LEGISLATIVE COUNCIL

Tuesday, April 19, 1977

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

QUESTIONS

MOTOR VEHICLE REPAIRS

The Hon. R. C. DeGARIS: I seek leave to make a brief explanation before asking a question of the Chief Secretary, as Leader of the Government in the Council.

Leave granted.

The Hon. R. C. DeGARIS: It was reported to me today that in accidents with motor vehicles that need extensive repairs to be made by crash repairers in South Australia, and where those vehicles are insured by the State Government Insurance Commission, the crash repair work is often withdrawn and a new car supplied. I have been told that the new price of the car has been in excess of the crash repairer's quotation for repairs. One wonders how the State Government Insurance Commission can do this. I am also told that the commission, through Government departments, has been purchasing new motor vehicles at a price less sales tax. Will the Minister say whether the State Government Insurance Commission is purchasing new vehicles at a price less sales tax as replacement vehicles for cars involved in serious accidents?

The Hon. D. H. L. BANFIELD: I am not aware that that is happening. However, I shall certainly have inquiries made.

KANGAROO ISLAND SETTLERS

The Hon. C. M. HILL: I ask the Minister of Lands whether, as a result of Cabinet discussion yesterday, the Government has given further consideration to the matter of Kangaroo Island people and their eviction notices and, if it has, what is the present position.

The Hon. T. M. CASEY: The present position is as I indicated last week in the Council. If any Kangaroo Island farmer can prove to the department and to the war service land settlement scheme authority that his position is such that he can maintain his property as a viable unit, the Government will withdraw the notice of intention to forfeit the lease. If the farmer cannot do so, the position will remain as it is.

CHILD PORNOGRAPHY

The Hon. J. C. BURDETT: I seek leave to make a brief explanation before asking a question of the Minister of Health, representing the Premier.

Leave granted.

The Hon. J. C. BURDETT: Last Thursday, April 14, I wrote the following letter to the Premier:

Dear Mr. Premier,

I refer to a Private Member's Bill introduced by me which last night passed in the Legislative Council which seeks to amend the Criminal Law Consolidation Act. The Bill seeks to outlaw the manufacture and distribution of photographic material depicting children in pornographic circumstances. The sale of such material is a matter which came to the notice of the public during the recent break in Parliamentary sittings, and after private members' time had expired in the House of Assembly.

I believe that the matter is urgent and of great importance to the community. It has also become quite clear that the public are most concerned about the matter. I am sure that the public would feel that there is a special case for the Government to allow this Bill to be debated and voted on. It is, of course, in the power of the Government to allow the Bill to be debated in the House of Assembly. I appreciate the fact that there is a considerable amount of uncompleted private members' business and that it would be most unusual for the Government to allow debate on this Bill. However, for the above reasons I urge the Government to allow time for the Bill.

After the Bill passed in the Council, the Opposition Whip in the House of Assembly, Mr. Evans, M.P., on my behalf, made the above request orally to Hon. D. Corcoran, M.P., as Leader of the House of Assembly, but was informed that time would not be allowed. As I believe that, as representatives of the people, we owe it to the people to have this matter debated in both Houses and voted on, I thought that my next step was to make the request to you. I am aware of course that the Government takes the stand that present legislation is adequate to protect children and the community generally against the evil of child pornography. However, I believe that it is not and I am sure that many members of the public agree with me and that many others would like to see the matter fully debated in Parliament. I therefore ask you "Will the Government allow the Criminal Law Consolidation Act Amendment Bill, No. 103 in the Legislative Council to be debated and voted on in the House of Assemby during this current session of Parliament?" I should be grateful to receive a reply to this letter at your earliest convenience.

This morning I wrote the following letter to the Premier:

I refer to my letter of April 14, 1977, requesting that you allow the Criminal Law Consolidation Act Amendment Bill introduced by me to be debated in the House of Assembly. As it would appear that tomorrow would be the last day when this can be done, I ask that you immediately inform me of your answer, in view of the number of remaining sitting days. I could only take your failure to reply as a refusal. Unless I earlier receive a reply I shall also ask this question today in the Legislative Council.

In view of public interest in whether there should be specific direct legislation outlawing the manufacture and distribution of child pornography, I ask the Minister whether the Government will allow debate and a vote on the Criminal Law Consolidation Act Amendment Bill in the House of Assembly in this session of Parliament.

The Hon. D. H. L. BANFIELD: Of course, I am not in charge of the House of Assembly but, as was indicated earlier when the Hon. Mr. Burdett introduced the Bill, it was done for publicity, and although the Hon. Mr. Burdett said that the position was not covered, it has since been proved that persons who offend in this way are covered. It was shown clearly in a report in this morning's press—

The Hon. J. C. Burdett: Nonsense! That was indecent sexual intercourse.

The Hon. D. H. L. BANFIELD: I indicated, and the Hon. Mr. Burdett agreed with me when I went through the 10 points, that eight of them were effective. He disagreed with me on the other two, but that did not mean that he was right.

The Hon. J. C. Burdett: What about answering the question?

The Hon. D. H. L. BANFIELD: I am answering it.

The Hon. J. C. Burdett: No, you are not.

The Hon. D. H. L. BANFIELD: Because the Hon. Mr. Burdett disagrees with the Government's point of view, that does not mean that he is necessarily correct.

The Hon. J. C. Burdett: Of course it does not. Let us debate it and prove if I am correct.

The PRESIDENT: Order! The Minister is answering the question, although I do not know whether he can answer it, because it deals with a matter in another place.

The Hon. D. H. L. BANFIELD: That is so. At the time of the debate on the Bill, you thought it might be worded incorrectly. However, as I have said, I am not in charge of the other place. The honourable member has written to the Premier, so I cannot do any more than say to the Premier, "I guess you have received two letters from the Hon. Mr. Burdett."

The Hon. J. C. BURDETT: This question was directed to the Minister of Health, representing the Premier, and I ask him to refer the matter to the Premier. Will he do so?

The Hon. D. H. L. Banfield: Why?

CRIME

The Hon. F. T. BLEVINS: I seek leave to make a brief statement prior to directing a question to the Chief Secretary.

Leave granted.

The Hon. M. B. Cameron: Dorothy Blevins!

The Hon. F. T. BLEVINS: I beg your pardon?

The PRESIDENT: Order! There will be no interruptions while honourable members are making explanations prior to asking questions.

The Hon. F. T. BLEVINS: Especially from the other side; they do it all the time. The article to which I refer is headed "Public role suggested in fighting crime" and contains remarks made by Dr. Tonkin, who was speaking in Rundle Mall at the opening of the Kiwanis International Security Week. The article states:

A mobile community protection force should be examined as a means of helping prevent crime, the Leader of the Opposition (Dr. Tonkin) said yesterday. Dr. Tonkin was speaking in Rundle Mall at the opening of the Kiwanis International Security Week. He said the Police Force had a tremendously difficult task to perform not only in detecting crime, but in maintaining law and order and preventing crime. In New York City a mobile community protection force or "eyes of the public" had been established with taxi drivers, bus drivers and people with radio-equipped cars being encouraged to co-operate with the police by passing on information. These people attended lectures and were advised to report any suspicious occurrences they might see. It was up to the authorities to decide which of these reports should be followed through, but the flow of information had been most valuable in preventing crime.

It is stated that Dr. Tonkin has been to New York and, apparently, wants to import some of the problems of that city into Adelaide. Any reasonable person would infer from the article that what Dr. Tonkin wants to do is to set up some kind of vigilante squad here in Adelaide, which concerns me as it would, I am sure, concern the police. As the Minister is responsible for the police, does he feel fully confident in the ability of the South Australian Police Force to do its job without having a group of vigilantes running around the State, as seems to be proposed by Dr. Tonkin?

The Hon. D. H. L. BANFIELD: Yes; I have the greatest confidence in the Police Force of this State. We do not need vigilantes here in South Australia. This does not mean that we do not appreciate co-operation from the public when they see crimes being committed and contact the police, but the Government and the police believe that we do not want vigilantes here.

PRAWN FISHING

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

Leave granted.

The Hon. C. M. HILL: The Minister has recently granted two authorities in zone E for prawn fishing and there is considerable concern and anger in the industry about the method of selection of these two persons. Yesterday, at Port MacDonnell, the Port MacDonnell branch of the South-East Professional Fishermen's Association passed a vote of no confidence in the Minister; I understand that that vote is to be passed on to the parent body for further consideration. Here, in Parliament House this morning, fishermen came to make representations to me and to other members of Parliament about the issue of the second authority to a person who, I understand, is based at Port Adelaide. The claim was made that, although in the information for applicants there was a statement that the basis for assessment of applications included a requirement that the vessel must be under current survey, the vessel of the gentleman who was successful is not, in the view of the fishermen who came here this morning, under current survey. I was also told this morning that the same gentleman had been a cartage contractor last year.

The Hon. R. C. DeGaris: Carting prawns?

The Hon. C. M. HILL: No. Will the Minister comment on the position generally? What criteria and method did he use to choose these two people from the 104 applicants who sought these authorities? If the Minister's method was ultimately to put the question to a ballot of these applicants, were those who had been in the fishing industry for only a very short period excluded before the ballot was taken? Can the Minister say whether or not it is a fact that one of these successful applicants was a cartage contractor last year, and whether that gentleman's vessel is or is not under current survey?

The Hon. B. A. CHATTERTON: I think the first point that should be cleared up for the honourable member is that two prawn authorities have not been granted for St. Vincent Gulf: they are provisionally granted, and the people who have been successful in the ballot have to prove to the department's satisfaction that they are fulfilling the criteria laid down. So, it is not a granting of an authority for the St. Vincent Gulf area: it is a provisional situation at present. That point needs to be made clear. The same fishermen who have been in touch with the honourable member have also contacted me. I have said to them that I will investigate their allegations if they put them in writing; they have done that, and the matter will be investigated to see whether the people fulfil the various criteria. Regarding the method of selection, I cannot recall the exact number of applicants for the two authorities for the gulf. Of the number, which I think was about 200, 103 or 104 met the criteria laid down. I do not have a copy of the criteria with me, but they are currently available from the Fisheries Branch. On the basis of their applications, these people met the criteria, and two were selected from that number by ballot; this seemed to be the fairest method of selection. Authorities such as these are so highly prized that it is impossible for the people administering the matter to make a selection satisfactory to all concerned from out of that number: the applicants must be in an equally satisfactory position to get an authority, and a ballot is the fairest method of final selection from those people who have met the criteria.

The Hon. A. M. WHYTE: I seek leave to make a statement before asking the Minister of Fisheries a question.

Leave granted.

The Hon. A. M. WHYTE: Will the Minister say whether it would be true that, if he had not disbanded the advisory committee on the prawn fishing industry, the Minister would have had information leading to the criteria involved regarding the recent applications that have been made for entry into the prawn fishery, included in which would perhaps have been a decree that applicants wishing to enter the prawn fishery could have been taken from the already over-fished cray fishing industry, thereby relieving that over-taxed industry and keeping the fishing industry where it should belong: in the hands of those who have spent a life time in it?

The Hon. B. A. CHATTERTON: The problem associated with the method of selection that existed under the Prawn Advisory Committee was basically that those involved tried to select the best applicants, which was really an impossible task. When one tries to grant licences, one ultimately comes down to a choice between a considerable number of fishermen who are practically equal in all respects. It was an impossible task for the committee to have to select only two applicants out of many applicants. The inevitable consequence of trying to establish that sort of system is that accusations are continually levelled at the committee that it is basing its selection on favouritism. Whether those accusations are true or false is not material. The fact remains that it is impossible for the committee to select only two fishermen out of many hundreds of applicants. Although many applicants could be rejected on fairly satisfactory grounds, we could still end up with many applicants who had a strong case. That is why I decided that a ballot was a fairer system. The criteria applied to people before being eligible to enter the ballot can be a continuing source of argument, and suitability of the criteria is a matter that is constantly under review. The other point that the honourable member raised was whether the applicants should not be taken from the rock lobster fishery. I think there is a problem in this case. Several other fisheries also have a strong case for economic hardship, and the scale fishery in Spencer Gulf is another area where people are at present suffering severely from the economic state of that fishery.

The Hon. M. B. CAMERON: I seek leave to make a short statement before directing a further question to the Minister.

Leave granted.

The Hon. M. B. CAMERON: In his reply to the Hon. Mr. Whyte, the Minister indicated that perhaps other fisheries in the State were in a similar position of being over-fished. I have not sufficient information on that, but I assume the Minister is correct and I accept what he has said. In view of that, can the Minister say whether a criterion for selection for the ballot for these two prawn permits was that a person applying should be involved in an over-fished fishery in South Australia?

The Hon. B. A. CHATTERTON: No, it was not a criterion.

The Hon. A. M. WHYTE: In view of the Minister's reply to the Hon. Mr. Cameron in which he has pointed out that there was an omission from the criteria that would have related to these over-fished sections of the industry, will the Minister proceed no further with the permits at present and reconsider the ballot, including in the criteria the requirement for applicants to belong to, as he has mentioned, one of the several sections of the industry that at present are over-filled?

The Hon. B. A. CHATTERTON: The honourable member said that licences or authorities for prawn fishing should be restricted to the rock lobster industry, and I pointed out that other fisheries could make equal claims to being depressed.

The Hon. A. M. Whyte: I accept that.

The Hon. B. A. CHATTERTON: Then the Hon. Mr. Cameron asked whether that was one of the criteria, and it was not. I cannot give the undertaking sought, because I think the problem of definition of who is in a depressed fishery is much more complex than the honourable member believes. It is not merely a question of the particular fishery and where the fisherman in question is. For example, a fishery can be depressed in certain areas and not in others, and the same applies in the rock lobster industry. There is a much more difficult situation confronting rock lobster fishermen in the South-East than in the northern zone, and there are many problems about saying that a limitation will be applied to all applicants to the effect that they must prove that they are in a depressed fishery. The position is not nearly as straightforward as the honourable member thinks.

The Hon. M. B. CAMERON: Is the Minister telling the Hon. Mr. Whyte and this Council that he has not sufficient information on the fishing industry in this State to know what sections of the industry are over-fished?

The Hon. B. A. CHATTERTON: There is data on the state of the particular fishing industries, but the honourable member was applying economic criteria, and we have insufficient information on the economic side of the various fisheries. We are taking action to try to get this economic information. We have biological information on catches and on the nature of catches in several areas, but we have not as much economic data on the various fisheries as we would like.

The Hon. M. B. CAMERON: Are all fishermen required to complete returns indicating their catches for each month, which information is received by the Fisheries Department?

The Hon. B. A. CHATTERTON: Yes.

The Hon. M. B. CAMERON: In regard to any further applications for prawn licences or licences for any other fishery, does the Minister intend to give preference to people already involved in the fishing industry?

The Hon. B. A. CHATTERTON: Yes.

LAND TRANSFER

The Hon. A. M. WHYTE: I seek leave to make a short statement before asking a question of the Chief Secretary, representing the Minister of Community Welfare.

Leave granted.

The Hon. A. M. WHYTE: This morning the Australian Broadcasting Commission broadcast the following item:

A special task force has been formed by the State Government to consider the possible transfer of a big area of South Australia to Aborigines. The task force is chaired by Mr. C. H. Cocks, S.M. It will consider how titles to the big north-western reserve and other areas such as Ernabella, Fregon and Mimili might be transferred to the Aboriginal Lands Trust. The view of the aboriginal people will be taken into account before any transfer of title is made.

Will the Minister ascertain from his colleague the names and qualifications of the other people constituting this special task force; from whom will this information be taken; when will the task force commence taking evidence;

at what centres will the evidence be taken; and will evidence be taken from all interested persons or from groups only?

The Hon. D. H. L. BANFIELD: I will refer the honourable member's questions to my colleague.

TOURISM TRAINING SCHEME

The Hon. C. J. SUMNER: 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. C. J. SUMNER: I understand that the South Australian Division of Tourism recently introduced a training scheme for tourist industry personnel. First, what progress has been made with that scheme to date and, secondly, has anyone from industry taken advantage of it?

The Hon. T. M. CASEY: I am pleased that the honourable member has raised this matter at this time, because the first trainee commenced a 20-week on-the-job training programme with the South Australian Tourist Bureau. The tourist industry training scheme for industry personnel is an important step in the Government's policy of full co-operation with the private sector in the development of tourism in South Australia. The first trainee is from the River Murray Queen Proprietary Limited. This trainee will also spend much time not only in our South Australian office but also in our Melbourne and Sydney offices. This invaluable experience will assist the private sector of the tourist industry to prosper even further. It is important to have joint co-operation between the Government and the private sector in the tourist industry.

STRYCHNINE POISONING

The Hon. J. R. CORNWALL: I seek leave to make a statement prior to directing a question to the Minister of Health.

Leave granted.

The Hon. J. R. CORNWALL: Honourable members are well aware of frequent reports of dogs being poisoned by strychnine baits. Many of these cases occur when dogs are kept near sheep properties on the outskirts of country towns. The fact that many dogs take strychnine baits intended for foxes is nearly always the result of their owners' negligence. However, many losses are reported in areas where dogs have not even left the household yard, and there can be no doubt that these baits are laid deliberately by malicious or mentally unbalanced people. Many such losses have been reported in Adelaide suburbs in recent months, and one loss in the Semaphore Park area involved a case of which I had first-hand knowledge, involving the loss of almost a dozen dogs. Strychnine was confirmed as the cause of death, not only clinically, but also by the Government Analyst. Last Saturday another case of poisoning occurred at Largs Bay, where the most distressing feature was that the dog's owners have two small children, and what appeared to be strychnine-laced wheat was found in their backyard. As all small children are born explorers and are prone to eat all sorts of strange things, it seems only a matter of time before a tragedy occurs if strychnine remains available. Yesterday, I investigated the availability and toxicity of strychnine and came up with some most amazing and alarming facts. Strychnine powder is virtually unobtainable in the metropolitan area. However, strychnine-baited wheat containing up to 0·5 per cent strychnine is available through hardware stores. One large pest control firm which I contacted assured me that it did not use it at all, as far safer substances, such as Warfurin based Rat-sak, are available.

The situation in the country is much worse. Strychnine powder as a schedule 7 poison is available to primary producers from both pharmacists and stock agents. The only restriction is that the customer should be known to them and the poison book signed. After that there is virtually no check on its use. The powder is normally used as fox bait by spreading it in offal and sheep carcasses. Strychine has always been available under certain restrictions to a large number of primary producers. My inquiries revealed that currently the amount distributed to country areas in South Australia through the major wholesale warehouse in Adelaide is about 80 oz. per month. One shudders to think how much strychnine there may be lying in farm sheds throughout the State. In this situation it is inevitable that at least a small percentage finds its way into the wrong hands.

I was appalled to learn through the poisons centre at the Adelaide Children's Hospital, that the lethal dose for an adult human being is 15-30 milligrams. I would like to give honourable members some idea of just how small this quantity is. Even taking the upper lethal level of 30 milligrams, there are 1 000 lethal doses to one ounce. In other words, the equivalent of 80 000 lethal human doses is being distributed throughout South Australia each month. While there have been no reported accidental human strychnine dosages or deaths recently, it seems only a matter of time before this happens if the situation is not controlled. I believe the position in other States is just as bad. It is appalling and frightening to find that a substance of such tremendous toxicity is freely available for use throughout Australia by lay persons.

I thank honourable members for bearing with me during that rather long statement. I consider it very important. I ask the Minister the following questions. First, will he take steps to ban all sales of strychnine? Secondly, will he declare the possession of strychnine an offence? Thirdly, will he declare an amnesty period to allow people to surrender any stocks they may be holding to their local police station? Fourthly, if it must be used for vermin control, will he, in consultation with his colleagues, restrict use to qualified licensed officers of the Department of Lands or the Department of Agriculture on the basis that it will be used not only under their control but personal supervision? Fifthly, will he take up these matters with his State and Federal colleagues with a view to obtaining uniform legislation throughout Australia?

The Hon. D. H. L. BANFIELD: I have been very concerned about the availability and distribution of strychnine, and at the present time the Food and Drug Advisory Committee and the Vertebrate Pests Control authority are looking at this very question. It is as concerned as the honourable member is. I shall certainly refer this matter to this committee to see if it will make a recommendation along those lines.

FESTIVAL CENTRE ORGAN

The Hon. J. A. CARNIE: I ask the Chief Secretary, representing the Premier, first, when was the contract for the manufacture and purchase of the Queen's Jubilee Organ for the Adelaide Festival Centre signed; secondly, what funds were available at that time and from what source; thirdly, what amount has been raised as a result of the public

appeal, and when does the appeal close; and fourthly, in the event of the full amount not being raised by public appeal, from what source will the money to honour the contract be made available?

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

STAMP DUTY

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

Leave granted.

The Hon. J. C. BURDETT: My question relates to stamp duty. Section 90 of the Federal Family Law Act provides:

A maintenance agreement, or a deed or other instrument executed by a person for the purposes of such an agreement or for the purposes of, or in accordance with an order under, this part, is not subject to any duty or charge under any law of a State or territory.

This position certainly is not followed by the South Australian Stamp and Succession Duties Department. The practice is that, when a memorandum of transfer to give effect to such a settlement is lodged with the Commissioner of Stamps, he ignores the provisions of section 90 and assesses stamp duty on the basis of the transaction's being a normal commercial transaction between strangers. The net result is that countless spouses, or former spouses, are called upon to pay hundreds of dollars, or possibly over $100 000 in an individual case, in stamp duty to have the transfer registered in accordance with the terms of the agreement or court order.

The present attitude of the Commissioner of Stamps is causing grave hardship to many persons in this State. In most cases, the transferee of the house property is the former wife, who has no other assests and very limited income, and is thus confronted with a major problem to find the funds to pay this stamp duty. It is understood that at least in New South Wales the Commissioner of Stamps is regarding section 90 of the Family Law Act as valid and binding on the States. What is the attitude of the South Australian Government regarding stamp duty on documents of this kind?

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

TRAFFIC REGULATIONS

The Hon. R. C. DeGARIS: 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. R. C. DeGARIS: Before Christmas, an undertaking was given in the Council that road traffic regulations dealing with road blocks in the Rose Park and Toorak Gardens areas would be rescinded and new regulations promulgated, and that that would occur by April 1. About a fortnight ago, the Hon. Anne Levy directed a question to the Minister, who replied that the regulations would be introduced soon. However, I notice that there are still no regulations relating to road blocks in that area on today's Notice Paper. Will the Minister take up this matter with his colleague, as it is now 18 days since the Government assured honourable members that it would introduce the regulations, and ascertain when they will be presented to the Council?

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

MODULOCK HOUSES

The Hon. C. M. HILL: I seek leave to make a statement before asking the Minister of Forests a question.

Leave granted.

The Hon. C. M. HILL: I refer to a newspaper report dated February 2, 1976, which dealt with the subject of Modulock houses being built in South Australia. Considerable publicity was given to this activity at the time. The report comprises a four-column spread in the *Advertiser* of that date. The report, headed "Government will build prefab. houses", states:

The South Australian Government is to manufacture and sell prefabricated modular housing.

The Hon. Mr. Chatterton, who made this press release, was quoted in the report as saying that this was the first time that a State Government had entered the domestic housing market as a competitor. The report continues:

He said the unprecedented move was a major breakthrough in Government efforts to make full use of State resources. It would also prove a breakthrough in curbing the spiralling cost of housing in South Australia. The venture would complement the South Australian Land Commission operations and ensure that South Australia retained its status as the State with the lowest housing costs.

The Minister discussed the versatility of this type of construction, and said that at Mount Gambier the units would be sold through the commercial division of the Woods and Forests Department, which would build a $100 000 manufacturing plant near the State sawmills there. Production was to involve 300 houses of varying designs a year, and it would provide employment for about 35 tradesmen. Another point was made that the plant was expected to be fully operational in about nine months (that was nine months from February, 1976). Will the Minister of Forests obtain a report on the progress to date of this venture and, indeed, ascertain whether at least one house has been completed to this time?

The Hon. B. A. CHATTERTON: I could refer the honourable member to a number of questions on this subject that have been asked by the member for Mount Gambier in another place. Those questions would give the honourable member a fuller reply than I could give him at present. Basically, the situation is that some problems are still associated with patents on the Modulock system of housing and, until those problems are solved, we cannot proceed any further.

STATUTES CONSOLIDATION

The Hon. R. C. DeGARIS: My question is directed to the Chief Secretary as Leader of the Government in the Council. As Mr. Edward Ludovici has been for some time working on the consolidation of the Statutes, can the Minister say when the Government intends to publish the consolidated Statutes?

The Hon. D. H. L. BANFIELD: At this stage I cannot say, but I will obtain a reply.

CRAFT AUTHORITY

The Hon. C. M. HILL: I ask leave to make a statement prior to addressing a question to the Minister of Health, representing the Premier.

Leave granted.

The Hon. C. M. HILL: On November 2 last I received a reply from the Government dealing with the South Australian Craft Authority and its activity, in which I was told that at that stage the Chairman of the authoriy (Dr. Earle Hackett) and a board member (Mrs. Karen Lemercier) were overseas obtaining information on the latest trends in crafts and markets suitable for the authority. The Premier stated in the reply that it was hoped that these people, on their return, would be able to recommend and institute improvements. I ask what were the costs to the authority or the Government of those two tours, and I ask whether I could be given a summary of the reports that they have made to the authority as a result of these two oversea trips.

The Hon. D. H. L. BANFIELD: I will refer the question to my colleague.

MEAT INDUSTRY AUTHORITY

The Hon. C. M. HILL: I ask the Minister of Agriculture whether there is any truth in the rumour that he proposes to reintroduce, in the next session of this Parliament, his controversial legislation to establish a meat industry authority, which proposed legislation was rejected by Cabinet in September, 1975.

The Hon. B. A. CHATTERTON: I think that several times I have made clear this position, namely, that the Meat Industry Bill, which was drafted and discussed with the industry, would not be proceeded with. An inter-departmental committee has been considering and investigating all questions of meat hygiene. That committee has completed its investigations and has presented a report to me which I have not yet had time to study properly. So far, no particular action has been decided on concerning any of the recommendations of that committee.

MALAYSIA

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

Leave granted.

The Hon. C. M. HILL: Early in 1975 I asked questions about the establishment of companies by the Government. and other interests associated with the Government, in conjunction with Malaysia. I was given information, part of which I repeat now in the course of this explanation. On June 4, 1975, I was told that Austral-Asia Developments Proprietary Limited was registered under the Companies Act on February 27, 1975, and that that company was a joint venture activity with the following participants: the South Australian Government (40 per cent), Penang Development Corporation (Malaysia) (20 per cent), Pernas (20 per cent), and Development Property Finance Limited (20 per cent). Pernas was, apparently, a trading organisation financed and controlled by the Malaysian Government. The authorised and paid up capital of Austral-Asia Developments Proprietary Limited was $50 000. The directors of the company were: Wan Abdul Hamid, of Kuala Lumpur, Malaysia; Ahmad Khairummuzuammil, of Penang, Malaysia; Robert David Bakewell, of Adelaide; Richard Rawnsley Cavill, of Adelaide; and Max Leon Liberman, of Adelaide.

I was told that the South Australian Government's equity in that company was held through a nominee entity, also incorporated on February 27, 1975, named South Austral-Asia Proprietary Limited. Its directors were Robert David Bakewell, of Adelaide; and Richard Rawnsley Cavill, of Adelaide. That company (South Austral-Asia Proprietary Limited) was wholly owned and controlled by the South Australian Government. The principal objects of the company were to sponsor, promote and assist in the development of industry in South Australia and to subscribe to the capital of any business or company assisting in the development of, or engaged in, or proposing to engage in, industry in South Australia. It was proposed that the activities of that inter-governmental corporate activity would assist in extending South Australia's industrial base and provide an outlet for our componentry in a wide range of industrial and domestic products.

Then another company (as the Minister said, a "mirror image" type of entity) was incorporated on April 8, 1975, in Malaysia and named Australasia International Developments Sdn. Berhad. That company had capital divided between Penang Development Corporation (30 per cent), Pernas (30 per cent), Development Property Finance Limited (nominee) (20 per cent), and the South Australian Government (20 per cent). The South Australian Government had invested $32 970 in that company. First, are the share interests still the same after a period exceeding two years? Secondly, are the directors still the same? Thirdly, has the South Australian Government's financial contribution in that last-named company remained the same? Fourthly, could Parliament be given a progress report on what has actually been achieved since February, 1975, in regard to those companies? Fifthly, could we be told the actual results achieved so far by South Australian commercial and industrial interests as those results are known to the Government?

The Hon. D. H. L. BANFIELD: I will refer the honourable member's questions to my colleague.

BY-ELECTION

The Hon. R. C. DeGARIS: Can the Chief Secretary say whether the Government is expecting any by-election or by-elections on May 21, the day of the Federal Government's referendum?

The Hon. D. H. L. BANFIELD: As members opposite look fairly fit to me, I see no reason for any by-elections.

LAND COMMISSION ACT AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

Subsections (7) and (8) of section 12 of the principal Act, the Land Commission Act, 1973, in effect provide that, where the commission proposes to acquire land and the proprietor of that land has in train, in respect of that land, a commercial housing development or a commercial building development, that proprietor will be

afforded two years in which substantially to commence that development and, if such "substantial commencement" occurs, the commission may not proceed with its acquisition. However, if during the period of two years mentioned substantial commencement has not occurred, the commission may, within the year next following the expiration of the two-year period, acquire the land on the basis of the land prices prevailing at the time the commission first gave notice of its intention to acquire the land.

The effect of the amendment proposed by this Bill is to extend the period of one year mentioned above to three years. At the moment the Land Commission is engaged in some litigation with a land developer, the principal question in issue being that the development contemplated by the developer constitutes a "planning unit" as defined in the principal Act. To preserve his rights amongst other things the developer secured an injunction enjoining the commission from acquiring his land pending the outcome of the litigation. That injunction remains in force and at the moment it now appears likely that in the ordinary course of proceedings that injunction will not be discharged before the expiration of the one-year period mentioned above. In effect, this will deprive the commission of its right to acquire the land in question at the price prevailing when it gave the original notice of its intention to acquire the land. It is emphasised that this measure does not act so as to affect the respective legal positions of the developer and the commission in relation to the matters in dispute. It is intended to act so as to ensure that the developer cannot obtain a financial advantage, against the commission and indirectly against the community, by protracting the legal proceedings.

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

NOISE CONTROL BILL

In Committee.

(Continued from April 14. Page 3440.)

Clause 6—"Interpretation."

The Hon. JESSIE COOPER: My amendment to this clause depends largely on whether or not my amendment to clause 10 is successful.

The CHAIRMAN: There are two courses available to us: either we can postpone this amendment until after the end of the Committee stage or we can allow the Hon. Mrs. Cooper to talk to her amendments as a whole. I suggest that the Hon. Mrs. Cooper should move her amendment to clause 6 now and that she should speak to all of her amendments now.

The Hon. JESSIE COOPER: I move:

Page 2, after line 12—Insert definition as follows:

"The committee" means the Noise Control Exemption Committee established under Part III of this Act.

During the second reading debate I drew attention to the complete lack of provision for any appeal for reconsideration of the arbitrary decisions of inspectors. A recipient of an order from an inspector has no power of appeal, except to the Minister in regard to the time only. A recipient of an order from an inspector has only the possibility of defending his case in court. Therefore, there should be an independent board to which appeals can be made on the basis that demands are unreasonable, excessively onerous, excessively costly, or in any way unwarranted. It seems that the simplest method of achieving my aim is to set up a Noise Control Exemption Committee. Although my original conception involved an appeals board, the committee I am now proposing in some way achieves my aim.

The CHAIRMAN: I will now permit debate on the concept of a Noise Control Exemption Committee.

The Hon. R. C. DeGARIS (Leader of the Opposition): I support the amendment. During the second reading debate it became fairly clear that there was no means of appeal in the Bill against an inspector's decision. At present the Bill places too much power, first, in the hands of the inspector who makes a determination and, secondly, in the hands of the Minister, who has powers in regard to the time and the exemption of people. Therefore, an appeals committee of some sort should be established. A person can approach the committee proposed by the Hon. Mrs. Cooper and say, "Please consider the instruction I have been given by an inspector. Here are the facts. If possible, grant me an exemption either for a period or completely." That committee will in some ways really act as an appeals committee in respect of a person who has received a notice from an inspector. The Minister alone should not have the power of determination. I support the amendment.

The Hon. C. M. HILL: I, too, support the amendment. The composition of the proposed committee is very fair, particularly from the Minister's viewpoint. Under the amendment, the right is taken from the Minister to be the adjudicator in regard to this matter and, in his place, is the proposed committee. The four people who would comprise the committee make up a body that is well balanced in the interests of the appellants and the Minister. Clause 4 provides that the Crown is to be bound. Honourable members and members of the public hailed that approach as a breakthrough, because time and time again honourable members have said that the Government should bind itself by Acts of Parliament: the Government should not be a law unto itself. However, having included clause 4, the Government then included clause 11, which gives to any party the right to apply to the Minister for exemption. The Hon. Mr. Carnie correctly pointed out that Government departments could possibly apply for exemption, and who is to say whether all departments that apply might in future be exempted? So, the benefit that the Government introduced is nullified. Under the amendment the department will have to appeal to the committee and not to the Minister (a member of the Government). That is fair, as the department will have to run the gauntlet of explaining its case to the committee, thereby placing greater importance on the principle introduced in this Bill which binds the Crown to the Bill's provisions.

The Hon. J. C. BURDETT: I, too, support the amendment and congratulate the Hon. Jessie Cooper on introducing it. It brings some justice to the situation. In the clause as it stood, the powers of the inspector were too arbitrary. The inspector may be a person with no expertise whatever. The Hon. Mr. Hill has pointed out that the establishment of the committee ensures that there will be at least one person on it who has some expertise. This amendment turns this unsatisfactory and arbitrary clause into a proper and just provision. Provided this amendment is carried, this will not be a bad effort for a moribund, anachronistic and disreputable House!

The Hon. T. M. CASEY (Minister of Lands): I believe the Committee has the wrong concept of what we are trying to accomplish in this field. It has been suggested that the inspector may not be competent, but I do not believe that. He will be properly trained by the department.

The Hon. C. M. Hill: Where is it laid down that he will be trained by the department?

The Hon. T. M. CASEY: I refer to clause 7 and the phrase ". . . appropriate qualifications and experience, to be an inspector under this Act". The Minister will not appoint anyone unless he has the proper qualifications and experience to be an inspector.

The Hon. Jessie Cooper: The inspector need not have them: the Minister need only think that he has them.

The Hon. T. M. CASEY: If the Minister does not appoint an inspector with qualifications and experience, why has not the Opposition criticised the Minister of Health for the appointment of health inspectors?

The Hon. Jessie Cooper: It's a different department.

The Hon. T. M. CASEY: True, but the principle is the same. A person cannot be an inspector unless he has qualifications and experience.

The CHAIRMAN: The question concerns qualifications and experience for doing what?

The Hon. T. M. CASEY: For carrying out work involving acoustics as indicated in the Bill. He has to understand engineering and the operation of the machinery he is handling in the same way as a policeman who handles radar equipment. Does the Committee suggest that anyone caught in a radar trap should have the right to go before a committee? The inspector will be qualified and have experience—

The Hon. M. B. Dawkins: What qualifications would the Minister regard as suitable?

The Hon. T. M. CASEY: I do not know specifically, but that will be stipulated by the department in the same way as the Health Department stipulates qualifications for health inspectors. Government departments are not incompetent. They must be sure that these people are properly qualified and properly trained. First, the inspector must be qualified and trained in all respects, and he operates the machine indicating the decibel level. How can honourable members justify the establishment of an appeals committee merely because someone might say they believe the noise level recorded is not true?

The Hon. R. C. DeGaris: The Minister has that power now.

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

The Hon. R. C. DeGaris: How can you justify that?

The Hon. T. M. CASEY: Someone has to act. Why not have an appeals committee—

The CHAIRMAN: I think the Minister has missed the point.

The Hon. T. M. CASEY: The inspector will be conversant with the operation of the machine. Inspectors will be qualified to operate the machines, which will indicate the decibel level—

The CHAIRMAN: Honourable members are asking what qualifications inspectors will have to decide how the decibel levels are to be reduced; what knowledge has an inspector to instruct on the reduction of noise levels?

The Hon. T. M. CASEY: I do not think he is responsible for that, as he will read the decibel level and report to his department. A health inspector makes an assessment and reports to his department on the situation, the final determination being made by the department. The inspector does not make it personally.

The Hon. R. C. DeGaris: He can under the Act.

The Hon. T. M. CASEY: All Acts read similarly. Honourable members will find that the Health Act provides that inspectors shall report to their department. Why it is couched in those terms I do not know, but the fact remains that a health inspector reports to his department. A noise level inspector will report to his department, and it will be the department that takes action. Whether the inspector delivers the notice or not is another matter. The fact remains that he is taking a noise level and that noise level is set down. If it does not conform to the Act why take it to an appeals committee?

The Hon. R. C. DeGaris: Why have the Minister in it?

The Hon. T. M. CASEY: Irrespective of whether you have four experts on the committee or not, they will all go by the noise level. The noise level has already been taken and that is why I come back to the point about the radar. One is fined for speeding; the police take your speed on a radar screen which is a machine for measuring speed. Do you go to an appeals committee?

The Hon. R. C. DeGaris: You can.

The Hon. T. M. CASEY: You go to the court.

The Hon. R. C. DeGaris: And you can appeal on that.

The Hon. T. M. CASEY: You go to the court. Under this Bill you can go to the court if you are not satisfied with the Minister. It seems to me that an appeals committee would negate the whole approach of the Bill. It could lead to long and costly hearings, which is no criteria to anyone. It is not going to help the person who has the noise level because if he does not agree with the appeals committee he can take it to the court anyway. You are then back to square one. The fact remains that you have a decibel count and this is from a machine. I do not care if you have four experts on the appeal committee. They still have to come back and read it on a similar machine.

The Hon. M. B. Cameron: There may be other grounds.

The Hon. T. M. CASEY: The whole basis is on the noise level, not the hardship. The hardship is covered under clause 7.

The CHAIRMAN: The amendment deals with noise exemption. It assumes noise. No-one is arguing against the machine. It assumes the machine reading is higher than allowed. It is suggesting a noise exemption.

The Hon. T. M. CASEY: Why have a noise exemption committee? It is really an appeals committee. I am saying that is not necessary because you have a machine to determine the noise level.

The Hon. C. M. Hill: It was unnecessary for you to put in the Minister.

The Hon. T. M. CASEY: No. They are entitled to approach the Minister on this clause. What you are trying to do is bog this legislation down so it becomes almost cumbersome in many respects.

The Hon. C. M. Hill: What if you want time to put it right?

The Hon. T. M. CASEY: You can go to the Minister, and if he does not agree you can ask questions in Parliament. Honourable members have said this on many occasions, that they want to refer things to Parliament. This Council has been well known for its political accountability over the years. I cannot see the desirability of an appeals committee, or whatever you like to call it. I think the situation is quite clear that any noise level and any hardship is already covered. Under the Bill representations can be made to the Minister and I think that if you do set

up a committee you are going to encumber the Bill to such an extent that you are going to drag things out longer than necessary. I therefore oppose the amendment.

The Hon. M. B. CAMERON: The Minister in that lengthy explanation made one statement to which I took exception. He said there was an attempt to bog this legislation down. That is absolute rubbish and I regard that as a reflection on the Hon. Mrs. Cooper, who has moved this amendment in a very sincere attempt to ensure that the legislation acts fairly and in the interest of all parties involved.

The Hon. T. M. Casey: Did I mention the Hon. Mrs. Cooper by name?

The Hon. M. B. CAMERON: No, but the amendment is being moved by her, so do not try and wriggle out of trouble.

The Hon. T. M. Casey: Don't play politics!

The Hon. M. B. CAMERON: I am not playing politics. You started it by reflecting on the motivation behind moving this amendment, and that is exactly what you did. It is the Hon. Mrs. Cooper's amendment. You have made that reflection and I rebut it because she has also discussed this matter with other people. I regard this as a very sincere attempt to ensure this legislation does not get bogged down in the hands of the Government or politicians. I hope it is handled by people who will take an outside view of any problem that arises. I trust that the Minister will reconsider that particular attitude towards this amendment. It is a very sincere attempt to make sure that people who are affected adversely have every possible opportunity to take the matter to what can be regarded as an independent tribunal.

I am in no way reflecting on the present Minister in saying that, but he will not be there for ever, as he well knows. I know that Ministers get the feeling that they are going to be, but they are not, and one has to consider not only the present Minister but the fact that the Act will apply for many years to come, we hope for the rest of the time that this State exists. For that reason it is important at this stage that people have every opportunity to take whatever problems they have to every last resort that is available to ensure that they are not affected adversely by a sudden decision.

The Minister will be advised by his officers. That is the way the Act will operate. Certain officers will be taking readings and other officers with similar accountability will be advising on the findings and on the criteria. I trust the Minister will see that it will be as well to have some other organisation sitting in judgment as to whether a person would be exempted.

The Hon. R. C. DeGARIS: There are one or two matters raised by the Minister that warrant a reply. First, the Minister talked about the question of an inspector going to a property with his meter, taking a reading, and going back to his department. I refer the Minister to the power of inspection under clause 9. There is nothing there about an inspector who can go back to his department. Secondly, under clause 10 the inspector may give a notice to an occupier to take such steps, if any, as are specified in the notice within the period specified in the notice to reduce the noise emitted from the premises. That is what the inspector can do. I cannot see in this Bill any right of appeal to a court.

The Hon. T. M. Casey: You know that you can appeal to any court.

The Hon. R. C. DeGARIS: But, to start with, one needs to have grounds to enable one to go to the court. I have tackled Ministers previously about introducing Bills in the Council that they know nothing about.

The Hon. T. M. Casey: Come on! I resent that completely, and the Leader will be responsible in a short time for making that sort of statement.

The Hon. R. C. DeGARIS: That may be so, but in the reply that the Minister gave regarding the Hon. Mrs. Cooper's amendment he showed that he knew nothing about the subject on which he was speaking; most honourable members would realise that. I have already pointed out that in clause 9 no instruction is given that the inspector should report back to the department. He can go to a building, take a reading, and issue a notice there and then, and the person involved has no right to go to a court once that notice has been issued. The inspector can specify the steps that must be taken by that person within a certain time so that the noise level is reduced.

The CHAIRMAN: The whole subject is that of noise abatement.

The Hon. R. C. DeGARIS: Certainly, Sir. In this case an inspector will be able to make a determination and tell someone what he must do. However, the inspector could give the wrong advice, as no inspector can be perfect. He will have a meter and will be able to read it. The Hon. Mr. Laidlaw referred to Broken Hill Associated Smelters at Port Pirie. Although there may be no residents within one-quarter of a mile of that company's premises, the Bill provides that an inspector can go to such an industry, take a reading on its boundary, and say, "This industry is making too much noise." He can then instruct the industry to turn off its boilers. Although that would be a tragedy, the inspector would have that power.

The Opposition is saying that, the inspector having issued such a notice, the industry involved should have the right of appeal to a committee of experts. There may be reasons why the noise level cannot be reduced without totally affecting an industry or employment, and a committee such as the one to which I have referred should be able to examine the plant involved and issue an instruction, say, that the industry should be given 12 months in which to correct the problem.

I refer also to clause 11. At present a person can go to the Minister only. I believe that the Minister's powers are too limited in this regard, because he can merely give an extension of time. However, in other parts of the Bill the Minister's powers are extremely wide. He can exempt or include classes of industry. I do not believe the Minister should have that power. The committee of experts is necessary when an inspector instructs a certain industry to do something about a matter on which his knowledge is weak, anyway. I therefore hope that the Committee will support the amendment.

The Hon. T. M. CASEY: I should like to clear up a few points raised by the Hon. Mr. DeGaris. Every time he gets to his feet, the Leader is critical of Ministers for not knowing what Bills that do not fall within the ambit of their portfolios are all about. I resent that statement in no uncertain terms. I make that position clear, and I will make it clear outside the Chamber, too. If the Leader refers to that matter again, I will not say what will happen.

The Hon. R. C. DeGaris: Dear, dear!

The Hon. T. M. CASEY: Let that be a lesson to the Leader. Honourable members take advantage of Parliamentary privilege in this place and, if they are going to be fair dinkum in their attitude, they should do so and not

resort to these low, despicable tactics for which the Hon. Mr. DeGaris is so renowned. The Leader has said that there is no recourse to the court in this matter, but I say that there is. If someone has done something contrary to an Act, he is taken to the court; that is the normal procedure. The Hon. Mr. Burdett says that this is not possible, but I believe that it is. If the Crown knows that it has not got a case, it will not prosecute. It is all very well for members opposite to laugh, but that is the information that has been conveyed to me and, if the Hon. Mr. Burdett, who is a legal man, thinks otherwise, he can say so.

The Hon. J. C. Burdett: There are many unjustified cases.

The Hon. T. M. CASEY: I am not disputing that. I am saying that, if a person has been found guilty of an offence under this Act or has been served with a notice stating that he is guilty of such an offence, surely he has some recourse. If he goes to the Minister and gets no satisfaction, he can go to the court.

The Hon. J. C. Burdett: The amendment gives him recourse.

The Hon. T. M. CASEY: No, a person can do it under the Bill.

The Hon. J. C. Burdett: He can go to the Minister only.

The Hon. T. M. CASEY: He can go to the court.

The Hon. R. C. DeGaris: No, he can't. He cannot take it to the court.

The CHAIRMAN: The Crown takes the matter to the court.

The Hon. T. M. CASEY: But the Crown would not proceed unless it knew that it had a case. Honourable members opposite want an expert appeals committee to be appointed.

The Hon. R. C. DeGaris: Not an appeals committee.

The Hon. T. M. CASEY: It would be similar. Honourable members called it a noise control exemption committee, to which anyone could appeal in order to obtain an exemption. Honourable members cannot say why, for instance, there is no appeals committee to which one can go to appeal against the radar units that the police operate.

The Hon. R. C. DeGaris: There is.

The Hon. T. M. CASEY: There is not, and the same thing applies here.

The Hon. C. M. Hill: The Crown prosecutes if it thinks that it has a case against someone.

The CHAIRMAN: Do not the police prosecute in every case where the radar shows that someone has exceeded the speed limit? I am sure that they do.

The Hon. T. M. CASEY: You are not sure, Sir: you think that they do. However, they do not always do so.

The CHAIRMAN: They do not have to prove anything except the radar reading.

The Hon. T. M. CASEY: And in this case they do not have to prove anything except the decibel reading.

The CHAIRMAN: And that is what some honourable members are complaining about.

The Hon. T. M. CASEY: Honourable members opposite are talking about experts being appointed to the committee. Is the Chairman, a public servant, an expert? What will be the qualifications of the member from the Trades and Labor Council, or the member from the private sector? Then, there is to be a person who, in the opinion of the Minister, has appropriate qualifications and is an engineer experienced in the control of noise. The inspector will have the qualifications.

The Hon. D. H. Laidlaw: Why is there an appeal committee under the Clean Air Act?

The Hon. T. M. CASEY: I do not know. The expert engineer and an expert in noise would be in the same position as an inspector and would take the same reading.

The Hon. C. M. HILL: The Minister does not make appointments under the Health Act. By section 47, appointments are made by the local board of health. Regarding the reference to reports made by inspectors, that is different from the position here. I want to refer to what could happen in unfortunate circumstances if the Bill remains as it is. I am not saying that it is likely to happen under this Government, but we must have checks and balances in legislation, so that we have the best laws for the people.

The Minister could have a personal friend who he could claim had, in his opinion, appropriate qualifications and experience. Such a person would get a licence under clause 7. No-one could argue successfully against the Minister and the matter would fall back on the fact that, in the opinion of the Minister, the man had the qualifications. The only person to whom anyone affected by the report could turn would be the Minister, but how far would anyone get in those circumstances?

The Hon. T. M. Casey: How long would a Minister last if he did that? The Minister just could not do it. You were a Minister, and you would not do that.

The CHAIRMAN: I think we had better let the Hon. Mr. Hill answer.

The Hon. C. M. HILL: Once a Minister is appointed, he is seldom removed from office.

The Hon. T. M. Casey: That has nothing to do with your statement.

The Hon. C. M. HILL: It has, because the Minister said that a Minister who did what I have referred to would be put out of office. However, that is not so. We are trying to protect the community. An inspector who approaches an industrialist may be on bad terms with the industrialist, and the only person to whom the industrialist can turn is the Minister. In those circumstances, the industrialist would have no chance of obtaining justice. The Bill is bad in its present form and should be improved by replacing the reference to the Minister.

The Hon. J. C. BURDETT: As the Bill stands, there is no appeal to the court from an inspector's decision. There is no appeal from an executive officer unless provision for it is spelt out in the legislation, and there is not an appeal from one court to another, unless provision for it is spelt out. Under clause 10, the inspector does not decide whether to recommend prosecution but gives a notice setting out certain steps and allowing a period of time. If the person decided to ignore the notice and allowed himself to be prosecuted, he could claim under clause 10 (5) that he had not failed without reasonable excuse. The position is different in regard to a radar trap. The police either prosecute a person for travelling at a higher speed than is allowed or they do not: they do not issue a notice requiring that something be done.

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. R. A. Geddes. No—The Hon. J. R. Cornwall.

The CHAIRMAN: There are 9 Ayes and 9 Noes. To enable this matter to be further considered, I give my casting vote to the Ayes.

Amendment thus carried.

The Hon. D. H. LAIDLAW: I move:

Page 2, lines 44 to 47—Leave out all words in these lines and insert definition as follows:

'"non-domestic premises" means—

(*a*) any premises required to be registered as industrial premises under the Industrial Safety, Health and Welfare Act, 1972-1976;

(*b*) any premises on which any construction work is carried on in respect of which notice is required to be given under the Industrial Safety, Health and Welfare Act, 1972-1976;

(*c*) any mine within the meaning of the Mines and Works Inspection Act, 1920-1974;

(*d*) any premises required to be licensed under the Licensing Act, 1967-1976;

(*e*) any premises required to be licensed as a place of public entertainment under the Places of Public Entertainment Act, 1913-1972;

or

(*f*) any premises, or premises of a class, for the time being declared by proclamation to be non-domestic premises for the purposes of this Act:.'

The object of this amendment is to ensure that all of a type of premises are included. Under the provisions of the Bill as drawn, factories and mines and other potentially noisy places such as hotels and discotheques are included when and if the Minister specifically names one or more of them individually. I believe this leaves too much to administrative discretion. There is still provision under clause 11 for the Minister to exempt non-domestic noise. It has been necessary to draft this amendment in a rather elaborate manner to overcome the legal principle of *ejusdem generis,* which holds that general words following specific words such as "discotheques" and "hotels" are to have their generality limited by the use of preceding specific words, and are to be construed as including only articles of a like kind.

The Hon. T. M. CASEY: The Government accepts the amendment.

Amendment carried; clause as amended passed.

Clauses 7 to 9 passed.

Clause 10—"Excessive noise from industrial premises."

The Hon. JESSIE COOPER: I move:

Page 6, lines 5 to 8—Leave out all words in these lines.

Much has been said about this matter. The Minister has made some statements about my objects in bringing this amendment before the Committee. I have spoken again and again in debate against noise pollution; it is something I hate. This committee which I am moving to provide under the Bill would, in the long run, be a great advantage to the Minister. There is no question of its being a committee to run around taking readings to prove the inspector wrong; the committee would, of course, examine everything associated with noise abatement in a factory. I have had inquiries from several small factory owners who are very worried and are wondering what the future holds for their employees. If this committee is set up, each one of the four people appointed would be of great benefit to the Minister in the implementing of this legislation.

The Hon. T. M. CASEY: I oppose the amendment.

Amendment carried.

The Hon. JESSIE COOPER: I move:

Line 10—After "notice" insert ", being not less than three months".

This will greatly improve this clause.

Amendment carried.

The Hon. D. H. LAIDLAW: I move:

Page 6, line 12—Leave out "at a place outside the premises" and insert "at the measurement place". After line 18—Insert subclause as follows:

(2a) For the purposes of subsection (2) of this section "measurement place" in relation to non-domestic premises means any place outside the non-domestic premises at which any person resides or is regularly engaged in any remunerative activity.

As this Bill is drafted, noise can be measured at or beyond the boundary fence of non-domestic premises at the whim of the inspectors. The Minister has not indicated how many factories will have to modify their activities in order to comply with this Bill. He probably does not know. I suspect that the cost will run into millions of dollars and it comes at a time when many South Australian industries are in poor shape financially. My amendment would alleviate some of the cost whilst still providing the safeguards desired by the Government. It stipulates that the noise will be measured from the nearest residence or place of regular employment beyond the boundary fence.

In my second reading speech, I mentioned as examples the cases of Broken Hill Associated Smelters at Port Pirie, of a new coal-burning power station that may be constructed at Port Augusta, and of the new bus depot at Morphettville, where the noise levels would almost certainly be excessive if measured at the boundary fence. To add an example dear to our hearts, Southwark brewery would be caught by the Bill as drawn by the Government. Since the nearest house is or would be some distance away, no real annoyance would be caused at the boundary fence. It would be more sensible to measure the noise at the house where the annoyance effectively occurs, and where the decibel level would be lower. The cost of modifications to be borne by the industry concerned would be reduced accordingly.

It may be argued that, if the amendment is carried and subsequently a new residence is constructed nearer to the boundary fence, a new decibel reading would be needed, and this could require further noise modifications by the industry. Surely in those circumstances the owners of that industry would make representations to the State Planning Authority to restrict development nearer the boundary, because of the cost involved in noise abatement; or, the owners would buy vacant land as a buffer zone (this should be encouraged), or the administrators of the legislation could grant an exemption.

The Minister in another place said that the inspectors would undoubtedly act reasonably in deciding whether to measure noise at the boundary fence or at a more distant point, and that this provision should be left untouched. I wish I could share the Minister's confidence I fear that inspectors chosen to patrol a new type of environmental legislation may exercise their powers with the utmost zeal. They would have tremendous responsibility placed upon them. The need to spend millions of dollars on new plant to reduce noise or even the viability of an entire operation may hinge on their decisions. My amendment minimises the degree of administrative discretion.

The Hon. T. M. CASEY: I cannot accept the amendment. It does not improve the industrialist's position because, first, the boundary is still the limiting case for prosecution under the existing provision and the proposed amendment. Secondly, the new wording gives a false sense of security; that is, piece-meal solutions to any noise problems which would invariably prove to be more expensive

means of achieving the desired noise attenuation. The measuring point is not under the control of the industrialist, except to the extent that he buys adjoining properties to create a buffer zone. This option is still open to him under the existing Bill.

The Hon. R. C. DeGaris: No.

The Hon. T. M. CASEY: It is. It should be pointed out that the Bill is complaint-oriented, and the boundaries of an industrial concern are the measurement locations which will alter, unless the above are overcome; so, the industrial concern will be disadvantaged overall, if the amendment is adopted. The amendment is too restrictive in that a measurement place can be only a residence or work place. It gives no protection, for example, to the public engaged in active or passive recreation in public reserves; for example, the Torrens River while very loud noise emanates from a rock concert at Memorial Drive.

The Committee divided on the amendment:

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

Noes (9)—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, and Anne Levy.

Pair—Aye—The Hon. R. A. Geddes. No—The Hon. C. J. Sumner.

The CHAIRMAN: There are 9 Ayes and 9 Noes. To enable this matter to be further considered, I give my casting vote for the Ayes.

Amendment thus carried.

The Hon. JESSIE COOPER moved:
Lines 22 to 25—Leave out all words in these lines.

Amendment carried.

The Hon. D. H. LAIDLAW: I move:
Line 29—Leave out "Five" and insert "One".

This amendment deals with the proposed penalty of $5 000 for excessive noise emitting from non-domestic premises. This penalty is too onerous. It could be imposed day by day, as I understand the Bill. A large industry may be able to afford such a penalty, but small businesses may not be able to do so. Many older factories are too noisy.

Equipment should, admittedly, be replaced because old equipment is usually too labour-intensive to enable the firm to survive in the present competitive conditions. Such operations are often carried out in small factories which are only marginally profitable, and have few financial reserves for development. However, they employ people, and we must bear in mind that jobs in South Australia are scarce at present and may remain so.

Savage penalties may well prompt some owners to close such operations. I therefore believe that the penalties should be reduced. I could give the Minister two or three examples of the kind of firm to which I have referred.

The Hon. T. M. CASEY: When the honourable member said that some big businesses can afford to pay such a fine, was he referring to Perry Engineering Company Limited? If a company's managing director allowed the company to incur such a fine every day he would not be the managing director for long. The penalties stipulated are maximum penalties, and they should reflect the degree of public concern about excessive noise. The penalties should bear a proper relationship to the cost of adequate noise control. In all cases it is believed that the provisions of the Bill should contain the necessary teeth so that, if a noise persists and a proprietor does not take the necessary steps to reduce the noise nuisance in a specified period, the fine should be sufficient to make him think twice about contravening the provisions of the legislation.

How many times have we heard in this Chamber of penalties not being sufficient in relation to the crime committed? If honourable members opposite really wanted this legislation they would give it some teeth. The courts do not have to impose the maximum sum provided. People tell me of crimes committed and the fines imposed, asking why greater fines are not imposed. If the court believes someone is guilty of a misdemeanour regarding noise legislation, and if noise control is something we should be acting on, let us give this legislation teeth. Obviously, members opposite do not want to do that. I oppose the amendment.

The Committee divided on the amendment:

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

Noes (9)—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, and Anne Levy.

Pair—Aye—The Hon. R. A. Geddes. No—The Hon. C. J. Sumner.

The CHAIRMAN: There are 9 Ayes and 9 Noes. I give my casting vote for the Ayes.
Amendment thus carried; clause as amended passed.

New clauses 10a, 10b, 10c, 10d, and 10e.

The Hon. JESSIE COOPER moved:
Page 6, after line 29—Insert new clause as follows:
10a. (1) A committee shall be established entitled the "Noise Control Exemption Committee".
(2) The committee shall consist of four members appointed by the Governor, of whom—
(*a*) one shall be an officer of the public service of the State nominated by the Minister, who shall be the Chairman of the committee;
(*b*) one shall be a person nominated by the United Trades and Labor Council of South Australia;
(*c*) one shall be a person who is, in the opinion of the Minister, representative of the interests of employers; and
(*d*) one shall be a person who has, in the opinion of the Minister, appropriate qualifications as an engineer and experience in the control of noise.
(3) If a person is not nominated by a body for the purposes of subsection (2) of this section within 30 days after the receipt by that body of a written request from the Minister so to do, the Governor may appoint a person nominated by the Minister to be a member of the committee and that person shall be deemed to be duly appointed upon the nomination of the body requested to make the nomination.
10b. (1) Subject to this Act, a member of the committee shall hold office for a term of three years upon such conditions as the Governor determines, and, upon the expiration of his term of office, shall be eligible for reappointment.
(2) The Governor may appoint an appropriate person to be a deputy of a member of the committee and the deputy of any member while acting in the absence of the member of whom he is, or has been appointed, deputy, shall be deemed to be a member of the committee and shall have all the powers, authorities, duties and obligations of that member.
(3) The Governor may remove a member of the committee from office for—

(*a*) mental or physical incapacity;
(*b*) neglect of duty;
(*c*) dishonourable conduct; or
(*d*) any other cause considered sufficient by the Governor.

(4) The office of a member of the committee shall become vacant if—
(*a*) he dies;
(*b*) his term of office expires;
(*c*) he resigns by written notice addressed to the Minister;
(*d*) he fails to attend three consecutive meetings of the committee without leave of the Chairman; or
(*e*) he is removed from office by the Governor pursuant to subsection (3) of this section.

(5) Upon the office of a member of the committee becoming vacant, a person shall be appointed, in accordance with this Act, to the vacant office, but where the office of a member becomes vacant before the expiration of the term for which he was appointed, a person appointed in his place shall be appointed only for the balance of the term of his predecessor.

10c. A member of the committee shall be entitled to receive such allowances and expenses as may be determined by the Governor.

10d. (1) Three members of the committee shall constitute a quorum of the committee and no business shall be transacted at a meeting of the committee unless a quorum is present.

(2) The chairman of the committee shall preside at a meeting of the committee at which he is present and in the absence of both the chairman and his deputy from a meeting, the members of the committee present shall decide who is to preside at that meeting.

(3) A decision carried by a majority of votes of the members of the committee present at a meeting shall be a decision of the committee.

(4) Each member of the committee shall be entitled to one vote on a matter arising for determination by the committee and the person presiding at the meeting of the committee shall, in the event of an equality of votes, have a second or casting vote.

(5) Subject to this Act, the business of the committee shall be conducted in a manner determined by the committee.

10e. (1) An act or proceeding of the committee shall not be invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, an act or proceeding shall be as valid and effectual as if the member had been duly nominated or appointed.

(2) No personal liability shall attach to a member of the committee for an act or omission by him, or by the committee, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge, or purported discharge, of his or its duties under this Act.

The Hon. T. M. CASEY: I oppose the new clauses.

New clauses inserted.

Clause 11—"Exemptions for certain industrial premises."

The Hon. JESSIE COOPER: I move:

Page 6—
Line 30—Leave out "Minister may" and insert "committee may, upon application by the occupier of any non-domestic premises".
Line 34—Leave out "Minister" and insert "committee".
Line 35—Leave out "Minister" and insert "committee".
Page 7—
Line 4—Leave out "Minister" and insert " committee".
Lines 5 and 6—Leave out all words in these lines.

These amendments are consequential amendments.

Amendments carried.

The Hon. D. H. LAIDLAW moved:

Page 7, line 10—Leave out "Five" and insert "One".

Amendment carried; clause as amended passed.

Clause 12—"Exposure of employees to excessive noise."

The Hon. D. H. LAIDLAW moved:

Page 7, line 14—Leave out "Five" and insert "One".

Amendment carried.

The Hon. JESSIE COOPER: I move:

Page 7—
Line 15—Leave out "An" and insert "For the purposes of subsection (1) of this section, an".
Lines 19 to 23—Leave out all words in these lines.
After line 23—Insert new subclause as follows:

(3) If an employee is exposed to excessive noise during his employment by any employer, an inspector may give a notice to that employer requiring him to ensure that no employee of his is exposed to excessive noise in that employment after the expiration of a period specified in the notice, being not less than three months.

(4) For the purposes of subsection (3) of this section, an employee is exposed to excessive noise if the noise level ascertained in respect of the employee's place of employment and in respect of the period for which the employee is at work in the employment during any day exceeds the prescribed maximum permissible noise level.

(5) Subject to this Act, a person given a notice under subsection (3) of this section shall not fail, without reasonable excuse, to comply with the notice.
Penalty: One thousand dollars.

I seek to ensure that an employer is given notice, because at present no warning is given at any stage, and this is a fair way of dealing with the situation. I think the importance of this is that it is not just an offence that can be stopped: it may take some time to have fixed up. No employer is wilfully disobeying the law, and if a warning is given I think it will work much better.

The Hon. T. M. CASEY: It seems to me that this cuts across the regulations under the Industrial Safety, Health and Welfare Act. As I have not received any information on this matter from my colleague in another place, I will have to oppose the amendments.

Amendments carried; clause as amended passed.

Clause 13—"Conditional exemptions relating to excessive noise exposure."

The Hon. D. H. LAIDLAW moved:

Page 7, line 41—Leave out "Five" and insert "One".

Amendment carried; clause as amended passed.

Clause 14 passed.

Clause 15—"Inquiries by the Minister or designated officer."

The Hon. D. H. LAIDLAW moved:

Page 8, line 14—Leave out "One thousand" and insert "Five hundred".

Amendment carried; clause as amended passed.

Clause 16—"Excessive noise from machines."

The Hon. D. H. LAIDLAW: I move:

Page 9—After line 9—Insert subclause as follows:

(2a) A member of the Police Force shall have the powers conferred upon an inspector under section 9 of this Act for the purposes of ascertaining whether a motor vehicle emits excessive noise and that section shall, for those purposes, apply and have effect as if the member of the Police Force were an inspector.

Line 11—After "inspector" insert "or a member of the Police Force."
Lines 19 to 22—Leave out all words in these lines.

Clauses 16 and 17 cover noise emitted by machines, defined as any contrivance which emits noise, but motor vehicles are specifically excluded.

As I pointed out in my second reading speech (and the Hon. Mr. Cameron supported me in more vivid terms), motor vehicles are covered in the noise legislation introduced in four other States other than Queensland, and they are the main source of annoyance to the public. Of all the expert witnesses who appeared before the Select Committee in another place, only one advocated that motor

vehicles should be excluded and that was the Road Traffic Board, which may be biased on the subject.

The exclusion of motor vehicles as defined has made a mess of this part of the Bill. If I read the Bill correctly, a ready-mix concrete truck would, when its bowl is rotating, be subject to the control of inspectors appointed under this legislation but, when the bowl is empty and not rotating, the vehicle would come under control of the police in accordance with the Road Traffic Act.

Trailers and caravans, being contrivances which emit noise, would be covered by this Bill, but the vehicles which tow them would not.

When motor vehicles leave public roads and enter into domestic or non-domestic premises, they do come under this legislation because they add to the accumulation of noise emitting from those premises. Hence, as the Government has drawn this Bill, the noise from a revving motor cycle engine is to be covered by different legislation depending upon whether it is located inside or outside a premise.

My amendments include motor vehicles within the definition of a machine, and I should give members of the Police Force the same powers as the inspectors appointed under this legislation with regard to regulating motor vehicle noise. The ordinary inspectors would find it difficult to control driving noise and to apprehend the culprit, for example, the screeching of tyres whilst cars are accelerating away from a factory after the finish of night shift or the undue noise of an empty tip truck. As honourable members know, a gravel truck generally emits more noise when it is empty than when it is laden. For these reasons I commend these amendments to honourable members.

The Hon. M. B. CAMERON: These amendments, in my opinion, form a most vital provision to be added to the Bill. If they are not carried, the Bill comparatively loses more than 50 per cent of its value to the community. The Minister indicated earlier that we were trying to restrict the Bill in some way; he could reverse that attitude now and realise that, in fact, what the Opposition is trying to do is make the Bill really worth while. That is exactly what the Opposition is trying to do in this case. It is being positive and constructive, which is what another honourable member in this Chamber recently accused us of not being. I can remember being screamed at by one honourable member who was indicating in vociferous terms that we were not a constructive Opposition. In this case we are, and the Hon. Mr. Laidlaw is to be congratulated.

The Hon. M. B. Dawkins: Why do you think the Government has excluded motor vehicles?

The Hon. M. B. CAMERON: I guess some time in the near future the Minister is going to get up and indicate that motor vehicles are included in another Act. That to me is a specious argument. Here we have a magnificent opportunity to include all noise problems under one Act, to get them under one roof and have one set of people in one department expert in the field. I should have thought that that was a most sensible and clear-sighted way of going about curbing noise pollution. There is no shadow of doubt that the worst noise pollution in this community is vehicle noise, and to indicate to the community, as the Government has done, that it is doing something about noise pollution, at the same time excluding motor vehicles noise, is, to put it very crudely, nothing less than deceitful. I trust that the Minister is going to look at the amendments very carefully and allow the Opposition to help him to put some teeth back into the Bill.

There is no doubt that it is not the problem of neighbour noise but whether one is living on a main road that has the most serious effect on property values. One cannot tell me that a person living alongside a main road is not affected by the noise of traffic that is passing his property. However, the same does not apply to neighbours: one can shout at them to shut up, but one cannot do that to the cars that are going past one's property. Someone else must do that, and it must be the Government. Someone must have power to take action against the drivers of vehicles. However, it is not sufficient for this to be left in the hands of the Police Force, as it already has enough to do. It must involve people who can use the proper machines and the expertise that they will acquire in their department.

I urge the Government to listen carefully to the arguments raised, to examine the amendments that are moved, and to realise that the other States have seen that this is a necessary provision to be included in a noise control Bill. Such a provision should therefore be included in the Bill, and I hope the Government will accept the Opposition's amendments.

The Hon. M. B. DAWKINS: I join the Hon. Mr. Cameron in complimenting my colleague the Hon. Mr. Laidlaw on moving these amendments. Probably (with due respect to the Hon. Mrs. Cooper's amendments, and the other amendments to be moved by the Hon. Mr. Laidlaw), these are the most important amendments to the Bill. I find it difficult to understand (unless it is the wish of the Minister in another place) why the Government has not been willing to include this matter in the Bill. I understand that the matter of motor vehicle noise is included in this type of legislation in the other States, and that this is the Bill in which controls on it should be included.

I hope that the Minister will realise that the Opposition is trying to strengthen the Bill and, indeed, that the Minister will see his way clear to accept the amendment. It is anomalous for honourable members to think about motor vehicle noise provisions being included in other legislation. It would be more effective to include such provisions in this Bill. I urge the Minister to accept the amendments.

The Hon. C. M. HILL: I, too, support the amendments. I have noticed, when I have referred to this legislation outside the Chamber, that the first point the public raises is, "Surely you will include motor cars, will you not?" The first reaction of the ordinary man in the street relates to his wish and hope that motor vehicle noise will be controlled.

The public is ridiculing this Government because it has introduced a Bill, the first real measure to control excessive noise, from which it has excluded motor vehicle noise. Even more ridicule is heaped on the Government if one realises that a person tinkering with a motor car in the driveway of his house can offend against the Bill by revving up the motor of his car while it is stationary but that, as soon as he takes the vehicle out on the street to test the work he has done, the noise emanating from the vehicle is excluded from the provisions of the Bill. This is ridiculous, and the public cannot understand why the Government has taken this action.

It is pleasing that the Hon. Mr. Laidlaw has tried to correct this position and to get the Government off the hook somewhat in relation to the ridicule that exists. I hope that the Government will change its mind regarding this matter and allow the amendments to be carried so that the real noise polluter, who affects the great mass of people (in other words, the person who drives his motor vehicle and creates undue noise), will come within the ambit of the Bill.

The Hon. N. K. FOSTER: I rise to speak because it seems, from what honourable members opposite have said, that motor vehicle noise concerns the Opposition more

than it concerns the Government. However, that is not the case, although the matter may not be spelt out clearly in this Bill. I ask honourable members opposite who have supported the amendments whether they think the scientific instruments to be used to detect motor vehicle noise should be placed on, say, a seven-lane highway to detect an offending vehicle, be it a quarry truck, referred to by the Hon. Mr. Laidlaw, or a noisy motor cycle. Having lived near what was a quiet street but is now a seven-lane highway, I know that one can be awakened in the morning by the smallest two-stroke motor cycle. At that time of the day, such a motor cycle, when it is not amongst other vehicles, makes much noise and can be detected easily, but the same does not apply on the homeward trip, when it is amongst many other vehicles.

True, regarding speeding offences there are several methods of identifying and detecting the offending vehicle. But until that happens in relation to this legislation the amendments will not be valid. If the amendments are carried and the necessary post-legislative procedures are adopted, honourable members opposite will be inundated with complaints from people who have been apprehended by members of the Police Force, perhaps unfairly. Also, this would be a tremendous burden to place on the Police Force, because the type of machinery needed to identify such vehicular noise is not yet available. Eventually, it will be available but, until it is, members opposite should not play politics and continue to pursue the amendments.

The Hon. D. H. LAIDLAW: I cannot agree with the Hon. Mr. Foster: I have seen many instances of the existing equipment having worked satisfactorily. I mention the case of the screeching of tyres on a vehicle leaving a factory during the night shift. One could record that noise. The motor vehicle ought to come within the Bill because of the inconsistencies about which I have spoken.

The Hon. T. M. CASEY: I thank the Hon. Mr. Foster for his contribution. The Hon. Mr. Cameron said in the second reading debate that he wanted this provision in the noise control legislation because there were not sufficient police to do the work. How many inspectors would be needed to do all the work under the Road Traffic Act alone? The Hon. Mr. Laidlaw has said that all this noise comes from factories at knock-off time, and he wants an inspector at every factory.

The Hon. D. H. Laidlaw: I am not saying that.

The Hon. T. M. CASEY: We cannot have an inspector outside, say, Perry Engineering today and outside another factory tomorrow. The Hon. Mr. Cameron said that the Police Force could not cope and that we must have inspectors. The Government believes that existing powers under the Road Traffic Act are quite sufficient. They are enforced by the police and they are sufficient in all respects in controlling road traffic noise.

The CHAIRMAN: The only instruments that a policeman uses are his two ears.

The Hon. T. M. CASEY: Current and new proposals under the Australian design rules indicate that action is required to be taken by manufacturers of motor vehicles in reducing overall noise levels. The Minister of Transport has indicated that action will be taken to strengthen existing legislation to reflect the standards imposed by the Bill in respect of these forms of noise. I think that the standards required should be such that some vehicles should not be allowed to be sold. Much excessive noise comes from vehicles that manufacturers have put on the market to be sold to young people.

I live on a street corner. It is not always a busy intersection, but it is busy in summer. At 5 a.m., a person who rides a small two-stroke motor bike keeps me awake. Further, about midnight a young boy in the area does a few U-turns. By the time a person rang an inspector to have him measure the noise level, the cyclist would be about 20 kilometres away. Regarding other States, I have heard members opposite say that, merely because other States do something, this State does not have to do it. The Government believes that powers under the Road Traffic Act are sufficient, and we oppose the amendment.

The Hon. D. H. LAIDLAW: I refer the Minister to the example I gave in my second reading speech of a reading taken at a factory with which I am associated. Acoustic consultants who were engaged took readings over a period, showing that the noise from the boundary of the factory was 55 decibels. Along a two-way highway adjacent to the factory the noise from motor vehicles travelling along the road was about 72 decibels, the noise from light trucks was 75 to 80 decibels, that from oil tankers was 82 to 92 decibels, and that from semi-trailers was 85 to 95 decibels. Motor vehicles are a problem. It is possible to measure the noise that they make, and it is inconsistent to exclude them.

The Hon. M. B. CAMERON: We should call this Bill the Industry Harrassment Bill, because regardless of examples that have been given about industry, those difficulties can be overcome easily. Domestic noise is included, despite what I regard as being as big a problem of detection as is the case with motor vehicles. Barking dogs are among the greatest sources of domestic noise annoyance in the community. A dog need bark only three times at night to give almost constant disturbance to a family next door. How would we detect that? No machine will detect a dog's bark half an hour after it has been emitted. The Hon. Mr. Foster was prepared to abandon all people living on main roads.

The Hon. N. K. Foster: No, I said the opposite.

The Hon. M. B. CAMERON: He said that we should leave that out because we did not have a machine. One bark can be emitted in a shorter time than it takes to emit noise from a motor vehicle. At places in this city, the same vehicle makes similar noises night after night. Further, a motor cycle makes noise every night. If we put in provisions for these things, manufacturers will know that they must conform to noise requirements and perhaps will adopt the selling slogan, "This vehicle is quiet." There is no need for them to do that now. There are really no criteria laid down except the two ears of the policeman who listens to the noise: that is all there is.

I do not see that inability to get a reading is any argument for leaving that clause out of the legislation, because we cannot get a reading on so many other forms of domestic noise. This should be included in the legislation. If it is difficult in the short term to locate the offending people, so be it but let us give it a try; we may reach a stage where we have better means of detection and we shall have as much chance of detecting vehicle noise as domestic noise, because a domestic noise can be almost any sort of domestic disturbance—dogs, children, etc.

The Hon. N. K. FOSTER: Another type of animal noise is that from members opposite, who remind me of cats. I want to put the record straight: I did not say that I had no concern for the multiple highway; rather did I say that it was one of the greatest areas of the noise problem. I went on to qualify that by using the illustration of a motor cycle in the early hours of the morning compared with the rush hour in the evening. I said that the

honourable member's amendment was premature and, since saying that, two speakers opposite have been able to convince us that it is possible to detect people only in isolated circumstances—in the small hours of the morning or people working on a midnight shift. However, most of the noise problem is outside that period of time. If we think that the noise problem is with us only during the hours when people are perhaps attempting to rest in their homes late at night or early in the morning, honourable members opposite should go to the Two Wells school outside the urban area when the semi-trailers are rushing through there. The Hon. Mr. Cameron was unfair to me. I said that we shall catch the unwary odd person but we shall not be able to detect most of the culprits. We shall impose a tremendous burden on those people responsible for apprehending culprits who catch these rather odd people but not the many people who represent the real problem.

The CHAIRMAN: The amendment moved by the Hon. Mr. Laidlaw to clause 16 covers really the one matter.

The Committee divided on the amendment:

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

Pair—Aye—Hon. R. A. Geddes. No—Hon. C. J. Sumner.

Majority of 2 for the Noes.

Amendment thus negatived; clause passed.

Clause 17 passed.

Clause 18—"Excessive noise from domestic premises."

The Hon. D. H. LAIDLAW: I move:

Page 10, lines 12 and 13—Leave out "at a place outside the domestic premises" and insert "at the measurement place".

After line 19—Insert subclause as follows: (2a) For the purposes of subsection (2) of this section "measurement place" in relation to domestic premises means any place outside the domestic premises and within a structure in which any prson resides or is regularly engaged in any remunerative activity.

The Government proposes that the noise emitted from domestic premises can be measured from the boundary fence or some more distant point depending upon the whim of the inspectors appointed under this Bill. My amendment proposes that the noise should be measured from beyond the boundary fence and actually within a structure where a person resides or is regularly engaged in any paid job. I mentioned in my second reading speech that there are about 100 000 wall-type refrigerated or reverse cycle air-conditioners installed in domestic premises in South Australia.

When the noise is measured four metres from the back of an average air-conditioner when it is working on the high setting, it has a decibel reading of 59, while it has a decibel reading of 54 on the low setting. However, the maximum readings proposed by the Government in residential areas under draft regulations are 40 decibels between 11 p.m. and 7 a.m. and 50 decibels for the rest of the day. To reduce the noise at night from 54 decibels to 40 decibels is not simply a reduction of one-quarter, because these measurements are based on a logarithmic scale; in fact, reduction is several times lower.

The manufacturers have developed baffles with polyurethane insulation. When these baffles are fixed between 150 mm and 200 mm from the back of a wall-type air-conditioner, there is a substantial reduction in the noise level. However, the manufacturers to whom I have spoken cannot say whether these baffles will enable air-conditioners to meet the standards set, so that South Australians can continue to operate their air-conditioners on hot summer nights. It depends on the amount of background noise.

This matter will concern mainly the many thousands of occupants of home units and houses in congested and usually lower income suburbs particularly. To reduce the inconvenience but still preserve the Government's aim, I propose that the noise should be measured from within the structure of a nearby residence; normally, this means the complainant's residence, not the boundary fence and not necessarily the nearest residence. At night, a person is inconvenienced where he is sleeping, not at the boundary fence.

The Hon. T. M. CASEY: I am staggered that the honourable member should want to measure the noise level in a person's bedroom. What if a person elects to sleep outside, on the lawn? Is he not entitled to some consideration? The amendment is unsatisfactory because it precludes an individual from enjoying the outside use of his premises. The honourable member wants to lock up an individual in his premises.

The Hon. D. H. Laidlaw: You will close down the Kelvinator factory.

The Hon. T. M. CASEY: We are concerned about the comfort of individuals.

The Hon. D. H. Laidlaw: You may close the Simpson Pope factory, too.

The Hon. T. M. CASEY: What if a person wants to go outside his house? Evidently the honourable member proposes that that person should not be allowed to complain. In other words, the person is not the master of his own premises. The amendment perpetuates the existing selfish attitude of the noise-maker toward his neighbour. My neighbour, a very nice chap, has an air-conditioner, but it does not worry me at all. Most neighbours are tolerant toward each other.

The CHAIRMAN: Would the Minister think it selfish of an individual not to abate his reception of noise?

The Hon. R. C. DeGaris: It depends on where an individual is in his premises.

The Hon. T. M. CASEY: The Leader has not read the amendment. The Hon. Mr. Laidlaw proposes that the measurement be taken inside the house. The Leader has made a mistake, but he is not willing to admit it. I oppose the amendment.

The Hon. R. C. DeGARIS: My interjection related to your comment, Mr. Chairman. The Minister has referred to the right of a person to sleep in his own back yard if he wants to do so, but I point out that a person does not necessarily have to sleep close to his neighbour's air-conditioner; there are other parts of his premises where he can sleep.

The Hon. A. M. WHYTE: The Opposition is saving the Government from an unfortunate situation. If the Bill was allowed to pass unamended, it would create such chaos that it would rebound politically on the Government. Practically all of the noise coming from air-conditioners is emitted outward from the installation. Possibly someone could complain about an air-conditioner at a time when that air-conditioner was providing the only possible relief from summer heat for small children. I should like to see the Minister have to defend some of the complaints he would receive. Although I will vote for the amendment,

it would be to my political advantage if the Minister were stuck with the present legislation and had to defend the position that would result.

The Hon. M. B. DAWKINS: The Minister said that we must consider the individual and the comfort of the persons concerned, but by his opposition to the amendment the Minister precludes many people from using their air-conditioners so that a man can sleep on the lawn underneath his neighbour's air-conditioner. I have never heard so much nonsense in my life. I support the amendment.

The Hon. T. M. CASEY: The honourable member suggests that a man will deliberately go outside his house and sleep under his neighbour's air-conditioner. Opposition members are so uptight about supporting the amendment that they have lost track of the debate altogether. The Hon. Mr. Whyte will support the amendment and referred to a person needing an air-conditioner to cool his children or elderly people in the summer months. If a neighbour of that person cannot afford an air-conditioner, he and his children will be locked in their house in order that a decibel level be obtained. That is what the amendment provides.

The Hon. D. H. Laidlaw: I am trying to save an industry.

The Hon. T. M. CASEY: I am worried about the individual. There are many places in houses and home units where air-conditioners can be more strategically located so that noise does not become a hazard to a neighbour. I believe that neighbours are entitled to complain about noise in the same way as they may complain about a tree on a neighbouring property growing over a fence. Air-conditioners can be placed to cause less annoyance to neighbours. People should be considered before industry in this matter.

The Hon. C. M. Hill: What about people working in industry?

The Hon. T. M. CASEY: I am talking about individuals living in their own houses trying to get a good night's sleep. Honourable members are saying that they do not believe a person should own his own property. The Opposition wants it both ways. From where does the honourable member want to measure the noise?

The Hon. J. C. Burdett: In the house.

The Hon. T. M. CASEY: The honourable member seeks to impose his will on a neighbour. He cares nothing for the neighbour, because he believes that the decibel count should be taken in a neighbour's house, in the bedroom behind closed doors and windows. In fact, the count should be measured from the property boundary in exactly the same way as other measurements are taken.

The Hon. J. C. BURDETT: I support the amendment. The problem of noise amongst neighbours is a direct cause of dispute at present, and it will always be the case. In the past there has been no practical remedy in most cases. In future, through this Bill, there will be a practical remedy, and it would be unfortunate if we created a situation for an outburst of nit-picking complaints. If the Bill passes in its present form that will happen. Neighbours can be mean. The examples used are not silly. One could easily have a case where neighbours have fallen out and a neighbour would stand on his boundary to take a decibel reading to use as a cause of complaint against his neighbour. Therefore, in order to have a legitimate complaint the reading should be taken inside the house but the windows and doors can be open.

The amendment ensures that the inspector goes inside the structure and takes the decibel reading from there. The best balance, on the one hand, of not providing a remedy (which is the position at present) and on the other hand of giving a too heavy-handed remedy (a remedy used for malicious and nit-picking purposes), is through Mr. Laidlaw's amendment.

The Hon. C. J. SUMNER: This legislation has come before Parliament because we have developed a society that relies on mechanisation, technology and the like. Benefits have accrued to society as the result of this development. One of the disadvantages has been noise, and we are now trying to modify the effect of that aspect of industrial advance by introducing legislation that will reduce noise. Another thing that has occurred as a result of this development is I think an obsessive preoccupation with technology. The question of noise and the need for air-conditioners are both matters that have arisen as a result of technology and industrial development and really as a result of people getting out of touch with their environment.

In other words, we have said that it is absolutely necessary in our community to have air-conditioners and we have based a whole industry on what really is an unnecessary industrial technological development. I think that the obsession that we have in this community with air-conditioning has completely distorted our notions about the environment and about what the relationship of the human being to the environment ought to be. How often are air-conditioners needed in our environment? On a very few hot days in the summer. In fact, if there is proper insulation in the house, air-conditioning is not needed to the extent that it is used. When do major power failures in the community occur? At the height of summer when people are using air-conditoners, often unnecessarily.

The Hon. M. B. Cameron: Even the shearers have them.

The Hon. C. J. SUMNER: That may be. It may be that I am perhaps out on my own on this. The point is that we have introduced legislation to control noise, and this is one example of getting out of touch with our environment and not giving sufficient consideration to the result of industrial technology development. Honourable members opposite, to counter the legislation to control noise, are using another argument based on an unnecessary technological development (air conditioners) which really is what I consider to be an absolutely absurd argument. Honourable members opposite do not seem to me to be coming to grips with the real problem. I merely point this out to indicate that the problem is—

The Hon. D. H. Laidlaw: In fact, 170 000 homes in South Australia have air-conditioners.

The Hon. C. J. SUMNER: That may be.

The Hon. C. M. Hill: He says 17 000 people are wrong.

The Hon. C. J. SUMNER: Generally that has been an unnecessary development, an excrescence of the technological society which is not really necessary in most cases. Although I concede that in some cases they are useful, it seems to me that we have become over-reliant on modern aids really to counteract our environment rather than trying to live within it. This debate in a microcosm, I suppose, highlights that quite absurd contradiction.

The Hon. M. B. CAMERON: One can take that argument to absurdity. The Hon. Mr. Sumner has indicated that we are not taking a positive attitude towards it. Are we supposed to move that all air-conditioners be banned? What does he want the Opposition to do? That is what he has indicated.

The Hon. C. J. Sumner: I didn't say that.

The Hon. M. B. CAMERON: You implied it, and that is as good as saying it in this Chamber. I suggest to the

Hon. Mr. Sumner that perhaps he has moved into another field altogether and that is the field of whether or not we should have air-conditioners, but that has nothing to do with noise pollution as such.

The Hon. C. J. Sumner: I know that.

The Hon. M. B. CAMERON: If the honourable member wants to debate what technological advances should not be allowed, I would be willing to debate it at length, and I might even end up agreeing with him on some things. I suggest that he sticks to the Bill.

The CHAIRMAN: I think that the amendments are really only spelling out what is already in the Bill.

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. R. A. Geddes. No—The Hon. J. R. Cornwall.

The CHAIRMAN: There are 9 Ayes and 9 Noes. There being an equality of votes I give my casting vote for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 20—"Evidentiary provisions."

The Hon. D. H. LAIDLAW moved:

Page 11, after line 12—Insert paragraph as follows:
(*cl*) any place is a measurement place;

Amendment carried; clause as amended passed.

Clause 21—"Offences by bodies corporate."

The Hon. D. H. LAIDLAW: I move:

Page 11, lines 21 to 25—Leave out all words in these lines.

In my opinion, this clause is completely vindictive and quite unnecessary. It is a deliberate attack against the executive class of the community. It provides that, where a corporate body is convicted of a noise offence, every manager of the company can also be convicted of the same offence, unless he proves that the offence occurred without his knowledge or consent. The Government wants to be able to fine a company and its managers each up to $5 000 for an offence (and that could be $5 000 each day), unless the manager can prove that he did not know, or objected to, what was taking place.

Large companies would be capable of indemnifying, and would have the financial resources to indemnify, their managers against this provision, but this is clearly an attack against small businesses, because the owners would not be able to stand by and indemnify their managers. I find it utterly disgusting and I oppose the clause.

The Hon. T. M. CASEY: I cannot agree with the honourable member, as I believe that this clause is being included to prevent any member of a company consenting to, conniving, or permitting by neglect the continuation of an excessive noise. The Government is justified in ensuring that everyone acts in the interests of the legislation; this keeps everyone honest. I therefore oppose the amendment.

Clause negatived.

Remaining clauses (22 to 24) and title passed.

Bill read a third time and passed.

PARA DISTRICT HOSPITAL

The PRESIDENT laid on the table the report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence, on Para District Hospital, including Lyell McEwin Hospital Conversion.

[*Sitting suspended from* 5.45 *to* 7.45 *p.m.*]

FORESTRY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from April 13. Page 3375.)

The Hon. B. A. CHATTERTON (Minister of Forests): In closing this debate, I want to refer to some points raised by honourable members. The first is one raised by the Hon. Mr. Hill, who tackled the problem of the increase in timber prices in South Australia. Traditionally, South Australia has always imported much more of its timber than have other States, so we have been more vulnerable to increase in prices of oversea timber than have other States. I mention here some of the other problems that we have indentified with the timber industry in South Australia. We have done some research into this area because the sharp rise in prices of timber products in South Australia has disturbed us considerably.

Figures that are particularly interesting are those for pine timber in South Australia where, from 1971 to 1976, we have seen an increase in the selling price of pine from $113 a cubic metre to $292 a cubic metre—almost a threefold rise. During that same period, the buying price has increased from $79 a cubic metre to $166 a cubic metre. In other words, the margin that merchants have been charging on pine in Adelaide has increased from 43 per cent to 82 per cent of the buying price, and I think this change accounts for a considerable amount of the increase in the index for timber in South Australia.

We also made a comparison and looked at the figures in Melbourne. It was not easy to find those figures for the same period but, as far as we can estimate, the margin in Melbourne for pine has remained at around 48 per cent; it has varied between 38 per cent and 57 per cent but has remained at roughly 48 per cent for that same period. It is interesting to note that in 1971 the selling prices of pine and oregon, the main imported timber, were almost identical. Now, the fact is that the selling price of pine is greater in South Australia than the selling price of oregon, although the wholesale price is slightly lower than that of oregon. It has been interesting to see that the retail margin for oregon over the same period that I discussed earlier has not changed significantly: it has hovered at around 45 per cent, which is similar to the margin for pine in 1971. So this increase in the margin for pine over the past five years is quite disturbing.

The next point I should like to deal with is one raised by the Hon. Mr. DeGaris, that the activities of the Woods and Forests Department should be handled by a commission. A slightly different proposal from this was put up by the Corbett report, which suggested that the sawmilling operations of the department should be handled by a commission. It has been investigated by the Government but has been rejected because, taking the proposal of the Corbett report, it is considered that the integration of forestry, forest management, harvesting, and sawmilling activities was valuable and that the feedback that came from forest harvesting and the sawmilling activities was a useful addition to forest management; and it was thought that it

was better to keep the operations in the department as a whole rather than split them into two. The suggestion put forward by the Hon. Mr. DeGaris was that the operation of the whole department should become the commission's. In this case, of course, considerable problems with the native forest areas that are managed by the department for conservation purposes would arise, and it would be undesirable to split these away from the department because of the obvious economies that occur from the department's being able to manage native forest areas with existing staff and equipment, which would not be the case if the Woods and Forests Department was split into a commercially oriented commission plus native forest areas operated by the Environment and Conservation Department. For these reasons, it was decided it would be better to keep the operations of the Woods and Forests department intact, as they are now.

The first major purpose of the Bill is the abolition of the Forestry Board. This has become Government policy because of the changes that have taken place within the Woods and Forests Department. With the development of the department's own executive of experience and qualified senior managers, and the promotion of people to Assistant Director level, it was thought that the Forestry Board was no longer necessary. The expertise available in the department could easily handle the management of the department without the duplication of the Forestry Board.

The second point involved in the Bill is that the Director should not necessarily have the qualifications of a forester. This is merely a recognition of the fact that over the years the department has grown from being involved solely in forest management to having considerable commercial saw-milling activities. It has seemed unfair that those people who come to senior management levels should be prevented from gaining the most senior position (the position of Director) if they have come from the commercial side of the department. Not only people who have been trained in forestry can have a long-term view of the management of forest resources: people who have come through other sections of the department could have just as long-term a view of the management of forest resources. It should not be the prerogative of foresters alone to have the most senior position in the department. The present Director, who has recently been appointed, is relatively young. So, there are no current changes in the department. Someone with forestry qualifications would certainly be a front runner for the position, but he should not have an absolute lien on the top position in the department.

The third point involved in the Bill is the repeal of the section of the principal Act requiring a certificate from the Director on the availability of timber. It is not very important whether this section is retained or repealed. What the legislation attempted to provide was that the yield from a forest should be only that which can be sustained; that is certainly our policy, and there is no intention to alter it. However, we believe it is more appropriate to have that in general departmental policy, rather than in the legislation. In view of the opposition that has been raised from the Institute of Foresters, I am willing to leave the provision in the legislation.

I am opposed to the contingent notice of motion that this Bill be referred to a Select Committee. This Bill concerns the internal administration of a Government department, and it should therefore not be referred to a Select Committee. In fact, if the Opposition successfully moves that the Bill be referred to a Select Committee, the Government will not have members on that committee; that will make the committee something of a farce. The Select Committee may decide that the Forestry Board should not be abolished. The term of office of the board members expires on June 30, 1978. So, all that will be achieved by such a decision of the Select Committee will be a delaying of the termination of the board in its current form for about 12 months, because at that time the members need not be reappointed, or Government officers could be appointed to the board. I said earlier that the expertise in the department is already capable of running the department. So, the Opposition's tactic would only be a delaying measure and would not defeat the Government's purpose.

Bill read a second time.

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

That this Bill be referred to a Select Committee.

The Hon. B. A. CHATTERTON (Minister of Agriculture): I oppose the motion. This Bill does not seem to be a Select Committee Bill. All that a Select Committee can possibly achieve is a delaying of the moves that the Government wants to achieve in the Woods and Forests Department. We do not intend to take part in the proposed Select Committee. If the Opposition uses its numbers to force the appointment of a Select Committee, that committee will be a complete farce.

The Hon. R. C. DeGARIS: I am sorry that the Minister feels that way. In 1935, a similar position existed, when a Select Committee was formed to examine the whole question of forestry in South Australia. That committee gained Royal Commission status and brought down probably one of the best reports on forestry that this State has seen. It laid the basis for the whole success story of forestry in South Australia over the past 30 or 40 years. I am sorry that the Minister has said that, if the Opposition uses its numbers to force the appointment of a Select Committee, that committee will be a farce. Actually, it may not be a farce, because we are touching on two extremely important matters in connection with the future of forestry in South Australia.

There has been much pressure over the years to get rid of the Forestry Board. The Royal Commission report in 1935 made strong recommendations in regard to continuing the board. The powers of the Conservator have caused much opposition among South Australian foresters. One of the successes of the Woods and Forests Department has been the question of the Conservator's powers. He must give his certificate.

The Hon. B. A. Chatterton: I said I was willing to leave that aspect in the Bill.

The Hon. R. C. DeGARIS: Although the Minister says he will leave that in the Bill, that is only one part of the question. I refer to the future of the board. A Select Committee may come down on the side of the Minister, but I believe there is no case to support abolishing the Forestry Board which, since the 1870's, has done a magnificent job in developing and controlling the forestry industry in South Australia. I ask the Chamber to accept the motion, which is necessary when such a radical change is sought to be made to the whole management of the forestry industry in South Australia.

The Council divided on the motion:

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

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

Pair—Aye—The Hon. R. A. Geddes. No—The Hon. Anne Levy.

The PRESIDENT: There are 9 Ayes and 9 Noes. I give my casting vote for the Ayes.

Motion thus carried.

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

That a Select Committee be appointed consisting of the Hons. J. C. Burdett, M. B. Cameron, M. B. Dawkins, R. C. DeGaris and A. M. Whyte.

The Council divided on the motion:

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

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

The PRESIDENT: There are 9 Ayes and 9 Noes. I do not think that this is the correct procedure to be adopted and, accordingly, I give my vote for the Noes. This means that the Select Committee will have to be selected by ballot.

A ballot having been held, the Hons. J. C. Burdett, M. B. Cameron, C. W. Creedon, R. C. DeGaris, and C. J. Sumner were declared elected.

The Hon. D. H. L. BANFIELD: Can we have the result of the votes cast in the ballot?

The PRESIDENT: There appears to be nothing in the Standing Orders that requires me to announce the actual number of votes that were received by each candidate.

The Hon. F. T. Blevins: That is a shocking omission.

The Hon. C. J. SUMNER: I rise on a point of order. There may be nothing, Sir, that requires you to give the result of the ballot. However, surely the normal democratic principles would mean that, if there is no specific direction, the result of the vote ought to be announced. That is the normal procedure in secret ballots in any organisation. What you are doing, Mr. President—

The PRESIDENT: I am doing nothing at present.

The Hon. C. J. SUMNER: There has been a request for the result of the ballot to be announced. My point of order, and that which the Chief Secretary has also taken, is that the result of the ballot ought to be announced. You, Sir, say that there is no Standing Order which requires you to do so. There may be nothing specific in the Standing Orders and, if that is so, the general principles ought to apply. There is no doubt that the general principles relating to voting in organisations are that the results of ballots are announced with the votes. I strongly submit on that basis that you ought to announce the result of the ballot.

The PRESIDENT: Does any honourable member wish to speak to that?

The Hon N. K. FOSTER: Certainly, Sir, I should like to take up the point. I draw your attention to Standing Order 1, which provides:

In all cases not provided for hereinafter or by Sessional or other Orders, the President shall decide, taking as his guide the rules, forms and usages of the House of Commons of the Parliament of the United Kingdom of Great Britain and Northern Ireland in force from time to time so far as the same can be applied to the proceedings of the Council or any Committee thereof.

I draw your attention, Sir, and that of the Council to that Standing Order, because, without being able to produce such evidence as the Standing Orders of the House of Commons, the House of Lords and the Houses of Parliament of Northern Ireland, I feel more than confident that there is a provision in the Standing Orders of those Parliaments that would certainly cover the situation which now confronts you, Sir, as President of the Council.

The PRESIDENT: I have not had an opportunity, as the honourable member has had, to consult precedents. Whether there is a precedent in this matter, I do not know. However, I am persuaded by the eloquence of the honourable member, and I intend to announce the result of the ballot, as follows: the Hon. Mr. Burdett received eight votes; the Hon. Mr. Cameron, nine votes; the Hon. Mr. Creedon, nine votes; the Hon. Mr. DeGaris, nine votes; and the Hon. Mr. Sumner, eight votes.

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

The Hon. C. J. SUMNER: I wish to raise another point of order. The general principles that relate to ballots are that a person must be nominated. He must then be asked whether he is willing to stand. Generally, he must be seconded and, if he refuses to stand, he takes no part in the ballot as a candidate. I did not ask to be a member of this Select Committee. In fact I was not asked to be a member, and I do not intend to attend its meetings, if for no other reason than that I have made arrangements to travel overseas soon, and I certainly do not intend to alter those arrangements.

The PRESIDENT: That can be dealt with in another way.

The Hon. C. J. SUMNER: I was not nominated or seconded; nor was I asked to participate. I do not want to participate, and I do not intend to do so.

The Hon. N. K. FOSTER: Mr. President—

The PRESIDENT: Will the honourable member sit down for a moment?

The Hon. C. J. SUMNER: Mr. President, the essence of my submission is that the ballot was invalid.

The PRESIDENT: I point out to the honourable member that he can tomorrow move a motion to be discharged from the committee.

The Hon. C. J. SUMNER: My point was somewhat more fundamental than that. How can I possibly be voted on to a committee, in the proceedings of which I do not wish to participate, for which I was not nominated or seconded, and on which I have not been asked my permission to sit?

The Hon. R. C. DeGARIS: As I understand it, there is no need, in the question of the Council's electing people by ballot, whether to a Select Committee, to a Library Committee, or to any other committee, for there to be any nomination or seconder.

The PRESIDENT: That is true.

The Hon. R. C. DeGARIS: The point made by the Hon. Mr. Sumner has no application to what has just happened in the Council.

The Hon. N. K. FOSTER: Having heard what I have just heard, I do not want ever again to listen to any member opposite talk about the way in which trade unions conduct ballots.

The PRESIDENT: I think it is presumed in this place that, all members being present in their seats, they are all available for appointment to a Select Committee.

The Hon. D. H. L. BANFIELD: How do we get that presumption, Mr. President? I understand that, if there is nothing in the Standing Orders to the contrary, the normal procedure relating to elections shall be followed. How, then, do you arrive at that assumption?

The PRESIDENT: That has been the practice in this Council since I have been a member and the Clerks assure me that it has been the practice of the Council for as long as they can remember, and they have been here longer than I.

The Hon. J. A. CARNIE: It is laid down in Standing Order 234, which provides:

The ballot shall be taken in the following manner: a list of the members, initially by the Clerk, shall be handed to each member present, who shall strike out thereon the names of so many members as are required to be elected whom he may think fit and proper to be chosen; and when all the lists are collected, the Clerk, together with two members to be named by the President, shall ascertain and report to the President the names of the required number of members having the greatest number of votes; which members shall be declared to be duly elected.

It is therefore clear in the Standing Orders.

The PRESIDENT: And, as I said earlier, there is a procedure for a member elected, against his wishes, to a committee to have himself discharged.

The Hon. R. C. DeGaris: That's right.

The Hon. D. H. L. Banfield: Except that Standing Order 234 does not provide that a list of all members—

The Hon. J. A. Carnie: It refers to "a list of the members".

The Hon. D. H. L. BANFIELD: The fact remains that they could be nominated members. That is the normal procedure when ballots are being conducted by the Returning Officer for the State. If nothing is laid down in the Standing Orders, it is presumed that the law relating to the election shall be that as followed by the Returning Officer for the State. It does not say that in relation to Standing Order 234.

The Hon. J. A. CARNIE: That is a complete misunderstanding of the Standing Orders. I submit that "a list of the members" referred to in Standing Order 234 means a list of the members of the Council, and not just those who have shown that they want to be elected or who have been nominated.

The PRESIDENT: That is the only list that ever comes out.

The Hon. J. A. CARNIE: Yes, a list of all members.

The Hon. C. J. SUMNER: I do not consider that there is anything inconsistent in what I am proposing and Standing Order 234. Certainly, that Standing Order is not explicit that this must be the procedure to be followed. Surely, it is an absurd situation in which an honourable member who does not wish to participate in a committee—

The Hon. D. H. L. Banfield: And who is unable to.

The Hon. C. J. SUMNER: —and who has not been asked whether he wants to participate, or whether he will be available to do so, is voted on to such a committee.

The Hon. C. M. Hill: Tell us that tomorrow when you ask to be discharged.

The PRESIDENT: Order! I point out that the Standing Order that has been referred to seems to conflict with Standing Order 377, which provides:

Every Select Committee shall, unless it be otherwise ordered, consist of five members to be nominated by the mover; but if any one member so demand they shall be elected by ballot.

So, it does not mean that it is confined only to persons who are nominated.

The Hon. C. J. SUMNER: On that basis, your initial ruling was wrong, Sir, because your vote was exercised on an invalid ground. The reason you gave for your vote against the Hon. Mr. DeGaris's motion was that you thought that the incorrect procedure had been followed. If you, Sir, refer to Standing Order 377, you will see that a Select Committee shall consist of five honourable members to be nominated by the mover but that, if any one member so demands, they shall be elected by ballot.

The PRESIDENT: If the member so demanded, because I think it is quite undemocratic that someone nominates five members and expects those members to be elected on my casting vote. We can be here all night on this, but we have one or two matters in the locker for discussion by the Standing Orders Committee and, if honourable members want to raise this matter later when the Standing Orders Committee meets, I shall be happy for them to do so. However, the suggestion is that the Select Committee has been elected by ballot. There is a procedure clearly available under the Standing Orders for any member who wants to get off the committee to get himself off.

The Hon. N. K. FOSTER: Mr. President —

The Hon. C. M. Hill: What are you wasting time for? We have had the vote. The Hon. Mr. Sumner can ask to be discharged tomorrow.

Members interjecting:

The Hon. M. B. Cameron: It can be sorted out tomorrow.

The Hon. N. K. FOSTER: I refer to the number of abstentions, if any. I did say what I did because I had in mind Standing Order 224 on page 52. Mr. President, you cannot carry every Standing Order in your head, and I request that you announce to the Council the number of abstentions, if any.

The PRESIDENT: That has nothing to do with the position.

The Hon. N. K. FOSTER: It has. Are you going to inform this democratic Chamber in the most democratic way (words that have been used) of the number of abstentions, if any?

Members interjecting:

The PRESIDENT: Order! The honourable member will not solve this problem by getting up and roaring like a bull. Let us look at it sensibly.

The Hon. F. T. BLEVINS: I seek clarification. All that the Opposition can do, with its numbers, is to nominate any member and as many Select Committees as it likes to send out, whether the member be a Minister or anyone else.

The Hon. M. B. Cameron: You have aroused some new forces now!

Members interjecting:

The PRESIDENT: Order! I will read a passage from Erskine May's *Parliamentary Practice*.

The Hon. F. T. BLEVINS: In common courtesy, Mr. President, I was speaking but you were not listening.

The PRESIDENT: I do not know what the honourable member was saying. Erskine May states:

A member cannot relieve himself from his obligation as a member—

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

The PRESIDENT: This is the latest edition. Erskine May states:

A member cannot relieve himself from his obligation as a member to obey the commands of the House by declining to serve on a committee. Members originally nominated to serve on committees may, however, be discharged

from further attendance, and members may be added to committees in the room of members who have been so discharged—

I am reading from Erskine May on the practice of the House of Commons—

A motion for the discharge of a member from further attendance on, or for the addition of a member to, a committee (whether in substitution for one of the original members or otherwise) requires notice.

That is exactly where our Standing Orders are founded inasmuch as the member so elected can be discharged from this committee by motion of which notice has been given. If any other honourable member wishes to be discharged, he can give notice to that effect, and we will deal with it the next day.

The Hon. C. J. SUMNER: If the Opposition uses its numbers to insist that I serve on the committee, does that mean that I must serve? Does it mean I cannot take leave of the committee and travel overseas?

The PRESIDENT: Order! The Hon. Mr. Foster.

The Hon. N. K. FOSTER: A battle half fought is never won, and I suppose many well-fought battles are never won; but, with all due respect to the Chair and what you said about the requests made, Mr. President, it was stated clearly in this Council who supported whom because of the numbers. It has been stated in this Council. If I may, with your concurrence, answer an interruption, you did announce the names of the people in the ballot and the number of votes they received.

The PRESIDENT: I announced the names of the persons who received the highest number of votes.

The Hon. N. K. FOSTER: Yes, and the number of votes. I can see that perhaps you want to deny the Council knowledge of the abstentions, if any, from voting for any particular candidate who was voted for as standing for this committee. If there were abstentions and if some members had unmarked ballot papers, how many were there, if any, and how many informal votes were there? However, you may think that that may reveal who voted for the committee; it is an unfortunate experience for this Council. If I may transgress for a short time, I heard two names bandied about quickly on the other side as to what you would do with an unnominated member of this Chamber, because members opposite thought we might be doing something on this side. We should have knowledge of that. Where would the rest of the votes go if you say that was not true? I do not know.

The Hon. A. M. WHYTE: Mr. President, you were elected to preside over this Chamber and, although I presume that Standing Orders are a part of that direction we should follow as far as possible, any decision you make from that Chair should be abided by until a vote of no confidence deprives you of that privilege of presiding over this Chamber. We are going on with a lot of humbug that would be better discussed in the corridors, and I ask you to make a ruling on this matter.

The PRESIDENT: I do not need to, because the Select Committee has been elected by proper process, and the names stand unless they are discharged. The Clerk has drawn my attention, and I draw honourable members' attention, to the fact that I said a member can be discharged by motion. I point out, too, that any member who wishes to be discharged can move now that Standing Orders be so far suspended as to enable him to move a motion without notice.

The Hon. N. K. Foster: What about my question? Enough of your ruling—what about the abstentions?

The PRESIDENT: Order! We will proceed with the next item of business.

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

That the committee have power to send for persons, papers and records, and to adjoin from place to place; the committee to sit during the recess and report on the first day of the next sitting.

Motion carried.

STATE GOVERNMENT INSURANCE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from April 14. Page 3437.)

The Hon. R. C. DeGARIS (Leader of the Opposition): Whenever the Government introduces legislation directly affecting certain people engaged in certain trades or professions, its chief spokesman, the Premier, engages in a process of personal denigration of the people in those trades and professions and of the trades and professions themselves. Clearly, this political paranoia was seen in the introduction some years ago of the Land and Business Agents Bill and the Bill to apply restrictions upon the use of land brokers in South Australia. It was seen again in his vitriolic attack on the medical profession about 12 months ago, when a Bill dealing with the professions was before Parliament.

We have seen it again recently in relation to the life assurance industry. With his highly skilled media and public relations unit, using taxpayers' money, the Premier had all the trump cards for this sort of campaign, this sort of denigration of people, when a Bill was about to proceed. In other words, he had the trump cards in producing the situation where people and professions could be denigrated; all the power lies with the Premier and his media unit. I asked a question recently about whether the Government would provide the same amount of money for a publicity campaign to defend those people who had been so strongly attacked by the Premier (and I emphasise, with the use of taxpayers' funds) but so far I have not received a reply, nor do I think for one moment that I will get one.

The only come-back that these people have had has been a reply for five minutes on channels 7, 9 and 10, financed by the employees of the life assurance industry. They have used their own money and their own limited knowledge and experience in producing such a programme. I raise this matter at the beginning of this debate because, to use a term so often used by members in this Council, it is a rip-off of taxpayers' funds, purely for Party-political purposes. The Government has gone to extraordinary lengths to show any person involved in the life assurance industry in the worst possible light in the public eye. A report in the *Advertiser* of April 1, headed "Campaign over S.G.I.C. dishonest—Premier", states:

The Life Offices Association of Australia had sunk to an extraordinary degree of dishonesty, the Premier (Mr. Dunstan) told the Assembly yesterday.

The report goes on with a vitriolic attack on the industry and what it stands for. In that attack on the life assurance industry, what did the Premier say? I will quote some of his substantive statements, as follows:

The S.G.I.C. plans to enter life insurance business, marketing its policies in a revolutionary manner.

It will be surprising if a new office, with no experience, can pioneer a selling method that has already been rejected by the industry world-wide. I refer here to the Premier's statement that S.G.I.C. would sell life assurance over the

counter. Anyone who knows anything about the life assurance industry and thinks over-the-counter sales will be a means of selling life assurance, which requires a highly skilled sales force, has another think coming. The Premier also stated:

A working party established in August, 1976, strongly recommended the move.

The working party held about seven meetings and sat over a period of a few months. It was characterised by many assertions and prejudices. Only one member of the party had any actuarial experience, and then it was extremely limited experience in the insurance industry. The Premier also stated:

S.G.I.C. will offer life insurance at much more competitive rates than the life offices can offer at present.

Does anyone believe that a Government-run insurance office can charge cheaper rates for life assurance than are charged by an existing company? No study of the working party's report can give credence to this statement. It is more in the nature of a hoax. The Premier also stated:

Policies will be sold by salaried staff rather than by commissioned agents.

Life assurance can be sold only by incentive, and salaried staff would have no such incentive. The agents are paid by results. It is likely that many salaried staff would be paid for nothing. In the long run, this would be much more expensive than payment by results. Then, there are the questions of long service leave, annual leave, and superannuation, to be considered regarding salaried staff. The Premier makes a statement about these highly-paid people selling life assurance on commission, when the average salary of a life assurance salesman in South Australia is about $12 000 or $14 000 a year, without allowing for long service leave, annual leave, a motor car, and superannuation.

The Hon. J. E. Dunford: They are being exploited.

The Hon. R. C. DeGARIS: They are not. That is the average income of life assurance salesmen in South Australia. The Premier also stated:

The economics of the life assurance industry are lamentable.

On what evidence did the Premier make that scurrilous attack on the life assurance industry in South Australia? He had no figure to back up the statement. It is a $10 000 000 000 industry that cannot be blatantly dismissed in a throw-away statement that the economics of the life assurance industry are lamentable. The Premier also stated:

More even spread of portfolio, increased profitability, complete services and the most effective use of human and financial resources would be achieved.

This statement implied that the people who bought life assurance policies would be subsidising other types of insurance, and I will deal with that matter later. If particular types of insurance are worthy of subsidy then every taxpayer should have the privilege of contributing.

The Hon. J. E. Dunford: What about comprehensive insurance?

The Hon. R. C. DeGARIS: The average comprehensive insurance premium for a $20 000 truck with S.G.I.C. is $3 660, and for three other companies the premium is $400 less. So, let us not talk about lower premiums from the State Government Insurance Commission.

The Hon. J. E. Dunford: What about third party motor insurance?

The Hon. R. C. DeGARIS: I will deal with that later.

The Hon. J. E. Dunford: People must ensure that they are paid. So, I am not referring to fly-by-night companies.

The Hon. R. C. DeGARIS: I ask the honourable member to tell me of someone who was not paid and who was insured with a commercial insurer. Has there been anyone who has not been paid? The Premier has said that the State Government Insurance Commission invests all its premium income in South Australia, in contrast with the life offices, which generate more than 9 per cent of their premium income in South Australia but, according to the Premier, invest less than half of it here—about 4 per cent. Yet the Premier accuses the life offices of being dishonest! There has never been a more dishonest statement about life offices than his statement. The figure of 4 per cent really refers to the proportion of life offices freehold and leasehold held in South Australia. This is a special case, which partly reflects the view of the Adelaide City Council in limiting building activity in the city. Actually, South Australia accounted for more than 9 per cent of the national increase in this item between 1973 and 1974. The Premier quoted only one year—1972. He did not quote 1973, 1974, 1975 or 1976, when the figures were entirely different. Further, the figure of 9 per cent that he quoted is really 8·2 per cent. The Premier said that 100 per cent of the premium income of the State Government Insurance Commission will be used in South Australia, but it is unrealistic to say this and also aim for commercial investment returns. The Premier also said that the State Government Insurance Commission had had the most spectacular growth of any insurance business in Australia. This is only to be expected when an organisation starts from scratch and is backed by a Government guarantee and a virtual monopoly of third party compulsory insurance. A commercial organisation with the same sort of background could arguably have done just as well, if not better.

The Premier says that the State Government Insurance Commission recorded its first operating profit within only five years, but I point out that the commission is still making underwriting losses and has not spelt out completely all of its costing. The Premier has claimed that the profitability of the State Government Insurance Commission will be greatly improved by its offering life assurance. I will deal with that later. The Premier has said that Government insurance organisations in New South Wales and Queensland already offer life assurance. I intend to examine the life office work in those States.

Here we have a Premier who has made statements about the South Australian life offices that are demonstrably false in most of the things he said, yet he accuses the existing life industry of dishonesty. The Premier, with his control of an expensive media unit financed by the taxpayers, has the trump card in his hand. Its use in Party-political campaigning is a rip-off of taxpayers' funds. The Government has gone to extraordinary lengths in this Bill to ensure that it fulfils the qualifications of section 41 of the Constitution Act. Indeed, the Government has gone to such extraordinary lengths that it is almost humorous. Section 41 of the Constitution Act provides:

(1) Whenever—

(*a*) any Bill has been passed by the House of Assembly during any session of Parliament; and

(*b*) the same Bill or a similar Bill with substantially the same objects and having the same title has been passed by the House of Assembly during the next ensuing Parliament; and

(*c*) a general election of the House of Assembly has taken place between the two Parliaments; and

(*d*) the second and third readings of the Bill were passed in the second instance by an absolute majority of the whole number of members of the House of Assembly; and

(e) both such Bills have been rejected by the Legislative Council or failed to become law in consequence of any amendments made therein by the Legislative Council,

it shall be lawful for but not obligatory upon the Governor within six months after the last rejection or failure—

I intend to give the history of this Bill. The 1973 Bill included two matters, the first being to allow the State Government Insurance Commission to operate in the life field, thereby enlarging its franchise. The second matter was the widening of the investment field on the approval of the Treasurer. In October, 1974, the Government reintroduced the investment clause as a separate Bill, which passed. To ensure that this Bill fulfils the qualifications required under section 41 of the Constitution Act, the Government is including in the Bill an amendment to the principal Act which does nothing. I have already referred to the two matters included in the 1973 Bill. We took out the clause dealing with life assurance, but the Government did not accept that, and the Bill lapsed. Six months later the Government introduced a Bill dealing with the investment clause alone, and that Bill passed. Now, this Bill contains two matters; one part concerns investment clauses which are already on the Statute Books. So, half of the Bill is a zombie. It does nothing at all, because it is already law in relation to a Bill that passed in October, 1974. On that score, I am doubtful whether the Bill fulfils the qualifications of section 41.

The Hon. J. R. Cornwall: Have you a qualified legal opinion on that?

The Hon. R. C. DeGARIS: Yes.

The Hon. D. H. L. Banfield: What was it?

The Hon. R. C. DeGARIS: I do not intend to inform the Minister. Let us suppose this Council rejected the clause already on the Statute Book and sent it back to the House of Assembly, and let us suppose the Government refused to accept that amendment. Would this Bill then be a double dissolution Bill? I believe that the Government has made a mistake. There is doubt whether this Bill satisfies section 41. In its cunning way to try to produce a double dissolution Bill, the Government may have tripped itself a little. I emphasise that point. If this Council took out by amendment that part of the Bill that is already on the Statute Book and the Government refused to accept the amendment in another place, would this Bill constitute a double dissolution Bill? The Constitution Act does not preclude this Council from defeating or amending the Bill, because it fulfils the qualifications of section 41, nor does amendment or defeat force the Government to an election.

The only way that this Council can force the Government to an election is by withdrawal of Supply or by defeat of the Budget. As I have repeatedly pointed out, that has never been done by this Council, although I believe it should have that power if it appears that any Government elected on a wave of emotion starts indulging in practices that result in a demand for its removal from office.

This Council has never forced a Government to the people by the withdrawal of Supply or by the defeat of the Budget. The last time we amended a Bill such as this was, I think, the Constitution Act Amendment Bill of 1973, when the Premier stated, "The Legislative Council is going to force me to go to the people." The Premier likes to portray that but, in fact, that is not the truth. For any double dissolution Bill, the decision to go to the Governor to ask for an election (if the Bill fulfils the qualifications of section 41) can be made only by the Government and the Premier himself.

We cannot force the Government to the people if we amend or defeat this Bill. In such circumstances, any action taken by this Council is not forcing the Government to the people. Doubtless the Premier will try to get the message over through his massive publicity unit that this Council is forcing him to the people, but that is not the position.

The Hon. J. R. Cornwall: You're misrepresenting the position.

The Hon. R. C. DeGARIS: I am not misrepresenting it at all. What I have stated is fact. When the 1973 Bill was introduced a certain gentleman on television tried to force me to say we were forcing the Government to the people. This Chamber can force a Government to the people only by the withdrawal of Supply. There is no other way. There is no pressure on the Government to go to the people if a Bill, which is a double dissolution Bill satisfying all the requirements of section 41, is amended by this Council and is refused by the Government. This Council cannot force the Government to the people on this issue: only the Government can make that decision. I ask any honourable member opposite to deny that what I am saying is the truth.

The Hon. J. R. Cornwall: You're not speaking like a reasonable man.

The Hon. R. C. DeGARIS: I would not expect the honourable member to be a reasonable man. The next question that must be answered is whether or not the Government has a mandate to introduce this Bill. The answer to that question is always difficult to determine but in regard to a mandate, I refer to the factual history of the matter. The first Bill regarding the S.G.I.C. was introduced in 1967, following the 1965 policy speech by the late Frank Walsh. In that policy speech he stated that the Government would introduce a Bill to establish the S.G.I.C. in the two franchise areas of workmen's compensation and third party compulsory insurance.

When that Bill was introduced in 1967 it covered full franchise of all forms of insurance in South Australia, including life assurance. In my opinion, this Council rightly amended that Bill to cover only the two areas mentioned in the policy speech, workmen's compensation and third party compulsory insurance. Another place refused to accept those amendments and the Bill lapsed. On August 5, 1970, the Premier (Hon. D. A. Dunstan), introducing a Bill for the S.G.I.C. (*Hansard* pages 527 and 528), stated:

The only reason why originally we had included life insurance was that it was considered that there was an advantage in some policy areas of having people, who were insuring with the Government insurance office, able to take up life insurance in the same office but, frankly, those advantages were minimal as against the difficulty that we would face in being able to compete adequately with the terms of life insurance offered by the larger offices. In consequence, we decided that there were advantages in excluding life insurance, and we have no intention of altering that view.

In a short time the Australian Labor Party Government changed its mind and again presented a Bill granting a franchise for life assurance to the S.G.I.C., in 1973. Once again that Bill lapsed because of an amendment moved in this Council, and I have already dealt with the nature of that Bill.

In 1975, at the time of the last election, no mention whatever was made in the Government's policy speech of its intention to reintroduce life assurance. The Government has blown hot and cold. In 1965 workmen's compensation and third party compulsory insurance were

referred to; in 1970 there was a franchise but not life assurance, and no intention to introduce it; in 1974 life assurance was on again, but off again in 1975; and now, in 1977, it is back on again.

From that history, honourable members can make up their own minds about whether or not the Government has a mandate to introduce this Bill. Whether one likes it or not, one must say that there is doubt. One can say that the Government has vacillated on this subject. Not that I am worried about the question of a mandate, although that aspect must be examined when dealing with such a Bill as this.

The next question is whether or not there is a case for the Government to be involved in writing life assurance. My answer to that question is that there is no logic for such involvement. The only case that can be made for its support and for Government intrusion into this field is along political/philosophical lines saying, "The Government should be involved because it is my political belief; the Government should be involved because I believe that it should be involved in everything." That is the only justification in logic that one can find for this move.

I should like to examine briefly the nature of life assurance. A person may pay a premium on his life or for a term. The organisation, society or company collecting that premium invests that premium income to the best advantage of the policy-holder. The policy-holder, if he takes a policy carrying bonuses, receives the benefit of the investment plus the cover on his life, with a sum payable if death occurs. That in a nutshell is the nature of the life assurance industry. In South Australia there are over 40 societies and companies that operate in the life assurance field providing a skilled service to the people of this State.

The Hon. J. R. Cornwall: The return on investment has been notoriously low.

The Hon. R. C. DeGARIS: It has been notoriously lower with the S.G.I.C.'s in Queensland and New South Wales.

The Hon. B. A. Chatterton: Can you give the figures?

The Hon. R. C. DeGARIS: I am quite prepared to give the figures on the operation of the S.G.I.C.'s in Queensland and New South Wales. The honourable member will find those figures, if I do not repeat them, in *Hansard* in the debates in 1970 and 1974. He can find them there if I overlook them in this particular debate. They are already recorded in *Hansard*. There is good reason why those policies are not as good as the societies': 90 per cent of the life assurance business is in the hands of co-operatives or mutual societies, and if a close examination is made it will be found that 99 per cent of the premiums paid in South Australia are on a mutual basis; that is, that the investments made are for the benefit of the policy-holders. I go back to the statement made by the Premier in the *Advertiser* on April 1, where he talks about increased profitability for the S.G.I.C. by entering the life assurance field, when 99 per cent of the premiums paid at the present time are on a mutual basis, non-profit, and the investments made by the societies and companies are for the benefit of the policy-holder alone. The societies already existing provide a service and also provide a significant part of the financial lifeblood of the private sector and, by Statute, the public sector.

A total of 30 per cent of premium income must by Federal law be invested in the public sector; 20 per cent in Commonwealth loans, which come back to the States (or a large part of the Commonwealth loans come back to the States), and 10 per cent by Federal Statute must be invested in Government or semi-government activities. The life societies at the present time are providing not only a significant part of the financial lifeblood of the private sector but also substantial amounts to the public sector.

If the Government enters the S.G.I.C. in the life assurance field, unless it is directed by legislation, it means that the public sector will be drawing off more than 30 per cent of the life assurance premiums. Logically I ask myself what advantage there is in this proposal to the people of this State. What advantage is there to the community as a whole? Will the Government operation provide a service that is not already provided for the community? What case is there for the Government to seek Parliamentary approval to operate in the highly skilled, almost totally non-profit, co-operative enterprise—

The Hon. J. E. Dunford: Give us the proof.

The Hon. R. C. DeGARIS: I can give you the proof. One sees that 90 per cent of the premiums are paid to mutual societies, and the other 10 per cent is paid on a mutual basis to companies that have a very small shareholding; 99 per cent of the premiums paid in South Australia are handled on a totally mutual non-profit basis. What case is there for the Government to seek Parliamentary approval to operate in this highly skilled, almost totally non-profit, co-operative enterprise, that has played, and is continuing to play, an important role in the community?

In a previous debate Ministers in both Houses have replied by saying, "All you want to do is keep the Government out of a profitable area of insurance." That is a claim made concerning the argument I am putting. I would look at what the Hon. Mr. Creedon said at page 2334 of *Hansard* in 1974, namely, "Life assurance is obviously an increasing and profitable business." Therefore, the Government, with its sticky fingers, wants to get in on the profitability it sees. On page 2338 in 1974—

The Hon. J. E. Dunford: We want more competition.

The Hon. R. C. DeGARIS: The honourable member talks about competition. You have competition in the field.

The Hon. J. E. Dunford: Not in life assurance.

The Hon. R. C. DeGARIS: You have it in the field of life assurance, and one private company that has a small section of the market and almost totally all mutual companies with small shareholdings have about 9 per cent of the market and totally mutual societies have about 90 per cent of the market. What is the Government talking about? I refer to what the Hon. Sir Arthur Rymill said in 1974 at page 2338 of *Hansard*—

The Hon. J. R. Cornwall: He didn't have any vested interest!

The Hon. R. C. DeGARIS: Of course he did not.

The Hon. J. E. Dunford: Does he get any money for being a director?

The Hon. R. C. DeGARIS: Do you get any money for being a member of Parliament? Any person who gives his expertise to someone whether it be a co-operative, a mutual society, trade union or Parliament is paid for his service.

The Hon. J. E. Dunford: How much does he get?

The Hon. R. C. DeGARIS: I have no idea what he gets. It would not be anywhere near the salary received by the Hon. Mr. Dunford in this place.

The Hon. J. R. Cornwall: Do they ask their policy-holders to go to their annual general meeting?

The Hon. R. C. DeGARIS: Of course they do. I will be coming to that. If the Hon. Mr. Cornwall will contain himself for a moment I will come to that question. Sir Arthur Rymill said at page 2338 of *Hansard* in 1974:

I then dealt in 1970 with this question, because life insurance came into that argument, although life insurance was not contemplated by the legislation. In my second reading speech I said:

> The Hon. Mr. Casey, by interjection, implied, as I thought, that the Government considered that it might make some profit out of its insurance venture.

The Hon. Mr. DeGaris then interjected and said:

> He suggested that the Government was looking for a profit out of it.

I then said:

> Yes. Fortunately, most of our large insurance companies are mutual companies—

I was referring, of course, to life companies—

> and, therefore, if there are many profits, they all go to the policy-holders; in other words, the policy-holders are the people who receive any advantages that the directors or management of a company may be able to create for them. As far as life insurance is concerned, I cannot see that any Government office could possibly do any better for the people than the mutual companies do. In fact, with all their expertise, one would expect that mutual companies could do better than a newly-formed Government office could do.

If the Government is looking for a profit, which apparently it is, let me say that the mutual companies do not look for profits except for their policy-holders. All their profits go back to the policy-holders by way of bonuses, and so on. How could a Government life office give any benefit to the ordinary citizen that the mutual companies are not already giving? Indeed, if a Government office was seeking to make a profit, it could not give the same benefits.

That sums up the whole situation in a nutshell. If the Government's motive in entering the life field is the profit that it expects to make, clearly there is absolutely no case on those grounds, because already there are available remarkably efficient and skilled mutual non-profit societies for the use of people. If profit is the motive, as outlined by the Premier, the Hon. Mr. Casey and the Hon. Mr. Creedon, the Government has absolutely no case for entering this field. If better service is the Government's reason, once again it has no case. Regarding all the talk about the Premier's intention to reduce premiums and using over-the-counter sales, can one imagine a clerk in the State Government Insurance Commission's office talking to someone who comes in to speak about the private details of what he and his family want in relation to insurance?

Compare that situation with that obtaining in relation to the private insurance force in one's own home; the situation is ridiculous. Over-the-counter sales do not exist in this State. I do not think that over-the-counter sales can be a success; this has been shown right around the world. The idea of over-the-counter sales shows a total lack of understanding of the real nature of life assurance. The undertaking given here is about as reliable as all the undertakings given by the S.G.I.C. when the original Bill went through the Council. I will deal with some of those undertakings shortly.

Since beginning operations in 1970, the S.G.I.C. has now achieved a monopoly in third party compulsory insurance, the last of the private insurers having relinquished business in this area in 1973. Some time ago, the Hon. Mr. Dunford interjected on this matter of third party insurance. I should like to make the following comments regarding such insurance. The rates for third party insurance have been fixed for many years by a Government-appointed committee, and over that period third party insurance has shown a substantial loss factor for the companies that have been involved in it. For example, in 1973-74, for every $1 paid in premiums $1·22 was paid out in claims; in 1974-75, for every $1 paid in premiums $1·29 was paid out in claims; and in 1976-77 $1·56 was paid out in claims for every $1 paid in premiums.

The Hon. D. H. L. Banfield: Didn't Sir Arthur Rymill want to limit the S.G.I.C. only to providing policies on third party and workmen's compensation insurance?

The Hon. R. C. DeGARIS: We all did. So did Mr. Frank Walsh.

The Hon. D. H. L. Banfield: That's not true, you know.

The Hon. R. C. DeGARIS: It is. He went to the people in 1965 and said "I want to operate in two fields: third party and workmen's compensation." I refer the Chief Secretary to Mr. Walsh's policy speech.

The Hon. D. H. L. Banfield: When Sir Arthur wanted to confine it to that, Frank Walsh didn't.

The Hon. R. C. DeGARIS: For years, the Government committee controlled the premium and forced the private sector to accept a loss factor in relation to third party insurance.

The Hon. D. H. L. Banfield: Who were the representatives on that committee?

The Hon. R. C. DeGARIS: I do not know who they were.

The Hon. D. H. L. Banfield: Yes, you do.

The Hon. R. C. DeGARIS: I do not; I have no idea.

The Hon. D. H. L. Banfield: Well, why say that it was a Government committee?

The Hon. R. C. DeGARIS: I said that it was a Government-appointed committee.

The Hon. D. H. L. Banfield: With representatives of outside bodies. Do you agree with that?

The Hon. R. C. DeGARIS: It does not matter. I am merely saying that a Government-appointed committee controlled third party premiums in this State. One has only to look at the Federal Commissioner's report to see that.

The Hon. J. E. Dunford: Don't tell us what to look at. You should be giving us the facts.

The Hon. R. C. DeGARIS: I am giving the facts, as detailed in the Federal Commissioner's report, which is now in the library, and at which honourable members can look. However, since 1973, when the Government achieved a monopoly, third party insurance rates in South Australia have increased. This has happened because third party premiums were kept down to a ridiculously low level. But what has happened since? In 1973, an ordinary six-cylinder motor vehicle attracted a premium of $28. Today the premium is $89, an increase of 200 per cent.

The Hon. D. H. L. Banfield: Are you saying that Mr. Justice Sangster and the R.A.A. representative on the committee are crook?

The Hon. R. C. DeGARIS: I am not saying that at all. I am establishing the facts of the case. Since 1973, when the Government achieved a monopoly, third party insurance rates have gone from $28 to $89. That is all that I am putting at this stage.

The Hon. D. H. L. Banfield: Would you also tell the Council that those premiums are set by an outside committee, the Chairman of which is Mr. Justice Sangster and the members of which compromise representatives of the Royal Automobile Association and the insurance companies?

The Hon. R. C. DeGARIS: Yes, but can the Chief Secretary convince me that, since 1973, when the consumer price index has moved by about 50 per cent or 60 per cent, there has not been a movement of over 200 per cent in third party premiums? That is the question. The

c.p.i. increase from 1973 until now has been about 60 per cent, yet third party insurance on motor vehicles has increased over 200 per cent.

The Hon. D. H. L. Banfield: What about the cost of repairing a motor vehicle?

The Hon. R. C. DeGARIS: Is the Minister saying that the cost of repairing a motor vehicle has gone up about four times more quickly than the c.p.i. figures?

The Hon. D. H. L. Banfield: That's right.

The Hon. R. C. DeGARIS: That is remarkable.

The Hon. D. H. L. Banfield: Mr. Justice Sangster and the R.A.A. representative seem to believe that that is so.

The Hon. R. C. DeGARIS: In relation to third party insurance, we must realise that the Registrar of Motor Vehicles does most of the work for the S.G.I.C., which issues no policies. The commission does not issue a policy, as the private sector has to do, for third party insurance. The cost saving in not issuing a policy to about 400 000 motorists must be a tremendous one. The commission's costs in relation to third party insurance are minimal, and about 90 per cent of the commission's business is in motor vehicle insurance. Now that a monopoly has been achieved in third party insurance, rates have escalated at a remarkable rate. I do not think any honourable member in the Council would deny that.

At the same time, I add that where the Government compels people to insure, in an area such as third party where the Government has a committee that controls premiums, and where one cheque can be paid to the Registrar of Motor Vehicles and compulsory third party insurance, an argument can be put that the Government should operate in that area of insurance. I do not deny that. However, it is wrong when Government committees force the private sector or one section of the insuring public to insure compulsorily, or when they force people to carry a loss factor, making the private sector charge more for its insurance in order to balance that loss factor. There is no reason why that should happen.

At the same time, however, the Council should be aware that, since the monopoly has been achieved, the escalation of cost to the motorist has been extensive. On March 7, 1973, the committee determined $28 as the premium for a private vehicle in district "B". On March 20, 1974, that became $45; on December 1, 1974, the premium became $58; on November 4, 1975, the premium became $71; and I have been told that it is now $89.

When the Bill establishing the State Government Insurance Commission passed this Council, certain firm undertakings and promises were given to the Council as to how the S.G.I.C. would operate. These firm undertakings by the Government have not been honoured. At that time, if honourable members remember, there were a number of amendments on file detailing how the S.G.I.C. would operate in competition. It was found very difficult to draft those amendments. The Council took the word of the Chief Secretary (Hon. Mr. Shard) at that time as to how the S.G.I.C. would operate. I know it can be said that undertakings given in the Council are not binding on the Government, but it was not possible to build those undertakings into the legislation effectively. However, the fact remains that those undertakings were given and have not been honoured.

I intend to refer in particular to each of those undertakings. In the Legislative Council on September 16, 1970, there was shown to be a number of amendments on file which were not ultimately insisted on as a result of the good faith of a promise given by the then Chief Secretary (Hon. A. J. Shard) who told the Council that, although the amendments would not be written into the Act, they would be agreed to in principle by the Government. I refer to page 1733 and onwards of *Hansard* of October 14, 1970, and in particular to the second paragraph at the bottom of page 1737, where Mr. Shard made categorical statements on various points that were raised. However, unfair and devious practices, which the ill-fated amendments sought to curb, but which have been introduced one by one in breach of the firm undertaking and promises referred to on those pages of *Hansard,* I set out for the Council here and now.

First, there is the Government Printer. We were told that the Government would not make use of any Government department but would pay normal private rates for what is obtained from any Government department. I have been informed on the best authority that the Government Printer in competition with free enterprise printers has submitted quotes for S.G.I.C. printing which are so inordinately low as to represent nothing more than the Printing Department subsidising the S.G.I.C.

Then the Savings Bank of South Australia and the S.G.I.C. The S.G.I.C. and the Savings Bank of South Australia entered into an exclusive dealing arrangement, whereby a huge volume of insurance of borrowers from the bank was lost by free enterprise insurers to the S.G.I.C. This has been the subject of questions in Parliament but the practice persists with the S.G.I.C. probably relying upon Crown immunity from the provisions of the trade practices legislation. It is interesting to view with hindsight Mr. Shard's comments at the foot of column 1 of page 1733 of *Hansard* that to curb the S.G.I.C. from exclusive dealing would be to put it in a position inferior to free enterprise companies. The point can now well be made that failure to curb them has resulted in their being in a superior position. Free enterprise insurers can claim no immunity from the Federal legislation.

Then exemption from sales tax. Mr. Shard in the second paragraph of column 2 of page 1733 said that the S.G.I.C. being a trading concern would not ordinarily qualify for exemption from sales tax. If he truly believed that he was ill advised because on 8/8/74, *Hansard,* page 357, the Hon. T. M. Casey, admitted that the S.G.I.C. had in fact been exempted from sales tax and said that he could see no reason why it should not take advantage of this right. Patently Mr. Casey felt no qualms of conscience about Mr. Shard's promise in 1970. In this era of costly computers and other equipment sales tax has become more than ever an expense to be reckoned with and the disadvantage of having to compete with somebody who does not have to pay it is even greater now than it was in 1970.

I come now to recreation and sport. The S.G.I.C. in concert with the Department of Tourism, Recreation and Sport attempted to corner a section of the personal accident insurance market by a scheme involving the department's subsidising 50 per cent of the premiums of volunteer workers. This scheme was the subject of questions asked by Dr. Tonkin in the House of Assembly (see *Hansard,* page 647, of August 17, 1976). With the Country Fires Board, the same sort of thing was involved: the Government had a monopoly with the fire-fighters of South Australia.

Finally, I come to the Royal Adelaide Hospital. Already I have directed questions to the Chief Secretary asking for the amount of money that the Royal Adelaide Hospital would have collected if it had sent the full bills to the S.G.I.C. Here we have a Government hospital giving direct discounting—allowing the S.G.I.C. a 20 per cent discount off accounts. This follows the firm undertaking

given on page 1735 of *Hansard* by Mr. Shard who, I believe, was an honest man. He gave that undertaking that on all occasions the S.G.I.C. would compete equally with the private sector. I cannot get figures out of the Government but I have already calculated a tax subsidy going to the S.G.I.C. amounting to $2 000 000 a year. This follows the promises made when this Council withdrew its amendments in 1970 on the undertaking given in this Council by the Government, and those undertakings have not been honoured. In my opinion, the Government has allowed practices—indeed it can be said, encouraged practices—that not only do not abide by its undertakings, but fly in the face of existing trade practice law.

I refer of course to Government and semi-government lending institutions, which require, as a prerequisite to a loan being granted, that the borrower insures with S.G.I.C.! I suppose if I described this policy as financial blackmail, the Government members would object strongly, but it is a fair description of the tactic. Also, I directed a question to the Chief Secretary, which was not satisfactorily answered, on the actual amount of money involved in the rebate of 20 per cent on third party claims, given by all Government controlled hospitals.

Without accurate figures, in my opinion, the amount of hidden taxpayer subsidy to S.G.I.C. is probably $2 000 000 per annum if one takes into account the work done for the S.G.I.C. by the Registrar of Motor Vehicles, the 20 per cent rebate from Government hospitals, the use of the Auditor-General's Department for audit purposes, the printing costs from the Government Printer, and the saving in sales tax. Add to this what I describe as blackmail tactics of Government and semi-government lending institutions and one may well understand the suspicion that arises with the operation in this State of S.G.I.C. Neither is the S.G.I.C. controlled by the Federal Insurance Act, and it does not come under the scrutiny of the Federal Insurance Commissioner.

I have here references to various sections of that Act which directly apply (there are about seven or eight pages of them) dealing with the Federal Insurance Act and it details the rules and ethics that apply to the insurance industry. I seek leave to have this inserted in *Hansard* without my reading it.

Leave granted.

FEDERAL INSURANCE ACT

State Office policy holders would not have the protection of the provisions of the Life Assurance Act, 1945, of the Commonwealth and the Commissioner is respectfully referred to the provisions of that Act as a whole, in particular we would refer to the following sections:

(1) The administration of the Act is vested in an Insurance Commissioner appointed by the Governor-General, see Section 9. It is respectfully submitted that the primary purpose of the Commonwealth Parliament in appointing the Insurance Commissioner was to safeguard the interests of policy holders as appears from the powers given to the Commissioner by the Act as a whole. It will be noted that by Section 10 it is provided that if the Commissioner is not himself an actuary, the Treasurer must arrange for the services of an actuary to be available at all times for the purpose of advising the Commissioner in relation to matters arising under the Act.

(2) By Section 13 it is provided that the Commissioner may arbitrate in relation to any dispute or difference arising between a company and a policy holder in relation to a policy.

(3) Section 28 by which a company not carrying on life assurance business in Australia immediately prior to the commencement of the Life Assurance Act 1945 is required before carrying on life assurance business to deposit with the Treasurer money or approved securities or both to the value of Five Thousand Pounds. It is further provided by subsection (2) that the company shall thereafter deposit annually with the Treasurer money or approved securities or both to the value of Five Thousand Pounds until the deposit reaches the value of Fifty Thousand Pounds.

(4) Section 29 provides that all moneys deposited by a company pursuant to the Act shall be invested by the Treasurer in such approved securities as a company selects.

(5) Section 30 provides that all deposits by a company shall be deemed to form part of the assets of the company and all interest accruing on the deposits shall be paid to the company.

(6) Section 34 provides that such deposits are to be security to the policy owners.

(7) Section 37 provides that every company shall as at the date on which it commences to carry on life assurance business in Australia maintain a statutory fund under an appropriate name in respect of the life assurance business carried on by it.

(8) By Section 39 it is provided that the assets of every statutory fund maintained by a company may be invested in such manner as the company thinks fit. This provision is clearly to the advantage of the company's policy holders. By comparison the investment of funds under the control of the S.G.I.O. is within the discretion of the Treasurer.

(9) Division 4 of the Act contains provisions with reference to the keeping of accounts, balance-sheets and audit of insurance companies which are primarily intended to protect the interests of policy holders.

(10) Section 48 provides for actuarial investigation of the company every five years.

(11) Section 49 provides for valuations to be made so as to place a proper value upon a policy.

(12) Section 50 provides that a company shall not make payments of dividends on bonuses from statutory funds except in accordance with the provisions of the Act.

(13) Sections 51, 52 and 53 provide for returns of policies, accounts, balance-sheets and other documents to be filed with the Insurance Commissioner.

(14) Section 54 empowers the Insurance Commissioner to demand in writing from any company information relating to any matter in connection with its business.

(15) Section 55 gives the Insurance Commissioner wide powers of investigation in the interests of policy holders.

(16) Section 56 gives the Insurance Commissioner powers to obtain necessary information.

(17) Section 58 gives the Insurance Commissioner powers to take necessary action after completion of his investigations.

(18) By Section 77 the Commissioner is given powers to approve forms of policies in the interests of potential policy holders.

(19) By section 78 the Act provides that a company shall not issue any policy unless the rate of premium chargeable under the policy is a rate which has been approved by an actuary as suitable for the class of policy to which that policy belongs. The Insurance Commissioner may at any time require the company to obtain and furnish him with a report by an actuary as to the suitability of the rate of premium chargeable.

(20) By Section 79 it is provided that where a rate of premium is approved by an actuary in respect of any class of policy the company shall not except with the approval of an actuary or the Insurance Commissioner pay or allow any greater rate.

(21) By Section 81 it is provided that where a company issues a life policy which provides that proof of age of the life insured is a condition precedent to the payment of the sum insured, the company shall unless the age of the life insured has already been admitted, issue a printed notice with the policy stating that proof will be required.

(22) By Section 82, it is provided that if a company declines to accept the proof of age, the policy holder may apply to a Court for an order directing the company to accept the proof tendered.

(23) By Section 83 it is provided that a policy is not avoided by reason only of a misstatement of the age of the life insured.

(24) By Section 84 it is provided that a policy shall not be avoided by reason only of any incorrect statement other than a statement as to the age of the life insured made in any proposal or other document on the face of which the policy was issued or reinstated, unless the statement—

(i) was fraudulently untrue, or

(ii) was a material statement in relation to the risk and made within a period of three years immediately preceding the date on which the policy is sought to be avoided or the date of death, whichever is the earlier.

(25) Section 86 contains provisions with reference to insurable interests depending upon the relationship of the parties referred to.

(26) Section 89 makes provision for the further protection of policy holders in relation to assignments and mortgages of policies.

(27) Section 90 provides the owner of the policy with a right to appeal to the Insurance Commissioner against a refusal by the company to consent to an assignment of an industrial policy.

(28) By section 92 it is provided that, subject to the Bankruptcy Act, the property and interest of any person in a policy effected upon his own life shall not be liable to be applied or made available in payment of his debts by any judgment order or process of court.

(29) By section 93 provision is made for a married woman to effect a policy upon her own life or upon the life of her husband, a policy which receives the protection of section 91.

(30) By section 94 it is provided that, subject to the Bankruptcy Act, a policy effected by any man upon his own life and expressed to be for the benefit of his wife or his children or any of them shall create a trust in favour of the objects named in the policy and the moneys payable under such policy shall not form part of the estate of the person whose life is insured or be subject to his or her debts.

(31) By section 96 it is provided that a policy holder who desires to discontinue further premium payments on a policy on which not less than three years premiums have been paid in cash, shall on application to the company be entitled to receive in lieu of that policy a paid up policy for an amount determined in accordance with the rules set out in the sixth schedule.

(32) By section 97 the right is given to the owner of a policy which has been in force for at least six years to surrender the policy and to receive not less than the surrender value thereof.

(33) By section 98 provision is made for the surrender value of a policy to be calculated in accordance with rules set out in part 2 of the sixth schedule to the Act.

(34) By section 100 provision is made that an ordinary policy shall not be forfeited by reason only of the non-payment of any premium if—

(i) not less than three years premiums have been paid in cash and,

(ii) the surrender value of the policy exceeds the amount of the debts owing to the company.

(35) Section 101 provides that an industrial policy on which less than one years premiums have been paid shall not be forfeited by reason only of the non-payment of any premium unless the premium has remained unpaid for not less than four weeks after it became due.

(36) Section 103A provides protection for the person whose life is insured in the event of the death of the owner of the policy.

(37) By section 107 it is provided that where a claim arising under a policy is paid, no deduction shall except with the consent in writing of the claimant be made on account of premiums or debts due to the company under any other policy.

(38) Division 7 of the Act contains provision relating to the protection of children's advancement policies.

(39) By sections 117 and 118 of the Act provision is made for a company to establish a register of policies in which every policy must be registered.

(40) By section 119 provision is made for a company to issue a special policy where the original policy is lost.

(41) By section 120 it is provided that a policy shall not be avoided merely on the ground that the person whose life is insured died by his own hand, if upon a true construction of the policy, the company has thereby agreed to pay the sum insured in the events that have happened.

(42) By section 121 protection is provided to a policy holder in the event of death of the life insured occurring in war service.

(43) Part 5 of the Act contains provisions relating to the protection of policy holders in industrial insurance business.

(44) By section 148 provision is made for any company which contravenes or fails to comply with any provision of the

Act or of any regulation or any direction or requirement made by the Commissioner shall be guilty of an offence against the Act.

The Hon. R. C. DeGARIS: The three points of importance here are: First the fact that the Government did not honour its undertaking to this Council by the Hon. Mr. Shard in 1970, in relation to the nature of its trading operations. Secondly, I refer to the ability of Government agencies to operate outside the existing Trade Practices Act. Thirdly, the commission is not subject to the provisions of the Federal Act governing the insurance industry, and therefore is not subject to the scrutiny and report of the Federal Commissioner.

The Premier, the Hon. Mr. Creedon, the Minister of Lands, and the Minister of Health said previously that the State Government Insurance Commission would increase its profitability if it was given a franchise in the life assurance field. I point out that companies and mutual societies writing both life and general insurance business keep entirely separate accounts. Indeed, no case can be made for any profit made from the life operation to belong to anyone other than the life policy-holder. Therefore, if this Bill is to pass, the accounts of the life section should be kept entirely separately, with bonus payments made to the policy-holders based upon the profit, less administrative expenses and necessary reserves. No case can be made for one section of the insurance market to subsidise another. What right has the Government to determine the total investment policy in respect of the policy-holders' premiums? We have heard much political talk lately about worker participation—the Government's view, of course. Here is an obvious area to begin—a relatively simple process, whereby the elected representative of the policy-holders can influence the investment policy in respect of their own funds.

Under Commonwealth legislation, 20 per cent of the premiums in the private sector must be invested in Commonwealth loans, and the same requirement should apply to the State Government Insurance Commission. Further, 10 per cent of premiums in the private sector must be invested in semi-government loans, and the same requirement should apply to the commission. The remaining 70 per cent should be influenced by the policy-holders themselves. There is no reason why the Government should not extend its concepts of democracy to those people who may elect to use the State Government Insurance Commission for life insurance. On the writing of each policy, and depending on the size of the premium, a policy-holder should be sent an invitation to place his name on the voters role. The board, which determines the investment policy in respect of the life funds, would then represent the wishes of the policy-holders. This would prevent the Government from using the premiums purely for investment at the will of the Treasurer.

I turn now to the ability of Governments to lean on someone else's money. What has happened to the Public Service Superannuation Fund over the years? Some years ago a superannuation scheme was established in South Australia with public servants (I stand to be corrected in connection with these figures) contributing 70 per cent and the Government contributing 30 per cent, but the Government did not fund its 30 per cent when the public servant paid his 70 per cent. The Goverment stood off and said, "No; we will subsidise the pension when it falls due at 30 per cent of the pension." The 70 per cent was paid into the Superannuation Fund by the public servant, and Governments could lean on those funds and could advise investment of them not for the public servant's long-term benefit but for a short-term policy that suited the Governments; my point applies to Liberal Governments and Labor Governments. After 20 years or 30 years the fund suddenly became not viable; it could not be viable at 3¼ per cent. What happened? The contributions were altered to a 50/50 basis. Then, it went on for a few more years. Then, what happened? The Government was still leaning on the Superannuation Fund. Still it was not viable, because of investments at 3¼ per cent, 4 per cent, and 5 per cent. What happened? About 10 years later the basis was changed to 70 per cent by public servants and 30 per cent by the Government. The Treasurer was leaning on the fund for short-term benefit and forgetting that he had a Superannuation Fund that should be funded from a long-term viewpoint. The taxpayer year after year dug deeper to finance the short-fall in the Superannuation Fund.

There is no difference in principle between Government control of the Superannuation Fund and Government control of life funds. The investment policies are identical. So, if the Government is able on its own to determine the investment policy in respect of the premium income from those who choose the State Government Insurance Commission for life insurance, we will see an investment policy from the Treasurer that is not in the interests of the policy-holders; instead, it will be in the short-term interest of the Government. That is exactly what is wrong with the Government insurance offices in Queensland and New South Wales. If we are to move into life assurance, let us make it thoroughly democratic. Let the policy-holders be represented and let them determine the investment policy.

The Hon. D. H. L. Banfield: Is that how it is done in other offices?

The Hon. R. C. DeGARIS: Any policy-holder in a mutual society can place his name on a voters role and vote.

The Hon. D. H. L. Banfield: What about the investment decisions?

The Hon. R. C. DeGARIS: The policy-holders elect the directors, who make the investment decisions.

The Hon. B. A. Chatterton: When was there last a contested election?

The Hon. R. C. DeGARIS: The last contested election in the Australian Mutual Provident Society was in 1974.

The Hon. B. A. Chatterton: And the one before that?

The Hon. R. C. DeGARIS: I do not know. If the elections are not contested, that says nothing about the democratic right of a person to stand if he is an A.M.P. policy-holder. With the S.G.I.C. there will be no right for a policy-holder who wants to influence the investment policy on his premiums. There will be no way in which he will have the right to stand for election to the board.

The Hon. J. R. Cornwall: How many policy-holders are aware of their rights?

The Hon. R. C. DeGARIS: Every policy-holder is made aware of his rights when he signs for his policy. He is told of the right to have his name placed on the voters roll. However, let us not look at the policy of mutual societies but at this Bill. There is no mention of the right of the policy-holder contained in it. We are dealing with the profitability for the Government. What right has the Government to deny the policy-holders of their rights regarding premium income?

Government members cannot answer that question. The Govemment talks about worker participation but, when it comes down to premium income on a policy, the policy-holders must be kept in the background so that

the Government can play with those funds, pocket the profits and do as little as possible for the policy-holder. That is the real reason.

The Hon. J. E. Dunford: Why don't you knock back the Bill and put it to the people?

The Hon. R. C. DeGARIS: If the honourable member contains himself I will tell him what I intend to do. The great paradox is that we have in the free enterprise system the most successful economic system that has ever been developed in history. So successful has the system been that it generates poverty in Australia at an income level which is substantially above average income level of the Soviet Union and which is 800 per cent above average world income. That is the poverty line in Australia, That indicates how successful the private enterprise system has been.

The Hon. J. R. Cornwall: That's ridiculous. Tell us about the cost of living.

The Hon. R. C. DeGARIS: I am talking about the question of average income levels, which is related to the cost of living. I am saying that the system in Australia has been so successful that it generates poverty in Australia at an income level which is substantially above the average income level of the Soviet Union and which is 800 per cent above average world income. Yet, this system, which has given us so much in terms of prosperity and freedom, is under assault at all levels of Government, and is being replaced by a system that has never worked in history and which is working effectively nowhere in the world today.

The problem, it seems to me, in looking at the legislative process, is that free enterprise does not have any dedicated salesmen. If one looks at our resources, at the amount of wealth, and at the amount of our human talent, and then looks at the rank amateur incompetents who seek to socialise, collectivise, and control—those rank incompetents who produced the most vicious inflationary spiral we have seen in this country—in any real contest with the free enterprise system they would be put to rout.

The problem is that there are so many people in Australia who are so busy feeding off the fruits of our system that few people are busy enough defending that system. It is time that someone pointed out that Government operations, whether in the life assurance field, or in any other activity, will add nothing to the economic well-being of this State. Indeed, it will have the reverse effect.

I am one who is willing to be counted. Therefore, in relation to this Bill, I will call against the second reading. If the Bill reaches the Committee stage, I will seek as many amendments as I think are necessary to ensure that competition is fair between competing societies, companies and the Government. I will seek a means whereby Parliament can be informed of any actions of the S.G.I.C., Government or semi-government instrumentalities that constitute a breach of the trade practices legislation. I have already referred to how Government and semi-government institutions are in contravention of the Trade Practices Act in this State, but that legislation does not apply to State instrumentalities.

I will seek amendments that allow the policy-holders to have some representative say in the investment policy of their premium income. I will be seeking amendments that ensure that the life accounts are kept separately, and that all profits are held for the benefit of the policy-holders. Whether those amendments are successful or not (I hope they are), but irrespective of their success, I will still call against the Bill's third reading because, even with the amendments, there is no case for added expense in establishing another mutual society in a field well equipped and well managed in South Australia.

The Hon. J. C. BURDETT: I rise to speak to this Bill, although I will not support it. I spoke on and opposed previously the principal provisions in a similar Bill. The issue of the Government's entering the life assurance field has been fully debated, and I do not intend to canvass the matter at length. I speak mainly to state to the Council my position on the matter. I do not believe there is any warrant for the Government to enter the life assurance field.

The Hon. N. K. Foster: Why?

The Hon. J. C. BURDETT: Obviously, I am going to explain my reason. An adequate service is provided to the public by free enterprise life insurance offices. There is keen competition.

The Hon. N. K. Foster: Has that always been the case in South Australia?

The Hon. J. C. BURDETT: I am not talking about what has always been the case but what is now the case. There is keen competition. It is not a situation such as that surrounding the national air transport deal, when there would have been almost a complete monopoly if Government enterprises were not involved. It cannot be seriously suggested that the public is being taken down. I refer to the last available report of the Federal Life Insurance Act for the year ended December, 1975. An analysis of complaints and inquiries received by the commission is set out (these figures include inquiries as well as complaints, as there is no distinction made between the two).

The number of inquiries and complaints for the year ended December 30, 1975, for the whole of Australia was 225. At that date the total number of policies in force was 2 011 000; the total sum assured was $1 597 700 000. Thus the ratio of complaints or inquiries to policies held, sum assured and annual premiums is almost infinitesimal. The number of complaints and inquiries does represent an increase but, of the 225, 112 related to the amount offered or available as surrender value.

The report notes that the number of surrenders increased in the relevant period which explained the number of complaints and inquiries in this area. The report attributes the higher number of surrenders to a concern of policy-owners as to the loss of value of policies in real terms (those are the words of the report and not my own), during periods of high inflation. I myself would think that the changed income tax concession also caused a number of people not to want to continue paying premiums. However, the report also notes that the rise in the volume of surrenders now appears to be slowing significantly. So we have an industry which provides an adequate service, is competitive, and against which an insignificant number of complaints is made.

The Hon. J. R. Cornwall: What is the percentage return on investment?

The Hon. J. C. BURDETT: I do not know the percentage return on investment. It is often misstated because it has to be remembered that the interest, as it were, is automatically compounded. If you are worried about percentage returns on money do you seriously think that the policy-holder is going to get a higher return when the S.G.I.C. enters the field of life assurance? Remember that it depends also on what one is talking about concerning return, because the whole profit goes back to the policy-holder.

The Hon. J. R. Cornwall: It has been notoriously low over the years.

The Hon. J. C. BURDETT: It depends on what you mean by return.

The Hon. J. R. Cornwall: Less than Savings Bank interest?

The Hon. J. C. BURDETT: It depends on what you mean by return. If the honourable member wants to be really sensible and stop muttering about Savings Bank interest, he should consider where the profits go: they go back to the policy-holder, and that is the answer to that.

The Hon. J. R. Cornwall: They are still abysmally low.

The Hon. J. C. BURDETT: The total return, including profit for the policy-holder, is not abysmally low. It is certainly not going to be improved by the entry into the field of life assurance by the State Government. Not even in the second reading explanation did the Government give its reason for entering this field. We all know the reason. The Government wants to have access to the money. Perhaps the most important thing of all in the matter that I was canvassing before I was interrupted is the great bulk of business written by wholly or almost wholly mutual offices. The board members are elected by the policy-holders (not shareholders) and the whole of the distributed profits are distributed to the policy-holders, the consumers, not the shareholders. What on earth is the Government doing in seeking to enter into competition with co-operative enterprise which provides a satisfactory competitive service?

I belong to the Liberal Party because I believe in its general philosophy, including the economic system of free enterprise as set out in its State platform. I am therefore opposed to Government enterprise entering the field where absolutely no need for it to do so has been demonstrated.

I now turn to the question of mandate. I acknowledge that, where a member of this Council is philosophically opposed to a Bill but where it is clear that the Government has a mandate for the Bill, he must consider whether he ought, for that reason, not to oppose the Bill. The question of whether or not the Government has a mandate on a particular issue is always a matter of opinion. I have formed the clear opinion that in this case there is no mandate but I acknowledge that any member has the right to express the opinion that there is such a mandate.

The entry of the S.G.I.C. into life assurance was not part of the Labor Party's election speech at the past State election. In view of that, I find it very hard to accept an argument that it was a mandate. It was not even brought before the electors at the past election. I know that the Labor Party says that this issue was in its election speech at the previous election and that its policies are continuous until implemented or changed. But a mandate is not a technical thing. To demonstrate that one has a mandate, one has to be able to show that one's stand on this particular issue is one of the reasons why one was elected. The S.G.I.C. issue was not even in the mind of the electors at the past election.

The Hon. D. H. L. Banfield: So the people didn't elect you to oppose it.

The Hon. J. C. BURDETT: What I am saying is that you cannot claim a mandate, because it was not in the minds of the electors at the past election when the Labor Government was returned by a minority vote. I do not know how one gets a mandate out of a minority vote, anyway. If an issue has been put strongly in its election campaign by a Party and has been strongly opposed by its Opposition and then if that first Party is elected, it can claim it has a mandate on that issue. But merely tucking an issue into some insignificant corner of its campaign and then winning does not demonstrate popular support for that issue. The present issue of the entry of the S.G.I.C. into life assurance was not part of the past election campaign at all. I do not consider that the Government has a mandate, but I again acknowledge that this is a matter of opinion and I acknowledge the right of other members who hold a contrary opinion. My own opinion is, however, quite firm.

I next turn to the double dissolution issue. I have always acknowledged that it is a perfectly valid position for a member to say first, "I am opposed to this Bill philosophically"; secondly, "There is no mandate"; and, thirdly, "There is a greater advantage to the cause of the principles I believe in in not having a double dissolution at this time than in running the risk of a double dissolution."

That is a perfectly tenable and valid position. But my view on this issue at this time is that the entry of the S.G.I.C. into the life assurance field should be opposed, or that the S.G.I.C. should operate on the same basis as that of free enterprise offices. I propose to vote against this Bill on the second and third readings, and I will support the amendments, if the Bill passes the second reading, designed to make the State Government Insurance Commission, in the life assurance field, operate on the same basis as do free enterprise life offices.

The Hon. D. H. LAIDLAW: I have been in a quandary concerning the merits of the Bill since the Premier announced that the Government would introduce legislation once again to enable the S.G.I.C. to handle life assurance.

Two principles of Liberal economic philosophy are involved in this issue, and they conflict. On the one hand, the public sector should not be encouraged to sell life assurance when about 40 companies from the private sector are already competing in this field. On the other hand, the Liberals believe that statutory authorities should be operated efficiently and should not incur losses which must be recouped from the taxpayers. It is sometimes necessary to extend the scope of operations of the authorities in order to achieve this.

I am surprised that all my colleagues who spoke on this Bill in another place opposed it, because this is in no way a clear-cut issue. As honourable members know, a Bill to set up the State Government Insurance Commission was first presented by the late Premier (Hon. Frank Walsh) in 1966, and was defeated. When Labor returned to office in 1970, the Bill giving the commission the right to handle life assurance was reintroduced and accepted. In 1974, an amending Bill to include life assurance was amended by the Council and laid aside, and the same amending Bill is now presented to us once more. I was not a member of the Council at the time of the previous debates, and do not therefore need to explain any change of attitude on my part, as the Premier felt obliged to do during the debate in another place.

Many arguments have been presented by sections of the insurance industry and the public why this Bill should not pass, although I regard three points as being salient. First, Mr. Lance Milne, Chairman of the commission, said in a letter to the Premier in 1974 that he had discussed the matter of life assurance with officials of the Government Insurance Offices in New South Wales and Queensland. That letter has been tabled in *Hansard.* In their view, it would take about 10 years to set a Government life office on an economic footing. Much would depend on public reaction towards it, and they considered that during this period up to $5 000 000 of public

funds would need to be invested in order to cover establishment losses. I doubt whether their opinion would have altered since 1974 except that, with the reduced value of money, $5 000 000 may have escalated to $7 000 000 or $8 000 000. Their opinion seems to nullify my earlier statement that Liberals should on occasions extend the activities of statutory authorities to guard against operating losses.

Secondly, at a recent international conference of actuaries, it was agreed that the range of life policies offered in Australia is as comprehensive as it is in any other country in the world. This answers the Premier's assertion that it is desirable for the S.G.I.C. to enter the field in order to provide new forms of life insurance.

There is nothing novel about the Premier's proposal to introduce over-the-counter sales to avoid incurring insurance agents' commissions. Some insurance companies already offer this service. Businesses in every branch of industry must decide whether to sell direct and save selling commissions, or whether to use agents and retailers in order to increase sales and so spread more widely their overhead expenses.

Thirdly, as the Premier stated during the debate in another place, the S.G.I.C. would compete fairly with private insurance companies in life assurance. However, the Minister of Health admitted in the Council a few days ago that South Australian public hospitals give the S.G.I.C. a special discount of 20 per cent off charges to patients with third party insurance claims on the ground that the commission pays its accounts promptly.

There is no evidence that the Government ever offered the same discount to private insurance companies. I suspect that the Labor Government would compete fairly, and would undoubtedly intend to do so, until such time as the going got tough, at which stage it would resort to favoured treatment arrangements in order to avoid the wrath of electors for incurring losses.

I now refer to several salient arguments in favour of passing the Bill. First, Government insurance offices have sold life policies in New Zealand since 1864, in Queensland since 1918, and in New South Wales since 1941. Although the legislation in Queensland and New South Wales was introduced by Labor Administrations, Liberal and Country Party Governments have held office subsequently in those States for many years and have made no effort to remove this function from their Government Insurance Offices. Furthermore, these life offices seem to have made little impact and, despite their presence and the entry of more than 30 other private insurance companies, five large and well-established life organisations still hold about 80 per cent of the market in Australia.

Secondly, the *Advertiser* reported that in a recent sample survey 49·3 per cent of South Australians interviewed favoured the entry of the commission into life assurance; 33 per cent were against it; and the remainder of 17·7 per cent either did not know or did not care. Although people may well think differently when they are given the facts to consider, some notice should certainly be taken of such a decisive poll.

Thirdly, the Premier has stressed that it is important to have a life assurance organisation with its head office in South Australia. I agree with that view, because the major investment decisions of insurance companies are made in the head offices, and there is little likelihood that preference will be given to South Australian projects when head offices are situated elsewhere. It is noteworthy that, since control of the South Australian Insurance Limited passed to outside interests, only one private general insurance company has its head office in this State.

Fourthly, several of my colleagues, during the debate in another place, argued that S.G.I.C. should not be allowed to participate, as Government bodies are never, or rarely, efficient. I do not accept this argument, because there is ample evidence that, when statutory bodies are pitted in competition against private companies, they can operate efficiently and profitably, and can offer a decent service, depending, of course, on the competence of their management. The Commonwealth Bank, Qantas and T.A.A. are cases in point. However, I shall avoid commenting on the efficiency of statutory bodies holding a monopoly position.

I said at the outset that I have been in a quandary regarding the merits of this Bill, and I have consequently set out the arguments, which I regard as salient, for and against its passing. However, I did resent the manner in which the Minister of Health began his second reading explanation. It was, of course, a replica of that given by the Premier in another place.

He said that a Bill had been laid aside during a previous Parliament, that a House of Assembly election had taken place in the meantime, that an identical Bill had been reintroduced and that honourable members would note the constitutional implication of the measure. He was, of course, threatening to force a double dissolution if the Bill did not pass and, by doing so, was trying to deter honourable members from considering this Bill on its merits. I accept his challenge and for this, above other reasons, will oppose the second reading. To adopt the Minister's own words, I trust that the implication of my action does not escape his attention.

The Hon. A. M. WHYTE secured the adjournment of the debate.

FISHERIES ACT AMENDMENT BILL

Bill read a second time.

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

That it be an instruction to the Committee of the Whole that it have power to consider new clauses relating to penalties generally, stowage of gear, and power to suspend licences.

Motion carried.

In Committee.

Clauses 1 to 4 passed.

New clause 4a—"Aquatic reserves."

The Hon. B. A. CHATTERTON (Minister of Fisheries): I move to insert the following new clause:

4a. Section 24 of the principal Act is amended by inserting at the foot of subsection (4) the passage—"Penalty: One hundred dollars."

This merely provides a penalty that was omitted in error.

The Hon. J. A. CARNIE: I support the new clause. It seems to be anomalous that we have a section in an Act stating that people shall not do certain things and then we do not have a penalty.

New clause inserted.

Clause 5—"Decision on application for licence."

The Hon. B. A. CHATTERTON: I move:

Page 1—
Line 24—After "licence" insert "or licence to employ".
Line 26—Leave out "licence" and insert "fishing licence or licence to employ".
Page 2, line 1—After "licence" insert "or licence to employ".

This is an important clause, to which there was some opposition in the second reading debate. It makes a fundamental change to the Act as it now stands. The general thrust now is towards open fisheries: in other words, that a person should be entitled to a licence in most cases unless there are grounds for a refusal. The present situation is that we do not have open fisheries. Rock lobster, abalone, tuna, and prawn fisheries are all obviously closed in terms of authorities, but the scale fishery is also closed *de facto* by the refusal to grant applications for licences on the ground that the fishery will not stand increased effort. As the Act stands now, a misleading impression is given, and this causes much hardship to applicants. They see the provision, they apply, they go through the process of being refused a licence, then they go through the process of an appeal against that refusal, and the appeal is refused on the basis of declining fish stock. That is why it is intended to change the thrust of the provision so that it will become obvious to people that, as with the prawn or rock lobster fishery, licences are available only when the Director calls for applications: instead of having the situation of what appeared to be an open fishery but was not, there is a situation where licences are available only when applications are called for. That is the main intention, to reverse the situation where the norm is an open fishery to a situation where the norm is a closed fishery. It is a reversal of the present situation regarding fishing licences.

The Hon. J. A. CARNIE: I have listened to the Minister but am afraid he has not changed the view I expressed in the second reading debate. The Minister said:

Essentially, section 34 at the moment provides, as it were, an obligation on the Director to grant a fishing licence to any applicant who satisfies the conditions laid down in the principal Act.

Section 34 (2) of the principal Act clearly states that the Director may refuse an application for a licence:

(*a*) if the applicant does not comply with any relevant requirement of this Act or is not a fit and proper person to exercise the rights which would be granted by the licence; or—

and this is the important paragraph, as far as I am concerned—

(*b*) if the refusal is necessary for the purpose of giving effect to any administrative policy approved by the Minister for the conservation of any species of fish or the proper management of any fishery.

The Hon. B. A. Chatterton: It is included in the Bill.

The Hon. J. A. CARNIE: Yes, but it is already in the section. I am not convinced by the Minister's reasons why he wants to change this, because he is trying to say again what he said in the second reading explanation—and, whether or not it is deliberate, he is misleading this Council and is giving the impression that anyone who goes into the Fisheries Department will get a fishing licence. Any fisherman or would-be fisherman around the State knows that it is not so. It is common knowledge that no licences have been granted by the department for two or three years, although it has reissued licences to people who, for various reasons, have been out of the industry for a year or two and have applied to re-enter; and their licences have been granted. I maintain that there is no point in this and, as I said in my second reading speech, the present situation is that the Minister is specifically mentioned.

The Hon. B. A. Chatterton: "The Director may".

The Hon. J. A. CARNIE: The Director may refuse a licence if the refusal is necessary for giving effect to any administrative policy approved by the Minister. This Bill deletes mention of the Minister and simply states that the Director shall not grant a fishing licence in any case where a relevant fishery may be prejudiced by the granting of a licence. The power is there for the department, on the advice of the Minister, to refuse to grant a licence, and the Minister is now putting the position the other way around, although with the same effect. Licences will not be granted. I think the Minister will agree when I say that he has no intention of granting licences in most fisheries now, except in special circumstances. There is no point in altering the present position. The Minister is named in the Act, and I should like to see clause 5 deleted, so as to preserve the *status quo*.

The Hon. B. A. CHATTERTON: I disagree with the honourable member that everyone in the fishing industry knows the position. Many people apply for fishing licences, as they are entitled to do under the Act now. They are given application forms. Because my predecessor in office approved of a Ministerial policy under section 34 (2) (*b*) to conserve the scale fishery, people are refused a licence. They are entitled to appeal and many of them go to much effort and, in some cases, expense in travelling from remote parts of the State.

Some engage counsel, but the appeals are not upheld, because of a policy that stocks need to be conserved and because research work has shown that there is a depletion of stocks. We are making the position quite clear. We are not preventing licences from being issued, but we have had a cumbersome procedure that misleads applicants.

The Hon. J. C. BURDETT: I oppose the clause. If it is defeated, we will revert to the provisions of existing section 34, which provide a perfectly reasonable procedure to cover all circumstances, especially those in a managed fishery. If the Director refuses to grant a licence, he is to give notice of the refusal to the applicant, and that is reasonable. There is a right of appeal and, if a person appeals, the Minister appoints a competent person to hear the appeal and make the decision. There is the direction to the Director to take any necessary steps to implement the recommendation; that is an entirely reasonable procedure. It seems wrong for the Minister to say that that procedure is designed only for an open fishery and that it does not apply to a managed fishery. Its application to a managed fishery is clearly contemplated under section 34 (2) (*b*). I would like to see people retain the right of appeal. Of course, they do not have to exercise it, but honourable members here have often come down on the side of people having a right of appeal against an important administrative decision that can affect people's livelihoods.

The Hon. J. A. CARNIE: The Minister said that many people in the industry did not understand that licences would not be granted. Officials of fishing bodies understand perfectly well that the Government is not issuing licences. Certainly, people outside may apply. Under the present Act, why can departmental officers not say, "Here is an application form, but we are not issuing any licences"? This is all that they need to do. A person will have to apply before the Director can say, "No; I will not give it to you." The appeal clauses are not touched. The only provisions that are amended are subsections (1) and (2). I maintain that the powers are there because they are being used; the Minister knows this. So, why does he want to alter the situation? Many people to whom I have spoken consider that the present powers are all that is necessary. They accept the Government's right to manage fisheries. If the Minister is to make policy regarding the management or non-management of fisheries, it is the Minister who should be answerable—not the Director. That situation applies under the present Act. The Government can

refuse to grant a licence under the direction of the Minister, and I see no reason for changing it. I therefore oppose the clause.

The Hon. B. A. CHATTERTON: Of course, the Director is responsible to the Minister. The main purpose is to remedy anomalies in the scale fishing industry. In the traditional managed fisheries, the tuna and rock lobster fisheries, the conditions in the amendments already exist. It is not a question of people applying for licences in those industries; it is a question of the Director's advertising that licences are available and calling for applications. That practice occurs already in the granting of abalone permits or prawn authorities in managed fisheries, and we wish to extend that procedure into scale fisheries. These amendments make what has been a *de facto* arrangement (and the honourable member is right in what he says about the *de facto* management of fisheries)—

The Hon. J. A. Carnie: It's not *de facto*: it's in the legislation. A licence can be refused.

The Hon. B. A. CHATTERTON: Instead of a call for applicants, people apply for a licence and are sometimes refused. They then follow the procedures prescribed in the Act.

The Hon. J. C. Burdett: They still could.

The Hon. B. A. CHATTERTON: Yes.

The Hon. J. A. Carnie: It does not say that the Director shall call for applications; it just says "grant" or "refuse".

The Hon. B. A. CHATTERTON: That is the procedure that is possible under these amendments. The simple reason for amending the Bill is to try to clarify the position, which I can assure the honourable member is important to many people in the industry who want to hold A or B class fishing licences for scale fisheries.

The Hon. J. A. CARNIE: Again, I go back to the Bill, which, in part, provides that the Director may grant a fishing licence. How is it under that provision that people will still not apply? Nothing requires the Director to call for applicants. An applicant could go to the department and say, "I want to apply for a fishing licence." That is no different from the present situation. Nothing in the Bill provides that the Director shall call for applicants for a fishing licence. The Bill just provides that he shall grant an applicant a fishing licence or refuse an application for a licence. As far as I am concerned, this is exactly the same as the present provision.

Amendments carried.

The Committee divided on the clause:

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

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

Pair—Aye—The Hon. Anne Levy. No—The Hon. R. A. Geddes.

The CHAIRMAN: There are 9 Ayes and 9 Noes. This Bill originates in this Council and, as there is obvious division of opinion, I give my casting vote to the Noes to enable the matter to be dealt with by another place, which may or may not decide to restore the clause.

New clause 5a—"Surrender and revocation of 'authority'."

The Hon. B. A. CHATTERTON: I move:

Page 2, line 4—Insert new clause as follows:

5a. Section 37 of the principal Act is repealed and the following section is enacted and inserted in its place:

37. (1) In this section "authority" means a licence, permit, certificate of registration, authorisation certificate, franchise lease or licence provided for by or under this Act.

(2) The holder of an authority may surrender that authority at any time and upon such surrender that authority shall cease to have any further force or effect.

(3) The Minister may by notice in the *Gazette*—

(*a*) revoke any authority;

or

(*b*) suspend the operation of any authority for a period specified in the notice,

and upon the publication of that notice that authority shall—

(*c*) in the case of revocation, cease to have any further force or effect;

and

(*d*) in the case of a suspension, cease to have any force or effect during the period of the suspension.

This merely provides a more flexible situation than appears in the Act, under which a licence can be revoked. This new clause provides for the power of suspension of the licence, and not the full revocation. The intention is obvious, as it provides greater flexibility. The power of revocation is so extreme that it is difficult to use it in any meaningful way. Therefore, this amendment gives greater flexibility in the operation of this clause. It does not increase the Minister's power; it merely provides for a more flexible use of that power. There is now power for revocation, as applied in the past, and there is also power to suspend a licence if that is considered to be a more appropriate course of action.

New clause inserted.

New clause 5b—"Noxious fish."

The Hon. B. A. CHATTERTON: I move:

Page 2, after new clause 5a to insert new clause 5b as follows:

5b. Section 55 of the principal Act is amended—

(*a*) by inserting in subsection (1) after the passage "noxious fish" the passage "in relation to an area being the State or part of the State";

(*b*) by striking out subsection (2) and inserting in lieu thereof the following subsection:

(2) A person shall not, without the prior written consent of the Director, within the area in relation to which any noxious fish have been declared—

(*a*) keep, hatch, rear, consign or convey any such noxious fish;

(*b*) release any such noxious fish into any waters;

(*c*) put any such noxious fish into any container in which the fish or the eggs of the fish will remain alive.

Penalty: Two hundred dollars.

(3) Where a person is convicted of an offence that is a contravention of subsection (2) of this section the Minister may cause the noxious fish, in relation to which the person was so convicted, to be destroyed or dispensed of to his satisfaction and no compensation shall be payable in respect of that destruction or disposal.

This new clause, which is self-explanatory, applies to the noxious fish provision, which is already contained in the principal Act. This provision gives new power to destroy noxious fish already covered under the Act.

New clause inserted.

Clause 6—"Regulations."

The Hon. B. A. CHATTERTON: I move:

Page 2, after line 5—Insert—

(*aa*) by inserting after paragraph (*f*) the following paragraph:

(*fa*) regulating any matter or thing relating to the storage or carriage of fishing gear and equipment on any boat;

The Hon. Mr. Whyte, in referring to the problems of implementing fishery policies, drew particular attention to the problems in the Northern Spencer Gulf area prawn fisheries, where it was alleged that people had been trawling in areas normally prohibited from trawling. The intention of the amendment is to give us regulatory powers to be able better to enforce the provisions of the Act by controlling fishing gear and equipment carried on trawlers. At present, it is difficult to police this matter, because people going through the trawling ground carry gear that can be dropped over the side, thus making it difficult to catch them at the time they are trawling. If checked, they say that they are merely testing their gear. The amendment will provide that they will have to stow their equipment on their trawlers by lashing it down in such a way that it cannot be immediately usable while trawling in those areas.

The Hon. A. M. WHYTE: I was pleased to hear the Minister's explanation, because the situation I related in my second reading speech is serious. I hope that the provision outlined by the Minister will be sufficient to deal with those people who have taken hundreds of thousands of dollars worth of prawns from this nursery area. I hope that the amendment will cover the extensive and insistent netting of fish inshore which has been the practice over the years and which is detrimental to the nurseries of our Spencer Gulf fishing industry.

The Hon. J. A. CARNIE: I also commend the Government for introducing this clause, because the question of fishing in the so-called nursery section of the gulf has caused concern for a long time. I was frightened at one stage last year that violence would ensue between those observing the law and those fishing illegally, because it seemed as though some of the fishermen might take the matter into their own hands, as the department was not taking sufficient action.

Amendment carried; clause as amended passed.

Clause 7 passed.

New clause 7a—"Repeal of s. 61 of principal Act."

The Hon. B. A. CHATTERTON: I move to insert the following new clause:

7a. Section 61 of the principal Act is repealed.

This clause, dealing with another provision in the Act that relates to licence cancellation, has never been used by the courts. Other provisions relating to suspended licences are adequate.

New clause inserted.

Title passed.

Bill read a third time and passed.

INDUSTRIAL CODE AMENDMENT BILL

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

ADJOURNMENT

At 11.3 p.m. the Council adjourned until Wednesday, April 20, at 2.15 p.m.