LEGISLATIVE COUNCIL

Tuesday 10 October 1978

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

QUESTIONS

WATER STORAGES

The Hon. M. B. DAWKINS: Will the Minister of Health, representing the Minister of Works, ascertain for me the present amount of water stored in all country reservoirs, as well as the capacities thereof, including the South Para, Warren, Barossa and Myponga reservoirs?

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

NUCLEAR POWER PLANTS

The Hon. D. H. LAIDLAW: I seek leave to make a brief statement before asking the Minister of Health, representing the Premier, a question regarding nuclear power plants.

Leave granted.

The Hon. D. H. LAIDLAW: The 6 October issue of the *Financial Review* gave details of the first Russian-designed nuclear power plant to be constructed in Western countries. It is situated at Loviisa in southern Finland.

The report states that Russian authorities are very proud of the completed reactor, and they have begun bringing potential customers from the Third World countries, including Iran and Iraq, to visit the site. The Soviet Union is constructing the largest facility in the world for manufacturing nuclear reactors at Volgodonsk, south of Moscow. By the early 1980's the Soviet Union will be able to build nuclear reactors on a mass production basis at this plant, and there is evidence that Russian authorities now are making a major effort to sell nuclear power plants to Western countries. It is believed that their object is to find sources for the long-term export of Russian enriched uranium.

First, is the Premier aware that the Soviet Union is constructing facilities to mass produce nuclear reactors and is striving to sell these to Western countries? Secondly, does the Premier agree that, if the Labor Party continues to ban the mining and enrichment of uranium in South Australia and elsewhere, the Soviet Union will find it easier to obtain contracts for the sale of Russian enriched uranium to Western countries and at higher prices?

The Hon. D. H. L. BANFIELD: I think that in this matter the Government is bound by a unanimous resolution carried in the other place. Nevertheless, I will seek the information for the honourable member.

PORT LINCOLN HARBOR

The Hon. R. C. DeGARIS: I seek leave to make a brief explanation before asking the Minister representing the Minister of Marine a question about harbors work at Port Lincoln.

Leave granted.

The Hon. R. C. DeGARIS: I have been informed that the Government intends undertaking a considerable amount of construction work at the Port Lincoln harbor. I am also informed that in this connection the Government intends establishing a Government-controlled factory at Port Lincoln to make prestressed concrete. Further, I am informed that there is excess capacity in existing prestressed concrete factories in South Australia. Can the Minister say whether this report is accurate and whether the Government intends undertaking major works at the Port Lincoln harbor? Further, does the Government intend establishing its own prestressed concrete works to provide material for that construction work?

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

TRUST FUND ACCOUNTS

The Hon. J. A. CARNIE: Has the Minister of Health a reply to my recent question about trust fund accounts?

The Hon. D. H. L. BANFIELD: The Government's liquid assets, after allowing for unpresented cheques and departmental advances, are disclosed at page 567 of the Auditor-General's Report as cash at bank and short-term deposits, $92 180 364. As is the case with most organisations (and, indeed, most individuals), the Government does not earmark specific dollars to cover particular liabilities but, in terms of coverage, the trust funds were well covered. As little of this liquidity as possible is held as cash in hand or in a current account. The bulk of the moneys is held on interest-earning deposit with various banks and short-term money market dealers, in accordance with the provisions of the Public Finance Act.

VITAMIN B15

The Hon. J. E. DUNFORD: Before asking the Minister of Health a question dealing with vitamin B15 (pangamic acid), I seek leave to make a brief explanation.

Leave granted.

The Hon. J. E. DUNFORD: While I was in the United States, I went to a chemist shop one day when I was not feeling well. I had been working very hard and the temperature was high. I wanted something that would give me a lift. I made quite clear that I did not want anything in the nature of a drug but wanted a vitamin. The chemist was very helpful and said that he had some vitamin B15 pills. A pamphlet with the pills sets out some statements made by Russian scientists over several years. I do not know whether it was reading the pamphlet or taking the pills that made me better, but I was much better and was able to concentrate on the hard work that I was doing in the U.S.

Since my return to Australia, when people have asked me what things I liked best in the U.S., I have told them that vitamin B15 was one of them. They have told me that they have tried to buy it in Australia for themselves but to no avail. It can be bought, but I understand that it is sold under a brand name indicating that its use relates to greyhound dogs. Incidentally, my greyhound has not taken it. However, I did go to several chemist shops here today, and the chemists looked at me as though I was a private inquiry agent. At health stores I was told that they could not get it and that there was something wrong with the Government. I told those people that I was sure that there was nothing wrong with the Minister of Health or the Government. That Minister has checked everything that I have asked him to check. So that the Minister can examine the matter, I will read part of the pamphlet. It is headed

"Gold Coast Mineral Springs Pty. Ltd., telephone (075) 38 5011, P.O. Box 504, Southport, 4215". Part of the pamphlet states:

> First discovered by Ernst T. Krebs, Jr., in the U.S.A. in 1951, pangamic acid (vitamin B15) remained comparatively unrecognised in the Western World until recent years, following extensive research by European, Japanese, and especially Russian workers, who have all produced corroborative evidence in support of the original claims, which briefly are:
>
> 1. Vitamin B15 is virtually non-toxic. (Toxic dose is 100 000 times the therapeutic dose.)
> 2. It has a potent detoxifying action in cases of barbiturate poisoning, etc.
> 3. It has an excellent lipotropic action.
> 4. It improves liver function and promotes regeneration of liver cells.
> 5. Shows marked improvement in cases of anorexia, nausea, general lassitude, abdominal distension, and alleviation of jaundice.
> 6. Has a tendency to increase respiration of brain tissues.
> 7. Tends to normalise the serum cholesterol values.
> 8. It is synergistic with other members of the B-complex vitamins.

The pamphlet also states that the success of the Russian athletes at the Olympic Games can be attributed to use of vitamin B15. Will the Minister examine why vitamin B15 is not available for sale in chemist shops? Further, will he find out why the vitamin is sold by chemists under a brand name (I cannot think of it) that indicates that it is a preparation for use by animals and recommending its use by greyhound dogs? Finally, will the Minister find out whether the eight claims made by Gold Coast Mineral Springs Pty. Ltd. have any basis supported by reputable medical evidence?

The Hon. D. H. L. BANFIELD: I thank the honourable member for his question, and I will certainly look into the matter. I was hoping he would have added to the last question a request to ascertain whether the brochure was as effective as the vitamin. As he did not do so, I will not go into that matter but will seek an answer to the question.

ENERGY SOURCES

The Hon. R. A. GEDDES: Has the Minister of Lands, in the absence of the Minister of Agriculture, a reply to the question I asked on 14 September about energy sources?

The Hon. T. M. CASEY: The Charter of the Energy Council includes advice to the Government on organisation and research into alternative energy sources. The Government has not imposed a time framework within which such alternative sources shall be developed as this will obviously be one of the matters for examination and consideration of the council.

DENTAL HOSPITAL

The Hon. C. M. HILL: Has the Minister of Health a reply to my recent question about the Dental Hospital?

The Hon. D. H. L. BANFIELD: It is a fact that the waiting time for prosthetic treatment in the Dental Department is about three years unless there is some special need. However, it has never been accepted that the provision of free dental services for pensioners is a State responsibility, as it is considered that all social security obligations, including pensioner health care, are the responsibility of the Commonwealth Government.

PREFERENCE TO UNIONISTS

The Hon. D. H. LAIDLAW: Has the Minister of Health a reply to my recent question about preference to unionists?

The Hon. D. H. L. BANFIELD: Section 29 of the Industrial Conciliation and Abritration Act does not conflict with the provisions of the I.L.O. Conventions 87 or 111. For many years the industrial laws of the Commonwealth and some other States have contained provisions permitting the grant of preference to unionists, often in less restrictive terms than those of section 29 of the South Australian Act. The I.L.O. Committee of Experts on the Application of Conventions and Recommendations has periodically carried out international surveys. In those it has considered the laws of the Commonwealth and States of Australia without making any finding that it conflicts with the Conventions. The Industrial Conciliation and Arbitration Act contains the safeguards against arbitrary administrative decisions, which safeguards are recommended by the Committee of Experts and the Freedom of Association Committee of the Governing Body of the I.L.O., which hears complaints of breaches of Conventions. Although it is not proposed to delete section 29 from the Industrial Conciliation and Arbitration Act, the Government does intend to introduce amendments to that section so that it will give the State Industrial Commission similar powers to those of the Australian Conciliation and Arbitration Commission, as provided in the Australian Conciliation and Arbitration Act since 1956.

SAND DUNES

The Hon. N. K. FOSTER: I seek leave to make a brief statement before asking the Leader of the Council, representing the Minister for Planning, a question about the sand dunes in the West Lakes area.

Leave granted.

The Hon. N. K. FOSTER: The so-called development of West Lakes has been continuing for the past 10 or more years, and at this very moment bulldozers are removing from this area one of the last few remaining sand dunes that can be found along the coast from Fleurieu Peninsula to the Port River inlet. Free enterprise is responsible for the development of most of this area.

The Hon. C. M. Hill: That was initiated by a Labor Government.

The Hon. N. K. FOSTER: Initiated by a State Labor Government and prostituted by a Liberal Government between 1968 and 1970, when the Labor Government that initiated it was defeated.

Members interjecting:

The Hon. N. K. FOSTER: If your colleagues will remain silent for a moment, Mr. President, perhaps they will see that they have no great quarrel with me about which Government was in power when this project came into being, because my question does not really concern that matter. I wish to draw the Council's attention to the fact that not one tennis court or basketball court is provided in this area; little recreation space has been provided, yet such facilities should be available for use by the community.

Further, no youth facilities are being provided, and virtually no recreation space is left. It is tragic to find that the last remaining vestige of open space (an area of about 14 acres) is now being completely denuded to enable a get-rich company (R.D.C.) to get even richer. Much money has been spent on the possibility of coping with what is

known as the 100-year flood, and many experts have been looking at the question of flooding in urban Adelaide if this situation ever arises. However, if we remove the sand dunes and complete this development as proposed, and if there ever is such an unfortunate occurrence as this flood, then I prophesy that many of the houses and their occupants will be in danger.

The company could develop two-thirds of that area and leave the sand dunes there. It bought the area for a lousy $70 000 and was willing, only when there was a public outcry, to offer it back to the Government for a sum exceeding $1 500 000. Not a bad rip-off! R.D.C. is not concerned about the public: it is concerned only about its profits. It is not concerned about conservation in that area whatsoever. Therefore, my question is asked with the utmost seriousness, as members opposite will know, and as they have heard me speak about such matters on every possible opportunity in this place. Will the Leader of the Council ask the Minister for Planning to consider further the necessity for retrospective legislation so as to enable greater power and control over areas where fast development outstrips community needs involving any recreation space remaining in an area?

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

URANIUM MINING

The Hon. R. C. DeGARIS: Has the Minister of Health a reply to my recent question about uranium mining?

The Hon. D. H. L. BANFIELD: My colleague advises that there is no committee of inquiry into uranium mining in South Australia.

TOTALIZATOR AGENCY BOARD

The Hon. J. A. CARNIE: On behalf of the Hon. Mr. Cameron, I ask the Minister of Tourism, Recreation and Sport whether he has a reply to the honourable member's recent question concerning the Totalizator Agency Board.

The Hon. T. M. CASEY: The change-over from the manual system to the computer system of operation by the South Australian Totalizator Agency Board will not result in any full-time employee being made redundant. To the contrary, 22 permanent appointments have been made to data processing positions. Casually employed staff who commenced work with the board after 1 June 1976 were advised, at the time of recruitment, that continuity of work was only guaranteed until such time as the computer system was introduced. By the time headquarters operations and all metropolitan agencies are converted to the computer system, it is anticipated that about 100 casual positions now occupied by staff, who commenced after 1 June 1976, would no longer be available. All casual staff who commenced prior to that date will be retained.

WAYVILLE LIGHTING

The Hon. C. M. HILL: Has the Minister of Lands a reply to my recent question about the necessity for adequate lighting in the Wayville area?

The Hon. T. M. CASEY: The Minister for Planning has pointed out that street lighting is a local government responsibility, except on main roads where the Highways Department is responsible. The Electricity Trust acts as a contractor to councils by installing and maintaining street lights for them. The council in question, the Corporation of the City of Unley, has not received any representations on the problems described and has no plans so far to improve lighting arrangements in the lanes at Wayville. It is only recently that most of these lanes have become council property; previously they were private lanes. We understand the council would be pleased to examine the problem if an appropriate approach was made to them by the residents and property owners concerned.

ERUCIC ACID

The Hon. J. R. CORNWALL: On behalf of the Hon. Miss Levy, who is absent on Commonwealth Parliamentary Association business, I ask the Minister of Health whether he has a reply to my colleague's recent question regarding erucic acid.

The Hon. D. H. L. BANFIELD: The erucic acid content of edible fats and oils has not been analysed under the provisions of the Food and Drugs Act. However, it is known that such analyses have been done in other States and that rape seed oil has been found to contain varying concentrations of erucic acid. The Food and Drugs Advisory Committee has considered the matter of levels of erucic acid in edible fats and oils and has recommended that the food and drugs regulations be amended to provide that—

> Edible fats and oils shall not contain erucic acid in excess of 5 per cent of the total fatty acids present in the edible fat or oil.

It is understood that this amendment is to be adopted. The regulation is based on a National Health and Medical Research Council recommendation which followed consideration of overseas reports of the toxicity of erucic acid and studies of the use and erucic acid levels of rape seed oil in Australian foods. The council has also recommended that the development of low erucic acid rape seed oil varieties should be encouraged.

BLUE TONGUE

The Hon. M. B. DAWKINS: I seek leave to make a brief statement before asking the Minister of Lands, in the absence of the Minister of Agriculture, a question regarding blue tongue disease.

Leave granted.

The Hon. M. B. DAWKINS: Very considerable concern was expressed in this country earlier this year when a strain of blue tongue was found to exist in the Northern Territory. Will the Minister ascertain for me the official requirements of the Agriculture and Fisheries Department in relation to this strain of blue tongue, which, as I said, caused so much concern earlier when it was found to exist in this country? Certain restrictions relating to movement were then imposed in the Northern Territory, New South Wales, Victoria, and in Western Australia, but these have now been partially, if not entirely, lifted. This means, I understand, that the strain has been identified as a non-virulent or less virulent one. If that is so, what is the department's attitude to the presence of this disease, and what further precautions is it necessary to observe?

The Hon. T. M. CASEY: I will obtain a reply for the honourable member and bring it back when it is available.

COOPER CREEK

The Hon. R. C. DeGARIS: Has the Minister of Lands a reply to the question I asked on 13 September regarding Cooper Creek?

The Hon. T. M. CASEY: A proposal to divert water from Cooper Creek in Queensland for irrigation purposes was investigated by the Queensland Irrigation and Water Supply Commission in the early 1960's. As this scheme was for retention of water rather than release, objection was raised by the South Australian Government and, as far as is known, this scheme or a similar one has not been resubmitted.

STUD BULLS

The Hon. N. K. FOSTER: I seek leave to make a statement before asking the Minister of Lands in the absence of the Minister of Agriculture a question regarding stud bulls.

Leave granted.

The Hon. N. K. FOSTER: Most Liberal members of this Council consider that they are better versed in relation to rural matters than are Government members. However, I should think that they soon lose their expertise because, after being elected to this place, those honourable members vacate their country properties. I was disturbed recently to learn that a person not unknown to honourable members in this Council paid thousands of dollars for a bull. It was reported in the *Advertiser* that this bull was bought from New Zealand by Malcolm Fraser (a man who owns 20 000 hectares of land) for over $60 000.

The Hon. R. C. DeGaris: For $4 000.

The Hon. N. K. FOSTER: It seems, according to the Hon. Mr. DeGaris, that $64 000 was paid for the bull; apparently inflation caught up with it. However, the bull came to an untimely end when it snapped its penis. Obviously the bull had been affected by its master's carrying on about a reduction in inflation. Perhaps that brought about the beast's unfortunate demise, or perhaps the bull was afflicted when it started to play with its own private sector, which its owner said must be stimulated.

The PRESIDENT: Order! Has the honourable member finished his explanation?

The Hon. N. K. FOSTER: No, not yet, Sir.

The Hon. R. C. DeGaris: You've got us in fits of laughter!

The Hon. N. K. FOSTER: If the Leader had a bull worth $64 000 and this happened—

The Hon. R. A. Geddes: That's not unusual.

The Hon. N. K. FOSTER: I am pleased the honourable member said that, because that is why I am asking this question. Will the Minister's department examine the matter to ensure that the safety of breeding stock is maintained? I remind the Council that this is not an unimportant matter, as it has a real effect on the rural industries, particularly in relation to breeding stock.

The Hon. T. M. CASEY: I will obtain a reply for the honourable member and bring it back when it is available.

PAYNEHAM ROAD

The Hon. J. A. CARNIE (on notice):

1. On how many occasions have traffic restrictions due to work on underground services applied in Payneham Road during the current calendar year?

2. What is the total length of time that restrictions have applied during this period?

3. What work was done on each of the separate occasions?

4. Is it anticipated that there is to be more work done in Payneham Road in the immediate future?

5. Is any of this work being done in anticipation of the widening of Payneham Road, and, if so, when is it intended that road widening will take place?

The Hon. T. M. CASEY: The replies are as follows:

1. Seven.

2. A total of 72 calendar days in respect of the Engineering and Water Supply Department, and 22·5 hours in respect of the Electricity Trust of South Australia.

3. Sewerage services:

(a) 22 May 1978 to 29 June 1978—Construction of 295 metres of 600 mm diameter sewer and adjustments to connections in Payneham Road, between St. Peters and Ann Streets.

(b) 9 August 1978 to 15 August 1978—Repair and resealing of 150 m of sewer trench in Payneham Road, between St. Peters Street and Stephen Terrace.

(c) 21 August 1978 to 15 September 1978—Construction of 220 m of 300 mm diameter sewer and 75 m of 225 mm diameter sewer, and adjustments to connections in Payneham Road, between Harrow Road and Stepney Street.

Water supply:

(a) 16 June 1978—Repairs to a blown joint on the 18th cast iron main at the corner of Payneham Road and Barnett Avenue.

E.T.S.A.:

Excavation to install conduits beneath the road for the extension of underground electricity mains.

4. Yes, in regard to the Engineering and Water Supply Department. The Electricity Trust of South Australia does not expect any further work.

5. No.

LEAVE OF ABSENCE: Hon. ANNE LEVY

The Hon. C. W. CREEDON moved:

That two weeks leave of absence be granted to the Hon. Anne Levy on account of absence on Commonwealth Parliamentary Association business.

Motion carried.

ENFORCEMENT OF JUDGMENTS BILL

Bill recommitted.

Clause 10—"Sales of chattels and land under writ of sale"—reconsidered.

The Hon. K. T. GRIFFIN: I move:

Page 5, line 15—Leave out "judgment debtor" and insert "court".

Subclause (8) deals with the situation where there are separate parcels of land belonging to a judgment debtor to be sold in pursuance of a writ of sale, and provides that the sheriff shall, if so required by the judgment debtor prior to the date of the sale, offer the parcels of land for sale in a specified order, with the result that the discretion as to the order in which the parcels of land are offered for sale is with the judgment debtor. I regard this as an improper place for that decision to reside. Dealing with subclauses (7) and (8), the Select Committee's report (at page 9) states:

> Further, there is no clear direction in the Bill as to the order for sale of property subject to execution. Your committee considers that writs should be executed in the

order in which they were granted. An amendment is recommended to ensure that a court may direct the order of sale of parcels of real estate having regard to both the debtor's and creditor's interests.

When the amendments were considered by the Select Committee, it seems that the translation of that recommendation into an amendment was inadvertently overlooked. My amendment implements that recommendation, so that the order in which separate parcels of land of a judgment debtor are offered for sale is determined by the court, not by the judgment debtor.

Amendment carried.

The Hon. K. T. GRIFFIN moved:

Page 5, line 24—Leave out "has" and insert "have".

Amendment carried.

The CHAIRMAN: I point out that all words after "corporate" in clause 26 (3) *(b)* should be set out as applying to paragraphs *(a)* and *(b)*. Because this is a clerical amendment, I intend having this alteration made in the reprint of the Bill.

Clause 29a—"Judgments against bodies corporate"—reconsidered.

The Hon. K. T. GRIFFIN: I move:

Page 13, line 1—After "corporate" insert "wilfully".

During the Select Committee's deliberations a submission was made that the provisions of Supreme Court Order 42, Rule 30, ought to be included in this Bill. The Select Committee agreed with that, and a provision was drafted by the Parliamentary Counsel. However, in comparing clause 29a with Supreme Court Order 42, Rule 30, I notice a significant change in emphasis, which I inadvertently overlooked. Supreme Court Order 42, Rule 30, states:

> Any judgment or order against a corporation wilfully disobeyed may, by leave of the Court or a Judge, be enforced by sequestration against the corporate property, or by attachment against the directors or other officers thereof, or by writ of sequestration against their property.

The emphasis in that rule is on the word "wilfully", so that, if a corporation merely fails to obey for some administrative or other reason (without wilfully failing), the directors or other officers of the company would not be caught by the provisions of the Supreme Court rule. However, clause 29a has omitted any qualification in connection with failing to obey a judgment; the word "wilfully" ought therefore to be inserted, so that the emphasis in Supreme Court Order 42, Rule 30, is maintained. This amendment is consistent with the Select Committee's deliberations.

The Hon. C. J. SUMNER: I am not sure that I entirely agree with this amendment, nor am I sure that it is what the Select Committee decided. It seems to me that the honourable member is suggesting that there is one standard for a body corporate and another standard for individuals. Perhaps he will clarify the point he wants to make.

The Hon. K. T. GRIFFIN: This clause is not concerned with the enforcement of a judgment, which includes an order of the court, against the assets of a body corporate: clause 29a deals with the liability of directors and officers of the body corporate in the event that it has failed to satisfy a judgment. If there is a judgment against a body corporate for, say, $10 000, the Bill provides that there will be available to the judgment creditor a writ of sale and, if necessary, a writ of possession. This will mean that the assets of the company can be taken in execution to satisfy that judgment.

Clause 29a imposes on directors and officers of a company a liability to meet that judgment, so where a body corporate has failed to obey a judgment to, say, pay $10 000, a director of the body corporate or any other officer of it who is responsible for the management and administration of its affairs is liable to be, on a writ of attachment, brought before the court.

The second stage is that the order to pay, for example, $10 000 may, by leave of the court, be enforced against the director or any officer of the body corporate such as I have mentioned. So we are going behind the generally accepted concept of limited liability for, say, a company limited by shares or guarantee or the corporate status of any other body corporate, so that the officers and directors become personally liable, by leave of the court, for any order or judgment made against the company. As clause 29a is drafted now, the liability of directors and officers is in the event that the body corporate fails to obey a judgment. That suggests that, for example, if the bookkeeper forgets to write a cheque, if the director is overseas, or if the secretary who is responsible for the management of the body corporate, for any reason that is not wilful, fails to pay a debt, then the directors, secretary, ledgerkeeper, or any other officer responsible for the management or administration of the affairs can be brought before the court and, in some cases, the order can be enforced against him personally.

I suggest that we ought to ensure that the director or other officer of the body corporate becomes liable only when the body corporate has wilfully failed to obey a judgment. That is consistent with Order 42, Rule 30 of the Supreme Court rules. It does not seek to shift the responsibility of the body corporate. It is only in addition to the remedies available to a creditor in the event that a body corporate fails to obey a judgment or order.

The Hon. J. C. BURDETT: The effect of the five Bills originally was that there would be no remedy against directors, because the Local and District Criminal Courts Act Amendment Bill deleted a section in the principle Act and the effect of that section, together with the effect of a section in the Companies Act, was that in certain circumstances, where a debt was established against a body corporate and was not satisfied, an unsatisfied judgment summons could be issued against the directors. The original effect of the Bills was to take that remedy away.

We thought that that was wrong and we intended to write in the same provision as is in the Supreme Court rules in order to provide that, when a body corporate has wilfully failed to obey a judgment, the directors can be held to be accountable for it. As the Hon. Mr. Griffin has said, this is already partly an infringment of the principle of limited liability, which is that, if a company fails to pay, a person cannot go beyond the company and look to the shareholders, regardless of whether they are directors. Clause 29a at present provides that, where a body corporate fails to obey a judgment (and that could be for any reason), the directors should be held to be accountable.

That really is a destruction of the principle of limited liability, which has existed for a long time and which is at the basis of our commercial enterprises. If the Government wishes to abolish it, let it do so directly, not this way. Of course, the Government has not tried to do so. What has been done has been a mistake. As the Bills came before the Council and the Select Committee, there was no way to get at directors, and the intention was to enable the creditor to get behind the company to the directors where a company had wilfully failed to obey a judgment. The word "wilfully" has been omitted and the Hon. Mr. Griffin is seeking to write it back.

Amendment carried; clause as amended passed.

Bill reported with further amendments. Committee's report adopted.

AUSTRALIAN MINERAL DEVELOPMENT LABORATORIES ACT AMENDMENT BILL

Bill read a third time and passed.

JURIES ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 28 September. Page 1251.)

The Hon. R. C. DeGARIS (Leader of the Opposition): The Hon. Trevor Griffin and the Hon. John Burdett have expressed concern about the Bill, and the Hon. Mrs. Cooper has taken a similar view. That concern was that there were in the Bill matters that the Council should treat with caution. When the measure was before the Council a fortnight ago, it was viewed as an urgent Bill. However, since the decision was made to discharge a jury in a particular murder trial and empanel another jury, the pressure of urgency has no longer been associated with the passage of the Bill. With the discharge of that jury, the parts of the Bill that caused those honourable members to criticise it, or to have serious misgivings about it, have disappeared. Therefore, there is no need for me at this stage to refer to that matter.

The matter left for Parliament's determination is whether the number of jurors at a trial for murder or treason should be retained at 12 or whether a reduction to 10 should be permitted. That is now the core of the argument on the Bill, whereas a fortnight ago there were other issues. For offences other than murder and treason there can be a majority verdict by a jury, but in trials for murder and treason the verdict must be unanimous.

Because of the abolition of capital punishment, the first question that must be answered is whether that fact should influence a change in the requirement in murder and treason trials for a unanimous verdict of the jury. As life imprisonment is a mandatory sentence for murder and treason I see no reason to alter the law because of the abolition of capital punishment. The abolition of capital punishment in cases of murder and treason is no reason to consider something other than a unanimous verdict by the jury.

The next point to be resolved is the minimum number of jurors required to make that decision. As the Bill stands at present, the decision in a murder or treason trial could be made by 10, 11, or 12 jurors and this number could be altered during the progress of the trial. One cannot object very much to changing the number of jurors during a trial if the rules of the game are known beforehand, but there is a strong objection to be made (and it was made by the Hon. Trevor Griffin) that where a trial is in progress and that trial is being conducted under certain rules, it is difficult to justify a change in the rules, no matter how small.

Having considered all these questions, I support the view that, where cases are likely to be of long duration, the judge should be able to give a certificate to that effect, and a jury of 13, not 12, should be empanelled. The extra juror so empanelled would act as a reserve. There have been few cases in our history in which, in the process of the case a juror has become ill. However, now many trials take longer, because of the complexity of the evidence and also the increase in the amount of scientific evidence: therefore, the possibility of a juror becoming sick during the trial is increased. I believe that the judge should be able, when he knows that the trial will be a long one, to give a certificate to that effect so that 13 jurors would be empanelled. If we are to have a reserve juror, that juror should be empanelled at the same time as the other jurors are empanelled and should be under the control of the court.

The last question is: why should we stick so rigidly to the number of 12 jurors required for a trial? Empanelling 11 with one reserve, or 10 with two reserves, is the same as empanelling 12 with one reserve. On balance I support retaining the unanimous verdict of 12 jurors in murder and treason trials, with the provision of one reserve juror for lengthy trials. The Criminal Law Committee of the Law Society of South Australia has considered this question of whether the number should be retained at 12 jurors and it made the following submission:

> The committee cannot produce any evidence to show that there is any special value in the number of 12 persons on a jury. However, it is a number which for many years has been accepted as an appropriate number of jurors to give an accused a fair trial. As was said in the third report of the Mitchell Committee in paragraph 3.1.6., "among the 12 jurors there should be a cross-section of the community certainly not usually accustomed to evaluating evidence but with varied experiences of life and the behaviour of people."
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> The committee agrees with the sentiments expressed therein. The members feel that any reduction in the number of jurors involves a reduction in that range of experience, which is so essential for a proper decision to be made by the jury. The committee emphasises again that the offences are so serious that all possible steps should be taken to avoid a miscarriage of justice.
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> A reason of somewhat lesser weight but which the committee still feels should be put forward, is that whilst these charges are at present non-capital offences, the possibility always exists that there may be a reversion to the original penalty. The committee points out that there appear to be pressures from some groups in the community in relation to other offences to increase penalties, and the possibility exists that this pressure may spread to the charge of murder.
>
> The Committee understands that there has been some reintroduction of the capital penalties in the United States of America. While of course the Juries Act could be amended back to its original form at the time that such penalties were re-introduced, it is unlikely that that will be done once a practice of reducing a jury is established.

Most members of the Criminal Law Committee of the Law Society agreed the minimum number of jurors should be 12 in a murder or treason trial. Therefore, I have decided to support the view that, where a judge considers that a reserve juror should be appointed, that juror should take his place in the jury, and be empanelled with it and, if a juror becomes sick, the reserve juror could take the place of that sick juror. That is a reasonable way to approach this question, particularly now that the pressure has been taken off Parliament because of the discharge of the jury in a particular murder case before the Supreme Court. I support the second reading.

The Hon. R. A. GEDDES secured the adjournment of the debate.

HARBORS ACT AMENDMENT BILL

(Second reading debate adjourned on 27 September. Page 1196.)

Bill read a second time.

In Committee.

Clauses 1 to 6 passed.

Clause 7—"Power to acquire wharves and water frontages and other properties."

The Hon. D. H. L. BANFIELD (Minister of Health): As there are several amendments on file and I would like further time to consider them, I ask that progress be reported.

Progress reported; Committee to sit again.

BOATING ACT AMENDMENT BILL

(Second reading debate adjourned on 27 September. Page 1193.)

Bill read a second time.

In Committee.

Clauses 1 to 8 passed.

Clause 9—"Powers of police officer or authorised officer."

The Hon. K. T. GRIFFIN: I move:

Page 3, line 11—Leave out paragraph *(b)* and insert paragraph as follows:

(b) he may board a boat—

(i) for the purpose of determining whether a registration label is affixed to the boat in accordance with this Act;

(ii) for the purpose of inspecting the boat to determine whether it is seaworthy; or

(iii) for the purpose of investigating an offence that he reasonably suspects to have been committed by a person on board the boat;

My concern is to ensure that the member of the Police Force or the person authorised in writing by the Minister in exercising the powers laid down in the clause should not have powers exceeding those already held by the Police Force. I believe that the power to board and inspect a boat should be limited to specific instances, and this amendment limits the power of the person referred to in clause 31 to accord more appropriately with the general powers of the police.

Amendment carried.

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

Page 3, lines 15 to 18—Leave out subparagraphs (i) and (ii) and insert:

(i) by a member of the police force at a police station in South Australia nominated by the operator of the motor boat, or if the operator fails to nominate a police station after being invited to do so, at a police station nominated by the member of the police force or authorised person;

or

(ii) by a nominated person at a place agreed upon by the operator of the motor boat and the member of the police force or authorised person;

As the Bill stands, if a boat were stopped in Ceduna, the inspector could direct that the licence be produced within 48 hours at Mount Gambier, a most unreasonable request. This amendment enables the operator to nominate the police station in South Australia at which he can produce his licence. This seems reasonable, because the only reason for producing the licence is to ensure that the boat operator is licensed, and the matter would not be as urgent as, say, in a road traffic case. It might suit the operator to produce his licence to an office of the department, as several departmental offices are close to the sea, and that will also be sufficient.

Amendment carried.

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

Page 3, after line 36—Insert subsection as follows:

(3) Where a person is charged with an offence consisting of a failure to obey a direction given under paragraph *(a)* of subsection (1) of this section, it shall be a defence to prove that compliance with the direction would have endangered life or property.

Concern has been expressed to me that a police officer, having little knowledge about handling a vessel, has power under this clause to direct a boat owner how to manoeuvre or secure his boat. This amendment will overcome much of the concern, as the operator will still be able to control his boat as he thinks fit.

Amendment carried; clause as amended passed.

Remaining clauses (10 and 11) and title passed.

Bill reported with amendments. Committee's report adopted.

ADJOURNMENT

At 3.32 p.m. the Council adjourned until Wednesday 11 October at 2.15 p.m.