for anything. I have been a battler. The honourable member is looking for tax dodges for his fraternity in connection with another Bill. If anyone is smart enough to see a loophole, I say (in the normal course of affairs), "Good luck to him." There was no obligation to renew the licence for the premises in question. In connection with renewing a licence, the principal Act applies, and money must be paid into revenue. Do honourable members opposite agree that, if a person applies to renew the licence, he is charged on the basis of the sales for the previous period?

The Hon. J. C. Burdett: Read the second reading speech.

The Hon. N. K. FOSTER: If the honourable member cannot say "Yes" or "No", he is professionally blind. If the Hon. Mr. Hill had responded to an opportunity to buy

premises of the kind referred to, he would have incurred a debt in connection with the previous sales.

The Hon. J. C. Burdett: It was in the second reading explanation.

The Hon. N. K. FOSTER: If a person wants to renew a licence, he is liable to pay the sum prescribed in the principal Act. If the person sells the premises to an unsuspecting member of the public, that member of the public incurs a debt, possibly without knowing it. If there had been, in the same year, 50 other licensed premises that had been discounting and if they had adopted the same measure, which this Bill is aimed at preventing, we would have had 50 licensed premises that would be gone forever. Perhaps they might all have been in the one district.

The Hon. R. C. DeGaris: What has this got to do with retrospectivity?

The Hon. N. K. FOSTER: We would deprive an area of licensed premises. If an unsuspecting member of the public bought the premises, he would have to pay on the basis of the previous sales, under the existing Act.

The Hon. M. B. Cameron: We've got no argument with you. We support the Bill.

The Hon. N. K. FOSTER: Those licensed premises would be gone forever. If this applied to some hicks in the sticks—if this applied to a small country town—the honourable member would be going crook.

The Hon. M. B. Cameron: I must tell my friends.

The Hon. N. K. FOSTER: I can readily understand the great concern of members opposite about retrospectivity. The principal Act does not fully ensure that the payment can be extracted, following discounting in licensed premises.

The Hon. R. C. DeGARIS: Will the honourable member give way?

The Hon. N. K. FOSTER: I have never done that.

The PRESIDENT: I have been informed that the "give way" rule will apply for only another two days—today and tomorrow.

The Hon. M. B. CAMERON: Will the honourable member give way?

The Hon. N. K. FOSTER: Yes.

The Hon. M. B. CAMERON: This problem with hotels is no different from the problem that occurred with service stations in connection with the taxation measures put forward by the Government. People took advantage of the situation and built up their gallonages by discounting. The Government's taxation measure was based on past gallonages. It is no different. Will the Government take retrospective action to collect taxation that was not paid by those people? It is the same thing.

The Hon. N. K. FOSTER: I see some sort of relationship.

The Hon. M. B. Cameron: They can sell the service station with the higher gallonage.

The Hon. N. K. FOSTER: But those premises are not closed down. They are not licensed premises on a par with premises licensed to sell beer and spirits. In addition, there is a whole complex of principles, marketing systems, and marketing directions given by oil companies to unfortunate people whom they hoodwink into undertaking the leasing of service stations. The Trade Practices Tribunal has been considering this matter for a number of years, and the matter is still being examined. Petrol stations in Victoria owned by the trade union movement will not

escape the investigation. Discounting in that industry resulted from competition between petrol resellers and oil companies. There is no parallel in other industries.

The Hon. R. C. DeGARIS: Will the honourable member give way?

The Hon. N. K. FOSTER: Yes.

The Hon. R. C. DeGARIS: I thank the honourable member for giving way. It was obvious that the exploitation of the loophole was being undertaken for several years, and it is strange that after such a period this legislation is only now being introduced. It is a long time since the original exploitation took place, yet the Government has done nothing until now, when it has introduced a Bill containing retrospective provisions.

The Hon. N. K. FOSTER: The date of the application for the renewal of the licensed premises is the date on which this argument stands. It would be presumptuous of any Government to say that there was discounting going on, anyway, and that it introduced legislation because it suspected such activities were being undertaken. There could be no proof of such action until the renewal date was reached.

The Hon. R. C. DeGaris: Everyone knew what was happening.

The Hon. N. K. FOSTER: No, that is not correct. The Government could not make such a presumption, and it would be wrong for it to do so, especially in a legislative sense. I could agree with the honourable member and say that the Government has accepted the situation by introducing this Bill to snare the first person failing to renew a licence, or I could argue the other way and say that the Government has made a presumption and will catch the operator concerned next time. The retrospectivity of the legislation will ensure that no-one will be smart enough to close licensed premises.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Commencement."

The Hon. J. C. BURDETT: I oppose this clause for the reasons I gave in great detail in my second reading speech. I oppose it as being retrospective, carrying with it all the evils of retrospective legislation. I see no reason to explain all those reasons any further.

The Hon. D. H. L. BANFIELD (Minister of Health): I ask honourable members to support this clause. I explained this afternoon what the position could have been. As a matter of fact, every licensed premises could be closed straightaway but for this provision. Every other licensee supported the principle of the Bill, and I see no reason why honourable members opposite should not support it.

The Hon. R. C. DeGARIS (Leader of the Opposition): I am concerned that the Chief Secretary has said that all licensees support the retention of clause 2.

The Hon. D. H. L. Banfield: I didn't say that; I said they supported the principle of the Bill.

The Hon. R. C. DeGARIS: So do we. Let me make it quite clear. I think the Chief Secretary is confusing the principle of the Bill with closing loopholes retrospective to 1967. I have had calls on the phone from many licensees who support the Bill but who are not in favour of the retrospective clauses.

The Hon. N. K. Foster: Who are not?

The Hon. R. C. DeGARIS: Licensees of hotels in South Australia.

The Hon. N. K. Foster: How many have contacted you?

The Hon. R. C. DeGARIS: I do not know.

The Hon. N. K. Foster: The association has not necessarily contacted you.

The Hon. R. C. DeGARIS: Rather strangely, it has.

The Hon. N. K. Foster: That is strange. It is so strange that one must cast doubts on that statement.

The Hon. R. C. DeGARIS: The Chief Secretary implied that if this clause is not retained a number of hotel licences will be cancelled in South Australia.

The Hon. D. H. L. Banfield: I didn't say that, either.

The Hon. R. C. DeGARIS: That was the inference. Irrespective of whether or not clause 2 is retained, the situation cannot occur again on the passing of the Bill. Any thought that there will be a massive number of hotels—

The Hon. N. K. Foster: You reckoned I had a massive number of hotels, including one brewery. Why don't you read your own statements in *Hansard*?

The Hon. R. C. DeGARIS: I can point to a report in Federal *Hansard* to the effect that the Hon. Mr. Foster is a large shareholder in the Broken Hill Proprietary Company. Any inference that the non-passage of clause 2 will see a position where licensed hotel premises will be closed is not correct.

The Hon. M. B. CAMERON: I have indicated my opposition to the Council, but I do not want the Chief Secretary to take that as meaning that I am opposed to the Bill. That is not the case, but clause 2 is just not on. It has been said three times now that if this is passed we will end up with doubt cast on every piece of legislation.

The Hon. N. K. Foster: That is a load of rubbish.

The Hon. M. B. CAMERON: It is not. The moment this clause was touched, in the way it was drawn up, people in this State would not know where they stood in relation to any piece of legislation, because the Government could step in at any time it liked, more especially if it had control of both Houses. Thank goodness that is not so, or that would be the situation, and not only in relation to this Bill.

The Hon. A. M. WHYTE: Clause 2 is not necessary in this legislation, but otherwise the Bill is quite good. It is obvious that someone has contravened the law and, perhaps because of the stupidity of the law, there is in the mind of the Government the idea that something has happened which should not happen again. I agree with that. Something has happened about which the Government is a bit sore, and it appears that the legislation sets out to do something that perhaps the Parliament overlooked. Someone was sharp enough to see this interpretation of the law. I do not suggest that I agree with his ability to interpret it in that way, but nevertheless I am convinced that no legislation should be passed with a clause such as this which could relate back to 1967.

The Hon. N. K. FOSTER: The remarks this afternoon of the Hon. Mr. Cameron were rather stupid, if I may use that phrase. Not one of those people sitting opposite would for a moment take seriously the remarks he made this afternoon that we may have a Bill in this Chamber any day of the week that will involve retrospectivity for land tax, and so on.

The Hon. J. C. Burdett: He said it is a possibility, and so it is.

The Hon. N. K. FOSTER: That is not on. Any future legislation would have to be drafted on the basis that it could no longer be assumed that the licence (as in this case) would be renewed. Members opposite should dwell on that for a moment. Did any members opposite who have been in this place long enough to have this legislation before them ever think that they would have to discuss amending legislation of this sort? There has been a great deal of licensing legislation since the 6 o'clock swill went. How many members opposite would have expected to be discussing amending legislation on the basis that someone in the community had set himself up as a discounter, flogged a great amount of liquor through the premises, and escaped the revenue responsibility for having sold that volume of liquor by not renewing the licence, thinking that the Premier had not woken up to it? One hotel has gone. I put it to the Committee seriously that this is not retrospective in the sense that it can be thought a danger to every piece of legislation to go through this Chamber. It cannot be regarded as retrospective in the sense that it endangers every single piece of legislation.

I put this to the two gentlemen from the South-East. If this operator grabbed the Tantanoola pub and the one at Mount Schank, they would not have adopted the same attitude in this Chamber because those two pubs, operating on a discount basis in a country area, would have been removed eventually if the same tactic had been adopted. The area is a heavy tourist centre and the hotels would have grabbed the bulk of the local trade from Mount Gambier and endangered the local trade at Millicent, while most certainly getting a good deal of the tourist trade. I put it to the Hon. Mr. DeGaris and the Hon. Mr. Cameron that, if those pubs were involved instead of two urban hotels, their narrow attitude regarding retrospectivity would have been shown by their contributions in this Chamber.

The Hon. J. C. BURDETT: The Hon. Mr. Foster has said that one hotel has been closed, and he referred to what might have happened if discounting had been practised at Tantanoola. I point out that clause 2 has nothing to do with the future closing of hotels.

The Hon. N. K. Foster: Yes, it has.

The Hon. J. C. BURDETT: No, it has nothing to do with the future closing of hotels. What is past is past. Clause 2 enables the Government to levy licence fees retrospectively in the case of certain transactions that were taking place. The question arises regarding what will happen in relation to the sale of hotels which come within the provisions of the Act and in which discounting has been practised. However, there are few of these hotels and, apart from that, clause 2 has nothing to do with closing hotels.

The Hon. Mr. Foster has made a great thing of this aspect. Clause 2 makes the Bill retrospective so that licence fees can be recovered retrospectively under a formula that did not apply at the time in question. Whether it relates to a country or a metropolitan hotel, those things are in the past and clause 2 has nothing to do with them. If the Hon. Mr. Foster would turn his mind to the matter in hand, we would probably get on much more quickly. For the reasons I have already given, I oppose the clause.

The Hon. N. K. FOSTER: We have heard the Hon. Mr. Burdett speaking in the tradition of his profession. He had the temerity to stand up in this place and say that clause 2 has nothing to do with the closure of hotels. If clause 2 is passed, a certain licensed hotel in Adelaide's western area will again pull beer. However, because hotel

brokers and others in Adelaide sell and trade in licensed premises, they will ensure the sale of that hotel at a much more realistic figure in relation to the licence that it has had. If clause 2 is not passed, that hotel will be closed forever, as no syndicate in Adelaide or anywhere else in the Commonwealth would realise what was involved regarding its being given a new licence and the effect that a licence application would have on the person who purchased the hotel. No-one could seriously say, if this clause was passed, and those concerned in the discounting practice would not meet their obligations under the Act.

The Hon. J. C. Burdett: How do you know?

The Hon. N. K. FOSTER: If they did not, they would incur a debt to the Treasury, and the matter would be a gift for the legal eagles. At that time, the hotel would be a viable proposition for a business interest. Thereafter, however, it could not be given away. I agree that dangers are normally associated with retrospective legislation. In this case, however, members opposite are condemning this property, in that it will not have a licence again. The people in the area will therefore be denied a hotel. If this hotel was the only one in a small country town, the people in the area would be deprived of a hotel altogether.

The Hon. J. C. BURDETT: The premises about which the Hon. Mr. Foster has spoken are now unlicensed premises.

The Hon. N. K. Foster: I wouldn't agree with that.

The Hon. J. C. BURDETT: If anyone applied for a licence in respect of those now unlicensed premises, he would have the new licence, and the fee payable would be unrelated to the old licence.

The Hon. N. K. FOSTER: That is the important aspect of the legislation. It is recognised that there has been a loophole in the Act. However, the fellow concerned should pay according to sales, had the loophole not existed.

The CHAIRMAN: Before I put the question, I ask the Minister (if he has this information) how many existing licensees will be affected by the retrospective provisions of this clause.

The Hon. D. H. L. BANFIELD: I understand that there are no more than two, Sir.

The Hon. R. C. DeGARIS: The whole crux of this matter is the question of retrospectivity, on which the Hon. Mr. Foster has made certain submissions. The person who has exploited the loophole in the law and who has sold goods at a much cheaper price because of that loophole is now to be caught, even though, when he made those sales, he was not breaking the law. It is all very well to talk about no Government's ever having introduced legislation making land tax retrospective. I remember a similar debate on the Queenstown issue. The Myer organisation had operated for six years within the existing law, without any idea that that law would be amended.

Suddenly, a Bill appeared in the Council making illegal everything that that organisation did within the law, not having been told by anyone that it was acting outside the law. So, it is not the first time that we have had this type of legislation. Parliament suddenly says, "I am sorry. The law is changed. What you did, which was legal, is now illegal." I am willing to debate the Queenstown issue, particularly in connection with the Port Adelaide council and the special executive meeting. The key issue is respect for the law. The argument that the law should be made retrospective to save licensed premises is hardly an argument of which Parliament ought to take much notice. The Government argues that some premises

that were licensed, under existing law, will never be licensed in the future, but even that argument is not adequate.

The Hon. B. A. Chatterton: What if retrospectivity works in favour of the licensee? I refer to applications for storekeepers' licences.

The Hon. R. C. DeGARIS: That is totally different. The retrospectivity in that case referred to those who had previously applied for licences; it provided that they should have the right to have their cases heard. Actually, there was no retrospectivity: people who had applied before the passage of the legislation had a right to have their applications heard. That is not retrospectivity: that is respect for an application made within the then existing law. I cannot support clause 2, and I hope the Government will see reason in what we are saying.

The Hon. M. B. CAMERON: One factor appears to have been overlooked. How was the gallonage built up at these outlets we are talking about? It was built up because the outlets provided a product at a lower price.

The Hon. C. J. Sumner: Defrauding the revenue.

The Hon. M. B. CAMERON: The public went to the outlets because they provided the products at a lower price. All it needed was for someone else to provide discounts. I trust the Government is not against the public's responding to a lower price.

The Hon. C. J. Sumner: It is defrauding the revenue.

The Hon. M. B. CAMERON: He operated within the law. I am surprised that a member of the legal profession should utter that sort of rubbish.

The Hon. N. K. FOSTER: It was only when he failed to renew his licence that he could be regarded as having got away with it. The knowledge that the business interests were depriving the revenue came when the business interests did not apply to renew the licence. We support retrospectivity on that basis.

The CHAIRMAN: This very interesting question boils down to a question of what is meant by the public interest. It is very relevant to this Bill.

The Hon. C. J. SUMNER: There have been situations where retrospectivity has operated to the detriment of the existing rights of people. Act No. 51 of 1962, the Sewerage Act Amendment Act, was enacted by the Playford Government. That Act inserted in the legislation the following new subsection:

The Minister may take and acquire either compulsorily or by agreement any land for the purposes of this Act and the undertaking.

The provision goes on to deal with the effect of this amendment on previous transactions, and it says that the amendment shall be deemed to have come into operation at the time of the passing of the Sewerage Act Amendment Act, 1946. So, a provision was inserted that was retrospective as far back as 16 years. Although land apparently had been acquired under the existing Act, because it had initially been incorrectly acquired, the position had to be corrected through retrospective legislation.

The Hon. M. B. Cameron: The Government acted illegally.

The Hon. C. J. SUMNER: Such action can be taken in such a situation.

The Hon. R. C. DeGaris: We had pointed that out.

The Hon. C. J. SUMNER: I would have thought that this was a similar situation.

The Hon. R. C. DeGaris: What Act are you referring to?

The Hon. C. J. SUMNER: The legislation affected people's rights for a period of 16 years prior to the passage of the legislation.

The Hon. M. B. CAMERON: Making legal what were illegal Acts of the Government.

The Hon. C. J. SUMNER: The principle is there. Retrospective legislation can be introduced in some situations, and it is desirable in the public interest for that to be done here.

The CHAIRMAN: It has been done in several cases in relation to income tax legislation, where the use of retrospective provisions have been used to close loopholes.

The Hon. C. J. SUMNER: Although there was not a technical breach of the law, there was a breach of the spirit of the legislation in relation to the evasion of revenue. It appears that the retrospective provisions are in accordance with what had been done previously.

The Hon. N. K. FOSTER: It applies to Commonwealth legislation in relation to customs and matters of revenue. It is not so long since the time when someone seeking to avoid revenue payments was transported to Sydney.

The CHAIRMAN: The latest income tax example I can remember involving retrospectivity concerned the abuse of the \$1 200 deduction for income tax for payment of insurance premiums. That provision applied retrospectively for several years.

The Hon. N. K. FOSTER: I refer also to the provisions of the Conciliation and Arbitration Act. It provides specifically for retrospective payments, but I think they are limited to 12 months. I refer to the *Constitutional Review*, 1959, in which an attempt has been made to define public interest. Such a definition is difficult, and the term itself has little significance. I have been reluctant to use that phrase for that reason. Concerning the situation in more remote areas, that prompted my reference to hotels at Tantanoola and Mount Schank. The public interest was completely, absolutely, wilfully and consciously ignored in the case of a person not renewing a licence under this legislation.

The Hon. R. C. DeGaris: That is correct.

The Hon. N. K. FOSTER: I cannot emphasize that view enough. Members opposite must accept that future custodians of justice should regard this retrospectivity provision as being completely and absolutely justified in the public interest. How many hotels are in the West End? If there are two, and both hotels do not have their licences renewed, what percentage of licensed premises would be denied the people of that area? How far would honourable members get regarding income tax legislation—

The Hon. J. C. BURDETT: It is the most amended Act of all.

The Hon. N. K. FOSTER: I agree, but only to the extent that the power lies with the Commissioner. It is also amended by regulation; it is not amended by the legislative process. Clause 2 of this Bill is important. It is a deterrent and, as members opposite have supported other deterrent legislation, I ask them to support this clause.

The Hon. J. A. CARNIE: I have not spoken previously in this debate but so much cross-debating has been going on that I think I should get up and state my views on this. Let me say at the outset that I am, and have always been, opposed to retrospective legislation. The Hon. Mr. Sumner referred to something done by the Playford Government, which he said was retrospective legislation. I was not here at that time but, had I been, on principle

I probably would have opposed it. However, there is a difference between what the Hon. Mr. Sumner was saying and this present Bill.

I understand from what the honourable member was saying that in that case an Act had been badly worded; there was a loophole in it, certain acts of the Government were illegal, and retrospectivity was needed to make those acts legal. The reverse applies in this case: the Government is trying to make what was legal illegal, which is completely wrong in principle. Whether or not we believe that what was done was correct is irrelevant. What was done at the time was legal and to bring in legislation designed to catch only one or two people is, to me, completely wrong. I will always oppose this kind of thing. The example that the Hon. Mr. Sumner quoted is the reverse situation of what we are now considering. This Committee should delete clause 2 from the Bill.

The Hon. N. K. FOSTER: I have to say it again. I agree it is true that at that time nothing was done illegally; in that sense, it was legal but, when there was a failure on the part of that person (because he had sold a tremendous amount of liquor) to do something, it did not remain legal. At that time there was a clear sense of evasion by a shrewd business person or persons. I do not take anything away from them: if they can get away with it, good luck to them; but, if they cannot, they must not complain. In answer to the Hon. Mr. Carnie, there has been no suggestion on this side of the Chamber that what was done during the transaction of this discount selling was illegal; there was no accusation or suggestion that a person or persons were acting illegally. However, there was a refusal to renew the licence, because they knew they would have to pay much more to renew the licence than they had paid for the licence when they took it over. This was brought about by what?

The Hon. M. B. CAMERON: Public demand.

The Hon. N. K. FOSTER: I guarantee there would not be .01 per cent of the public who knew what the existing law was in regard to renewing the licence. I will continue to stand and refute every argument that can be put up based upon the point that the transaction involves no illegality during the course of the volume of sales, when there was a clear intent to defraud by non-renewal.

The Committee divided on the clause:

Ayes (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.

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

Pair—Aye—The Hon. T. M. Casey. No—The Hon. C. M. Hill.

The CHAIRMAN: There are 9 Ayes and 9 Noes. As this matter raises a fundamental question, at this stage I will give my casting vote for the Noes to enable the matter to be further considered.

Clause thus negatived.

Clause 3 passed.

Clause 4—"Court to fix percentage fee."

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

Page 2, line 6—After "error" insert "or misestimation". The other amendments are of a similar nature. When the court grants a new liquor licence, it makes an estimate of what the turnover in liquor would have been in relation to the licensed premises in question if the licence had been

in force during an antecedent period of 12 months. The licence fee is based upon this estimate. While the word "error" is probably wide enough to cover an erroneous estimation made by the court, the Government has decided that the matter should be put beyond doubt by adding the words "or misestimation". These amendments are all of a purely technical nature and do not in any way affect the substance of the Bill.

Amendment carried.

The Hon. R. C. DeGARIS: To enable me to consider these amendments, I ask the Minister to report progress.

Progress reported; Committee to sit again.

Later:

The Hon. D. H. L. BANFIELD: 1 move:

Page 2—

After line 15—Insert paragraph as follows:

(ab) by striking out from subsection (3) the passage "the twelve months ended on the preceding thirtieth day of June" and inserting in lieu thereof the passage "such period as may be specified in the order".

Lines 31 and 32—Leave out "but the body corporate has insufficient funds to discharge its liability" and insert "but the body corporate fails to discharge its liability within 14 days after the day on which the Superintendent of Licensed Premises causes notice to be served on the body corporate requiring it to discharge its liability".

The first amendment relates to section 38 (3), which enables the court to ascertain from liquor suppliers the quantity of liquor supplied to a particular licensee. The subsection is at present not apt to cover proceedings for reassessment of a licence fee that might take place some time after the grant or renewal to which they relate. The amendment extends the subsection accordingly.

The second amendment deals with the case of a company which is liable to pay moneys to the Treasury upon reassessment of a licence fee but which may have been deliberately impoverished by its directors or shareholders in an attempt to evade the liability. It may be difficult, as a matter of strict proof, to establish the extent of a company's assets. This amendment therefore provides, in effect, that where reassessment proceedings have been decided, and the company fails to discharge the liability established in those proceedings within 14 days of being required to do so by the Superintendent of Licensed Premises, the provisions for "piercing the corporate veil" and proceeding directly against directors and shareholders will be brought into play. I commend the amendments to honourable members.

The Hon. J. C. BURDETT: Having carefully perused the amendments, I support them.

Amendments carried; clause as amended passed.

Clause 5 and title passed.

Bill read a third time and passed.

Later:

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos. 2 to 4 and had disagreed to amendment No. 1.

Consideration in Committee.

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

That the Legislative Council do not insist on its amendment.

This amendment was thoroughly discussed earlier this evening. It relates to the date of commencement of the legislation.

The Hon. J. C. Burdett: Which date was that?

The Hon. D. H. L. BANFIELD: The honourable member should examine clause 2. Government members

undoubtedly won the argument, but they did not win the numbers.

The Hon. J. C. BURDETT: I oppose the motion. I gave reasons for my attitude earlier this evening. This Bill is terribly retrospective: it goes back to 1967. The reason for the House of Assembly's disagreement, that the amendment destroys the purpose of the Bill, is unconvincing.

The Hon. T. M. Casey: It does destroy the purpose of the Bill.

The Hon. J. C. BURDETT: It does not. The purpose of the Bill is to stop the loophole that existed in the law. The Government should stop the loophole from now on: it should not stop it from 1967. It is pathetic that the House of Assembly should say that the amendment destroys the purpose of the Bill. The amendment may limit the purpose of the Bill, but it certainly does not destroy it. The Bill will prevent anyone taking advantage of the loophole at any time in the future; so, the amendment does not destroy the Bill, but it limits the effect of the Bill by taking out the obnoxious retrospectivity clause.

The Hon. M. B. CAMERON: I oppose the motion. If the amendment destroys the purpose of the Bill, it becomes clear that the Bill was introduced for only one purpose—to get one individual. I hope the Government will not persist in its attitude.

The Hon. N. K. FOSTER: I support the motion, and I do not accept the comments made by Opposition members, including the so-called trained brain, the Hon. Mr. Burdett, representing the legal profession. He says that the amendment limits the Bill. Honourable members opposite endeavour to convince themselves that their weak and stupid policies are correct, but to take clause 2 from the Bill would result in discrimination in favour of the party or parties who were the architects of this infamous type of action.

The Hon. C. M. Hill: What about the workers who got cheap beer?

The Hon. N. K. FOSTER: The workers can no longer go back to the establishment and buy anything.

The Hon. C. M. Hill: You are in with the hotel interests, and you know it.

The Hon. N. K. FOSTER: Pull up the honourable member, Mr. Chairman. You would have dragged me up in two seconds flat.

The Hon. C. M. Hill: Don't talk rubbish about the clause.

The Hon. N. K. FOSTER: The truth hurts.

The Hon. C. M. Hill: You don't care a hang about the workers. You make them pay the full price.

The Hon. J. E. Dunford: The Hon. Mr. Hill has been touching workers all his life.

The CHAIRMAN: Order!

The Hon. N. K. FOSTER: Why does not the Hon. Mr. Hill purchase the pub in the West End? He is a land shark, a land agent. He has brokers; let him go and buy it. Then, he will see the inflated price caused by the discounting of liquor. Let us discount liquor, but let the traders pay the fees that they ought to pay. This afternoon the Hon. Mr. Hill asked questions of Ministers on the basis of what a great attempt his Federal Government was making in regard to inflation. During the last election campaign he thumped the political rostrum at Elizabeth.

The Hon. C. M. Hill: I had a bigger audience than you had.

The CHAIRMAN: Order! Honourable members should confine themselves to the motion before the Chair.

The Hon. N. K. FOSTER: The Opposition has argued that what was done at licensed premises was legal. I submit that there was nothing illegal in what was done, but there was a dodge on revenue. No-one could foresee that the licence would not be renewed.

The Committee divided on the motion:

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

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

Pair—Aye—The Hon. C. W. Creedon. No—The Hon. R. A. Geddes.

The CHAIRMAN: There are 9 Ayes and 9 Noes. So that the process of a conference can still proceed I give my casting vote to the Noes.

Motion thus negatived.

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendment No. 1, to which it had disagreed.

The Legislative Council agreed to a conference, to be held in the Legislative Council committee room at 9 a.m. on Thursday, February 19, at which it would be represented by the Hons. D. H. L. Banfield, J. C. Burdett, M. B. Cameron, J. R. Cornwall, and R. C. DeGaris.

ADJOURNMENT

At 11 p.m. the Council adjourned until Thursday, February 19, at 2.15 p.m.