LEGISLATIVE COUNCIL

Thursday, March 2, 1978

The PRESIDENT (Hon. A. M. Whyte) took the Chair at 2.15 p.m. and read prayers.

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Election of Senators Act Amendment,

Statutes Amendment (Remuneration of Parliamentary Committees).

PERSONAL EXPLANATION: GIFT AND SUCCESSION DUTIES

The Hon. R. C. DeGARIS (Leader of the Opposition): I seek leave to make a personal explanation.

Leave granted.

The Hon. R. C. DeGARIS: Yesterday, the Hon. Mr. Cornwall pointed out that *Hansard* (page 1697) of February 22, 1978, reads as follows:

> Therefore, of the total net value of estates processed, about seven-eighths (about 71 per cent) were under $100 000.

Obviously, the figure should have been five-sevenths. I have checked my speech notes, and I am certain that I said five-sevenths. However, I am not casting any reflection on *Hansard,* which does a wonderful job in recording proceedings in this Council. The point is that I did not check my proofs and, therefore, the mistake has stood in *Hansard,* and I wish to make that correction. Also, I point out that the Hon. Mr. Cornwall—

The Hon. D. H. L. Banfield: You can't make a personal explanation on someone else's speech.

The Hon. R. C. DeGARIS: No, but please listen to the point I am making. I think you will agree with what I shall say. The Hon. Mr. Cornwall is reported in *Hansard* as saying:

> I suggest to honourable members that there must be little comfort for the hundreds of pig producers who are walking off their properties every week in Queensland . . .

I think all honourable members would agree that the honourable member said "beef producers". I draw that to the honourable member's attention so that he can correct *Hansard* and so that his remarks are not incorrectly reported in *Hansard.*

MINISTERIAL STATEMENT: RURAL ASSISTANCE COMMITTEE

The Hon. B. A. CHATTERTON (Minister of Agriculture): I seek leave to make a statement.

Leave granted.

The Hon. B. A. CHATTERTON: The retiring Chairman of the former Rural Assistance Committee, Mr. J. Messenger, has stated publicly (*Stock Journal,* March 2, 1978; A.B.C. "Country Hour" February 1, 1978) that "the Rural Assistance Act was changed last year without prior discussion with the committee" and there have been insinuations that this has been done as a result of my "desire to have complete control in such a vital area". I wish to tell the Council that the Rural Industry Assistance (Special Provisions) Act, 1972, was superseded by the Rural Industry Assistance Act, 1977, on April 21, 1977. This new Act was necessary to bring existing State legislation into line with new Commonwealth legislation made necessary by a renegotiation of the agreement on rural assistance finance between the States and the Commonwealth. At the time the new Act was drawn up it was discovered that section 9 of the 1972 Act was *ultra vires* and, as such, was in direct contradiction to section 7.

Section 7 stated that the Minister was to be the authority, and section 9 stated "that the Minister shall not act except upon the recommendation of the committee". Obviously this anomaly created an impossible situation and, following advice from the Crown Solicitor, the relevant section 9 was dropped from the 1977 Act. This Act was assented to, as I have stated, on April 21 last. It was not until September 8, 1977, that the responsibility for the Rural Industry Assistance Branch in this State passed from the Lands Department to my department of Agriculture and Fisheries. I understand that the former Rural Assistance Committee members (including the Chairman) were well aware that this change was to take place in the legislation and that, in fact, the committee argued quite strongly against it.

In reply to the question raised by the Hon. Mr. Burdett yesterday, I point out that I have made changes to the administration of this Act to put it on a sounder and more consistent basis. I have instituted a system where the committee would attach certain basic information on critical aspects of the applicant's budget to every recommendation. In addition, I introduced a system where a checklist of important questions was answered regarding each application. I am pleased with the changes, as they provide a more consistent and methodical approach to the handling of applications, without imposing a rigid set of criteria. The committee is still free to make recommendations outside the budget summary and the checklist of key points but must be able to sustain its case in these circumstances. Before these new procedures were adopted I referred a number of applications back to the committee for it to provide me with information to sustain its recommendations. Since then, this has seldom been necessary. I have not overruled the committee's recommendations during my period of responsibility for this Act.

QUESTIONS

RURAL ASSISTANCE

The Hon. M. B. CAMERON: I seek leave to make an explanation before asking a question of the Minister of Agriculture about rural assistance.

Leave granted.

The Hon. M. B. CAMERON: Considerable concern has been expressed to me that it appears that no discussion took place with any members of the old committee prior to the Minister's dispensing with their services. No information has been given to them to indicate in what areas the Minister thought they lacked qualifications. It has been suggested to me that, in terms of experience alone, they would have been better qualified than would anyone else in the State, because they handled thousands of applications over the period and gained a great understanding of the different management techniques required in the different forms of farming in the various areas of South Australia.

My question is: what special qualifications have the following people, the three new members—Mr. Blesing, Mr. Pryce, and Mr. Walker—that persuade the Minister that they are better qualified than the old committee and

led to the Minster's decision to dispense with the services of the old committee, losing in the process the invaluable experience and knowledge that the original committee had built up over its years of service?

The Hon. B. A. CHATTERTON: I think I made it quite plain in answer to a question yesterday, and certainly in my press statement, that I was not criticising the individual members of the committee.

The Hon M B. Cameron: I am not saying you were.

The Hon. B. A. CHATTERTON: I do not want to give the impression that they were incompetent. I want to make that point clear.

The Hon. M. B. Cameron: I have not said they were incompetent.

The Hon. B. A. CHATTERTON: I think it is rather invidious to make comparisons between members of the old committee and members of the new committee, which I think the honourable member is suggesting I should do. I think the members of the new committee are all well qualified for the job they have to undertake, and I have every confidence they will be able to carry that job through. I have no apology to make. I think change is sometimes necessary, and there have been changes in this area. I think it appropriate that there should be a new committee to handle these changes.

RAINFALL

The Hon. R. A. GEDDES: I desire to direct a question to the Minister of Lands. Will he ascertain from his department the approximate percentage of area of land in South Australia that has an average annual rainfall of 14 inches or over?

The Hon. T. M. CASEY: I will endeavour to get that information for the honourable member.

SCHOOLTEACHERS

The Hon. D. H. LAIDLAW: I understand the Minister of Agriculture has a reply to a question I asked recently about teachers and long service leave.

The Hon. B. A. CHATTERTON: The honourable member will recall that he asked first whether it was departmental policy to make teachers take their long service leave when it became due. He then asked, if such a policy was not enforced, why should this be so, as its application would enable more teachers to be employed during the current recession in the teaching profession. The Minister of Education informed me in the first instance that such a policy is not enforced and teachers are permitted to accrue their leave until retirement, if they so desire. In reply to the second part of the question, it was stated to me that the Education Act, 1972-1976, prescribes—and I seek leave to insert in *Hansard* the quotation from the Act without my reading it.

Leave granted.

Education Act

Section 19 *(b)*: Any long service leave to which an officer is entitled under this division shall be taken by that person at such time and in such periods as may, in the opinion of the Director-General, be convenient to the department.

Section 20: Where an officer who has had not less than five years continuous service as such . . . retires under Division IV of this Part . . . before the officer is entitled to take leave under this division, the Minister may authorise payment to that officer of salary for nine consecutive calendar days for each year of continuous service before the . . . retirement.

The Hon. B. A. CHATTERTON: Whether it is possible to direct teachers to take long service leave as it becomes available to them and whether it is advantageous to the Education Department to do this is a complex matter which requires further study. A policy of directing teachers to take long service leave would not increase the number of permanent positions available to unemployed teachers because teachers on long service leave are replaced by temporary teachers on contract. However, it could increase the number of permanent positions available if the number of permanent relieving teachers were increased. This matter is also under review. It would require additional finance.

KIDNEY DONATIONS

The Hon. F. T. BLEVINS: I seek leave to make a brief explanation prior to asking a question of the Minister of Health about kidney donations.

Leave granted.

The Hon. F. T. BLEVINS: Some time ago I was in hospital for something very minor but I was feeling a bit fragile at the time; I was made aware of the system by which the Australian Kidney Foundation provided people with cards they would sign so that, in the event of an operation on a patient not being entirely successful, I could donate one kidney or any other organ.

This could be done without the necessity for the doctors concerned to approach the next of kin of someone who had died to obtain permission to take organs such as kidneys, eyes, or anything else. It seems to me that it is an unpleasant procedure for surgeons to have to approach the relatives of deceased persons in this way. However, I believe that such permission is seldom refused. A notable example that we have seen in the past couple of months is that of Lady Spencer Churchill, who donated the corneas from her eyes to people who could use them when she no longer could. Our present procedure seems to be a cumbersome method of achieving a desirable aim, and I wonder whether the Government would consider reversing the procedure to bring it into line with that which obtains in some European countries, which I cannot at present name.

The Hon. Anne Levy: France does it.

The Hon. F. T. BLEVINS: Apparently, it happens in France, although I cannot vouch for that myself. However, I know that in some European countries, perhaps the United Kingdom, instead of one's having a card to opt into the scheme and give permission one has a card to opt out of it. Anyone who objects to having any of his organs donated to whomsoever requires them after he dies signs a card to this effect. It is my opinion (I realise that I should not be expressing an opinion in this place) that it is a better system than that which we have now. Will the Minister of Health consider altering the system in South Australia so that, rather than people having to opt in to be a donor, they can opt out if they do not wish their organs to be donated after they have died?

The Hon. D. H. L. BANFIELD: I have every sympathy with the honourable member regarding the point he has raised, but I believe at this stage that the public is not ready to relinquish control of their organs unless they opt out, which is, in effect, what the honourable member is suggesting. However, it is an interesting point and perhaps, if there is a better education programme regarding the desirability of and necessity for these organs to be donated, the public will readily accept the position. In the meantime, I will consider the matter, although I point out that I do not believe we are ready for this, or that

the public will accept it.

The Hon. F. T. BLEVINS: I wish to ask the Minister a supplementary question on this matter. I have been told that relatives rarely refuse permission to donate the eyes or kidneys of someone who has died. Therefore, it seems that public opinion favours such donations, and that people who are not in favour thereof are very much in the minority. Will the Minister, when considering this matter, take into account that few people refuse permission and that, perhaps, public opinion is therefore already at the stage where there could be uniformity of agreement, making it desirable to reverse the present procedure?

The Hon. D. H. L. BANFIELD: I was expressing a personal opinion as a result of discussions that I have had with various surgeons. However, I will consider what the honourable member has said.

MEDICAL BENEFITS

The Hon. N. K. FOSTER: I seek leave to make a statement prior to asking a question of the Leader of the House and Minister of Health on the matter of medical benefits.

Leave granted.

The Hon. N. K. FOSTER: Doubtless, members were made aware yesterday of some type of rebellion by the back-bench members of the coalition Parties in the House of Representatives and, indeed, in the Senate regarding—

Members interjecting:

The PRESIDENT: The Hon. Mr. Cameron is making it very difficult for *Hansard.*

The Hon. N. K. FOSTER: It was about medical funds, medical benefits, call them what you like. It appears from the press report this morning that a committee will be set up on the matter about which I ask the question. I deplore the fact (and I hope every other member of this Council also does) that the Federal Government is about to set up this type of committee that doubtless will be a vehicle to enable the Government to shirk its responsibility regarding medical care for the less fortunate and less endowed people. One is amazed when one realises that, late in the 1970's, after what happened in the 1960's and 1970's and the false opposition by the same type of Government in the late 1960's and 1970's, a scheme that operates, with a wide choice—

The PRESIDENT: I remind the Hon. Mr. Foster that, unless the Minister can reply, there is no point in going ahead with his question.

The Hon. N. K. FOSTER: Yes, the Minister of Health can reply. The question will bear that out. Before the present scheme came into operation, or compulsion was made the order of the day, between 35 per cent and 40 per cent of the people were not covered by any scheme. Will the Minister inquire or seek information about whether the State Government, being a responsible Government in regard to the people of South Australia in this matter, will be able to make representations to the committee, whether the South Australian Government is prepared to make known its attitude to the Federal Government's proposed scheme, which obviously is aimed at abolition and depriving people of benefits, and whether the State Government can undertake a scheme to replace any effort that is made by an irresponsible Federal Government to discontinue the scheme?

The Hon. D. H. L. BANFIELD: It is no secret that the present Federal Government is trying to wreck Medibank.

The Hon. C. M. Hill: Rubbish!

The Hon. D. H. L. BANFIELD: The only one who is not in on the secret is the Hon. Mr. Hill, who apparently does not speak to his colleagues. About two or three attacks have been made on the Medibank scheme and each has reacted against the people, so what I have said is not rubbish. I was perturbed to find that the Federal Government was again considering the situation, knowing which way that Government would be looking at it. That Government would look at how it could cut benefits out and at how much more it could squeeze from the little man, the man whom the Hon. Mr. Hill claims to be concerned about. I also express concern about the health cost. I have no objection to people considering the matter of keeping costs down, provided that what is done is not done to the detriment of the patient. However, I certainly will inquire of the Federal Minister to find out the terms of reference of the committee, and we certainly will seek the opportunity to put our point of view to the committee.

The Hon. N. K. FOSTER: Will the Minister also find out whether, as a result of this inquiry, there is likely to be any reduction in the amount of money available from the Commonwealth for hospitalisation and medical benefits generally?

The Hon. D. H. L. BANFIELD: That will be looked at when we are taking the matter up with the Federal Minister.

RURAL ASSISTANCE COMMITTEE

The Hon. R. A. GEDDES: I seek leave to make a short statement before directing a question to the Minister of Agriculture regarding the Rural Assistance Committee.

Leave granted.

The Hon. R. A. GEDDES: In reply to a question I asked on this matter yesterday concerning the role of the committee the Minister stated:

> . . . the emphasis has changed. It has changed, in both the drought assistance area and the area of rural adjustment, from a strict adherence to equity and the type of security the farmer has to an approach based more on his viability and ability to repay.

Do these new rural assistance guidelines apply to farm build-up and debt reconstruction, which are two of the main areas with which the former committee dealt? If that is the case, will the Minister make a statement to the Council outlining in more detail the guidelines a farmer will need to follow to make applications under the new arrangements?

The Hon. B. A. CHATTERTON: The new approach that we have been taking is that the most important aspect of assessing a farmer's application, whether it is in the area of drought relief funds or the other two areas (farm build-up or debt reconstruction), is the ability of a farmer in a normal year—in the case of drought or in the long term in the case of the other two—to repay the loan and cover his costs, including an adequate amount for his own household expenditure. That is our general approach. Whilst our responsibilities under the Act involve consideration of security to ensure that the loan is covered, we are prepared to accept flexible arrangements in this area.

This has been widely appreciated in the farming community, because this approach has given many people the opportunity to apply for drought relief loans that they would otherwise not have been able to obtain. The same sort of thing has happened in the other areas. There have been difficulties in those areas because of the large sums often involved, and because the loans were for a much longer period in many cases. I was really referring to the basis on which we assess applications, and that is the approach that is being adopted.

The Hon. R. A. GEDDES: The Minister keeps referring to other areas of assistance and refers to drought relief. The answer that I want to know concerns farm build-up and debt reconstruction assistance for the rural community. Will farmers be given new and easier guidelines in respect of borrowing money? If that is to apply, will the Minister let us know?

The Hon. B. A. CHATTERTON: We are constrained in that area through the agreement with the Commonwealth, and we cannot move outside the area of the agreement at all: we cannot move far in altering the procedure, but we will be making an effort to clarify the criteria to be used to give farmers a better understanding of this whole area so that we can get more applications and wider acceptance throughout the farming community of this Act and its provisions. This legislation has not been used widely and, in the past, rarely has the amount that has been allocated to South Australia been used, but that is only because there have been insufficient applications.

We hope to change that situation and use the funds that the Commonwealth has allocated to us. This will be done my making the scheme more widely known and by providing clearer information on the guidelines and so on. There is some difficulty in this approach, which we try to overcome, that, while they are only guidelines, we still want people to apply and not to look at the guidelines and say, "I do not fit into that and, therefore, I will not bother to apply." We have given the committee a task, as I tried to make clear in my Ministerial statement, that, while we have the guidelines, the committee is free to operate outside of the guidelines as long as it can sustain a case to provide assistance, even if such assistance does not fall within the guidelines. We are operating with that flexibility, but this has to be made clear to applicant farmers. The guidelines are there to assist them in their applications, but they are not the strict criteria that are enforced down to the last letter.

PEANUTS

The Hon. J. E. DUNFORD: I seek leave to make a short statement prior to asking a question of the Minister of Health concerning peanuts.

Leave granted.

The Hon. J. E. DUNFORD: I refer to the *Nation Review* of February 23-March 1, 1978. The front page shows a packet of peanuts labelled "Poison Peanuts, cancer coated, Premier Brand". I do not know whether that label has any relationship to the Premier of Queensland. Recently on my return to my house I found my wife throwing out peanut paste and, after I read the report headed "Peanuts—Cancer Scare", I helped her throw out the remaining peanut products. Many people eat peanuts in public bars, and many children eat peanuts. The report indicates that tests have been held in America and in Kingaroy and that, as a result of the drought in Queensland, the fungus *aspergillus,* which secretes a dangerous cancer aflatoxin has infested peanuts. Kingaroy peanuts are exported from Australia and are tested for that aflatoxin so that people overseas have no worries, provided the tests are satisfactory. The press report states:

> All Australian exports of peanuts are tested for negative aflatoxin presence, but this doesn't apply to the domestic market.

The report continues:

> The animals developing cancers as a result of aflatoxin intake include cattle, chickens, dogs, ducks, guinea pigs, hamsters, mink, pigs, rats, trout and turkeys.

Recently in the United States there was a high toxic substance, which infested cattle and which affected people in the community who ate that beef. The report indicates that this could occur easily in Australia, and also states:

> If the peanut marketing board finds that one of its batches of four metric tonnes does not measure up to its standards, it doesn't destroy it. It subjects it to a process known as wasting and blanching. The peanut kernels are placed in gas fired ovens, cooled rapidly and machine blanched to remove the husks. In this process, affected peanuts tend to turn dark and are then screened out by an automatic colour sorter. The remaining nuts are picked over by what a Kingaroy chemist describes as "a group of ladies we have for the job here".

The Minister of Health will take this matter much more seriously than has the Opposition. It is a pity the local press in South Australia did not use more initiative: it should have let people know the dangers existing in the community. One must read interstate newspapers to find the true situation. Bringing this matter to the notice of the Council is a responsible action.

The PRESIDENT: What is your question?

The Hon. J. E. DUNFORD: Will the Minister of Health investigate this matter?

The Hon. D. H. L. BANFIELD: It raises a smile when the honourable member refers to peanuts from Queensland because there are various types of peanut in that State. I will have inquiries made into the matter raised by the honourable member.

RURAL ASSISTANCE COMMITTEE

The Hon. J. C. BURDETT: I seek leave to make a brief explanation before asking a question of the Minister of Agriculture about the Rural Assistance Committee.

Leave granted.

The Hon. J. C. BURDETT: A number of questions have been asked about the dismissal of what the Minister a short time ago called the old committee. The Minister carefully skated around the question as to why the old committee was dismissed. I point out that the whole committee was dismissed. One would have thought that there could be some merit in providing for continuity, whereby some members were dismissed and others continued. I hope the Minister will really answer my question: why did he dismiss what he has called the old committee?

The Hon. B. A. CHATTERTON: It is incredible that, because the *Advertiser* had a misleading headline on this matter, honourable members opposite have firmly entrenched in their minds that the committee was dismissed. I clearly explained that it was not dismissed: its term expired last August, and it was reappointed for an interim period of three months to December 1. Since then, the committee has been operating on an *ad hoc* month-by-month basis. It is therefore extraordinary that honourable members opposite continually say that the committee was dismissed: it was not dismissed. Its term expired, and it was obvious to the committee members that changes would take place; otherwise, their reappointment would have gone through. That point has also been missed by people who have been making much out of this matter. Because the committee was not reappointed on December 1, it was obvious that changes were to be made. I also made plain that the reason was the change of emphasis in policies in this area. I do not think there is a need to justify the appointment of new members to implement these policies. An attempt is being made to try to make me criticise the old committee and to try to make me say that it was incompetent, but I have not said that: I have made plain on several occasions that I am not critical of the

committee. I believe that new people are necessary to implement the changes in emphasis that are being made in this area.

The Hon. J. C. BURDETT: I used the wrong term in my question, and I apologise. I now ask: why was the old committee not reappointed? It had existed for some time. I point out that most committees are reappointed.

The Hon. D. H. L. BANFIELD: I rise on a point of order, Mr. President. This question has been asked three times, and it is obvious that it has been answered three times.

The Hon. J. C. Burdett: No.

The Hon. D. H. L. BANFIELD: Honourable members opposite changed slightly the wording of their questions, but basically they are asking the same question. Under Standing Orders they cannot continue to ask the same question.

The PRESIDENT: That is not a point of order. The Minister of Agriculture can handle his own affairs.

The Hon. D. H. L. BANFIELD: Mr. President, is it possible for honourable members continually to ask the same question or to get each other to ask the same or similar questions? I am not raising the matter of the Minister of Agriculture being able to handle himself: he can, and he does it very well. That is not the point at issue.

The PRESIDENT: I do not believe it was the same question.

The Hon. M. B. CAMERON: On a point of order, I asked a specific question which was the beginning of this exercise: why is the new committee any better qualified than was the old committee? That question has not been answered. The Minister declined to answer it, although that was his prerogative.

The Hon. B. A. CHATTERTON: When honourable members opposite read today's *Hansard,* they will see that the points have been well covered. Repeating their questions will not achieve anything. The questions asked this afternoon have been covered in the Ministerial statement and in the subsequent replies I have given.

CARGO TRANSPORT

The Hon. N. K. FOSTER: Has the Minister of Health a reply to my recent question about cargo transport?

The Hon. D. H. L. BANFIELD: The provisions of the Road Traffic Act, 1961-1976, are considered to cover adequately the cartage of hazardous materials for general road use. However, the Government has decided to introduce legislation with respect to the handling of dangerous materials. At present the Parliamentary Counsel is drafting suitable legislation to permit the making of regulations to cover, among other things, the handling and carting of this type of material.

ROSEWORTHY AGRICULTURAL COLLEGE

The Hon. M. B. DAWKINS: I seek leave to make a short statement before asking the Minister representing the Minister of Education a question about Roseworthy Agricultural College.

Leave granted.

The Hon. M. B. DAWKINS: A fortnight ago the Hon. Mr. Geddes referred to overcrowding at Roseworthy Agricultural College. It apparently appeared at that stage (and it may still be the case) that only first-year students would be able to be accommodated at the college and that others would have to seek board elsewhere. Since becoming in 1973 a college of advanced education, Roseworthy Agricultural College has increased its enrolments tremendously from about 180 to more than 400 at present. I have been given to understand that the accommodation position for the coming year has improved somewhat since my colleague so rightly expressed his concern and that some more effective, although not wholly satisfactory, arrangements may be possible before the college commences its year's work in a fortnight's time. I do not know whether the college has been able to use more temporary accommodation, whether other measures have been adopted, or whether the enrolment situation has become clearer in the meantime. Has the Minister any further information on this matter and, if he has not, will he make further inquiries about the matter?

The Hon. B. A. CHATTERTON: I will refer the question to the Minister of Education and bring back a reply.

ALFALFA APHID

The Hon. M. B. CAMERON: I seek leave to make a short statement prior to asking the Minister of Agriculture a question about spotted alfalfa aphid.

Leave granted.

The Hon. M. B. CAMERON: Yesterday, in answer to a question from me, the Minister quite rightly pointed out that he had already made a statement to the *Advertiser* that the State Government was not prepared at this stage to make available money to those farmers who need assistance in spraying for aphid. Over a considerable length of time, money has been allocated in other areas for spraying pests, such as grasshoppers and other pests in the Mid-North. In fact, money has been spent in many other areas of the State Budget, including non-productive areas such as the Jam Factory. Is the Minister aware of the huge financial loss of income to the State resulting from the depredations of the spotted alfalfa aphid? Will he ask the Government to reconsider its decision not to provide assistance for the spraying of this aphid, to ensure the continued prosperity of not only the farmers in the areas now affected but also the State?

The Hon. B. A. CHATTERTON: I am certainly aware of the considerable damage that has been done by the spotted alfalfa aphid. I have inspected a number of areas in the South-East which have been severely damaged, and I am well aware of the great importance of lucerne to those areas, in terms of both beef production and as a soil conservation measure for the purpose of stopping much of that land from drifting. I am also aware of the funds and assistance that the State Government has already provided quickly to set up the biological control programme in this matter. Cabinet carefully considered the problem but, owing to the amount of money involved and the financial situation of the State Budget, it was not able to provide funds to assist farmers in this way, by providing free insecticide. I have forwarded the resolution from the meeting at Tintinara to the Federal Minister for Primary Industry to see whether any assistance would be available at Commonwealth level but, so far as the State is concerned, Cabinet's considered view in this matter is that at this stage funds from the State Budget would not be available for free insecticide.

GRASSHOPPERS

The Hon. M. B. CAMERON: Can the Minister of Agriculture say whether the State Government at present is still allocating funds through local government for the

spraying of grasshoppers and plague locusts and, if so, how much is being spent?

The Hon. B. A. CHATTERTON: Some funds are being used for the control of plague locusts in this State at present. I do not recall the exact sum of money being spent, but I will ascertain how much has been spent so far this year.

LUCERNE STANDS

The Hon. R. C. DeGARIS: Could the Minister of Agriculture tell me what are the chances of recovery, without resowing, of the dry-land lucerne stands in the Upper South-East?

The Hon. B. A. CHATTERTON: This problem has involved everybody concerned about the aphid invasion: it is not easy to give a complete and exact answer to it. From the advice I have had from my officers, I think there must be a very good chance of the recovery and survival of the lucerne stands in the Upper South-East, certainly so far as this year is concerned. If biological control measures are not effective for next summer, the officers express some doubt about the survival of those lucerne stands but, despite the severe damage that has occurred in the last few weeks, the advice I have received from my officers is that most of those stands will still survive, given a reasonable rainfall during the winter months; but what will happen beyond the 1978-79 season is in grave doubt.

HOSPITALS

The Hon. C. M. HILL: I seek leave to make a short statement before asking a question of the Minister of Health about expenditure on hospitals.

Leave granted.

The Hon. C. M. HILL: In regard to the hospital development programme, which is a scheme involving both the Commonwealth Government and the State Government, the Commonwealth Government provides grant money to the State conditional upon the State making certain base-line expenditures on hospitals, in the first instance. The amount available from the Commonwealth Government in this financial year is $5 120 000, subject to a base-line expenditure of $16 000 000 on hospital construction by the South Australian Health Commission. I understand that is the same arrangement concerning the base-line expenditure as operated in the previous year—$16 000 000.

Last week, when the news of the State's $26 000 000 deficit was featured in the newspapers, there was a report that the Government was seeking a virtual moratorium on all new expenditure in the health area. I also recall the Minister confirming in this Council last year that there had been some deferment of the final stage of planning for Flinders Medical Centre, and about that time submissions were put to the Minister from this side of the Chamber that a more balanced hospital development programme would be in the best interests of the State. Can the Minister give an assurance that the $16 000 000 target will be met by the State in this current financial year so that the State can obtain the maximum benefit of the full $5 120 000 from the Commonwealth Government?

The Hon. D. H. L. BANFIELD: I do not know that the Commonwealth Government is all that generous and that it will pay on the same basis as last year, because it has cut back by up to about $8 000 000 in this financial year, and that is something we had not been banking on. Let us get the impression away from the honourable member's mind that the Commonwealth is doing something extra good, when it has cut down on the building programme. I understand our present expenditure on the building of hospitals will meet the necessary criteria. However, I will get a report for the honourable member.

APPROPRIATION BILL (No. 1)

Adjourned debate on second reading.

(Continued from March 1. Page 1846.)

The Hon. R. C. DeGARIS (Leader of the Opposition): This Bill, together with the Supplementary Estimates, shows an increase of $8 000 000 in the expected deficit for the 1977-78 financial year. The Minister, in his second reading explanation of the Bill, said that the reason for this predicted increase was the depressed business economy. The area of State taxation most affected by any down-turn in economic activity would be that of stamp duties, because that is the field in which the Government has found a way of gaining considerable revenue from the public over the past few years. It has always been my opinion that, even though there is a down-turn in the economy throughout Australia, South Australia, because of its peculiar position, would be the last State to make a recovery from that down-turn.

The Government cannot deny that it has pursued deliberate policies that have caused costs in this State to escalate more rapidly than those in other States. With the lack of developmental resources in this State, we must rely more heavily on our ability to produce at the primary level and to manufacture at the secondary level in order to maintain a strong economy.

It is known to many of us that this is becoming an extremely difficult procedure in this State. It is becoming more difficult to attract new business ventures to South Australia. Every honourable member would know of cases where companies wishing to expand have looked to South Australia and then turned away. One of the reasons for this is, of course, that in Australia our cost structure has now reached parity, or close to it, with the Eastern States, and in some areas it has even gone ahead of the Eastern States. Because of our peculiar economy in South Australia, this can produce a dramatic effect.

It is strange when one looks at the proposed deficit of $26 000 000 for this year and then goes back to 1975 and examines the advertisements that the Government published at that time stating that in the magnificent railway deal we would gain $800 000 000 over a 10-year period. All honourable members can recall that statement being made. I point out that we are now one-quarter of the way through that 10-year period on which South Australia would, it was said, be $800 000 000 better off. So, if one takes one-quarter of $800 000 000 one finds that we should be $200 000 000 better off than we would otherwise have been.

The question must be raised in everyone's mind, "Would there have been a deficit of $226 000 000 if the railways had not been sold or given to the Commonwealth?" How is it that other States such as Victoria, New South Wales and Queensland are not suffering from extreme deficits compared to the position obtaining in South Australia, when those other States still finance their own railways?

If one considers all those facts, one sees that the down-turn in South Australia must be more dramatic. I put my finger on other points: for instance, this State has now created an economic climate in which its costs are as high

as those in any other State, and there has been an industrial down-turn in our productivity as well as a lack of new industries establishing in South Australia.

I do not know what will be the final deficit in relation to metropolitan transport but I remember that, when we owned the railways, South Australia's deficit was about $40 000 000. Now, we have got rid of all the dead wood that was causing us financial problems, and I believe that we are still heading for a $20 000 000 deficit on our metropolitan bus system alone. Forgetting about the railways, South Australia having got rid of all its country railways and its biggest length of haulage line, I believe that we will have as large a loss on transport.

I will examine for a moment the question whether this increased expenditure in the Supplementary Estimates is required. The first matter on which I comment is that of increased expenditure over that referred to in the Budget. That deficit was expected to be $18 000 000, but it will now be $26 000 000, $5 000 000 extra being required for health services in South Australia.

One of the major expenditures by the Federal and all State Governments is that relating to the provision of health services. If one cares to look at the cost of health services, one can follow the world-wide pattern: the more that Governments become involved in providing health care and assuming total responsibility for it, the higher the cost of that care becomes for individual patients and the whole community.

I do not wish to debate the philosophy of nationalised health services at this stage, except to point out that in the debate on the Health Commission Bill the point was made strongly that, if we interfered too much with the existing health services, which rely on community involvement and on people taking part in the provision of them, there would, if we did not watch ourselves carefully, be an escalation in the cost to the Government. It was stressed that we must be careful not to upset the unique health services, or indeed the unique structure, that we have in South Australia. I believe, as I talk to people involved in all forms of health care in this State, that this is happening here.

No longer is there the same devotion by people in the community towards providing health care, keeping costs down, and providing a high quality service to as many people as possible. I find that that keen interest is waning.

Also, in our overall health care, the cost of Medibank has increased. This sort of thing has happened in Great Britain and elsewhere. Once these schemes are introduced there is a rapid escalation of costs to the community without any increase in the standard of the service provided.

The Hon. Anne Levy: The escalation of costs has been occurring since 1968.

The Hon. R. C. DeGARIS: I realise that. In Great Britain, the original estimate that Aneurin Bevan gave for the nationalised health services was £1 000 000 000. In the first year, the cost was £3 000 000 000, with no increase in the standard of service provided to the people of Great Britain. If we want to see an escalation of costs, we move into a national bureaucratic system.

The Hon. Anne Levy: Costs have increased since 1968, long before Medibank.

The Hon. R. C. DeGARIS: We know there is an escalation of costs, but I refer to how we have conducted our hospital system in South Australia in rural areas, and I refer to what is happening now. What I said when the Bill to establish the Health Commission was being debated can be seen to be occurring. If the Government becomes responsible for everything, there is a reduction in efficiency and an increase in costs. I believe that that is happening in South Australia now.

It is not only in that field that one can draw an analogy. The Government's continued pressure from its own activities is affecting the private sector and, once we affect that sector, there is a down-turn in the amount received by the State Treasury. The effect of each of these operations may not be dramatic in itself, but all the operations add up to a reduction of income to the State Treasury. On the other hand, because of the increase in public employment, there are higher costs to the taxpaying public.

I cite as an example the operations of the State Government Insurance Commission and the Land Commission. Their effect on the economy of the State could be examined but I do not intend to do that now, except to make the point that, if any land developer in Australia was developing land in the same way as the Monarto Development Commission spent money at Monarto and as the Land Commission is spending money here, he would be bankrupt. There will be no reduction in the cost of land because of the Land Commission. No developer could develop hundreds of blocks of land right up to the stage where roads, street lighting and everything else are provided, and then hold the land for a long time before selling it. It is not only a question of the higher costs in the hospitals system: it is also a question of the Government's intruding into the private sector, which was fulfilling its role before the Government moved in.

The next matter with which I wish to deal is not covered by the Supplementary Estimates, but I have dealt with it on other occasions. It is another example of the broad question with which I am dealing. Over the years in this Council, I have drawn attention to the Public Service superannuation scheme. It has had its problems for many years. The Government does not fund its share of the Superannuation Fund. The only money paid into the fund comes from the contributors, and then the Government makes its contribution when the pension falls due, either as a pension or as a commutation of part of that pension to the lump sum payment.

In the 10 years from 1967 to 1976, the Government's contribution to superannuation for Public Service employees has increased from $3 269 000 to $14 637 000, an increase in the payment from taxpayers' funds of four and a half times. The amount of $14 637 000 does not include $1 400 000 paid where a commutation of pension benefits was made. I have drawn the attention of the Council to this question on other occasions, and the prospect for future Governments is frightening if the escalation of Government funding of the pension rights of public servants continues at the rate that has applied from 1967 to 1976.

I do not see any cessation of that escalation. One reason for this is that the investment policy of the fund has been such that the Government has had to increase its percentage of the payment over several years. I believe that that percentage will go on increasing. The Act now specifies 70 per cent (I think that, overall, with other pensioner payments, the amount is 72 per cent). It has escalated from 30 per cent to 50 per cent, to 70 per cent, and it will go on escalating. Not only will we have the problem in future of the Government funding the pension benefits of public servants, but there will also be the problem of funding a higher percentage of them. If we consider the escalation in the number of Public Service employees, with a total share of the Budget of $14 000 000, we see that the funding will continue at the same rate as has applied in the past nine years. That is a frightening prospect for the taxpayers.

The Hon. M. B. CAMERON: Mr. President, I draw your attention to the state of the Council.

A quorum having been formed:

The Hon. R. C. DeGARIS: If the scheme had been conducted reasonably in the first place, the escalation should not have occurred. I am disappointed that the estimated deficit for this year is $26 000 000. There is no question but that, in the present down-turn in the economy, State Governments will have to be more cautious in their expenditure. That in itself is not a bad thing, because, if the Federal Government and all State Governments can exercise that caution and take more care about expenditure, the nation will come out of the down-turn in a stronger position

The Hon. J. E. Dunford: With 1 000 000 people unemployed in about two years time.

The Hon. R. C. DeGARIS: I do not want to go into that, because it has nothing to do with the Bill. However, I believe that most people in Australia recognise that our economic problems were not caused by the Fraser Government. I support the second reading.

The Hon. M. B. CAMERON: The document before us is the most damning indictment of a Government's financial mismanagement that we have ever seen. Only last October this Government introduced a Budget based on estimates of expenditure and revenue that one would have assumed to be reasonably correct. One would have assumed that this Government was capable of drawing up a Budget that had reasonable estimates of income and expenditure. However, the document obviously was deceitful, because we now have a document that tells us that the Government's expenditure has exceeded original estimates and that the deficit has increased by a further $8 000 000. That in itself is a false statement, because it is not just that much by which it is exceeded, but another $10 000 000. That is the hidden factor in all this.

The Hon. J. E. Dunford: Your mate Fraser did that.

The Hon. M. B. CAMERON: Mr. Fraser has saved members opposite from themselves. Had it not been for the drop in inflation, they would have been faced with another $10 000 000.

The Hon. J. E. Dunford: What drop?

The Hon. M. B. CAMERON: If the honourable member asks that question, obviously he does not deserve to be in this place, because he does not read the papers or know what is happening in the economy. I shall read a paragraph from the original document introduced by the Premier giving some indication of what the estimates were based on in terms of inflation. In the Financial Statement of October 6, 1977, the Premier made the following statement:

> It is worth stating clearly what the Federal Treasury inflation forecast is for the coming year. While they do not give an explicit forecast, it is not difficult to deduce what it must be. The Budget statements indicate that award wage growth is put at 10·5 per cent. Since as an integral part of their forecasting exercise, the Commonwealth Treasury assume partial wage indexation they must be forecasting price increases in excess of this rate. These two facts, therefore, imply an inflation prediction of around about, let us say, 12 per cent. That implies no improvement at all on the inflation rate achieved as long ago as September, 1975. And, indeed, it is agreed by almost everybody that in the short term things will get worse before they get better.

That shows that the Budget of October, 1977, was based at least on an inflation rate of 12 per cent; in fact, if the Premier's statement was correct that things would get worse before they got better, he surely must have allowed for a greater inflation rate. If he did so, then the amount of money that has been saved by the drop in inflation would be more than $10 000 000.

Let us assume he has used the figure of 12 per cent as an inflation rate, which has proved to be wrong; in fact, there has been a drop in the inflation rate from 12 per cent to almost 9 per cent during the period in which the Premier assumed that it would get worse. In that same period, we have seen the State Budget deficit rise through increased expenditure and, according to what the Premier said in the document, a fall in income.

As an indication of the lack of control that has led to this rather disastrous financial situation, let me say that I understand that this is the highest Budget deficit in the past 10 years; in fact, if we combine all the deficits for the past 10 years we will not reach that figure. In spite of that, we have seen documentary evidence just lately, in reply to a question in another place, that the State Public Service in that time has increased, with new appointments, by more than 500 and a replacement of 2 000 public servants.

I have added up the figures relating to salaries, and at least two-thirds of the increase in the State Budget deficit is due to salaries and wages. Going through the various departments, we find that salaries and wages in the Chief Secretary's Department have increased and that provision is now needed for an additional $130 000. For the Attorney-General's Department, the extra provision for salaries and wages amounts to $413 000. Salaries and wages and related payments for the Minister of Works Department totalled $1 000 000. That is all in this short period. Salaries and wages for the department under the control of the Minister of Education require an extra $3 250 000. One would have thought that the Government, which must clearly have had evidence of the growth occurring in the deficit, could have taken action to curb the situation, but it has not done so. One can only assume that the Government does not care about the effect on the taxpayers of this State and about the eventual effect of its spendthrift habits on the inflation rate. The Government seems to have deliberately set its face against the attempts of the Federal Government to curb inflation.

The Hon. J. E. Dunford: If we had done what the Liberals have done in other States and had no unemployment relief schemes, we would not have a deficit.

The Hon. M. B. CAMERON: The only reason why this State has an unemployment relief scheme is that it has continued to squander the capital funds it received from the sale of the country rail services. Although I supported the move for the transfer of the country rail services, if I had known that the money would be squandered, and not used on public transport, I would have had second thoughts. The end result of the failure of this Government to do something about public transport is that the deficit in our metropolitan transport system is now reaching astronomical proportions. It will not be long before we will not be able to afford that, either, unless we get a change of management. That can only occur in one place: at the Government end.

The projected deficit this year is now $20 000 000. In one year, it has risen from $12 000 000 to $20 000 000, and in one more year we will be back where we were when this State had the whole of the railway system. We will be losing more money on our metropolitan transport system than we lost on the entire system when we had both country and metropolitan. If that is not an indictment of the management of this Government, one would have to look a long way to find another example.

The Hon. J. E. Dunford: The unemployment relief scheme—

The Hon. M. B. CAMERON: The unemployment relief scheme is a farce. It provides only temporary jobs, and does nothing about permanent jobs. Unless we reach the

stage of some permanency in curbing the unemployment rate we are just putting a coat of varnish over the top, and not dealing with the problem at all.

The Hon. R. C. DeGaris: What happened to the $800 000 000?

Members interjecting:

The Hon. M. B. CAMERON: The Hon. Mr. DeGaris raises the question of the Premier's statement at the time of the transfer of the country rail services that we were going to get $800 000 000. I think that projection has proved false. However, the amount we have received came from the sale of a part of our transport system and should have been used in the upgrading of our transport system. When this Government finally must admit that it has failed to cope with the problem of rising costs in our metropolitan transport system, I do not know how it will persuade a sensible Government at Federal level to take the same action as was taken with the country rail system and take it over.

I was amazed that a Federal Government would make an offer for our country rail system. I wholeheartedly supported the idea of giving the rail system to the Federal Government, because obviously it was out of the control of the South Australian Labor Government. Any move to get rid of it was a damn good thing, but I do not think members opposite will persuade a Federal Liberal Government to take the same action because the Liberal Government is financially responsible and will not be willing to take over a system that has been so disastrously run. By the time the next year is out, it will probably be incurably in deficit. Members opposite might care to tell me what action is being taken by this Government to curb the deficit on the metropolitan transport system. Let them tell me of any steps that have been taken. All they have done is to squander the capital that was received from the sale of the country rail system.

The Hon. J. E. Dunford: What about the Federal Government? How far in the red is it?

The Hon. M. B. CAMERON: I do not think the honourable member should raise that question, because the present Federal Government is much more conscious of the deficit than was the previous Federal Government. If I understand the figures, the deficit has been halved.

Members interjecting:

The Hon. M. B. CAMERON: What the honourable member does not understand is that a State Government cannot print money. It cannot say, "Don't worry about it, we'll print a few dollars." The State Government has to get it from the taxpayer.

The Hon. R. A. Geddes: You're not implying anything about the Federal Treasurer, Mr. Howard, printing extra dollars?

The Hon. M. B. CAMERON: No. That was one of the problems confronting the last Federal Labor Government, because it did not understand that one cannot go on doing that. Clearly, the State Government is setting out to mortgage the future of citizens of South Australia. It is spending money that we have not got, and it is continuing to do so without regard to the long-term consequences. I look forward to a change of Government in this State in three years, because that will obviously be the result of the financial mismanagement we are now experiencing.

Finally, the Government will not have the benefit of the transfer of the railways, and it will have to live with its own financial management without the help of capital that it has acquired. When that situation obtains the mismanagement of the economy will be finally exposed. Unfortunately, when the Liberal Government takes over in South Australia, this State will be in such a mess that it will take years to repair, as was the case with the Federal economy. The State Government does not understand the first thing about running a business. If any board of directors came to a private company with such a document as this, not even six months after the original estimate, they would be out.

The only reason the Government is not out of office is that, first, it refused to present a State Budget before an election; it carefully avoided that by calling an election before the Budget was due. Secondly, when the Government presented its Budget, it presented a clearly false document, and now we are faced with another three years of financial mismanagement because the Government hid the results of its financial mismanagement over the past years. I reluctantly support the second reading of the Bill.

The Hon. C. M. HILL secured the adjournment of the debate.

CONTRACTS REVIEW BILL

Adjourned debate on the motion:

> That this Bill be now read a second time,

which the Hon. J. C. Burdett had moved to amend by leaving out all words after "That" with a view to inserting the following:

> the Bill be withdrawn with a view to the Government referring it to the South Australian Law Reform Committee for its report and recommendations regarding the implementation of the objects of the Bill and that the Bill be redrafted to allow for its inter-relationship with other Acts.

(Continued from March 1. Page 1860.)

The Hon. R. A. GEDDES: I support the concept of the Bill. Its import is to provide more assistance to the consumer. The consumer credit legislation that has already been passed by the Government in past years has provided a venue for consumers to obtain relief in many fields. However, consumer credit legislation has increased the cost of doing business and, although consumers may believe that they are getting greater protection, they are forced to pay for it. This Bill aims to widen the tentacles of the consumer protection field, in a like manner to the tentacles of an octopus.

The Bill provides power to cover contracts in the business world. The small businessman who wishes to purchase goods for sale on his shelves must presently sign a contract with a company and, if he wants the goods, he has to sign the contract or, if he does not sign it, he does not get the goods. Because people are sometimes foolish and because some contracts are apparently written in such a way that a man's business can be jeopardised, sometimes protection is necessary. In this regard I refer to the Minister's second reading explanation, as follows:

> The present law of contract reflects the nineteenth century philosophy of *laissez-faire*. It is largely based upon the assumption that everyone is free mutually to agree upon the terms of his contracts and, consequently, once agreed upon, those terms, interpreted objectively, are applied literally and enforced by the courts. This theory assumes that the parties enter into their contract from a position of equal bargaining strength. The principles of freedom of contract and sanctity of contract have little merit in 1978.

I understand that when a person buys a new motor car he has to sign a form, and that contract absolves the car dealer from any action that the new owner might wish to take. The contract provides simply that the company agrees to sell the car by becoming the owner's agent so that, should the car fall to pieces in the first week or be of obviously shoddy workmanship, the owner cannot sue the selling agent, nor can he sue the car manufacturer. I

understand that that is one form of contract that this new Bill will be able to separate. Although the owner signs the contract absolving the selling agent from any responsibility, under this Bill the owner will be able to lay a claim against that selling agent.

This is a deep field of contractual law, and people interested in this Bill, when they read the Hon. Mr. Burdett's speech, will understand the complexities of the Bill. In his speech the honourable member referred to the Torrens title system and the fact that section 5 of the Real Property Act comes within the Bill's ambit. As the Hon. Mr. Burdett indicated, this could cause serious concern because of the faithfulness, accuracy and dependability of the Torrens title system of land tenure that has applied for so many years in South Australia. The honourable member referred to the Torrens title and the certificate of title and stated that a certificate of title is a mirror of title.

Because that made me question the meaning, I did some research. If architects, in drawing up plans for a building, wish to change the plans, they refer to the mirror principle in connection with the reflection of the plans into a mirror: reversing the plans completely, I wondered whether the Torrens title system could reverse the title. The first of the three main principles of the Torrens title system is the "mirror" principle, under which the register book reflects all facts material to an owner's title to land. Nothing that is incapable of registration and nothing that is not actually registered appears in the picture but the information that is shown is deemed to be both complete and accurate. Secondly, there is the "curtain" principle which emphasises that so far as a proposing purchaser is concerned, the register book is the sole source of information about the legal title so that he neither need nor may look behind it. To clutter the picture with trusts and "obscure equities", for example, is an evil and is forbidden. The third principle is the "insurance" principle which, whilst upholding the correctness of the register book declares that if through human frailty a flaw appears in the mirror of title, anyone thereby suffering loss will be put in the same position, so far as money can do it, as if the reflection were a true one.

This Bill binds the Crown. Often the Crown is absolved in connection with Acts of Parliament and in connection with people outside being hard done by. The fact that the Crown is bound is therefore of great consequence. Clause 7 (5) *(e)* provides:

> where the contract is wholly or partly in writing, the form of contract and the intelligibility of the language in which it is expressed;

This question of intelligibility would be an interesting argument to raise in the courts, with lawyers vying one with the other. The Hon. Mr. Burdett has alerted us to complications in connection with the possibility that the Real Property Act is liable to be challenged where contracts for sale of land have taken place. So, care must be taken in dealing with this matter. The Hon. Mr. Burdett has moved to amend the question as follows:

> By leaving out all words after "That" with a view to inserting in lieu thereof the words "the Bill be withdrawn with a view to the Government referring it to the South Australian Law Reform Committee for its report and recommendations regarding the implementation of the objects of the Bill and that the Bill be redrafted to allow for its inter-relationship with other Acts".

This amendment is very sound. On inquiring outside Parliament about the wisdom of the amendment, I found that it would be welcomed by the profession, because of the serious consequences of the Bill, should it be passed, and because possible flaws in the Bill could cause greater difficulties for the people concerned. I support the second reading.

The Hon. D. H. LAIDLAW secured the adjournment of the debate.

RESIDENTIAL TENANCIES BILL

Adjourned debate on second reading.
(Continued from March 1. Page 1862.)

The Hon. J. C. BURDETT: Following my remarks on this Bill yesterday, I point out that clause 45 (1) *(c)* gives the tenant in certain circumstances the right to authorise necessary emergency repairs. It provides, in effect, that the landlord has to compensate the tenant for the repairs done. This clause was amended following the Select Committee's report in another place, and here again we see an improvement. Some sort of protection has been given to the landlord in these circumstances. Some people who gave evidence on this clause misunderstood what the clause said. It does not empower the tenant to have the bill sent to the landlord. Clause 45 (1) provides:

> It shall be a term of every residential tenancy agreement that the landlord— . . .
>
> *(c)* shall compensate the tenant . . .

So, the tenant would be liable for the repairs, and the landlord's obligation is simply to compensate the tenant. However, it seems to me that the clause is still open to abuse: there could be collusive arrangements between repairers and tenants. Therefore, the clause needs further amending along these lines: where in these circumstances the tenant authorised the repairs, the tradesman who effected the repairs should be required to make a simple, short report of the nature of the damage and the cause thereof, and this report should be appended to the account. The account would go to the tenant, who would pay it, and the tenant, in seeking compensation from the landlord, would have to send it on to the landlord, who would then know how the emergency repair became necessary (for example, a tennis ball could have fallen down the toilet). If the procedure I have outlined is not followed, there would be no way in which the landlord would know how the repair became necessary. A simple requirement that the tradesman should report the nature of the repair would be a reasonable protection for the landlord.

Clause 51, relating to the right of a tenant to assign or sublet, does not need any further amending, but it has been very much misunderstood. I went to a number of meetings where landlords and other people spoke, and it seemed to me that most landlords misunderstood the present law. That applies so much to this Bill because it does not really alter the present law very much. Many landlords do not understand that at present the tenant has a right to sublet or assign unless there is a covenant in an agreement saying that he cannot sublet or assign without the prior approval in writing of the landlord. It has been held by the courts that, if there is such a covenant, such approval by the landlord shall not be unreasonably withheld in the case of a respectable, responsible and solvent person. So this clause does not change the law much, except in one respect, and that is subclause (2), which provides:

> Where in any proceedings the question arises as to whether or not a landlord has unreasonably withheld a consent referred to in this section, the burden shall lie on the landlord to prove that he has not unreasonably withheld his consent.

I think the onus of proof has been changed. At present it would be on the tenant to prove that the consent was unreasonably withheld. The clause reverses that and puts

the onus of proof on the landlord to show that he has not unreasonably withheld his consent. That is not a very major change in the law, and this is a civil matter. Clause 55 provides:

(1) A landlord who has required or invited a tenant to sign a written residential tenancy agreement or memorandum thereof shall—(a) provide the tenant with a copy of the document at the time at which it is signed by the tenant: and (b) ensure that a fully executed copy of the document is delivered to the tenant within twenty-one days after it has been signed and delivered by the tenant.

Some sort of let-out is required here because a fully executed copy signed by both landlord and tenant may not be possible. The landlord may be overseas, in another State, ill, or something of that kind; and there is a penalty of $200 if he does not comply. So, while I approve of the principle of the clause (to see that the tenant gets a fully executed copy) it is necessary to see that a landlord does not make himself guilty of an offence, through no fault of his own, which he may not like anyway, being subject to a penalty of up to $200. There should be some let-out for the landlord, and that can be provided by way of amendment in this regard. Clause 56 reverses the present usual contractual principle. It provides:

Where a landlord requires the execution of a written residential tenancy agreement or memorandum of a residential tenancy agreement the cost of its preparation shall be borne by the landlord.

At present, it is borne by the tenant unless there is some agreement to the contrary. This change has been intended to protect the tenant, and particularly the tenant at the lower end of the economic scale. I approve of this principle. I would, however, add that it will probably mean that the cost to the landlord will rise and, therefore, the rent will increase; but, in the case of the ordinary residential tenancy for a month of a one-bedroom or two-bedroom flat, the cost of the agreement will not be great, and the fact that the landlord will bear the cost of it, under clause 56, does not matter very much. The cost of preparation and execution is not much, but the stamp duty is considerable.

I understand it has been put to the Attorney-General that, not in this Bill but under the Stamp Duties Act, residential tenancy agreements should be exempt from stamp duty. That should be done. I ask the Minister, when he replies to this debate, to say whether or not the Government intends to exempt residential tenancy agreements from stamp duty. This Bill is said to be for the benefit of both landlord and tenant, and I think that is borne out by its provisions, but the major intention is to benefit the tenant, and particularly the tenant at the lower end of the economic scale. The best way to do this would be to exempt residential tenancy agreements from stamp duty, and I ask the Government to do this.

The Hon. R. C. DeGaris: What would the cost of it be?

The Hon. J. C. BURDETT: I was going to say "minimal". In the case of a residential tenancy agreement, the cost of collecting the duty might be greater than the duty recovered. The cost of this exemption would be minimal and it would benefit tenants, which is one of the intentions of the Bill. One of the most difficult clauses of the Bill is clause 57, the marginal note of which is "Discrimination against tenants with children." This worries me, because I have great respect for the principles in regard to this clause. I should hate to think that people with young children are, because of that fact, improperly refused residential tenancy agreements. On the other hand, there are cases where such discrimination is quite proper, and I find it difficult to know whether or not this clause should remain in the Bill. It has been amended and improved as a result of the deliberations of the Select Committee. Subclause (1) provides:

A person shall not refuse, or cause any person to refuse, to grant a tenancy to any person on the ground that it is intended that a child should live in the premises. Penalty: Two hundred dollars.

As I have said, as a family man concerned about families with young children, I should not like to think that a family was refused a residential tenancy agreement on that ground. On the other hand, I wonder what the efficacy of the clause will be; it troubles me that I am afraid that the net result of the clause will be that families with young children will be less likely than more likely to get rental accommodation.

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

The Hon. J. C. BURDETT: Yes, because it may be that people, because they are afraid of this clause, will withdraw their premises from rental.

The Hon. R. C. DeGaris: That happened in Great Britain.

The Hon. J. C. BURDETT: Yes, in the case of people who are away, or going to another State. There has been some amendment to this clause as a result of the deliberations of the Select Committee, but many people going overseas or going away or who have premises that could be damaged by young children are likely to withdraw those premises from letting, and that means that people who otherwise would have taken those premises will take premises further down the scale. It will mean that at the bottom end families with children will not be able to get reasonable accommodation. Subclause (2) troubles me particularly; it should be deleted. It provides:

In any proceedings in respect of an offence against subsection (1) of this section, where it is proved that the defendant refused to grant a tenancy, the burden shall lie upon the defendant to prove that the refusal was not upon the ground that it was intended that a child should live in the premises.

This reverses the onus of proof, something that this Council has rarely accepted, except in special circumstances. This, to me, is particularly harsh. The penalty is $200. Then subclause (4) provides:

A person shall not, for the purpose of determining whether or not he will grant a tenancy to any person, inquire from that person whether *(a)* that person has any children; or *(b)* it is intended that a child should live in the premises.

A person cannot even ask the question; he cannot even know that the premises may be dangerous. It may be a one-bedroom flat unsuitable for children, but he cannot ask the question.

I am told that at present, when it is intended by the tenant that children should live in the premises, the landlord or agent asks to meet the husband, wife and children in order to draw his own conclusions, after meeting and speaking to them, regarding whether they are suitable. Under this subclause, that would be impossible. However, if one cannot know of the circumstances of the children, one cannot make an assessment, and, if one did know, one might be able to make a proper assessment to the benefit of the tenant and his children.

The Hon. J. R. Cornwall: Or to their detriment.

The Hon. J. C. BURDETT: Yes, it works both ways. However, a value judgment would be made and that could happen under the clause as it stands at present. That was a perfectly valid comment that was made by the Hon. Mr. Cornwall. However, if this clause was not in the Bill a value judgment could be made. There are circumstances in which a landlord is entitled to do this not only for his own benefit but also for that of the tenant and his family. Subclause (6), which has been improved as a result of the

Select Committee's deliberations, provides:

> This section does not apply where the premises the subject of the tenancy are the principal place of residence of the landlord or where the landlord resides in premises adjoining the premises the subject of the tenancy.

The second part of this provision was in the Bill before. However, the subclause which I have just read out was inserted in the Bill after the Select Committee deliberated on the matter. This means that, where the premises are one's principal place of residence and one goes overseas or to another State for a year because of, say, one's job, the premises are excluded from the provision, which is reasonable.

Clause 60, the first clause in part IV of the Bill, relates to the termination of residential tenancy agreements. At the outset, I said that in my view two changes to the law were necessary, and that this was in accordance with Liberal Party policy. Two main areas were to give security of tenure to tenants and to regulate provisions relating to bond money. Part V relates to residential tenancy agreements, and it is the part of the Bill that provides security of tenure. It seems to me that at present the security of tenure granted is reasonable and does not unduly impinge on the rights of the landlord. The period of 120 days from the time required in practice to get vacant possession, without any particular grounds, is likely to be shortened if the tribunal is effective.

I refer to clause 60 (1) *(c)*, which, in effect, exempts cases where a person having superior title to that of the landlord becomes entitled to possession of the premises. So, in that case, there is an exemption from the requirement in relation to termination. It seems to me that that superior title relates to the sublessor-sublessee situation, and I do not think it includes mortgagees, who I think should be protected and should have the same exemption.

I suggest that in Committee an amendment ought to be moved to define "superior title". I think that the definition ought to read something like this:

> Superior title includes the interest of a mortgagee under a mortgage registered under the provisions of the Real Property Act.

It seems to me that this is not covered and that it would not be comprehended in the term "superior title" as at present drafted.

Also regarding clause 60, there are some obvious misprints which I trust the Minister will clear up at some stage. Subclause (2) refers to subsection (4) of the section, and there is no subsection (4). So, what it refers to, I do not know. I hope the Minister will clear up that matter. Subclause (3) refers to subsection (3) of this section, so it refers to itself, which is obviously not what was intended. I ask the Minister to sort out this matter, because I do not know, and nor would anyone else know, what it means.

The Hon. R. C. DeGaris: Would you go back to clause 57 (6)? Did you deal with that?

The Hon. J. C. BURDETT: No, I did not, but I will do so. Clause 57 (6), as originally enacted, did not provide for the exclusion of the principal place of residence, although it did provide for exclusion where the landlord resided in premises adjoining the premises the subject of the tenancy. The question has been asked whether, if there is a block of 100 flats and the landlord resides in one of them, it means that all the flats will be exempted. I do not think it does. It says "where the landlord resides in premises adjoining the premises the subject of the tenancy". Does it mean that the one-hundredth flat down the other end is deemed to adjoin the landlord's premises and is therefore exempted? I do not think it does or that it should.

This question has been raised at meetings where landlords and others have been present. I think it means that the premises will be exempted where they adjoin the premises in which the landlord resides, and that that means "immediately adjoining". If a landlord lives in one flat of a block of 100 flats, I think the immediately adjoining premises are excluded. I do not think that it means or that it should mean that the whole 100 flats would be excluded.

The Hon. R. C. DeGaris: There could be a flat on top.

The Hon. J. C. BURDETT: Yes. I think "adjoining" means contiguous or immediately adjoining, but not 100 flats away. If clause 57 is retained, I do not say that there is any justification for excluding a whole block of 100 flats just because the landlord lives in one end of the block. That would seem to me to be irrelevant and quite improper.

I refer to clause 72 (3), although this is only a minor point. However, the word "period" has been completely misspelt. No doubt, that matter will be corrected. I refer also to clause 85, in Part VI of the Bill, which relates to the income derived from the investment of funds under the Act. This provision has been amended and improved following the Select Committee's deliberations.

Clause 85 *(d)* provides that the income derived from the investment of the fund may be applied for the benefit of landlords or tenants in such other manner as the Minister may approve. In the original Bill, the final provision in that clause was that it could be applied in such manner as the Minister may approve, so it could have been applied to General Revenue or anything else. The new provision is reasonable.

The Hon. R. C. DeGaris: Could that apply to welfare housing?

The Hon. J. C. BURDETT: I do not think it could.

The Hon. R. C. DeGaris: Do you think that the provision is sound as it is now?

The Hon. J. C. BURDETT: Yes, taking the whole of the clause. Applying the *ejusdem generis* rule, which undoubtedly would be applied in interpreting this, it means that "such other manner" must be a manner of the same kind as those previously set out. It seems to me that it could be applied only for the benefit of landlords where there had been a bond paid into the fund, because paragraphs *(a)* and *(b)* apply to those circumstances. Applying the *ejusdem generis* rule, paragraph *(d)* would be so applied. The provision could be amended to make clear that the money would be applied for the benefit of landlords where tenants disappeared owing rent or disappeared after damaging premises.

Clause 90 is a most valuable provision. It could be used in regard to the bond clause or the child clause, and it would empower the tribunal, on the application of the landlord or any person, to exempt a particular tenancy agreement or, more importantly, to exempt the premises. Even if there was a change of ownership, the premises would be exempt. If clause 57, the child clause, is retained, and if premises are on a busy road or are such that they have dangerous stairs in them, application can be made to the tribunal and I trust that, if the tribunal functions properly, exemptions will be granted.

It seems to me that there is a way to save much work for the tribunal. I am sure that many applications will be made for exemption under clause 90 and that the tribunal may be bogged down. I suggest that the clause be amended, leaving the provision as it stands (namely, that the tribunal may grant exemption) but also enabling the Governor, by regulation, to prescribe classes of exemption. If types were prescribed, that would save much work for the tribunal.

In my opinion, a major amendment required is one to provide that the Act binds the Crown. The Housing Trust

and any other Government departments or instrumentalities should be bound. It has been a hobby horse of mine that, in all consumer protection legislation, where the Crown enters the commercial field, it should be bound. It makes no difference to the consumer whether he is taken down by the Crown or by a private firm. There is some argument under the Crown Proceedings Act that, whereas the Crown is not bound in relation to tort unless there is specific provision that it is, in regard to contract it is not bound. This should be cleared up, and there should be a provision that the Act binds the Crown.

I refer to the work done by the Select Committee on this Bill compared to the work done by the Select Committee on the Contracts Review Bill. On the Bill before us, the substantive changes to the law were not very great, and most aspects of the Bill were practical and pragmatic. The committee was able to assess the evidence and it has made big amendments that have greatly improved the Bill. A Select Committee will function correctly and satisfactorily in an area such as this, where there are not far-reaching amendments to the law and where changes to the law are confined to the practical.

However, as the Hon. Mr. Geddes has said, the Contracts Review Bill changes the law over a wide field in many areas. In such cases, Select Committees cannot always appreciate all the effects of a Bill. They do not have the research facilities to enable them to do so. Amendments to the measure before us must be moved in Committee but I commend the Government for introducing it, and I commend the Select Committee for its work and for the amendments recommended by it. I support the second reading.

The Hon. J. A. CARNIE secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (No. 2)

Second reading.

The Hon. J. C. BURDETT: I move:

That this Bill be now read a second time.

It is introduced to seek a remedy to a situation in relation to abortion reporting that is clearly unsatisfactory. It is not intended to canvass in this second reading explanation the wider debate which obviously still continues in the community in relation to South Australia's abortion law, but the Bill is designed to ensure that the public debate will be better informed. The committee chaired by Sir Leonard Mallen, which was established to report annually on abortion in South Australia, has consistently recommended changes as envisaged in this Bill.

Even a cursory scanning of those reports indicates the committee's concern. For the information of members, I will briefly quote from the last three reports of the Mallen committee in relation to the matters encompassed in the Bill. The report for the year 1974 states (under "Recommendations"):

> The committee reiterates its previous recommendation that it be mandatory for all hospitals to notify the Director-General of Medical Services of all abortions carried out.

Then, under "Complication Rates", it states:

> The committee is not satisfied that complications following abortion procedures are being reported accurately or in full. The fact that in 5·89 per cent of reports complications or their absence are not stated indicates a degree of lack of information which could have a statistically significant effect on this problem. The committee recognises that this percentage probably includes a number of patients who, for various reasons, have not presented for follow-up. One aspect to be considered is that when long-term "sequelae" of abortion come under review this information will be of considerable importance.

The 1975 report, under the heading "The Act and the Regulations", states:

> The committee is of the opinion that better administration and more reliable statistics would result from reporting by all hospitals to the Director-General of Medical Services of abortions performed.

In relation to "Complication Rates", the report states:

> The committee is still not satisfied as to the accuracy of reporting complications and is aware that complications have occurred later than the fourteenth post-operative day and have not been reported. There are multiple factors which work against the accuracy in this reporting; these include delayed or late complications after the fourteenth day; failure of the patient to return to the surgeon when complications occur; failure to recover the schedule and note the complication especially when the patient may be seen by another doctor; finally, the incidence of long-term complications.
>
> The committee also feels that a reported incidence of 4·8 per cent of complications, even if accurate, is surgically unacceptable in a procedure which is popularly regarded as minor. Figures for the 6 years previously stated in this report emphasise these opinions in that the "not stated" percentage remains in the region of 5 per cent and the incidence of reported complications shows remarkably little variation. Inaccuracies and omission of details of complications are adverse to the accuracy of the committee's researches.

The most recent report (1976) states:

> It was noted, with interest, that the report of the committee appointed to report on the development of obstetrics and gynaecology and related resources in South Australia (the Nicholson committee) supports the recommendations previously made by this committee that hospitals should be obliged to report to the Director-General of Medical Services abortions carried out in each hospital and that notification of complications should be compared, and that these should be implemented by regulation.

The recommendations were as follows:

> 1. *(a)* This committee is not convinced that statistics as compiled are accurate, and has reason to believe that not all abortions are reported and that the reporting of complications is quite inaccurate. For example, in the report of the social worker attached to Queen Victoria Hospital (Mrs. Squires) it is stated that, out of 247 patients aborted over a six-months period "there were only 32 readmissions, the majority of them due to retained products", which is a complication rate of 13 per cent and which cannot be reconciled with the 3·3 per cent complication rate appearing in these official statistics. Furthermore, all these were readmissions to the original hospital, whereas it is at least possible that other similar complications may have occurred among women from country areas who would then be treated locally in their own district hospital.
>
> Furthermore, it appears that these readmissions were due principally to retained products and therefore urgent haemorrhage. The committee would be interested to have information about less urgent, if equally serious, complications such as pelvic infection, which may not require readmission and may even be treated as outpatients. The committee cannot accept the view that, where such a discrepancy is manifest in the case of one teaching hospital, other similar institutions are beyond reproach. It is believed that mandatory reporting of abortions carried out by the hospital at which the operation is performed would correct, to a larger extent, the first anomaly by ensuring that abortions were all reported as such.

The Nicholson committee report states:

> Not all terminations of pregnancy or complications arising therefrom are reported accurately or in full.

The report recommended as follows:

> The recommendations of the Mallen committee with regard to reporting of abortions by hospitals, and notification of complications, should be implemented.

The repeated request by the Mallen committee, reinforced by the report of the Nicholson committee, for action to ensure accurate reporting of abortions and complications is a matter requiring the attention of Parliament. It is a farcical situation where reports are commissioned by the Minister, laid on the table in the House as Parliamentary Papers, and reasonable action is advocated, but no action results. The Bill will not result in any difficulty for hospital administrators, and the current regulation requiring doctors to report should be rescinded. The benefits of the Bill to the community at large should be obvious.

I would add that I raised this matter during Question Time twice during the last session of the last Parliament, once on July 20 and once on August 2. I asked what action the Minister would take to implement the Mallen committee's recommendations, but I did not receive satisfactory answers, and no undertaking was made by the Minister to take legislative or other action to implement the recommendations in the report. I congratulate the member for Kavel in another place on his initiative in taking the necessary legislative action.

The Bill was amended in another place. The emphasis in the debate was the incidence of complications. This does not appear expressly in the Bill as amended. I hope that the Minister in making the regulations will have regard to the question of complications. The Mallen committee was most concerned about the issue of complications.

Clauses 1 and 2 are formal, and clause 3 empowers the Governor to make regulations requiring the superintendent of a hospital to give notice and information as to the termination of a pregnancy.

The Hon. ANNE LEVY secured the adjournment of the debate.

ADJOURNMENT

At 4.40 p.m. the Council adjourned until Tuesday, March 7, at 2.15 p.m.