

## LEGISLATIVE COUNCIL

Tuesday 21 November 1978

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

## BERRI-COBDOGLA DRAINAGE SCHEME

The **PRESIDENT** laid on the table the report by the Parliamentary Standing Committee on Public Works on Berri-Cobdogla Comprehensive Drainage Scheme (Stage 1).

## QUESTIONS

## PORT LINCOLN HOSPITAL

The **Hon. C. M. Hill**: I seek leave to make a short statement prior to asking the Minister of Health a question about Port Lincoln hospital.

Leave granted.

The **Hon. C. M. Hill**: There is grave concern in Port Lincoln as it is thought that plans for extensions of the Port Lincoln hospital have been deferred. In the press of 9 November disappointment has been expressed about this matter.

The Medical Superintendent of the hospital (Dr. Dion Manthorpe) was quoted as saying that he was disappointed at both the deferment of extensions and the lack of communication between the Health Commission and country areas of South Australia, such as Port Lincoln. He said he had received no written confirmation of the deferment. Will the Minister confirm whether work on extensions at the Port Lincoln hospital has been deferred and, if it has been, will he say when he believes it may be possible for that work to proceed?

The **Hon. D. H. L. Banfield**: The honourable member knows the position very well. He has heard before what it is, and he has said that we should not blame the Federal Government. However, when planning was taking place, we were acting on a promise that the Federal Government would supply us each year with certain funds for capital expenditure. We were doing nicely, when \$13 000 000 was received the year before last. Last year the amount was cut back to \$5 000 000, and this year we have got what Paddy shot at. Having no funds, the Health Commission had to review its plans and, unfortunately, work on Port Lincoln hospital is one project that has had to be deferred, as a result of broken promises by the Fraser Government in relation to funding for capital works. No-one has been more upset about that than I have been and I am sure that the Hon. Mr. Hill knew that in the first place. He has been told what the position is, but he has taken no action to impress on his colleagues in Canberra the fact that perhaps they were a little difficult in this regard. However, I assure the honourable member that we will proceed with the plans as soon as finance is available.

## MINERAL EXPORTS

The **Hon. R. A. Geddes**: Has the Minister of Agriculture, representing the Minister of Mines and Energy, a reply to the question that I asked on 26 October

dealing with possible further controls over the export of mineral products from Broken Hill Associated Smelters, at Port Pirie?

The **Hon. B. A. Chatterton**: Recent contact by company officials with the Federal Government has indicated that the sales of refined mineral products overseas will be unaffected by the proposed new orderly marketing legislation. This will concern itself mainly with the marketing of untreated raw materials, for example, iron ore. Thus, there is not expected to be any change to the overseas sales of refined lead *ex B.H.A.S.* Port Pirie. The Minister of Mines and Energy informs me that, at the present time, the lead is sold not through the London Metal Exchange but to individual countries, for example, India, Italy, Iran, and the U.K. However, the price quotations for lead on the L.M.E. do dictate price variations to the contract sales price, particularly where long-term contracts are involved.

## HOSPITALS CORPORATION

The **Hon. N. K. Foster**: I wish to ask a question regarding a recent newspaper report about the Hospitals Corporation of Australia. I have asked several questions regarding that organisation, and I seek leave to make an explanation before directing a further question to the Minister of Health.

Leave granted.

The **Hon. N. K. Foster**: When I have asked questions previously, I have received replies from the Minister, and now I seek further information or an expansion of the public statement that has been made regarding a hospital organisation that has a private sector hospital association known, I understand, as Hospitals Corporation of Australia.

The **Hon. C. M. Hill**: Is it registered in Victoria?

The **Hon. N. K. Foster**: You're a company shark, and you ought to know where it is registered better than I would know. Do your own homework and ask your own questions. I am seeking from the Minister an expansion of a public statement, if he can give it now. If he cannot do that, he can get the information. The Hon. Mr. Hill has implied something regarding a question that I am asking; I think he had better ask his own questions. Let him sleep in his own kennel.

Is the Hospitals Corporation of Australia a wholly-owned subsidiary of Hospitals Corporation of America? Will it have any shareholders and, if so, are those shareholders likely to be medical practitioners? Also, will the hospital provide emergency and first-aid treatment, and has provision been made therein for an out-patient's or casualty department?

The **Hon. D. H. L. Banfield**: I am not sure to which hospital the honourable member is referring.

*Members interjecting:*

The **PRESIDENT**: Order!

The **Hon. C. M. Hill**: He's talking about Christies.

The **Hon. D. H. L. Banfield**: The facilities at Christies Beach are to be the same as those at any other subsidised hospital. Christies Beach is not a subsidised Government hospital, except for the fact that the Government is involved in financing that hospital to the extent that it is financing the maternity wing. The architects involved are O'Connor and Gillighan, who are, I think, registered in Melbourne. I do not know who are the shareholders of the company. However, I do know that the private practitioners in the Christies Beach area will have shares in the hospital.

## NOARLUNGA HOSPITAL

**The Hon. J. A. CARNIE:** Will the Minister of Health say when the American multi-national company that is working in co-operation with the South Australian Government is expected to complete construction of the Noarlunga Hospital?

**The Hon. D. H. L. BANFIELD:** O'Connor and Gilligan, the firm of architects with which we have been dealing, has announced that it intends to commence work on this hospital next February, and that the first stage is expected to be completed within 12 months.

## HEALTH INSURANCE

**The Hon. ANNE LEVY:** Has the Minister of Health a reply to my recent question regarding health insurance?

**The Hon. D. H. L. BANFIELD:** The matter of medical practitioners classifying unemployed school-leavers as "socially disadvantaged" for the purposes of medical fees has been discussed with the President of the Australian Medical Association. He advised that the Commonwealth Minister for Health wrote to all medical practitioners in Australia on 9 October 1978 regarding the new health insurance arrangements which commenced on 1 November 1978. This letter included an expression of the Commonwealth Government's views on the situation of low-income earners and others who are socially disadvantaged, and reads as follows:

For low-income earners and others who are disadvantaged, they will be entitled (as are all other Australian residents) to free standard ward accommodation in hospital with treatment by doctors engaged by the hospital, provided they do not have hospital insurance. Provided medical practitioners agree to bulk bill (that is, at the 75 per cent rate) for medical services other than where the patient is a hospital patient, such persons would also receive their medical treatment free.

In regard to the latter group it has been decided after discussion with the Australian Medical Association that identification of such persons should be left in the hands of the medical profession without limitation of prescriptive guidelines.

This accords with the concept that doctors have traditionally made judgments as to when the overall circumstances of a patient required some alleviation from the normal fee structure, and that doctors are in the best situation to make such a judgment. Such decisions would also be made in the light of the knowledge that, in bulk billing for such patients, doctors are forgoing some portion of the fees they would otherwise request.

Disadvantaged persons could include persons in the following categories: persons on low income including social security, unemployment, sickness or special beneficiaries; newly arrived migrants and some other ethnic groups; refugees who are financially disadvantaged; and persons who suffer financial misfortune because of substantial medical expenses caused by prolonged or severe illness.

The President of the Australian Medical Association indicated that he endorsed the views expressed in relation to unemployed school-leavers, and that he would bring these views to the attention of the members of his association in the monthly bulletin, which is circulated to all South Australian members of the Australian Medical Association. I should add that the Australian Medical Association, at its conference with me, was most sympathetic to school-leavers, and believed that its members had a fairly high responsibility in this regard.

## POLITICAL GIFTS

**The Hon. J. E. DUNFORD:** I seek leave to make a short statement prior to asking the Minister of Health, representing the Minister of Labour and Industry, a question on political gifts.

Leave granted.

**The Hon. J. E. DUNFORD:** A report appeared in the press on 20 November headed, "Gift Bill 'an A.L.P. cover-up' ". I think the Bill referred to there by Mr. McLeay, the Federal Minister for Construction, is the Bill to amend the Companies Act. He is reported to have said that this is a smokescreen over trade union payments of hundreds of thousands of dollars to the Australian Labor Party. So far as I know, in the period of more than 30 years that I have been in South Australia, there has been no cover-up of union affiliations with the Australian Labor Party.

The Hon. Mr. McLeay, who also appeared on television regarding this matter, said that "a substantial proportion of dues paid to most unions, including those led by communists, goes into A.L.P. funds to help keep it in office". I do not know whether he was referring to the A.M.W.U. However, some unions are communist led, and I imagine that they do support the A.L.P. I would have strongly objected had my union supported the Communist Party and not the A.L.P.

**The PRESIDENT:** The honourable member is making a long explanation.

**The Hon. J. E. DUNFORD:** Mr. McLeay has tried to bring out the communist bogey. He said that people only found out about this matter when they read in the communist newspaper that this money may have been given by the "commos". I saw Mr. Whitlam on television and pictured on the front page of the *Advertiser* receiving a cheque from the A.M.W.U. Mr. McLeay may read only communist newspapers, and that may be the size of his library, but everyone else I know saw Mr. Whitlam receiving the cheque. Will the Minister say whether it is true that most unions in South Australia are obliged, under the Conciliation and Arbitration Act, or the Industrial Code, to provide to the Industrial Registrar, half-yearly or yearly, a true statement of their balance sheet, in which all expenditures and liabilities must be accounted for? Is it also true that most unions in the State must have a balance sheet of all expenditures read at half-yearly and yearly meetings and that that balance sheet must be endorsed by the branch members of the union in question? Is it also true that in the rules and constitutions of most unions it is provided that the union shall support the Australian Labor Party? Further, is it a fact that, under the rules and constitutions of the various unions, union members can, if they wish, make a decision to change the rules and the constitution so as not to give any political fees to the Australian Labor Party?

**The Hon. D. H. L. BANFIELD:** I must admit that the Hon. John McLeay did not come over too well. He looked a little bit shifty. He has been chasing this "commo" bogey for years. I understand he has lifted all his carpets to make sure that there is no-one under them.

Unions are democratically controlled by their members and, under the Commonwealth Conciliation and Arbitration Act, their balance sheets must be submitted each year, and are open for anyone to peruse.

Members are informed by special notice if there is to be a change in the rules. Members can go to meetings, and they can also give notice of motion that at the next meeting they will move to amend the rules. Notices are sent to members, so that all are aware of what is going on. This is the democratic way, unlike what goes on in some

companies, whose shareholders do not know what is going on. Union members are in control of their own union, and they take full advantage of the rules. I will refer the honourable member's question to my colleague.

### COMPUTERS

**The Hon. C. M. HILL:** I seek leave to make a short statement before directing a question to the Minister of Health about the inquiry into computers used in hospitals.

Leave granted.

**The Hon. C. M. HILL:** Last May there was considerable controversy concerning reports that there had been a serious loss of funds through a computer scandal at Flinders Medical Centre and possibly at other hospitals. Figures that were bandied around at the time went as high as a possible loss of \$2 000 000. The leading article in the *Advertiser* of 26 May states:

Information in the possession of this paper indicates that to the end of the 1974 financial year only \$266 000 had been spent, mostly on labour. And it was in 1974 that medical experts at the Flinders Medical Centre apparently advised the Hospitals Department to suspend further development and expenditure until the prototype of the proposed system in St. Louis, Missouri, had been completed and fully tested. The department, for reasons as yet not revealed, rejected the advice. Subsequently, the St. Louis system failed and the efforts of local technicians to develop the system at Flinders apparently proved unsuccessful. Had the advice given the department been heeded, it appears at least \$1 000 000, and possibly more might have been saved.

As a result of that issue, when the Government referred the matter to a committee of inquiry, it stated that it was intended that the report of that committee was to be brought before Parliament and laid on the table of each House. Over the weekend a person employed at Flinders Medical Centre told me that there was a strong rumour that the report would not be available for some time; in particular, it would not be available to be laid on the table by next Thursday, that is, not before the Christmas adjournment. It is not in the Government's interests or in anyone's interests if rumours like that are being spread. Can the Minister say when that report will be available and made public? Can he give any reasons at all, if there are any delays with that report, as to why it is not already in the Government's hands or on the table of this Council?

**The Hon. D. H. L. BANFIELD:** I must admit the honourable member has been very persistent about this \$2 000 000. When I replied to him on 13 July, he was trying to make it sound as though there was a big scandal, with \$2 000 000 at stake, in respect of computers at Flinders Medical Centre. The honourable member is trying to be the first cab off the rank as a result of the shaking up that the Liberals received at their meeting about a fortnight ago, when they were told in no uncertain manner that they were not performing very well in Parliament or outside.

**The Hon. C. M. Hill:** What meeting is this?

**The Hon. D. H. L. BANFIELD:** Of course the honourable member does not know anything about it; that is what his Party is complaining about. The Liberals have not got a clue. The committee in question included very competent people outside the Government service. The Government has nothing to hide in this regard. We are allowing the committee to inquire into the matter, and it will report to the Government.

**The Hon. C. M. Hill:** When?

**The Hon. D. H. L. BANFIELD:** When it has finished obtaining information. We have put no time limit on it, as we thought it was unnecessary. They are good, honest people who are doing the job they have been asked to do, but for the Hon. Mr. Hill to get up and again repeat untruths—

**The Hon. C. M. Hill:** I'll keep repeating them, too.

**The Hon. D. H. L. BANFIELD:** Of course you will. The honourable member has just told me that he will keep repeating untruths. He has been doing so for some time now, and I have no doubt that he will continue to repeat untruths.

**The PRESIDENT:** Order! The honourable Minister is not giving a very good reply. He is asking for interjections.

**The Hon. D. H. L. BANFIELD:** I want to make clear that the Hon. Mr. Hill said that he will continue to repeat untruths. He has been doing it for a long time, and he has indicated that he intends to continue doing this.

**The Hon. C. M. HILL:** Mr. President, I rise on a point of order. I did not say I will keep repeating untruths. In case my meaning was not clear, I told the Minister that I will keep on asking questions about this very serious matter.

### COURT SENTENCE

**The Hon. N. K. FOSTER:** Has the Minister of Health a reply to my recent question regarding a court sentence?

**The Hon. D. H. L. BANFIELD:** I have taken up with the Attorney-General the matter raised on 9 November 1978 concerning the sentence imposed on a woman who changed the serial number on a \$1 note in an effort to win a competition. The Attorney-General has advised that this prosecution was instituted in the normal way by the police, following the receipt of a report from the promoters of the competition, and that the defendant was represented by counsel and pleaded guilty to attempted false pretences. The Attorney-General has indicated that he will not comment on the sentence imposed by the court, as that is a matter that is strictly for the court to decide.

**The Hon. N. K. FOSTER:** I understand that the competition is run by a wellknown private bank in South Australia, namely, the Bank of Adelaide. Where such a competition is run on behalf of a gigantic financial company such as the Bank of Adelaide and the F.C.A., can they avoid instituting prosecutions and duck for cover by using the advertising agency as the prosecutor?

**The Hon. M. B. Cameron:** That's scurrilous.

**The Hon. N. K. FOSTER:** It is not.

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

### MUSIC EXAMINATIONS

**The Hon. JESSIE COOPER:** Has the Minister of Agriculture a reply to my question of 26 October concerning the Australian Music Examinations Board?

**The Hon. B. A. CHATTERTON:** The Minister of Education informs me that in the past the Australian Music Examinations Board in South Australia has been administered by the University of Adelaide. Following a submission from the university, the matter has been the subject of discussion with people involved in many different areas of music education. The matter is in hand, but no decisions have been made.

## UNEMPLOYED TEACHERS

**The Hon. D. H. LAIDLAW:** Has the Minister of Agriculture a reply to my question of 8 November regarding unemployed teachers?

**The Hon. B. A. CHATTERTON:** It is not the policy of the Education Department to employ teachers from interstate or overseas. However, applications have been accepted from teachers, who trained in South Australia and whose permanent homes are here, but who gained temporary employment outside the State. The Minister of Education informs me that such applicants would only be appointed if, on a merit basis, they are the most suitable persons for the positions.

## PAROLE

**The Hon. J. A. CARNIE:** I wish to direct a question to the Minister of Health, representing the Chief Secretary, and seek leave to make a brief explanation before doing so.

Leave granted.

**The Hon. J. A. CARNIE:** All honourable members would have been shocked last week to read of the incident involving a man who had allegedly committed an armed hold-up and kidnapped an innocent bystander as a hostage and who, when subsequently cornered by the police, shot the hostage before being shot himself by police. It transpired that that man had been sentenced to 17 years gaol for a previous armed hold-up and had been released on parole after serving seven years. This morning's *Advertiser* contains a report concerning two men, again in New South Wales (in Sydney), who were sentenced to 30 years gaol for committing, also while on parole, a series of armed hold-ups, rapes and kidnappings. These incidents, particularly the one reported last week, have raised questions in the community concerning the whole parole system in Australia. Can the Chief Secretary inform me, based on the latest period for which he has statistics, how many prisoners were paroled in South Australia, how many of these parolees were returned to gaol for breaking parole, and how many of those returned to gaol were returned because they committed crimes while on parole?

**The Hon. D. H. L. BANFIELD:** I will seek the information for the honourable member.

## QUEENSLAND CEMENT COMPANY

**The Hon. N. K. FOSTER:** I seek leave to ask a question of the Leader of the Council regarding a Queensland cement company.

Leave granted.

**The Hon. N. K. FOSTER:** This morning's *Advertiser* contains a report on a matter that I consider rather serious. It states that a Queensland cement company has the full and financial backing of the Queensland Government (whose Premier, Mr. Bjelke-Petersen, should be referred to as the Shah of Queensland rather than the Premier). The report states that this situation may have serious repercussions and cause a loss of production, business and employment in South Australia. Will the Minister obtain a report from his colleague on this matter, ascertaining what will be the likely effects on South Australia of a wholly-subsidised Queensland company being able to ignore a \$7 to \$10 differential in production costs on South Australian goods landed in Queensland as against those manufactured in Queensland?

**The Hon. D. H. L. BANFIELD:** I will seek a report for the honourable member.

## REAL ESTATE SALESMEN'S ASSOCIATION

**The Hon. C. M. HILL:** I seek leave to ask a question of the Minister of Health, representing the Attorney-General, concerning the Real Estate Salesmen's Association of South Australia.

Leave granted.

**The Hon. C. M. HILL:** I have been sent a copy of a letter by Mr. Les Cadman, President, Real Estate Salesmen's Association of South Australia. This letter, addressed to the Attorney-General, is written and signed by this gentleman, and states:

Dear Sir, At a recent meeting of the Real Estate Salesmen's Association, I was instructed by the committee to inform you of our members' considerable dissatisfaction and concern regarding the content of advertisements formulated by the S.A.L.C.—

referring to the South Australian Land Commission— and published in the local press, specifically those that appeared in the *Sunday Mail* issues of 10 and 17 September (pages 93 and 91, respectively) and I quote, "When you talk to the people from S.A.L.C. you're talking to real estate experts who aren't on commission. So you can get all the facts without the pressure." Presumably, it is not the Government's belief that the land salesmen not in the S.A.L.C.'s employ and who are paid a commission are both withholding information and exerting "pressure" on prospective purchasers. That this is inferred by the advertisements cannot be fairly disputed. In order to rectify these misrepresentations to the satisfaction of our association it is requested that the Government's attitude be clarified in the House and a statement issued to the media. These comments are made without prejudice. Thanking you,

Yours faithfully,

(Signed) Les Cadman, President.

As a copy of this letter has been sent to me, and as obviously the President of the association wants the matter to become a public issue, will the Minister, first, ascertain for me the Attorney-General's response to that letter and, secondly, ascertain whether the Attorney intends to do anything about this matter?

**The Hon. D. H. L. BANFIELD:** Regarding the first matter, as correspondence is a matter between the two people concerned, I would have thought that the Hon. Mr. Hill would take it up with the gentleman in question to obtain a response. In relation to the second matter, I will obtain a report from my colleague.

## POLICE PARKING

**The Hon. C. M. HILL:** Has the Minister of Health a reply to my recent question concerning parking arrangements for police vehicles in the vicinity of the Police Building in the city?

**The Hon. D. H. L. BANFIELD:** The matter raised by the honourable member is one which has received a great deal of consideration over the years. The main inhibiting factors in reaching a solution have always been the shortage of suitable land in the vicinity of the Angus Street headquarters building and the difficulty of allocating funds for the purposes of land acquisition. In recent years, organisational policy involving the decentralisation of certain police activities to centres outside the city square mile have provided some relief and a limited amount of space has been able to be allocated to key personnel engaged in a shift work situation: however, it is not possible to accommodate the vehicles of all personnel in the area at present available.

The Deputy Commissioner of Police has no knowledge of any recent representations that the provision of additional space is currently of an urgent nature and, in fact, expects that, for the reasons already mentioned, the situation is less pressing than it was some years ago. Although consideration of this matter is always in the foreground in the course of the department's forward planning, there are no immediate proposals to acquire further parking space at this stage.

### CONTRACTS REVIEW BILL

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

**The Hon. T. M. CASEY (Minister of Lands):** I move:  
*That this Bill be now read a second time.*

As honourable members will recall, a Bill to provide for relief against unjust contractual terms was introduced into this Parliament last year. The Bill was subsequently withdrawn in pursuance of a resolution of the Legislative Council and referred to the Law Reform Committee for consideration. The present Bill is in the terms recommended by the Law Reform Committee. The detailed analysis of the Law Reform Committee makes it unnecessary for me to give a detailed explanation of the provisions of the Bill.

That has already been done by the Law Reform Committee, and I commend the committee's report to the House. I should like, however, to take the opportunity to emphasise a number of salient features of the report and the Bill. Critics of the former Bill alleged that the notion of "injustice" adopted by the Bill would add a new dimension of uncertainty to the law of contract. The Law Reform Committee points out, however, that in the past judges have resorted to artificial interpretations and distinctions in order to avoid injustice resulting from a literal interpretation of contractual terms. The present Bill provides a proper basis for importing a measure of commercial morality into the rules relating to the construction of contracts, but, as the Law Reform Committee points out, it does not necessarily alter the result of litigation: it merely provides a direct and proper means of achieving what would otherwise be achieved by judicial reasoning of an artificial, forced and circuitous character.

The absence of a general principle of the kind set out in the Bill is, as the committee cogently argues, a reproach to the law which ought to be remedied. The existence of similar legislation in other countries with vigorous economies must surely allay fears that a Bill such as this would create uncertainty in business and discourage commerce. The Government believes that this Bill represents a very important, and necessary, reform of the law of contract, and I commend it to the attention of honourable members.

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

### PRESIDENT'S RULING

Adjourned debate on motion of the Hon. D. H. L. Banfield:

That the ruling of the President be disagreed to.  
(Continued from 16 November. Page 2063.)

**The Hon. D. H. L. BANFIELD (Minister of Health):** I seek your guidance, Mr. President. I am pleased with most of your rulings, but this time your guidance may assist. I have previously moved that your ruling be disagreed to in relation to a ruling you gave about amendments that the Hon. Mr. Hill had moved, and I have given the reasons for so moving. Do we start from scratch now, or what is the position? I still want to make sure that we discuss the ruling that you have given, but I ask whether we start from scratch now.

**The PRESIDENT:** The point of delaying the matter until the next day of sitting was so that people could prepare their cases. Debate can take place now. I assume that you wish to put matters forward in support of your motion.

**The Hon. D. H. L. BANFIELD:** Yes. I moved to disagree to the ruling of the Chairman (we were in Committee at that time) in relation to allowing amendments to the Police Regulation Act Amendment Bill. The amendments moved by the Hon. Mr. Hill were, to my mind, very much the same in substance as the provision in a Bill that had been discussed in this Council last August. I quoted Standing Order 124, as follows:

No question shall be proposed which is the same in substance as any question or amendment which during the same session has been resolved in the affirmative or negative, unless the resolution of the Council on such question or amendment shall have been first read and rescinded. This Standing Order shall not be suspended.

The amendments moved by the Hon. Mr. Hill are exactly the same in substance as the provision in the Bill.

**The Hon. J. C. Burdett:** They are not.

**The Hon. D. H. L. BANFIELD:** Are you saying these things, or am I? I said "in substance". I did not say that it was exactly the same (and the Hon. Mr. Burdett knows that). The Hon. Mr. Hill included "Deputy Commissioner", and he said that was to overcome the possibility regarding Standing Order 124. Let that be clear: the Hon. Mr. Hill said that, and he admits it now.

**The Hon. C. M. Hill:** Just a moment. I didn't say a word.

**The Hon. D. H. L. BANFIELD:** These amendments are the same in substance. As I have pointed out, when we first raised the point with the Chairman of the Committee he referred to Erskine May. I think you have since pointed out that Erskine May does not override Standing Orders. I appreciate that, and the fact that you have said it gives me great hope that you will see the error of the ruling that you gave as Chairman. In your exalted position as President, I am sure that you will override the Chairman's ruling and now rule that it was incorrect.

**The Hon. J. C. BURDETT:** You pointed out on Thursday, Mr. President, that there was no suggestion that you were implying that Erskine May had any right to override our Standing Orders, but on a contentious issue it is not realistic to ignore Presidential rulings on this and similar Standing Orders of this and other Parliaments. It is not realistic to ignore the works of recognised authors. Certainly, we are dealing with our Standing Orders 124 and 139, but we can get help from other people who had to interpret these and similar Standing Orders.

The procedure, I suggest, is analogous to the position of a court in interpreting Statutes. Regard is had to judicial interpretation of the Statute and similar Statutes and to recognised authors. I refer to *Odgers on Senate Practice* in the matter of "same question", and I also refer, because I have mentioned precedent, to the ruling of your predecessor, the Hon. Frank Potter, now deceased, on this matter on 12 November 1975. There was, in the question that he was dealing with, a consideration that does not apply here. He quoted Erskine May's *Parliamentary Practice*, 17th edition, page 519, as follows:

Objection has also been taken to a Bill on the broader grounds that it raised a question which had been previously decided by the House in the course of proceedings on another Bill of the same session. Such objection has rarely been found capable of being sustained.

The President continued:

On the occasion referred to in paragraph (ii) on that page, the Speaker made it clear that the rule only applies to identical Bills, not to a Bill identical with a rejected amendment, and I quote from Parliamentary Debates, House of Commons, 1884-1885, 298 Column 1591:

If the Bill was substantially the same as a Bill upon which the House had come to a decision it would be out of order; but if it referred to a clause in a Bill which had been decided in different ways at different times, then he was clearly of the opinion that it would not be irregular.

It seems from this (and I think it can be implied) that, if there were two substantially indetical Bills, there would be a strong case for the objection, or if there were substantially similar amendments. However, in the case of the Police Regulation Act Amendment Bill and in the case that the late Hon. Frank Potter was dealing with, there was a Bill and an amendment. It seems to me to be a fair implication from the quotation from Erskine May that there is a stronger case where one is dealing with Bill and Bill or with amendment and amendment rather than where there is a Bill on the one hand and an amendment on the other.

It is a clear rule of interpretation of any document that one does not take only the paragraph in question or pick pieces out of a document. One must refer to the whole document in order to come to the correct interpretation, and one must find out the object of the whole document as expressed.

It is perfectly clear that Standing Orders are designed to enable any member of the Council, in a regular and proper way, to obtain a decision of the Council and, indeed, of the Parliament thereon. The object of Standing Orders is to enable any honourable member to raise any matter and to ascertain the will of the Council and the Parliament on it.

Standing Orders regulate the manner of doing this. So, Standing Order 124 (and Standing Order 139, if that is in issue) should not be interpreted so as to restrict the right of a member to raise a matter and have it discussed by the Council and, if necessary, by the Parliament. No obstacle should be put in an honourable member's way in this respect.

It is clear that the Standing Order should be strictly interpreted. This should happen only when there is a clear case and when it is certain that the two matters involved are identical. This concept of strict interpretation is analogous to the courts when they interpret taxation and penal Statutes. Such Statutes are strictly interpreted because they are adverse to the rights of the citizen.

This Standing Order should be strictly interpreted in such a way that, unless exactly the same question is involved, an honourable member is not restricted or impeded and an obstacle is not put in his way in putting his matter before the Council and getting a vote on it.

The reason for the Standing Order is clear. It would be intolerable if the Council's time was taken up by someone who had a bee in his bonnet and moved a private member's Bill 15 times in a session. It is the object of Standing Orders to prevent the Council's being messed around in that way. However, that is not happening in this instance. Honourable members should be able to move their motions, have them determined by the Council on their merits, and have a vote taken by the Council.

I raise one other point: objection has been taken on the

ground that the Hon. Mr. Hill's amendment is substantially the same as the private member's Bill that he introduced previously. The first point I make is that it is not substantially the same. The point of difference is the inclusion of the Deputy Commissioner.

**The Hon. C. J. Sumner:** You're arguing against the President now.

**The Hon. J. C. BURDETT:** No, I am not.

**The Hon. C. J. Sumner:** He said that it was substantially the same.

**The Hon. J. C. BURDETT:** I am simply making the point, which I intend to make despite the honourable member's interjections, that the Bill is not substantially the same because the amendment refers to the Deputy Commissioner, something that the Hon. Mr. Hill's original Bill did not do, and that is a substantial difference.

**The Hon. C. J. Sumner:** The President didn't think so.

**The Hon. J. C. BURDETT:** It is a substantial difference, as the office of Commissioner of Police is referred to in many Statutes. The Commissioner has powers that the Deputy Commissioner does not have. He is responsible for the conduct of the Police Force, for which the Deputy Commissioner is not responsible. That is a substantial difference. Even if it was not, I strongly make the point that the Hon. Mr. Hill's Bill has not yet been disposed of by the Parliament. Had it been disposed of, it might have been a different matter. However, that Bill has not been disposed of by the Parliament.

There is nothing in Standing Orders that prevents two Bills on the same subject matter being proceeded with at the same time. It is only when one of them has been finally disposed of by the Parliament that the point of "same question" arises. The Hon. Mr. Hill's Bill has not been disposed of by the Parliament, and possibly not by this Council.

**The Hon. C. M. Hill:** That's right. It could come back here.

**The Hon. J. C. BURDETT:** That is so, because it is possible (albeit unlikely) that an amendment could be moved in another place. A message could come back to the Council, which would have to deal with the amendment. So, the Hon. Mr. Hill's private member's Bill has not been disposed of by the Parliament or possibly by this Council.

My main point is that it is clear that the purpose of Standing Orders is to regulate the circumstances in which and the means whereby a member may move his motions in the Council and have them decided on by a vote of the Council and ultimately of the Parliament.

It is clear from Erskine May and Odgers, as well as from the ruling by Mr. President Potter which I quoted, that Standing Orders 124 and 139 are restrictively interpreted because, unless it is clear that someone is trying to mess up the workings of the Council by introducing the same Bill all the time; unless the Bills are the same and unless one has been finally disposed of, no restriction should be put in an honourable member's way of getting a decision of the Council. I therefore oppose the motion and support your ruling, Sir.

**The PRESIDENT:** I have further considered the matter which has been the subject of the motion to disagree with my ruling and I confirm the ruling I gave last Thursday. However, I wish to make two observations that I consider to be relevant to this question. My further consideration has led me to the conclusion that it would be wrong not to permit consideration of the amendment proposed by the Hon. Mr. Hill. Both the Bill received from the House of Assembly and the Bill passed by this Council on 22 August set down the reasons and procedures to be followed for the removal or suspension from office of the Police

Commissioner. The Bill received from the House of Assembly includes a new provision, that is, the Deputy Commissioner, and this officer has also been included in the amendment proposed by the Hon. Mr. Hill.

It is therefore definite to me that both Houses are of the opinion that there is a need for some legislative action on this matter and, under these circumstances, unless a very clear case existed that the matter under consideration had been finally decided, it would be frustrating the will of both Houses for either House to prevent the matter being brought to a conclusion. That is of the utmost importance. This would be so where provision is made in the Standing Orders of both Houses for matters in dispute to be considered at a conference of both Houses. If we deny consideration of this Bill we frustrate that purpose.

I am also of the opinion that it would be wrong strictly to apply the "same question" rule in regard to Bills before this Council. Standing Order 124 would appear to provide that the "same question" can be considered if the "resolution of the Council on such question or amendment shall have been first read and rescinded". Although it is possible for the Council to rescind a resolution passed on a motion agreed to by the Council, it is not possible for any resolutions passed in connection with the passage of a Bill through the Council to be rescinded. A Bill having passed through the Council and been sent to the Assembly is then in the possession of that House, and the rescinding of resolutions on the Bill can have no effect.

For the reasons that both Houses appear definite that there is a need for legislative action on the matter before the Council, and that the Council cannot take any further action on the earlier Bill sent to the Assembly, I believe that for the "same question" rule to be applied to the Bill now before both Houses it must be established beyond all doubt that the question is one which has been previously dealt with and finalised. This is certainly not so in the present matter before the Council.

**The Hon. D. H. L. BANFIELD:** I do not agree that what you have said, Sir, is a consideration. We, on this side of the Chamber, also considered the matter. Despite what the Hon. Mr. Burdett said, he has disagreed with you about another matter. He obviously believes that you are not infallible regarding certain rulings. On this occasion, as I also believe that you are not completely infallible, I must persist with the motion.

The Council divided on the motion:

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

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

**The PRESIDENT:** There being 10 Ayes and 10 Noes, for the reasons I have already given I support the Chairman's decision and give my casting vote for the Noes.

Motion thus negatived.

#### POLICE REGULATION ACT AMENDMENT BILL (No. 2)

In Committee.

(Continued from 16 November. Page 2063).

Clause 3—"Removal from office."

**The CHAIRMAN:** It seems that the Hon. Mr. Hill's amendments are of the one substance and should be taken as one.

**The Hon. D. H. L. BANFIELD (Minister of Health):** We have no objection.

**The Hon. C. M. HILL:** My amendments seek to change the Bill to a mechanism in which a Police Commissioner facing either suspension or dismissal may be dealt with first, in that the Governor may remove him from office on presentation of an address from both Houses of Parliament praying for his removal. Secondly, and this approach gains the most interest when one considers this question, is that, alternatively, the Governor may suspend the Commissioner from office on the grounds of incompetence or misbehaviour.

In that event, procedures are laid down under which the Government must bring the matter to Parliament, which would have the opportunity to debate that suspension, based on the reasons for the suspension of the Commissioner. No doubt those who oppose the Government will make representations on his behalf. My amendments provide for the same procedure regarding the Deputy Commissioner. Both alternatives to which I have referred are provided for in my amendments. In the second and more important one, if either House objects to the suspension, the Commissioner or the Deputy Commissioner resumes his office.

This total approach is entirely different from that of the Government's Bill, in which there is no provision for suspension: there is provision only for the dismissal of the Commissioner or the Deputy Commissioner. The only recourse left to either of those officers is to appeal to the court for wrongful dismissal and then possibly seek damages. There is no restoration to office provided for in the Government's Bill, but there is in my Bill, and that is a vital difference between the two Bills.

**The Hon. C. J. Sumner:** How can he be restored if the Government has the numbers in the Lower House?

**The Hon. C. M. HILL:** I am not talking about the question of numbers in either House. If the honourable member cannot think any further than numbers, he would not understand. Because the Commissioner of Police and the Deputy Commissioner of Police deserve some independence due to the nature of their office, they should be in the same category as the Public Service Commissioners, the Auditor-General and the Valuer-General. The approach of suspension with the possibility of restoration to office is far better than the approach in the Government's Bill.

**The Hon. N. K. FOSTER:** I oppose the amendments, which would mean that the dismissal of a Commissioner of Police could not take place in the way that Mr. Salisbury's dismissal took place. The Hon. Mr. Hill implied that the Hon. Mr. Sumner concentrated on numbers but, if the Hon. Mr. Hill is a student of political philosophy, he will agree that Party politics are based on numbers. The power to dismiss a Commissioner of Police should rest with those who are answerable to the people. I do not know whether the Liberal Party advised Mr. Salisbury but he was getting advice from somewhere. All that Mr. Salisbury had to do was give an undertaking to the Premier. The matter was originally raised in public by Mr. Millhouse. Mr. Salisbury was required to give an undertaking as regards performance of duty to the State.

Mr. Salisbury's final version of what he saw as his allegiance was that his only allegiance was to the Crown, but that is a very wide allegiance indeed. Under the Westminster system, members of Parliament take an oath or affirmation, but that does not mean that they must bend the knee in all circumstances and follow everything that may be agreeable to the Crown. Under our system it is open to people to express an opposing viewpoint. So, it is not good enough for a Commissioner of Police to say that

he has only the one allegiance. The Premier made many requests to Mr. Salisbury in regard to secret files. The Premier must have expected a reply that would be acceptable to the people of this State, but Mr. Salisbury's replies were clearly not acceptable. Subsequent inquiries revealed that all sorts of secret files were being kept on people without their knowledge and in direct contradiction of what had been said. The then Commissioner must have known that; he could not have been so naive that he did not know it. If Mr. Salisbury sought advice from a previous Commissioner of Police, he could have been better advised.

The Salisbury dismissal took place before Parliament resumed after the recess, and a great deal of publicity in all areas of the media had been given to the matter. Members of the Liberal Party went on talk-back programmes, etc., to set the wheels of rumour in motion. As the Minister of Health had to attend a Health Ministers' Conference during the first week that Parliament resumed, it was decided that the Council would rise after sitting for no longer than about two hours. However, we saw the Hon. Mr. DeGaris and his colleagues on television saying, "We must set up a Select Committee." That committee, if it had been set up, would have been judge, jury and executioner. It would have taken away the rights and freedom of the people. We would have seen that committee drag members of the Police Force before the bar of this Council, subjecting them to one of the most frightful experiences that any citizen in this country could endure. All sorts of people could have been named and refused the opportunity to appear before the bar to defend themselves. The Labor Party would not cop that. The set-up underlying this whole matter was the Liberal Party's dishonesty. It wanted its own Select Committee and to take the matter out of the hands of the Government. Members opposite were shocked when Dunstan called a public meeting, they themselves having gone along with members of the Police Association and called public meetings on the pretext that they were going to support Salisbury.

In the mid-1930's a Police Commissioner in Victoria was sacked for withholding information from and giving incorrect information to a Government. That case ran a close parallel to this one, the then Victorian Premier's name being Dunstan. The late Field Marshal Sir Thomas Blamey, who later became Commander-in-Chief of the land forces for the whole South-Western Pacific area, was dismissed because he misled his Premier. He told him untruths and was forced by a newspaper to disclose the inaccuracies and falsehoods in his story to the Premier. His dismissal drew no comment whatsoever from the Liberal Government of the day. The only record is what appears in *Hansard* in a speech by one lone figure during an adjournment debate, and even that brought no response from anybody. There was another similar case in Ireland which, because that country's politics and methods are a little different from ours, I will not deal with.

However, I refer to a newspaper report dated 16 November and headed "The honest cop calls it quits". It was written by Max Jessop and concerns Ray Whitrod, and it tells of a conspiracy going on and the terrible things happening in the Queensland Police Force under the "Shah" of Queensland—Bjelke-Petersen, who overrode his Police Commissioner. The Commissioner in that State was not sacked: he was forced to resign under the most shocking conditions. A newspaper report on 18 November describes Mr. McKinna, to whom I referred earlier, as saying that Mr. Whitrod, who was the man to carry out suggestions for improving the Queensland Police Force, moved too far too soon, and so on. As much as the

Queensland Police Force is corrupt and as much as Mr. Whitrod in his own way attempted to influence his own Minister on that issue, that Minister was overridden by the Premier of Queensland, who did all sorts of frightful things to that man's portfolio.

**The Hon. R. C. DeGaris:** He never sacked a Speaker.

**The Hon. N. K. FOSTER:** Are we discussing the dismissal of a Speaker? Go back to when Archie Cameron was Speaker in the House of Representatives, and see just how fairly or unfairly a Speaker can be treated. However, not one murmur came from members opposite about the treatment received by the Queensland Police Commissioner.

**The Hon. C. M. Hill:** This isn't the Queensland Parliament.

**The Hon. N. K. FOSTER:** Is the Hon. Mr. Hill dissociating himself from his political brethren in Queensland? The Opposition protested in South Australia about Mr. Salisbury, yet much worse things happened to Mr. Whitrod, and members opposite made no protest. The difference between those two situations was the political scene in South Australia. No political advantage could be obtained from supporting Mr. Whitrod, unlike the case involving our former Police Commissioner Salisbury.

This Bill reflects the right of an elected Government, having the courage of its convictions, to act on behalf of the people; that is, to dismiss people in certain circumstances. It bears no watering down, as it contains sufficient safeguards. If the Opposition had any feeling for Mr. Salisbury, it would have realised that he made an error in an area where one does not make errors. I commend the Bill to the Committee.

**The Hon. R. C. DeGARIS (Leader of the Opposition):** I remember the spirited defence by the Hon. Mr. Foster when the Whitlam Government sacked the former Speaker of the Federal Parliament, Mr. Cope.

**The Hon. N. K. Foster:** I didn't get up on that matter at all.

**The Hon. R. C. DeGARIS:** That is my point. We have the Hon. Mr. Foster, a man of great principle, a man who defends all in the face of wrong.

**The Hon. N. K. FOSTER:** On a point of order, Mr. Chairman, we are in Committee, and there is nothing in the Bill dealing with a Speaker; it refers to the Police Commissioner.

**The CHAIRMAN:** That is not a point of order. It sounds like the case of the kettle and the pot.

**The Hon. R. C. DeGARIS:** That sums up the Hon. Mr. Foster's contribution. Clearly, Parliament offers protection to certain people. It offers protection to the judges of the Supreme Court. If one follows the Hon. Mr. Foster's argument, one should say that the elected Government should have the power to hire and fire at will.

**The Hon. N. K. FOSTER:** On a point of order, Mr. Chairman. I dealt specifically with the matter contained in the Bill, the hiring and firing of the Police Commissioner.

**The CHAIRMAN:** That is not a point of order. The honourable member is interrupting the debate. He has had a reasonable run and he should give the same opportunity to the Hon. Mr. DeGaris.

**The Hon. R. C. DeGARIS:** If one allows the Hon. Mr. Foster's statement to proceed unchallenged, the logical conclusion is that the elected Government must be all-powerful and must have control over the hiring and firing of everyone in this State employed by the public purse. We are deciding whether the Police Commissioner should have some protection from Parliament. The Hon. Mr. Foster consistently denigrates the institution of Parlia-



ment, pointing to the Bar and making some comments about people coming before it. He supports absolute power in the hands of a small group who, although they may have been elected by less than a majority of people in the whole State, are in power.

Protection is needed for certain people who have specific roles, and the Police Commissioner deserves protection from firing by a group that is in office for the time being. If the Commissioner can be directed in the same way as can other people in the Public Service, we lose something vital to our concept of justice. In my belief, I go further than the Hon. Mr. Hill's amendment. I know that other people do not agree with me, but I believe that the Commissioner deserves a higher degree of protection than the amendment suggests.

**The Hon. J. E. Dunford:** The Royal Commissioner didn't say that.

**The Hon. R. C. DeGARIS:** There are many occasions on which a Government does not take notice of a Royal Commission's recommendation, but on other occasions, when a Royal Commission makes a certain recommendation, a Government will say that that must be followed. If we had appointed a Select Committee, it would have done its work just as effectively and without any bias, and the comment by the Hon. Mr. Foster that such a Select Committee would be a kangaroo court is a slur on this Parliament and on those who may have been members of the committee. I do not believe that anyone who has been a member of Cabinet, such as an Attorney-General, Premier or Chief Secretary, has not known of the existence of Special Branch files and of some of the information in those files. I believe that Mr. Salisbury was a scapegoat for the Premier.

**The Hon. C. J. SUMNER:** I ask the mover of the amendments whether he considers that, if the procedure of suspension and Parliamentary consideration of it was followed, and if the final result was that the suspension became a dismissal because there was a motion from one House supporting the suspension, the Commissioner would be entitled to damages.

**The Hon. C. M. HILL:** He may be. The point is arguable.

**The Hon. N. K. FOSTER:** I rise to refute some rubbish that the Hon. Mr. DeGaris has spoken. It was not true for him to say that I had denigrated this Parliament. I have strong views about people who may be brought before the Bar during a sitting of Parliament and denied rights. I do not say that the Bar should be taken to Simsmetal scrap yard but, if the Hon. Mr. DeGaris wants to go over the few records of the Commonwealth Parliament regarding people being before the Bar, he will find that one issue on which the late Menzies was held in contempt by his own Party and his own Speaker was his treatment of two unfortunate people who appeared before the Bar of the House of Representatives in the mid-1950's. There was not one comment that gave Menzies any credit for his action. When asked by the Clerk of the House to accord legal representation to one of the two persons, Menzies barked that they would be denied such representation. If that is a legal precedent, I will have no bar of the Bar!

The Hon. Mr. DeGaris has also said that a handful of constitutionally-elected people can dismiss a Police Commissioner. However, under the Hon. Mr. Hill's amendment, a few elected members could determine whether a suspension became a dismissal. If today we had a situation where Mr. Salisbury was about to be dismissed and the matter came before this place, after having been carried in the House of Assembly, if an amendment was carried here and the matter went to a conference we would have a watering-down of the situation. The Hon. Mr.

DeGaris could get his 10 supporters with him, and then one member of this Chamber who was constitutionally elected could bring down any of those persons who can be dismissed only if they are dismissed by Parliament.

**The Hon. J. C. BURDETT:** I support the amendments for the reasons that I have given in the second reading debate, and I am surprised that the Government and the Hon. Mr. Foster do not support it. Recently, the Government introduced a Bill dealing with the Public Trustee. The method of dismissal of that officer was the same as the Hon. Mr. Hill proposes for the Police Commissioner, so, if the Hon. Mr. Foster's remarks about the Commissioner hold true, they also hold true of the Public Trustee, and I point out that the Hon. Mr. Foster voted for the Public Trustee Act Amendment Bill.

The Public Trustee needs a measure of independence, and I supported the Bill for that reason. However, the Police Commissioner also needs a measure of independence. Under the Government's Bill before us, if the Commissioner is dismissed, there is no provision for suspension, although he could have been suspended in the Salisbury affair, and the Commissioner cannot be reinstated. In the interests not only of the person who holds that high office but also of the public, the Commissioner should be a buffer between a tyrannical Government and the people.

It is just as necessary in relation to the Police Commissioner as it is for the Public Trustee. I cannot understand why the Government sees a difference or why the Hon. Mr. Foster jumps up and down about the Police Commissioner, yet supports exactly the same provision as the Hon. Mr. Hill's in relation to the Public Trustee.

**The Hon. C. J. SUMNER:** On the question whether, if the Police Commissioner was dismissed in accordance with the procedure outlined in the Hon. Mr. Hill's amendment, there would be a right of recourse to a court and possibly to damages, the answer that the Hon. Mr. Hill gave was, to say the least, somewhat equivocal. Has the Hon. Mr. Hill obtained any legal or other sort of advice on this matter that might lead him to the conclusion that the Police Commissioner would have recourse to the courts, and possibly to damages, after he had been dismissed pursuant to the provisions that the honourable member is now suggesting in his amendment?

**The Hon. C. M. HILL:** I have not taken, nor do I intend to take, anyone's advice. The point that the Hon. Mr. Sumner is missing entirely is that, if the circumstances had been as he described, this man would never have been suspended or dismissed. If the Government knew that it had to take the matter to Parliament to allow an open debate to ensue on the reasons for and against suspension, it would not have had the courage to do it. Instead of having 68 000 persons signing petitions and 10 000 to 12 000 people attending a rally in Victoria Square, those people would have been in front of Parliament House, and that would have frightened the daylights out of the Government.

Such a debate would gain so much publicity and would swing public opinion against the Government so much that the Government would have foreseen it and would not have taken action against the Commissioner. The Government would have done what it should have done earlier: carry on communications with the man. Then, the matter would not have reached the climax that it did reach, and Mr. Salisbury would still be in his office, where he should be.

That is a factor which I have not previously raised but which came to me as a result of the Hon. Mr. Sumner's line of debate. It does not mean that suspension occurs if some misdemeanour or serious error is committed or

made by the Commissioner, because the Government must run the gauntlet of public scrutiny in both Houses of Parliament. Much more arises in those debates than arose through the press and at public meetings, and so on.

I should also like to comment on the long harangue by the Hon. Mr. Foster. If one shaved down what he said to a thin core, one would find that he made only two points, the first of which is that the dismissal "shall rest with the people". That is the very thing that my amendment stipulates. The people's representatives are in this place, and this is where the matter should be debated.

The second part of the honourable member's long address simply dealt with the justification or otherwise of the sacking of Mr. Salisbury and the whole machinery related to it. However, the Party to which the honourable member belongs is not satisfied with the existing legislation; nor am I satisfied with it. The Government has introduced a Bill to try to improve the matter. So, in my view, the Hon. Mr. Foster was defending the situation that his Government is trying to improve by this Bill. They are weak grounds on which to argue.

One point which the Hon. Mr. Foster made and which was disgraceful was that relating, as he called it, to the corrupt Police Force in Queensland. That is a shameful accusation for one to make in this Parliament, and it reduces the high standard of debate that has traditionally been a feature of this Council.

Despite everything that has been said by Government members, I am still firmly convinced that my amendment provides the best legislation to deal with this unfortunate problem, and I ask honourable members to support it.

**The Hon. C. J. SUMNER:** To say the least, I am somewhat surprised that the Hon. Mr. Hill did not pursue the matter that I raised. I am sure that the Hon. Mr. Burdett would have been pleased to give the honourable member an opinion on the matter. However, it seems that he has not bothered to get one. He has therefore moved his amendment, not realising what problems it could bring for a Police Commissioner who was dismissed. As I said in the second reading debate, the honourable member's amendment would leave a dismissed Police Commissioner completely out in the cold.

I suggest that, had the Hon. Mr. Hill obtained an opinion on this matter from one of his learned colleagues, the opinion would have been that, if the procedure set out in the amendment was followed, no redress would be available to the Police Commissioner through the courts or to damages. The Government's decision having been endorsed by Parliament and the Police Commissioner having been dismissed, that would be the end of the matter. I do not believe that the Police Commissioner would have an action in the courts or that the courts could in any way interfere with or override Parliament's decision. I am sure that the Hon. Mr. Burdett would agree with me on that.

So, rather than its being an equivocal situation, as the Hon. Mr. Hill has tried to suggest, the situation is clear: there would be no redress by a Police Commissioner dismissed by the procedure laid down by the Hon. Mr. Hill.

I remind honourable members that the Government has a majority in the Lower House and, in almost any situation that one can envisage, unless there was a total breakdown in the Government's stability, its decision to suspend a Police Commissioner would be endorsed by the Lower House. So, Parliament would have spoken on the matter.

A Police Commissioner would have no redress through the courts, would not be reinstated, and would have no claim for damages. That is the suggestion being made by the Hon. Mr. Hill. However, under the Government's Bill

the Commissioner would have redress. As I said during the second reading debate, if the Government dismisses a Police Commissioner on the basis of the matters outlined in the Bill, and the Police Commissioner disputes that there was justification for such action, he could take the matter to the courts. If he was wrongly dismissed and the dismissal was unjustifiable, in terms of those criteria he would be entitled to damages.

**The Hon. M. B. Cameron:** But not reinstated.

**The Hon. C. J. SUMNER:** He would not be entitled to reinstatement.

**The Hon. M. B. Cameron:** What sort of redress is that?

**The Hon. C. J. SUMNER:** It is more of a redress than that proposed by the Hon. Mr. Hill. Under the Government's provision, there would be no reinstatement, but neither would there be under the Hon. Mr. Hill's proposal.

**The Hon. M. B. Cameron:** Unless public opinion forces him into it.

**The Hon. C. J. SUMNER:** The Hon. Martin Cameron raised the question of public opinion, and the Hon. Mr. Hill stated that at least under his proposal the Government would have to run the gauntlet in Parliament. When the Commissioner was dismissed earlier this year, the Government had to run the gauntlet in Parliament. A no-confidence motion was introduced into the House of Assembly, which the Government won. The matter was debated in this Chamber. The Government had to discuss the matter in Parliament, as it cannot avoid that in a controversial matter, as the Hon. Mr. Hill knows.

**The Hon. R. C. DeGaris:** You take away the protection of the judges.

**The Hon. C. J. SUMNER:** I am afraid that the honourable member's point escapes me: I will try to answer it if he would explain it. Quite clearly, Parliament could discuss the matter initially but, if the Police Commissioner took immediate action in the courts, it could be *sub judice* during the court hearing.

**The Hon. M. B. Cameron:** That could go on forever.

**The Hon. C. J. SUMNER:** It is unlikely, but between the dismissal and the Police Commissioner deciding to take action (if he did) the matter would be open for public debate.

**The Hon. M. B. Cameron:** After any cause for public debate had disappeared.

**The Hon. C. J. SUMNER:** Not at all. Whichever way it goes, the Opposition would still have the right to raise the matter in Parliament through questions or through a no-confidence motion, as it did with the dismissal earlier this year. It would only be the period during which court proceedings were instituted and not determined that there would be a *sub judice* problem. Before proceedings were instituted and after a determination, the Opposition could raise the matter in Parliament.

The important point is that reinstatement is not a practical possibility in either case. With the Government's proposition it is not a legal possibility, and it is most unlikely under the Hon. Mr. Hill's proposition. The real difference is that our proposition gives the Commissioner the right to damages, should the Government act wrongly in dismissing him, pursuant to the criteria to which I referred. On those grounds, I find it difficult to see why the Hon. Mr. Hill pursues his amendments.

**The Hon. J. C. BURDETT:** As for the Hon. Mr. Foster's remarks, I cannot understand why the Hon. Mr. Sumner did not think that the arguments put forward did not apply to the Public Trustee, nor why he did not oppose that Bill at that time. However, the key stone of this debate is that the Hon. Mr. Hill is not concerned only with

the Police Commissioner's position but also about public protection.

**The Hon. C. M. HILL:** The Hon. Mr. Sumner weaves his legal cloth to suit his immediate brief. His sincerity must come into question, because last week in this Chamber he supported the kind of legislative protection for the Public Trustee as my Bill provides for the Police Commissioner. Why did he not say in this Chamber last week, "If the Public Trustee is suspended, he will not be able to seek any damages through the courts. I am not going to support this approach"? Why did not his Government in 1971, when it introduced the Valuer-General legislation, provide that same kind of protection as it did for the Public Trustee last week, and as I am doing today for the Police Commissioner? Why did it not say then, "We are going to turn our back on this approach because the dismissed officer will not have any recourse through the courts"? Why does it not bring in amending Bills to see to it that Public Service Commissioners, if faced with dismissal, have recourse through the courts?

The Hon. Mr. DeGaris stated that members of the Judiciary and several senior State officers fell into the category in which both Houses have to pass such a Bill. It was satisfactory in those cases, until only two or three sitting days ago, but now, because the boot is on the other foot, the Hon. Mr. Sumner brings his case in and weeps tears of concern for the Police Commissioner and says that, under the provisions of my Bill, the poor fellow will not be able to go to court and gain damages. His case is subject to serious rebuttal because it is inconsistent with the accepted practices of his Party.

**The Hon. C. J. SUMNER:** Far be it for me to withdraw from the challenge to my sincerity that the Hon. Mr. Hill has made in this debate. I had not mentioned the point raised by honourable members opposite because it had been covered in the second reading debate. It seems to be somewhat of a red herring. I have never maintained that the Government should have the right to dismiss the Judiciary. Clearly, that has to be a matter for Parliament. Traditionally, it has been a separate branch of governmental structure, as the Hon. Mr. Burdett has told us many times in this Chamber. There is the Legislature, the Executive (of which the Police Commissioner is a member) and the Judiciary. To say that the Judiciary ought to be subject to Government Executive dismissal, is quite wrong. I have said that in this Chamber before.

I also dealt with the position of other Government officers in the second reading debate. I dealt in detail with the Valuer-General, and the Royal Commissioner agreed with me that the Valuer-General must be independent of the Executive arm of government, just as should the Ombudsman, and the Electoral Commissioner, who were the other officers that she mentioned.

The Public Trustee, to my mind, falls into a similar category to those officers, and does not fall into the same category as does the Police Commissioner, who is very much a part of the Executive arm of government. That was stated by Mr. Justice Bright in the report of the Royal Commission into the moratorium demonstrations in 1970, and was confirmed by Justice Mitchell in the Royal Commission into the Salisbury dismissal. Far from being insincere or running away from that issue, I dealt with it in my second reading speech. But, for Opposition members' benefit, I repeat it today.

**The Hon. D. H. L. BANFIELD:** The Hon. Mr. Hill calls into question integrity and certain other matters. Perhaps we might call into question the integrity and unity of the Party of which the Hon. Mr. Hill is a member.

Earlier this afternoon the Hon. Mr. Hill said he did not include the Deputy Commissioner in his amendment

merely for the sake of getting around the Standing Order. So, either he stands by that or he indicates to us that there is no unity in his own Party. There is no way we could say that the people of this State are behind the intentions of the Hon. Mr. Hill. It was argued in another place by his own Party that the Deputy Commissioner should not be included in this Bill. So much for the unity of the Hon. Mr. Hill's Party! We are told that the people of South Australia went out on North Terrace spontaneously after the dismissal of the Commissioner.

*Members interjecting:*

**The CHAIRMAN:** Order!

**The Hon. C. M. Hill:** The people were so incensed—

**The Hon. F. T. Blevins:** What happened to Willett?

**The Hon. D. H. L. BANFIELD:** He got a job out of it. He organised 4 325 people in Victoria Square to protest spontaneously.

*Members interjecting:*

**The CHAIRMAN:** Order! I have tried to quell interjections. I do not think the Minister wants help from his own side.

**The Hon. D. H. L. BANFIELD:** Willett got 4 325 people in Victoria Square for a spontaneous protest but the Hon. Mr. Hill says there were 60 000 there. The cry for a Royal Commission came from members opposite in the first place and it was granted to them, much to their horror. They were the last ones who really wanted a Royal Commission into this matter; they wanted a star chamber trial. Having asked for a Royal Commission and having got one, much to their disappointment, they now do not want to accept the decision of the Royal Commissioner, who found that the Police Commissioner was rightfully and legally dismissed. Her Honour Justice Mitchell stated:

I have reached the conclusion that Parliament should not be involved in the removal from office of a Commissioner of Police . . . I do not think it feasible to keep in office a Commissioner of Police whom the Executive does not trust or with whom its relationship is unworkable . . . I am not satisfied that Parliament is the proper tribunal for the fact finding which would, of necessity, precede an address from both Houses of Parliament or from either House of Parliament.

A proposal similar to this amendment of Mr. Hill was addressed to Her Honour during the sittings of the Royal Commission. She investigated the matter and came down with the decision that I have quoted. The Hon. Mr. Hill knows very well that he does not have public support. Indeed, he did not have public support on 4 August, when an editorial on this matter was published in the *Advertiser*, a paper that some people suggest may be biased toward the Liberal Party; at least it has never been suggested that it is biased in favour of the Labor Party. I refer now to the editorial of 4 August.

**The Hon. C. M. Hill:** Have you got this morning's editorial to refer to?

**The Hon. D. H. L. BANFIELD:** Honourable members opposite try to introduce red herrings because they do not like to be told the true position. The editorial states:

The Bill introduced in the Legislative Council this week by the shadow Chief Secretary, Mr. Hill, raises once more the vexed question of the Government's right to dismiss a Police Commissioner. It is a matter on which a considerable divergence of views came to light during public discussion of the Salisbury affair . . .

Despite the unique nature of the commissioner's office the Government must carry the ultimate responsibility for his performance and should therefore retain the right to fire as well as to hire. Mr. Hill insists that Parliament should have a say. But as, under his proposal, the commissioner could still be dismissed, after suspension, at the instance of only one

House his fate would still be firmly in the hands of the Government.

The only practical thing to be achieved by Mr. Hill's Bill, therefore, is that Parliament would have to be notified of a suspension and would have the chance to debate the issue. It is, as the Salisbury case demonstrated, desirable that the facts behind the dismissal of a commissioner should be publicly aired, but the Hill amendment seems unnecessary for two reasons. One is that there is no present bar to a dissatisfied member raising the matter.

Actually, the matter has been raised several times in both Houses. The editorial continues:

The other is that the foreshadowed right of appeal to a court would bring the facts to light, and would do so in a calmer and less politically charged atmosphere.

Of course, the Hon. Mr. Hill does not want that. He does not tell us what would happen to the Commissioner or the Deputy Commissioner if either of those officers was suspended when Parliament was in recess. Does the Hon. Mr. Hill want the officer sitting around waiting for between six months and eight months? The Playford Government did not require Parliament to sit very long. If the Police Commissioner was dismissed when Parliament was in recess—

**The Hon. C. M. Hill:** Parliament can be recalled.

**The Hon. D. H. L. BANFIELD:** The Playford Government did not recall Parliament. The amendment does not say, "Parliament shall be recalled for the purpose." Often, when the Labor Party was in Opposition, we asked the Playford Government to recall Parliament, but it was not done. Justice Mitchell also agreed with an opinion expressed by Mr. Justice Bright, as follows:

I respectfully agree with and adopt the opinion expressed by Bright J. as a Royal Commission that, while uniformity should not be adopted for the sake of uniformity, some inferences can be drawn from the comparable legislation concerning Commissioners of Police.

The report continues:

It is clear that in none of those places, other than New South Wales and Queensland, does Parliament have any part to play in the dismissal of a Commissioner of Police.

It is clear from the Royal Commission report that the right to dismiss the Commissioner of Police should remain with the Executive and is not properly exercised by Parliament or any other body. True, the Royal Commissioner recommended some modification to the prerogative right to dismiss the Police Commissioner and, as she stated, there should be a series of grounds set forth in the Statute for dismissal. As the Government has accepted those recommendations, and we are carrying out the Royal Commissioner's report, I suggest that that is the only way in which we should proceed. The Government has to face the people and we are prepared to do that. We faced them after dismissing Mr. Salisbury. The people were on our side, and the Opposition's attempt to create a division amongst the people by using emotional tactics did not go over very well. I ask honourable members to oppose the amendments.

The Committee divided on the amendments:

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

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

**The CHAIRMAN:** There are 10 Ayes and 10 Noes. I give my casting vote for the Ayes.

Amendments thus carried.

**The Hon. D. H. L. BANFIELD:** I apologise to the Committee. I meant to say there had been a poll taken throughout the State and the Government had greater support than did the Opposition.

Clause as amended passed.

Remaining clauses (4 and 5) and title passed.

Bill read a third time and passed.

#### GLANVILLE TO SEMAPHORE RAILWAY (DISCONTINUANCE) BILL

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

**The Hon. T. M. CASEY (Minister of Lands):** I move:  
*That this Bill be now read a second time.*

The Semaphore to Glanville railway line was closed on 29 October 1978, and was replaced with a feeder bus service. It is proposed to remove the railway track from the roadway so that the roadway may be completely rebituminised, including a better car parking arrangement for the centre at Semaphore. To enable the railway track to be removed it is necessary for legislation to be enacted. This Bill provides for the removal and disposal of the track.

Clause 1 is formal. Clause 2 is the interpretation clause. Clause 3 empowers the authority to take up and dispose of the railway. The schedule lists the Acts under which the whole railway (including the portion to be taken up) was constructed. The Act of 1917 was amended in 1922 but the amendment did not affect construction. For the interest and information of members, I have placed a map on the Notice Board for their perusal.

**The Hon. M. B. DAWKINS** secured the adjournment of the debate.

#### CHILDREN'S PROTECTION AND YOUNG OFFENDERS BILL

**The Hon. T. M. CASEY (Minister of Lands)** moved:

That the time for bringing up the report of the Select Committee be extended until Tuesday 13 February 1979.  
Motion carried.

#### CLASSIFICATION OF PUBLICATIONS ACT AMENDMENT BILL

Adjourned debate on second reading.  
(Continued from 16 November. Page 2056.)

**The Hon. R. C. DeGARIS (Leader of the Opposition):** In concluding my remarks on this Bill, I will speak broadly about the three Bills involved and not speak again, because we are tying at least two of the Bills before us on this question. On this matter the Hon. Mr. Blevins asked why the Hon. Mr. Burdett or someone else did not report to the police and take action when they saw things about which they wanted to complain. I have pointed out that the National Council of Women and other women's organisations have done exactly that. Complaints about indecent publications being illegally displayed have been reported to the police, and action has been taken.

Complaints have been laid with the police regarding classified publications illegally displayed and sold not in accordance with the Act. In a case in which an ordinary person in the community later complained to the police, action was taken and costs exceeding \$350 were imposed. I

should like to know how many times police have removed illegally displayed publications from shops in South Australia, and how many times they had to be returned to those shops without any action being taken.

The same premises against which complaints have been laid have repeatedly displayed this material. The question asked by the Hon. Mr. Blevins that, if people are concerned about these things, why do they not report them to the police, has been answered. Some action has been taken by the police when these things have been reported. Among publications on sale in South Australia is *Health and Efficiency*, which purports to be a nudist magazine but which contains what many of us believe is child pornography under the guise of being a nudist magazine.

That magazine is prohibited from sale in Queensland and Tasmania, where it is viewed as child pornography. However, it is on unrestricted sale in South Australia. If one compares what is happening in South Australia with the position in other States one finds that the allegations are reasonable, that South Australia takes the lightest line and the most permissive line about such material. The publication *Just Boys*, No. 3, was refused classification after many complaints were made. The board has been classifying and has been allowing unrestricted books and magazines, which in other States have been classified as child pornography and totally prohibited, to go on sale in South Australia with no classification. When one examines these questions, one understands why people in the community have been greatly concerned about the actions of the board in South Australia and why members of Parliament have been so concerned about the situation. The Bills before us do not go far enough. There will still be complaints from people concerned with the standard being set by the board and this Government. There will still be complaints because the Bills do not go far enough to make some impact on the position.

There is any number of publications still being classified; for example, *Snow White*, which on page 1 illustrates the rape of a new-born baby. That is still classified, A, B, C and D in South Australia. I do not believe that anyone would like to see such material, where a new-born baby is subject to rape, but it is still being classified in South Australia.

**The Hon. J. C. Burdett:** We were told that no child pornography is classified in South Australia.

**The Hon. R. C. DeGARIS:** That is the point I am making. There is much evidence to show that child pornography is still being classified in South Australia. *Dr. Jekyll and Mr. Hyde* is classified A, B, C, D, and E, yet it depicts rape with a walking stick. Sadism, whipping, and other things are classified in this State, and have been classified recently, so that we still have to wait three months until after the passage of this Bill before this material will not be classified and placed on sale in South Australia.

I am replying to the Hon. Mr. Blevins' allegation that, if people are dissatisfied, they can report things to the police and action can be taken. That has been done. I have quoted sufficiently from my information to indicate that the board in South Australia is still classifying child pornography, masochism and sadism. I am pleased that the Government has made some move, but I am sorry that it took a purely political line when the Hon. Mr. Burdett first introduced his Bill in this Council. The Government argued wrongly (and it knew it was arguing wrongly) that the Bill did nothing at all, or made the position slightly worse.

Suddenly, the Government has realised that there is pressure in the community, that people are concerned,

and it has made a belated effort to take action. Unfortunately, amending the Bill would not solve problems, because the Government would refuse to accept the amendments and the Council would have to back off, as the position is slightly better with the Bill. I support the second reading, but I am sorry that we will not be able to improve the measure further. I and many other people will continue to fight to see that violence, sadism, masochism, and anything else related to child pornography do not continue in South Australia.

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

#### FILM CLASSIFICATION ACT AMENDMENT BILL

Adjourned debate on second reading.  
(Continued from 16 November. Page 2056.)

**The Hon. M. B. DAWKINS:** I will speak briefly to the Bill, the principal object of which has been stated by the Minister as follows:

The object of this Bill is to achieve and improve a degree of control over those involved in showing classified films. The references in the principal Act to conventional films and the equipment necessary to show such films have been legislatively ineffective because of videotapes and other modern innovations which have been used to circumvent the parent Act.

As the legislation stands, these videotapes are not subject to the Act, and I believe any move to reduce the permissive situation is to be commended. In order that the Bill can proceed into Committee, I support the second reading.

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

#### CRIMINAL LAW (PROHIBITION OF CHILD PORNOGRAPHY) BILL

Adjourned debate on second reading.  
(Continued from 16 November. Page 2059.)

**The Hon. M. B. DAWKINS:** I support this Bill. As other honourable members have said (and this is also my view), it is not as good or effective as the Bill that the Hon. John Burdett introduced. My principal object in speaking is to commend that honourable member for his persistent efforts in this area. They have resulted in the Government's having to take action, and I compliment the honourable member on his efforts in that regard.

I think the Premier said that the Bill would contain provisions very similar to those in the British Act. That did not apply to the Bill in the first instance because it did not provide penalties for the sale or distribution of this type of pornographic material. I am pleased that in another place the Premier accepted an amendment moved by the member for Mount Gambier (Mr. Allison). That amendment has given some teeth to the measure although, as I have said, it is not as good or as effective as the Bill introduced by my colleague.

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

#### JURIES ACT AMENDMENT BILL

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

The Legislative Council agreed to a conference to be held in the Legislative Council conference room at 9 a.m. on 22 November, at which it would be represented by the Hons. J. C. Burdett, M. B. Cameron, B. A. Chatterton, K. T. Griffin, and Anne Levy.

#### REAL PROPERTY ACT AMENDMENT BILL (No. 2)

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

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

*That this Bill be now read a second time.*

Its purpose is to widen the provisions in the Real Property Act, 1886-1975, that enable a mortgagor to obtain a discharge of his mortgage in the absence of the mortgagee. Section 146 of the principal Act as it now stands enables a mortgagor, whose mortgagee is absent from the State, to pay moneys due under the mortgage to the treasurer, and section 147 enables him to obtain a discharge of the mortgage. Under section 148, a mortgagor is also able to obtain a discharge where there are no further moneys to be paid under a mortgage and the mortgagee is dead.

These sections do not allow for a number of situations a mortgagor might find himself in. For example, the mortgagee may be dead but the mortgagor may not have repaid the mortgage in full. If the mortgagee's estate is unadministered or delayed, there is no-one from whom he can obtain a discharge. Furthermore, the mortgagee may not necessarily be absent from the State. His whereabouts may be unknown or he may be mentally incapacitated and unable to give a discharge. The Bill repeals sections 146 to 148 and replaces them with one section that provides for these situations. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

#### Explanation of Clauses

Clause 1 is formal. Clause 2 enacts a new section to replace sections 146 to 148 of the principal Act. Under this section a mortgagor will be able to obtain from the Treasurer a discharge of his mortgage where the mortgagee is dead, cannot be found, or is incapable of executing, or refuses to execute, the discharge if the mortgagor has paid all moneys payable under the mortgage or if he pays those moneys to the Treasurer. The procedure is for the Treasurer to execute a discharge which is then registered. The land is thus freed from the security and the mortgagor can deal with it accordingly. However, subsection (4) ensures that the mortgagee does not lose any contractual right he may have against the mortgagor under the terms of the mortgage.

**The Hon. K. T. GRIFFIN** secured the adjournment of the debate.

#### MOTOR VEHICLES ACT AMENDMENT BILL

Adjourned debate on second reading.  
(Continued from 16 November. Page 2065.)

**The Hon. R. A. GEDDES:** I rise to support parts of this Bill and to express my disagreement regarding other parts

of it. The principal aim of this large Bill is to deal with traders' plates, the use of which, it has been alleged, has been abused by sections of the motor trade. The Bill is also designed to help disabled persons, by giving them relief in relation to parking their vehicles, particularly in the metropolitan area.

The Bill also contains a good clause that makes it obligatory for any person, applying for the first time for a licence to drive a motor cycle, to have a cycle the engine capacity of which does not exceed 250 cc. One hopes that this will help those ambitious young men in their flying machines.

Finally, something that is of interest not only to me but also to the Council generally is that the Bill contains substantial amendments relating to tow-trucks, which amendments will create much difficulty for the tow-truck industry. These provisions will be difficult to administer, and will be equally difficult for the industry to work under.

This is really a Committee Bill. It is a shame that the Government did not introduce it several weeks ago when the Council did not have much work to do. A former member of this place (Hon. Sir Arthur Rymill) said that a Local Government Act Amendment Bill or a Motor Vehicles Act Amendment Bill could always get most honourable members on their feet at some stage, as all honourable members have an interest in them. Had the Government introduced this Bill previously, when the Council did not have much work to do, honourable members could have gone through the Bill clause by clause. However, that has not happened.

After much effort by members in both Houses, the Minister has at last given concessions by regulation in relation to equipment that is carried intermittently. I refer, for instance, to farm bulk grain trucks, and so on, which will be exempted under the regulations. I proclaim loudly and clearly that primary industry needs this sort of assistance, especially when one bears in mind that a bulk bin, for instance, is used on a farmer's truck for only one month a year. The Opposition wants it clearly understood that it hopes that the concessions by regulation that have been made in relation to registration of the types of vehicle to which I have referred will continue.

Clause 8 repeals sections 14 and 15 of the Act. I have received a plea from people who are concerned about section 14, which provides:

If the Registrar is satisfied that a vehicle is intended to be driven on roads solely for the purpose of taking part in a street procession or other like entertainment, he may, in writing, exempt the owner and driver of that vehicle from the obligation to comply with any specified provision of this Act on any day or days.

This not only deals with motor vehicles that may be used in processions but also affects vintage and veteran car clubs, which have an excellent reputation for reconditioning vehicles and providing for the public a display of vehicles of historic interest. Under the original provision, by permission of the Registrar these vehicles were able to appear on public roads without the owners having to observe all the provision of the Act. I understand from the Minister's second reading explanation that in future this process will take place by regulation.

I trust that the Government will not be too tardy in relation to those enthusiastic people who have spent so much time preparing their vehicles and, on occasions, raising money for charity with their vintage and veteran motor vehicles, and in relation to the other types of vehicle such as those used in, for instance, John Martin's Pageant, which vehicles, because of the speciality of their decking, do not display registration discs or number plates.

Clause 26 deals with personalised number plates, a matter on which the Hon. Mr. Dawkins made worthy comment. It seems strange that, if a person applies for a personalised registration number and pays a considerable sum to have a personalised number plate, the plate itself remains the property of the Crown. I should like the Minister to explain why it has been found necessary for a personalised number plate to remain the Crown's property, especially when one considers that the person concerned has donated to the Registrar a reasonable sum of money for the privilege (if that is what it is) of having a personalised number plate.

Clause 40 deals with the licensing of people who wish to drive or ride motor cycles. The Minister hopes (and I am sure all honourable members agree with him) that an applicant for a new motor cycle licence will be limited to driving a motor cycle with an engine capacity not exceeding 250 cc for a period of two years before being granted a full motor cycle licence.

I cannot see how that will affect unduly the problems being experienced in the rural industry. A modern motor cycle with an engine capacity of 250 cc or less is reasonably efficient when we bear in mind the tasks performed in the rural industry. I therefore support this provision, which will curtail the young lad who wants to buy a very powerful motor bike which he can ride on the main roads but which will enable him to enjoy the pleasures that motor cycle riding can give with a 250 cc type of machine. Unfortunately, the modern motor bike, even though a joy to ride, needs skill in riding it. I commend the Government for that clause.

We turn now to the clauses concerning tow-truck operators, which are quite restrictive in intent. I, and members of the tow-truck industry, feel that this legislation will create more trouble than the present legislation. Members of the Tow-Truck Operators and Owners Association of South Australia admit freely that in years gone by some unscrupulous people in the tow-truck industry did the wrong thing, and the previous legislation did much to straighten up the industry, but, now that a great proportion of the industry has formed itself into an association with its own constitution, it is legitimately and determinedly trying to clean up the industry by itself. Because this legislation and the amendments will put many tow-truck operators out of business, it will create further costs and produce a degree of hardship for men and women in the industry.

First, clause 63 states in effect that any tow-truck driver who has a radio transmitter in his vehicle, and who contravenes the Commonwealth Wireless Telegraphy Act, is liable to commit an offence, for which the penalty is \$200 under the State Act. Tow-truck operators can gain information from the police radio and can then proceed to a crash scene as early as it is practicable (in many instances in advance of the St. John's Ambulance or the police) and with their flashing lights alert other traffic to slow down or move away, without creating further accidents.

It is illegal for anyone wishing to make a profit to listen to the police radio. That is clearly stated under the Commonwealth Wireless Telegraphy Act, which came into existence in 1905. But, under clause 63, those tow-truck operators could be fined, first, by the Commonwealth and, secondly, by the State. This is not a fair and reasonable way of doing business. Furthermore, an eye should be closed so that those who listen to police radio and are able to get to an accident quickly can do so.

Clause 63 is most unfair. It states that a tow-truck certificate generally may be endorsed with such other conditions as the Registrar thinks fit. Such other conditions should certainly be made by regulation. It is

quite unreasonable for the Registrar to draw up conditions for the tow-truck industry without the industry or Parliament being able to complain. I intend to move an amendment to clause 63, restricting the Registrar in drawing up any "other conditions" as he thinks fit to bring it into a position where the industry can object, if need be.

Clause 64 is interesting. According to the second reading explanation, it provides that any person who is not only an applicant for a tow-truck certificate may apply for a temporary certificate. It is sometimes necessary to grant a temporary certificate to persons such as mechanics who wish to road-test tow-trucks. I am told by the industry that it takes anything up to six weeks to get a temporary certificate. I think all members would realise that it is not uncommon or unreasonable that a motor vehicle, whether it be a tow-truck or any other vehicle, be road-tested by a mechanic.

The laws relating to tow-trucks are so rigid that no-one can drive tow-trucks unless he is a registered licensee. But, for a mechanic to road-test a vehicle, it apparently takes up to six weeks to get a temporary permit. It is no good giving a permit to motor mechanics indefinitely, because they are free to move within their trade from job to job and address to address. Surely, the Minister or the Registrar of Motor Vehicles could work out a better system to make sure that a tow-truck when being driven by a mechanic for road-testing purposes could have a sign "Not for hire", "Not for use" or "Under temporary repair", or any manner of signs could be used to reduce the time taken. I would not raise this matter if it was not for the fact that the Minister said:

It is sometimes necessary to grant a temporary certificate to persons such as mechanics who wish to road-test tow-trucks.

Surely a better, quicker or more efficient way could be found without imposing a ridiculous restriction on the necessary proper maintenance of the vehicle.

Although there are many clauses that concern the tow-truck organisations, clause 68 is about the nub of it. It lays down the prohibition against towing any vehicle unless the driver of the tow-truck has authority to tow, signed by the owner and driver of the vehicle. This will create difficulty in the industry. This clause amends section 98j of the principal Act, but it is to paragraph (d) that the industry raises objection.

This paragraph provides that the only person who can remove a damaged vehicle from the scene of an accident is the holder of an authority. The objection to the provision is that it prevents a tow-truck driver who arrives at the scene of an accident involving more than one vehicle from obtaining towing authorities from all of the drivers. The practical effect of the provision will be that tow-truck operators will be obliged to send more than one tow-truck to the scene of an accident, thereby creating congestion there. The Minister has claimed that one of the purposes of the Bill is to reduce congestion at the scene of an accident, thereby permitting the free movement of traffic. As a result of this provision, if a tow-truck operator sees that more than one vehicle is involved in an accident, he will certainly send a radio message to his base seeking reinforcements. So, if four vehicles are involved in an accident, there may be four tow-trucks from one company at the scene, let alone tow-trucks from other companies. So, the Minister's argument that the provision will relieve congestion at accident scenes has no substance. Previously, a tow-truck driver could approach the drivers of both vehicles involved in an accident and get their permission to remove their vehicles. This method was quicker and simpler.

I suggest that the Minister ask the Registrar of Motor

Vehicles to issue a pamphlet outlining the rules as regards tow-trucks. This pamphlet could be issued when motorists renew their licences or the registration of their vehicles. The Bill also provides that tow-truck operators must not solicit owners of vehicles within six hours following an accident in connection with the repair of their vehicles. I guess that some distressed motorists will ask, "Have you a crash repair workshop to which you can take my vehicle?" The Bill provides that, if a tow-truck operator replies in the affirmative, he can be regarded as soliciting. Clause 72 inserts the following paragraphs in section 98m:

(ab) solicits, by any means whatsoever, a person who has signed an authority to remove a damaged vehicle from the scene of an accident, for a revocation or variation of that authority, or for a further or other authority so to remove that vehicle;

(ac) solicits, by any means whatsoever, the owner, driver or person in charge of a vehicle damaged in an accident, within the period of six hours following the accident, a contract for the repair, or for the quotation of the costs of repair, of the vehicle, or for a revocation or variation of any such contract;

If, by saying that he knows a crash repair workshop, the tow-truck operator is guilty of soliciting, the law is an ass. New section 98o (2) provides:

The driver of a tow-truck shall not permit any person, other than the owner, driver or person in charge of the vehicle that is being, or is to be, towed, to ride in or upon the tow-truck while it is being driven to or from the scene of an accident.

Because the industry works long hours and odd hours, tow-truck operators are away from their wives and children for extended periods while the operators are awaiting calls. They therefore want permission for their spouses and children under 16 years of age to be allowed to travel with them. I believe that the industry's request is reasonable. Further, because some tow-truck drivers do not own a motor car, they take their children to school in their tow-truck before they continue on to work. New section 98o (2) would prevent this practice. Clause 74 provides that inspectors will have powers greater than those of police officers. It is completely unfair that such powers should be wielded by a person recruited after he has simply responded to an advertisement in the press. Clause 74 (d) provides that inspectors may:

without a warrant—

- (i) enter upon and search any premises or any vehicle or thing contained in those premises;
- (ii) require the driver of a tow-truck to stop his vehicle;
- (iii) require any person to produce any documents or books that may be relevant to the investigation, and to take copies of those documents or books, or any part thereof;
- (iv) seize any documents, books or other objects that may furnish evidence of an offence against this Act; and
- (v) require any person to answer forthwith and truthfully any question that may be relevant to the investigation.

Paragraph (v) is unreasonable. I support the second reading of the Bill so that amendments can be moved during the Committee stage. Many clauses are necessary, but I stress that the tow-truck industry, realising that it has been at fault in the past, is endeavouring on its own volition to put its house in order and to apply common-sense rules of conduct, as outlined in the constitution that has been prepared.

This Act will create further hardship in the industry. I refer to the words of a member of the association who states:

It would appear that should this proposed legislation be passed as it stands at the moment, it will create unnecessary unemployment. Numerous drivers have stated that they thought they were of reasonable character, seeing as how they were issued a tow-truck operator's permit. Having had the legal implications of the legislation explained to them through the association's solicitors, they now realise that the penalties for minor offences are far greater to them, "as fit and proper persons", than those for criminals involved in breaking, assault or rape. They feel their privacy and security unnecessarily threatened and are seriously considering giving notice to their employers unless a more humane view is taken towards their industry.

The writer asks that the Government does not destroy the initiative and motivation of this wonderful and unique breed of men who work 365 days a year at the beck and call of the public.

**The Hon. T. M. Casey:** I bet they get paid for it.

**The Hon. R. A. GEDDES:** Of course they do, but they do not get paid the amount that people think they get paid. I am told that the average tow-truck operator works about 96 hours a week. If he were paid at the average rate of \$5 an hour he would get \$480 a week, but the average operator earns \$200 a week, which is less than \$2 an hour. The \$200 is the basic wage and the remainder of his income is made up from commission on repair work, but I do not know what that amount is. He works 96 hours a week, and often receives little thanks from the public for the work that he does.

**The Hon. F. T. Blevins:** Your Party supports longer hours and lower wages. You do not believe in penalty rates for working long hours.

**The Hon. R. A. GEDDES:** These men are concerned about their jobs: they are worried that they will lose them.

**The Hon. F. T. Blevins:** They must be bad if they want Liberal members of Parliament to be their champion.

**The Hon. R. A. GEDDES:** That must be a disappointment to the honourable member. The Opposition has been asked to point these matters out to the Government, which has turned a deaf ear to the operators and the industry. I support the second reading.

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

#### **POLICE OFFENCES ACT AMENDMENT BILL (No. 2)**

(Second reading debate adjourned on 16 November. Page 2065.)

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

#### **METROPOLITAN TAXI-CAB ACT AMENDMENT BILL**

Adjourned debate on second reading.

(Continued from 16 November. Page 2067.)

**The Hon. C. M. HILL:** I support the second reading which, as the Minister said when he introduced it, is simply to formalise a common expiry date for metropolitan taxicabs. This policy has been in practice for some time, but it ought to be formalised by an amendment to the parent Act, and this Bill achieves this change. The Hon. Mr. Cameron referred to representations made to him, and the same representations have been made to me by the Taxi Owners and Drivers Association, which seeks some representation on the Metropolitan Taxi-Cab Board.



**The Hon. F. T. Blevins:** Worker participation!

**The Hon. C. M. HILL:** It is a form of that, and I hope that the Hon. Mr. Blevins will give any proposal wholehearted support.

**The Hon. F. T. Blevins:** You're opposed to that.

**The Hon. C. M. HILL:** Who said that? That is the result of the machinations of members opposite. The association claims to represent about 600 owners and 1 500 drivers. It claims that this large group of people involved in the industry has no representation on the board. The board comprises two representatives of the Adelaide City Council; two others related to local government (one nominee from the Local Government Association and the second one being a Ministerial appointment, with knowledge of local government); two representatives of the South Australian Employers Federation who must come from an association known as the Taxi-Cab Operators Association; one nominee from the T.W.U. (and that nominee seems to come from a group within the T.W.U. known as the Taxi Owner-Drivers Association); and the eighth member is a representative of the Police Commissioner.

I understand that the Hon. Mr. Cameron is examining further the claims that have been made by a relatively large group of concerned people in the industry. I believe that, if that honourable member takes his point further in Committee and moves an amendment along the lines suggested, it ought to demand serious consideration by members on both sides. At this stage, I support the second reading.

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

*[Sitting suspended from 5.46 to 7.45 p.m.]*

#### **SOUTH AUSTRALIAN THEATRE COMPANY ACT AMENDMENT BILL**

Adjourned debate on second reading.  
(Continued from 16 November. Page 2066.)

**The Hon. C. M. HILL:** The Bill introduces two main changes in the principal Act. The first is to change the name from South Australian Theatre Company to State Theatre Company of South Australia, and I wholeheartedly support that proposal. The second change is one with which I do not agree in its present form. That concerns a proposal to extend somewhat what may be called the worker participation aspect.

**The Hon. D. H. L. Banfield:** Don't you like that?

**The Hon. C. M. HILL:** That matter arose before the dinner adjournment, and in reply to an interjection I indicated that I was not opposed to the general principle of worker participation. The present arrangement with the board of what will now be the State Theatre Company of South Australia is that, within the board, a member is elected by a group known as the Company of Players, which comprises artists, including those involved in production and direction who have served as employees of the company for at least six months. The company is deleting reference to that group and adding to the people who are already entitled to nominate, as a representative, players who are in the employment of the company for less than six months.

It is also widening this group so as to include members of the company's staff, but it is specifically excluding executive members of the staff. Under the Bill, a wider

group would be able to nominate a member of the board. Regarding worker participation, I believe that, if employees of statutory bodies and institutions of this kind sit on the governing board, there should, as representatives of the total staff, be two members, one of whom should be the Chief Executive Officer of the body or institution. In that form, I would have no objection to worker participation. The Chief Executive Officer of the total operation would sit on the board, with another nominated employee.

**The Hon. D. H. Laidlaw:** The Premier said he favoured that.

**The Hon. C. M. HILL:** Yes, as I recall, the Premier stated at a conference dealing with the principle of worker participation on statutory bodies, I think last year, that he had no objection to that principle. The underlying factor, of course, is that a member of staff should not be in the position where he can say to the Chief Executive Officer, on the day of the board meeting, "You will have to excuse me for a couple of hours, as I am sitting on the board." Further, if the Chief Executive Officer is reporting to the board, he must not be reminded by a staff board member that he must leave the board room while, for example, his salary is being discussed. If that reminder came from a somewhat junior employee, it would be embarrassing for the senior officer. If that plan of worker participation as I suggest could be introduced in the company, I would have no objection.

In order to bring about such a change, one would have to amend the Bill so as to leave in provision for a member nominated by the new employee group but to increase the size of the group so as to include senior officers of the permanent staff as well as all employees of the permanent staff for these people to nominate.

A place would have to be found on the board for the Chief Executive Officer. If we tried to arrange for that officer to be one of the six members of the board, he or she would have to be one of the three Government nominees. There could be a somewhat embarrassing position there, in that the Government may have nominated its three members, their terms of office are for three years, and the Government may intend, because of the excellent service they have given, to reappoint those three.

Therefore, if the Bill was amended so as to force the Government to appoint the Chief Executive Officer as one of those nominees, that may react unfairly on an existing member of the board nominated by the Government and doing a good job. The only alternative I see is to increase the number of members from six to seven, and I doubt that such an increase would have disadvantages: I cannot see any at present. At the same time, existing members would not be affected by such a change. The Government's intention to widen the electorate of those who can nominate a member would be achieved, and the Chief Executive Officer could be on the board.

Recently, the Government appointed the Director of the Art Gallery to the board of the Art Gallery and, if it was prepared to do that, I see no reason why it should object to a comparable senior officer being appointed to the board of the company. Therefore, I will move amendments on those lines in Committee. I hope that the Bill passes, because I would like the name of the company to be changed. I compliment the company on its performance as one of the senior theatre companies in Australia. It is acquiring a splendid reputation for its productions. Those that I have had the privilege to see have been of an exceptionally high standard.

It is reflective of the general progress that the State is making in the field of art generally, and it is a great credit to all involved at the South Australian Theatre Company

that such a high standard of performance and production is being achieved at the Playhouse. I support the second reading.

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

### MOTOR VEHICLES ACT AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2109.)

**The Hon. J. C. BURDETT:** I support the second reading of this Bill, which is a Committee Bill and which does a number of disparate things. Most of the issues have already been adequately covered by the Hon. Mr. Dawkins and the Hon. Mr. Geddes. There is only one matter to which I wish to address myself, namely, clause 60, which deals with the points demerit scheme. I do not object to subclause (1), which covers the situation where at present demerit points cannot be recorded until after the time for appeal has elapsed. The Minister said in his second reading explanation that occasionally appeals, with which there is no real intention of proceeding, are instituted against convictions. Delays can therefore occur, and the only purpose of the appeal has been to produce such delays.

It is proposed under clause 60 (1) that, when a conviction is recorded, the demerit points stand and are recorded on conviction. Should an appeal be instituted, any disqualification under the provision would be suspended until the appeal was determined or withdrawn. I do not object to that. That deals only with the situation where the system is gummed up by appeals. It is important to remember that clause 60 (1) deals with appeals against convictions, not against disqualification, as apply by virtue of the points demerit system.

However, I object to clause 60 (2), which deals with appeals against disqualification that apply automatically by virtue of the points demerit system. I agree with that system and believe that it should be automatic. As the Minister suggested in his second reading explanation, a build-up of points occurs. People know that points are being accrued and that they have an opportunity to appeal against convictions or to apply to the court dealing with the offence to reduce the demerit points.

It is required under the Act that, when half the demerit points have been incurred, a notice must be sent. All the same, I suggest that it is not proper that the 12 demerit points can be incurred when there is absolutely nothing that anyone, in any circumstances, can do about it. At present, a person whose licence is liable to suspension under the points demerit scheme may appeal to the Local Court against the suspension of his licence, and the appellant and the Crown shall be entitled to be heard on the appeal and, if the Local Court is satisfied by evidence given on oath by or on behalf of the appellant that, first, it is not in the public interest that the licence be suspended or, secondly, that the suspension of the licence would result in undue hardship to the appellant, the court may order that the incurred demerit points recorded against the appellant be reduced by a number not exceeding one-quarter of the aggregate.

I point out that this is a limited right of appeal. In the first place, the appellant, even after his appeal is successful, is left very much on the hook, because the aggregate of the demerit points recorded against him

cannot be reduced by a number exceeding one-quarter of the aggregate.

Secondly, only two grounds of appeal exist, the first of which is that it is not in the public interest for the licence to be suspended. It could rarely be sustained that this is not in the public interest, and to my knowledge it has rarely been sustained. The other point is that the suspension would result in undue hardship for the appellant. Although I have no statistics I know from my knowledge of the matter that even this ground of appeal is rarely upheld by the appellate court. Appeals usually, although not always, are made on behalf of professional drivers, such as taxi drivers, truck drivers, and so on.

Generally speaking, the courts have not been willing to accept that, just because professional drivers are at greater risk, disqualification imposes greater hardship on them. On the contrary, the appellate courts have pointed out that if one is a professional driver one should drive in such a manner that one does not incur the requisite number of demerit points.

Of course, the usual hardship is a financial one, such as if a truck driver whose truck is being purchased on time payment is put off the road and he cannot meet his payments, and so on. Once again, the courts have been loath indeed to interfere with the points demerit system, pointing out usually that that kind of hardship is not undue hardship. In fact, it is the normal hardship that would generally follow from a person in that position accruing the required number of demerit points. So, the courts have not abused the right of appeal at all; nor have they frustrated Parliament's intention.

The Minister said that one advantage of the points demerit scheme was that it provided a certain inevitability of disqualification, and that this advantage is lost if that automatic disqualification can then be appealed against. There is ample opportunity for a person to appeal against a conviction and also to seek a reduction in the number of demerit points in regard to an individual conviction. There is some merit in what the Minister said.

However, I point out that there is no suggestion of delay in relation to clause 60 (2). That suggestion has been made regarding clause 60 (1), with which I agree and which I do not oppose in any way. The only reason given by the Government for introducing clause 60 (2) is that it wants to ensure the complete inevitability of the suspension that follows one's incurring 12 demerit points. That is the only reason given. It is not suggested by the Government that the courts have acted contrary to the spirit of the legislation.

It is not suggested that the demerit appeal system has been opposed in any way by the courts, or that the courts are not carrying out Parliament's intention; nor is it suggested that delays occur. The only argument is that apparently the Government wants to depart from the legislation's original intention and to deprive the person concerned of any appeal. The courts' interpretation of the existing legislation is a pretty fair compromise. I can understand people wondering, when the demerit system was introduced in 1971, how courts would interpret an appeals provision, being dubious about it and possibly opposing it then. We have now had seven years operation of the system; we have seen that the court has not abused its appeals power, the Act has not been frustrated, nor has the court been loath to accept a suspension incurred by accruing 12 demerit points. Therefore, it is now unwise to propose a change in the system and to take away the right of appeal altogether.

It is in accordance with our justice system, so far as is possible, to allow an appeal. All that an appeal does is give some redress. To me, it would be wrong to take that away

altogether—to build up the 12 points, and that is it. I know from people who have consulted me professionally that many of them should have pleaded not guilty to individual offences, but did not. People should have applied to reduce demerit points in connection with an offence, but did not. So many people procrastinate and wait until they get to 12 demerit points. I do not condone procrastination or failure to do anything, but I suggest that, if we take away any ability to appeal whatsoever, there will be cases where that could cause real hardship. I foreshadow an amendment to delete clause 60 (2) so that there may still be that very limited appeal that at present exists. I support the second reading.

**The Hon. R. C. DeGARIS (Leader of the Opposition):** In contributing to the debate, I will briefly recount the facts that probably led up to something that was done regarding control of tow-truck operators in South Australia. Many years ago, an accident occurred on the corner of King William Street and North Terrace. When members saw what happened there, it disturbed them quite a bit. Many questions were raised in the House following that accident, and for the first time legislation was introduced to place some control on tow-truck drivers' operations in South Australia. This Bill takes that further.

But, a few years ago, the tow-truck industry was subjected to a great deal of criticism. Since the legislation was introduced some time ago, a considerable improvement has been seen in the tow-truck industry's operations. Whilst certain things that happened in the past subjected tow-truck operators to criticism, I believe that at present not enough credit is given to the industry's efficient manner of operation in South Australia. Although complaints are often made (and there will always be complaints—we hear complaints about politicians and every range of business and Government activity that is undertaken), in this industry we have an independent group of people who provide a very worthwhile service.

I suggest that one of the ways in which the industry can become even more efficient, and come under less criticism, is for the industry itself to become involved in its own association and to apply its own discipline to that operation. I think that every honourable member who has had any experience either in the tow-truck industry or in any other will recognise that it is far better if the industry itself can organise and apply its own discipline to its members.

**The Hon. J. E. Dunford:** Like a union; like workers becoming unionised.

**The Hon. R. C. DeGARIS:** I do not quite understand the interjection.

**The Hon. J. E. Dunford:** You are saying they ought to get organised and control their own organisation by themselves.

**The Hon. R. C. DeGARIS:** I am saying that very often in many industries, if co-operation exists and discipline can be imposed upon that industry by the organisation itself, there is no need for heavy-handed legislation to apply that control. If one draws an analogy with the union movement, I allow the Hon. Mr. Dunford to make that analogy, but I am not referring to unions. I am talking about organisations that serve the public through the private sector.

**The Hon. N. K. Foster:** Give an illustration; name one.

**The PRESIDENT:** Order!

**The Hon. R. C. DeGARIS:** Perhaps I can give an illustration. Certain clauses in the Bill concern me, some of which have already been mentioned by members who have spoken on this Bill. Clause 63 is one such clause. Many sections of the business world, not only in that area

but in others, listen to and use police broadcasts to gain police information. Certain penalties are applied for that offence. This Bill makes the penalty on tow-truck drivers who do that much more stringent than applies to any other section of the community. The Government must say why it is necessary to select tow-truck drivers as a group to be treated differently from any other group in the community.

It is a fact that at most accident scenes the tow-truck driver is the first person there. If one looks at accidents in the metropolitan area, the tow-truck driver is often there 10 or 15 minutes ahead of the ambulance or the police. That is a fact. Any amount of evidence shows that the quick attendance of a tow-truck operator at accident scenes has saved lives. Recently, a report appeared in the *Advertiser*, headed "Tanker explodes; 3 run for lives," which states:

Three drivers ran for their lives and another was pulled to safety last night when a petrol tanker exploded after an accident.

The first person there was a tow-truck driver.

**The Hon. T. M. Casey:** I had a son who saved the life of a person because he was first at the scene of a crash.

**The Hon. R. C. DeGARIS:** If Mr. Casey's son arrived at every accident scene in Adelaide—

**The Hon. T. M. Casey:** I didn't say that at all.

**The Hon. R. C. DeGARIS:** The Minister's son cannot get to every accident in Adelaide between 10 minutes and 15 minutes ahead of everyone else, but tow-truck drivers can do that.

**The Hon. T. M. Casey:** Quote another case.

**The PRESIDENT:** Order! The Minister made a point about his son, but this must not develop into a debate.

**The Hon. R. C. DeGARIS:** The tow-truck driver arrives at an accident between 10 minutes and 15 minutes ahead of everyone else, and he immediately switches on his flashing amber light. Many lives have been saved as a result of the warning given by this light before the police and the ambulance have arrived. I could give other examples of lives being saved through the prompt arrival of tow-truck drivers.

I said earlier that I believed that legislation was necessary in regard to controlling the operations of tow-truck drivers because of what I saw outside Parliament House 10 years ago. I do not withdraw that statement, but I point out that since the introduction of this Bill many declarations have been made by people indicating that they are perfectly happy with the way in which the tow-truck industry has operated. The following is one such declaration:

I, Mr. M. Ralph, of 14 Abbott Avenue, Morphett Vale, had my car towed from the scene of an accident on 17 March 1975 at 1 a.m. My make of vehicle is a V.W. The towing service that removed my vehicle was McDonald.

Questions:

Were you harassed at the scene of the accident by the tow-truck operators? . . . No.

Did the towing service that removed your car look after you and offer you a good service? . . . Yes.

Did they organise with you the repairs to your vehicle? . . . No.

If so, were you pleased with that service? . . . Right off.

Would you be told that we cannot discuss repairs for at least six hours or that the organisation of your repairs could be delayed? . . . No way.

Your general comments if any in relation to the towing service that removed your vehicle? . . . Fast and efficient. Hundreds of such signed declarations have come to me, and only four have complained about the service that people have received from the tow-truck industry. Surely

that is a reason why tow-truck operators should not be unduly hampered. The industry has ironed out many of its problems, and some of the provisions of this Bill go beyond what is reasonable in regard to controlling the industry.

Regarding clause 68, which amends section 98j of the principal Act, I point out that the Minister stated in his second reading explanation that the Government intended to reduce the number of tow-trucks at the scene of an accident, but this Bill could do exactly the reverse. When one examines Government legislation one often gets the impression that the Government gets an idea and then applies a theoretical answer that only contributes to the confusion that can occur. By insisting that the tow-truck driver personally sign and that he tow one car, the legislation is doing exactly the reverse of what the Minister claims is the object of the Bill. At present, if more than one vehicle is involved in an accident, a tow-truck driver may ask whether a tow is required and call for another tow-truck. However, the new system will exacerbate the position by creating greater congestion at the scene of the accident. So, the Bill will not do what the Government says it will do. Clause 68 will only make the position worse.

Clause 70, which amends section 98k of the principal Act, refers to the waiting time of six hours. Has the Government considered the extra cost involved in a second tow fee? If a person has an accident, it is in his best interests that the car be removed straight to a repairer. After that is done, the insurance company will send out its loss assessor, who will immediately assess the damage and authorise repairs. Many people involved in an accident do not know the first thing to do, and they rely on someone coming forward and giving advice about the correct procedure. Under the Bill, this would be regarded as soliciting for repairs within six hours of an accident. Before any repairs can be carried out, the person concerned must sign a contract authorising repairs, subject to an assessment by a registered loss assessor. If some people say that this is not sufficient protection, perhaps they will say that people who buy a new car should have six hours in which to return it and say that they no longer want it.

About 80 per cent of the tow-truck industry supplies courtesy cars free of charge for people involved in accidents. If the Government brings in this new provision, will the Government provide courtesy cars for people involved in accidents? I guarantee it will not do so. I know that there have been problems in the tow-truck industry, but many of those problems have been overcome. I support what the Hon. Mr. Dawkins and the Hon. Mr. Geddes have said. I believe that this Bill will contribute nothing to the efficiency of the tow-truck industry; indeed, it will make it more difficult for people at the scene of an accident. We have not given enough credit to the tow-truck industry for putting its house in order and providing a worthwhile service to the people of South Australia.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Interpretation."

**The Hon. R. A. GEDDES:** Will the Minister allow this clause to be recommitted at a later stage so that an amendment I wish to move may be prepared?

**The Hon. T. M. CASEY (Minister of Lands):** I am happy to reconsider this clause at a later stage.

Clause passed.

Clauses 5 to 39 passed.

Clause 40—"Classification of licences."

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

Page 12, line 24—Leave out "two years" and insert "one year".

This clause deals with class 4A licences and new subsection (9b) sets out conditions concerning the endorsement of a licence. I am not opposed to the introduction of class 4A licences, as it is probably a step in the right direction, but two years is too long for a young man to have a class 4A licence before he can hold a class 4 licence. My amendment reduces the period from two years to one year. A young person should be competent with his motor cycle if he has held that licence for one year. He should then be in a position to receive favourable consideration from the Registrar in obtaining a class 4 licence.

**The Hon. T. M. CASEY:** I am satisfied that the Hon. Mr. Dawkins has never ridden motor bikes.

**The Hon. M. B. Dawkins:** You're wrong.

**The Hon. T. M. CASEY:** Then it must have been a long time ago. If the honourable member had ridden a 250 cc bike he would know that that is sufficient for anything that he might like to do. This clause provides for the new class of motor cycle licence. A licence of this class will be issued to a person who has not held a motor cycle licence within the period of three years preceding his application. The new class 4A licence will entitle the holder to drive a motor cycle with an engine capacity not exceeding 250 cc. A person who holds such a licence for two years will then be eligible to hold a class 4 licence entitling him to drive any motor cycle. This period of two years may be shortened if the applicant passes a practical driving test approved by the Registrar.

This practical test will not be the usual one for learners but an advanced test given by some authority such as the Road Safety Council, Police Driving Wing, Army Training Corps, etc., following a course of instruction.

Motor cycle clubs in South Australia have all indicated that they are in total agreement with the two-year recommendation for people holding class 4A licences. When those clubs suggest that two years is a satisfactory period, then the Hon. Mr. Dawkins can take some notice of that. Their members are riding all the time, and they control the motor bike industry in South Australia.

Other exemptions to the two-year period will be for persons who have held a cycle licence more than three years ago and pass a practical test on a large cycle, or persons who have held a licence issued in another place within the past three years to ride cycles over 250 cc. Therefore, I cannot support the amendment, and I ask the Committee not to accept it.

**The Hon. N. K. FOSTER:** Has not the Hon. Mr. Dawkins read new subsection (9a) (e)? It provides:

has passed a practical driving test approved by the Registrar.

**The Hon. J. C. BURDETT:** I support the amendment. The Minister suggested the Hon. Mr. Dawkins had not ridden a motor bike, which the honourable member denied. I rode a motor cycle for many years, was a member of a motor cycle club, have ridden a motor cycle competitively, and have four sons who have ridden motor cycles. I understand what was stated in the second reading explanation about motor cycles with a capacity of 250 cc or less. I understand how powerful they can be, but I am satisfied that the Hon. Mr. Dawkins is on the right track: 12 months is sufficient to enable a young person or anyone else who is seeking a licence and who has not held a licence within the past three years to acquaint himself with more powerful machines. The amendment is moderate, and I support it.

**The Hon. R. A. GEDDES:** I, too, support the amendment. A 16-year-old person can get an "L" plate driving licence and learn to drive in a 12-cylinder Jaguar or

the latest 500 h.p. Mercedes. I was horrified recently to see in my street a young girl in pigtails learning to drive, with "L" plates, in a 12-cylinder Jaguar capable of terrific acceleration and speed.

Such a powerful motor car (and it may have more than two people in it) can do much harm, and even cause death. Surely, two months spent riding a motor cycle gives a person experience, although people can acquire so much ability and then become complacent.

**The Hon. T. M. CASEY:** The Hon. Mr. Burdett has said that some motor cycles now are very powerful machines. I have found out recently that, if a person in Japan wants to get a motor cycle licence, the authorities put down a 440 cc Honda and tell the young man to pick it up. He cannot do that so he fails his test. I point out further that more than 50 per cent of the accidents involving motor cycles that are occurring at present are caused by the riders themselves. They have powerful machines with terrific acceleration and, if the machines are not used correctly, death can be caused.

**The Hon. R. C. DeGaris:** You are saying that 50 per cent of the people who ride motor bikes are responsible for accidents.

**The Hon. T. M. CASEY:** Yes. The other 50 per cent may be responsible people and, in accidents in which they are involved, no-one knows who is at fault. If the Committee wants to increase the percentage, it should pass the amendment. I think that the provision for a period of two years for a class 4A licence is good. All other States except Victoria have the provision, and it has worked effectively there. I understand that Victoria will implement it soon.

**The Hon. M. B. DAWKINS:** To hear the Minister speak, one would think I was opposing the whole clause. However, I consider that the clause is good, except that a period of two years is excessive.

**The Hon. J. E. DUNFORD:** I oppose the amendment. The Hon. Mr. Dawkins always says what he thinks, and that is fair enough, but the Minister has pointed out that the association representing persons who ride motor cycles is concerned about the term "Motor bike riders". Because of the high risk, insurance offices, including the State Government Insurance Commission, will not insure lads of 16 years who ride motor bikes. If 50 per cent of accidents are caused by those who ride motor bikes, we have a responsibility to introduce legislation of this kind. The amendment has no backing from any organisation and should be rejected.

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. C. M. Hill. No—The Hon. Anne Levy.

**The CHAIRMAN:** There are 9 Ayes and 9 Noes. As I consider that the amendment is worth further consideration, I give my casting vote for the Ayes.

Amendment thus carried; clause as amended passed. Clauses 41 to 44 passed.

Clause 45—"Age of persons to whom licences and learner's permits may be issued."

**The Hon. M. B. DAWKINS:** As I indicated earlier, I intend to oppose this clause. At a conference in 1972, the relevant age was fixed at 17 years. I am aware that young men, particularly those in rural areas, are able at 17 years

of age to drive heavy vehicles on farms, where they are not restricted, for two or three years before the restriction comes into force. I consider that it is wrong to alter the age from 17 years to 18 years, as this clause will do, because many young men of 17 years are sufficiently responsible to drive trucks for their fathers or for the people for whom they work. Believing that the age should remain at 17 years, I oppose the clause.

**The Hon. N. K. FOSTER:** The Hon. Mr. Dawkins is suggesting that the two-year period should not apply because a fellow has gained some sort of experience on a truck in a 400 ha paddock.

**The Hon. M. B. Dawkins:** I am not talking about two years at all.

**The Hon. N. K. FOSTER:** That may be so. However, the honourable member is saying that, because a person has gained experience on rural-type vehicles in a paddock, that should serve as some form of qualification. The honourable member opposes the clause on the basis that these young country people should have an advantage because they have gained experience in the rural sector.

**The Hon. M. B. Dawkins:** I am suggesting that many people in the rural sector are capable of driving at 17 years of age.

**The Hon. N. K. FOSTER:** I realise that, but I disagree with the honourable member. The people to whom he is referring drive vehicles other than on roads, and it is not fair that these people should be given an advantage. If the honourable member examined statistics, he would find that many accidents occur in the country and that they involve people who have nothing but rural experience. The honourable member cannot blame city people all the time. I support the clause.

**The Hon. T. M. CASEY:** I understand that some time ago a working party, organised by the A.M.A. and chaired by Dr. Harley, examined the medical fitness of persons to hold drivers' licences. That committee recommended that persons driving vehicles of four tonnes and over should be requested to produce medical certificates. At present, class 5 bus drivers must produce a certificate of medical fitness, but no such demand is placed on drivers of heavy commercial vehicles, including articulated motor vehicles.

As some of the vehicles about which we are now speaking exceed the weight and size of omnibuses and carry dangerous loads, the A.M.A. recommendation seems to be fully justified. However, the four-tonne limit as suggested would provide untold administration and policing problems.

A check of overseas classifications has shown that in many countries holders of licences equivalent to the South Australian class 1 licence may drive vehicles up to 3 000 kilograms in weight. Vehicles over that weight come into a higher category, mainly because of their carrying capacity. In order to aim for uniformity and to minimise administrative problems associated with any change in classification, it is considered that the present limit of 1 780 kg specified for class 1 licences should be increased to 3 000 kg unladen weight. Such an adjustment would eliminate current classification disputes involving campervans and land rover vehicles.

The practical testing procedures could also be modified, and would overcome the undesirable practice of applicants passing class 2 tests in utilities, and so on, and immediately driving heavy vehicles, including petrol tankers. The demand for the production of a medical certificate for the drivers of omnibuses has been authorised under section 80, which provides that the Registrar must require an applicant for the issue or renewal of a driver's licence to undergo such tests or to furnish such evidence of his ability to drive as the Registrar directs.

No specific reference is made to the production of a medical certificate. Whilst it is desirable that medical certificates be produced by applicants for issue or renewal of class 2 or class 3 licences, it could present difficulties at this stage.

Those are the findings of the committee set up under the A.M.A., chaired by Dr. Harley. However, it is considered that the production of medical certificates for those licences should be phased in under terms and conditions as recommended by the Registrar and specifically approved by the Minister at the time.

Another issue closely associated with driving heavy vehicles is the minimum age of the driver. The age limit for class 3 and class 5 licence holders is 18 years, but a holder of a class 2 licence need only be 17 years of age and may drive vehicles of unlimited size falling within the class 2 classifications. To prove the point, the minimum age of drivers of large trucks in other States is as follows: in New South Wales it is 18 years; in Queensland, it is 17 years; in Tasmania, it is 19 years; in Victoria, it is 19 years; in Western Australia, it is 18 years, and in the Australian Capital Territory, it is 21 years.

**The Hon. C. M. Hill:** Are those all equivalent to class 2 licences?

**The Hon. T. M. CASEY:** Yes. Also, it is considered that the age limit for class 2 licence holders should be 18 and not 17, as at present. Therefore, the Registrar of Motor Vehicles recommends that the Motor Vehicles Act should permit holders of class 1 licences to drive vehicles not exceeding 3 000 kg instead of 1 780 kg, and that class 2 licences should not be issued to a person under the age of 18 years. For those reasons, I cannot support the amendment.

**The Hon. M. B. DAWKINS:** The Minister and the Hon. Mr. Foster have not convinced me in the slightest. The Hon. Mr. Foster made some comments about rural drivers, which had nothing to do with the Bill whatever, and said that I was trying to change the Act. The Bill is trying to do that. I am trying to preserve it. It has operated in rural areas, at least, quite satisfactorily. I listened with interest to the Minister who spoke at length about the A.M.A. and about medical certificates. If the honourable Minister wants to get on to that tack, and wants to bring in an amendment regarding medical certificates, he can. We can listen to him and argue it on its merits when he brings it in, but it has nothing to do with this legislation. I ask the Committee to support, not the change in the Act that Mr. Foster referred to, but the preservation of the principal Act as it stands. To do that, it is necessary to vote against clause 45. I ask the Committee to support me in that action.

**The Hon. R. C. DeGARIS (Leader of the Opposition):** The Hon. Mr. Foster spoke about statistics in rural areas. Has the Minister any statistics to sustain his case in regard to rural areas, and the present age of 17, regarding classes 2, 3 and 5 licences? If he can say that statistics show that, with heavy farm vehicles, the 18-year-old does not have as many serious accidents as the 17-year-old, perhaps he might convince the Chamber. The Hon. Mr. Foster said that statistics show that.

**The Hon. T. M. CASEY:** I did not make the statement. The Hon. Mr. Foster made the statement about statistics. I have not got any statistics to back it up.

**The Hon. N. K. FOSTER:** He has a great hide, this lounge in the seat opposite. The Hon. Mr. DeGaris gets up after people have spoken and prostitutes everything that has been said. I did not put it on the basis of statistics, nor on the basis of country *versus* city people. We were talking about commercial vehicles. I would not get up after the debate and suggest to the Minister that he responds to

the honourable member's question as to the percentage of people in country areas who have had serious accidents in a particular age group. That is irrelevant and stupid. The Hon. Mr. DeGaris got up twice after a debate today and prostituted what had been said. I suggest that he waits until *Hansard* is printed tomorrow, and that he shows me where he suggests I said these frightful things.

**The Hon. R. C. DeGARIS:** Mr. Foster referred to statistics on road accidents.

**The Hon. N. K. Foster:** I did not.

**The CHAIRMAN:** Order!

**The Hon. R. C. DeGARIS:** Has the Minister statistics to support what the Hon. Mr. Foster said? If there are no statistics, whether Mr. Foster mentioned it or not, I heard him say it, as did all members on this side. The Minister quoted the A.M.A. at length regarding medical certificates, which had nothing to do with this clause at all.

**The Hon. T. M. Casey:** I gave that to you for information.

**The Hon. R. C. DeGARIS:** I am not asking for that information; I am asking for information relevant to this case. If the Minister has no information relevant to this case, he has lost his case completely.

The Committee divided on the clause:

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

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

Pair—Aye—The Hon. Anne Levy. No—The Hon. C. M. Hill.

**The CHAIRMAN:** There are 9 Ayes and 9 Noes. So that this matter can be further considered, I give my casting vote for the Noes.

Clause thus negated.

Clauses 46 to 59 passed.

Clause 60—"Points demerit scheme."

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

Page 17, lines 13 and 14—Leave out subclause (2).

This amendment relates to appeals against suspensions under the points demerit scheme. This provision seeks to take away the right of appeal after 12 demerit points have accrued and a suspension is incurred. The only justification in the Minister's second reading explanation was that the strength of the points demerit scheme was the inevitability of a suspension after 12 points had been accrued. While there could have been doubts in 1971 as to whether appeals would be too leniently allowed, actually the courts have considered appeals strictly. Only a few appeals have been allowed. It is in accordance with our system of justice that there be some right of appeal. It would be different if the courts had set aside the intention of Parliament, but they have not done so. The two grounds for appeal are the public interest and exceptional hardship. Appeals are usually on the ground of exceptional hardship, which is being strictly interpreted. Since there has been no abuse, it is wrong that there be suspension for three months without any recourse whatever. I have moved my amendment to preserve a situation that has worked well for seven years.

**The Hon. T. M. CASEY:** I do not profess to be a lawyer but, after listening to the honourable member, I am satisfied that he does not know what he is talking about. To carefully investigate the matter, a committee was set up comprising Mr. Ian Cameron, S.M., Chief Superintendent Brown, and the Assistant Registrar, Mr. Scott. These people have dealt with these matters continually over the

last seven years. The investigation was carried out because the points demerit scheme had not been functioning as well as it should.

People charged can apply at the time of the hearing for a reduction in the points, or they can seek to have no points recorded against them. Secondly, people can, on conviction, appeal against the conviction and/or against the penalty, which includes the points. Few people take advantage of these rights; they wait until the last minute, but it is all there for them. Their rights are not being denied. People are notified of their right to apply for a reduction in the number of points recorded against them. This will be done by a notice attached to the summons.

The division will notify all persons getting points each time, and also about the right to appeal against a conviction. If a person ignores the six to eight opportunities to avoid the inevitable, why allow the final appeal against disqualification? I ask the Committee not to accept the amendment.

**The Hon. J. C. BURDETT:** I explained this matter in my second reading speech. When a person has been deprived of his licence through the points demerit system, there should be some way for an appeal to be heard. The courts have been conservative in exercising the rights given to them, and there has been no abuse of the system. Only rarely would the need arise, but there would be a deprivation of justice if there was not a means of setting a matter right.

**The Hon. R. C. DeGARIS:** A judge hearing an appeal could say that if a person had applied for a reduction of his points earlier he would have got it. If the right of appeal is removed, it could adversely affect his driver's licence. Rarely is an appeal made or even upheld. If the right to appeal remains, we can be assured that no injustice is done. I see no harm in leaving the appeal where it is.

**The Hon. T. M. CASEY:** If a person who relies on his licence for his living is so foolish as to allow his points to get to the point of no return, whose fault is it? One cannot legislate for every case that might occur. This provision covers about 99.9 per cent of cases. The committee under Mr. Cameron, because its members deal with this matter all the time, has come up with sensible recommendations to amend the legislation. The courts have been lenient with respect to demerit points.

**The CHAIRMAN:** Order! I notice two politicians who should know better than to discuss audibly matters in the Gallery. I have tolerated a fair bit of moving around in the Chamber in the hope that it might expedite the business of the day, but it just cannot continue.

**The Hon. T. M. CASEY:** More non-professional drivers than professional drivers apply for their demerit points to be re-examined. I have not the statistics, but that is a fact.

**The Hon. C. M. HILL:** Has the Minister referred this matter to the T.W.U.? That union was strongly in favour of these appeal provisions being written into the legislation in the 1970's because of its interest in the professional driver. I am surprised that the Hon. Mr. Dunford and the Hon. Mr. Foster support a Government seeking to abolish appeal provisions fought for so strongly in the early 1970's by Jack Nyland.

**The Hon. J. C. BURDETT:** The Minister has not the figures about applications by professional and non-professional drivers, and I would be surprised if more applications were made by non-professional drivers. The court has the final say and only the court can allow an appeal where it is in the public interest or creates exceptional hardship. There is no suggestion that the power has been abused; therefore, the present Act should remain as it is.

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. C. M. Hill. No—The Hon. Anne Levy.

**The CHAIRMAN:** There are 9 Ayes and 9 Noes. So that this matter may be further considered, I give my casting vote for the Ayes.

Amendment thus carried; clause as amended passed. Clauses 61 and 62 passed.

Clause 63—"Conditions of towtruck certificates."

**The Hon. R. C. DeGARIS:** I am not pleased about the clause, and it must concern the Committee. The first reason is that it places an extra penalty on the tow-truck industry regarding the Wireless Telegraphy Act that does not apply to any other industry. That should not be tolerated and, secondly, under the clause the Registrar can endorse on the tow-truck licence such conditions as he thinks fit. That goes too far in regard to the Registrar's power. At this stage, I am inclined to oppose the clause.

**The Hon. R. A. GEDDES:** I move:

Page 17, lines 37 and 38—Leave out paragraph (b) and insert paragraph as follows:

(b) may be endorsed by the Registrar with any other condition authorised by regulation.

Under the Bill, the Registrar may endorse a licence with such conditions as he thinks fit, and that is completely unreasonable. The Registrar may be a fair and reasonable person, but one cannot judge what the next Registrar or the one after him will be. Parliament should know what restrictions or instructions a Government department may wish to impose, and that is the reason for having regulatory powers and for having the Subordinate Legislation Committee. It is ridiculous to give overriding power to the Registrar.

What the honourable member wants to delete is already in the Act. The Bill provides that the holder of a tow-truck certificate shall at all times comply with the provisions of the Commonwealth Wireless Telegraphy Act and any regulations thereunder.

**The Hon. R. C. DeGaris:** He has to do that now.

**The Hon. T. M. CASEY:** No. It was taken out of the Act some time ago, and it is now being put back. That is the whole point of the clause.

**The Hon. R. C. DeGaris:** You are saying that he does not have to abide by the provisions of the Wireless Telegraphy Act?

**The Hon. T. M. CASEY:** That is so. He did not have to do so under this Act.

**The Hon. R. C. DeGaris:** Why doesn't a tow-truck operator have to abide by the Wireless Telegraphy Act?

**The Hon. T. M. CASEY:** The point is that this provision was taken out of the Act some time ago and it is now being put back again. This provision merely brings tow-truck operators under the Wireless Telegraphy Act. Section 74c was removed from the Act in 1976, and it is now being put back again, something with which, I am sure, all honourable members would agree. I cannot therefore accept the amendment.

**The Hon. R. A. GEDDES:** The title of the new section refers to the conditions of tow-truck certificates, and paragraph (a) of new section 98da refers to the Wireless Telegraphy Act. Paragraph (b) thereof provides that tow-truck certificates "may be endorsed with such other conditions as the Registrar thinks fit". Whether or not that

is in the principal Act, I would not know.

**The Hon. T. M. Casey:** It is.

**The Hon. R. A. Geddes:** Perhaps we overlooked this matter previously. If the regulatory system is well known, it gives tow-truck operators an opportunity to complain to or raise points before the Subordinate Legislation Committee. Surely we cannot argue suddenly that the regulatory powers are not good. As the words "such other conditions as the Registrar thinks fit" are important, I adhere to my contention.

The Committee divided on the amendment:

**Ayes (9)**—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes (teller), K. T. Griffin, and D. H. Laidlaw.

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

**Pair—Aye**—The Hon. C. M. Hill. **No**—The Hon. Anne Levy.

**The CHAIRMAN:** There are 9 Ayes and 9 Noes. So that the matter can be further considered, I give my casting vote for the Ayes.

Amendment thus carried.

**The Hon. R. C. DeGaris:** I voted for the Hon. Mr. Geddes' amendment knowing that it was a slight improvement. Although I indicated earlier that I would oppose the clause, if the Minister can supply me with the information that I want I may not oppose it. The Minister said that the Wireless Telegraphy Act did not apply to tow-truck operators in South Australia.

**The Hon. T. M. Casey:** Under this legislation. That is what I said. Don't get nasty about it. I pointed out that it was removed in 1976 and that it is now being put back into the Act.

**The Hon. R. C. DeGaris:** Therefore, what the Minister said was that the Wireless Telegraphy Act does not apply to tow-truck operators in South Australia. The Commonwealth Wireless Telegraphy Act (and all its regulations) applies to every citizen in the State, whether they are tow-truck operators, taxi drivers, policemen or members of Parliament. Putting it in that Act does not make it apply only to tow-truck operators in this State. Why is this clause in the Bill? Clearly, the Wireless Telegraphy Act applies to tow-truck operators now.

**The Hon. T. M. Casey:** It would appear that the Hon. Mr. DeGaris is trying to twist the thing around to suit his own argument. I indicated that this provision was removed from the Act in 1976 for reasons of which I was not aware at the time. It was put back in because it gives the inspectors power that they did not have previously to make inspections. When it was taken out of the Act, inspectors, apparently because the power was not there, could not inspect the equipment but, with the provision being put back into this Act, they can.

**The Hon. R. C. DeGaris:** Can the Minister say why the inspectors should inspect wireless equipment on a tow-truck, anyway? What is it to do with an inspector whether a tow-truck has a wireless in it or not, as long as that tow-truck operator is within the law regarding the Wireless Telegraphy Act? The inspector has the right under this Bill to inspect the tow-truck. I suppose that if operators have a wireless in their trucks he could look at that, too. To me, the Minister's explanation is quite specious. I know the answer, but the Minister will not say so. Every member knows it.

**The Hon. T. M. Casey:** The Leader knows all the answers, as apparently does everyone else. The provision has been included at this juncture to give inspectors an

opportunity to inspect the equipment. We all know that it is illegal for tow-truck operators to listen in to the police band.

**The Hon. R. C. DeGaris:** Why didn't you say that in the first place?

**The Hon. T. M. Casey:** I have not finished yet. There are other reasons why the equipment has to be inspected and that is why it is important that the provision should be included.

**The Hon. R. C. DeGaris:** That is the reason that I spoke about in my second reading speech on the Bill. Finally, the Minister has woken up to the reason why it is there. Many people listen to police broadcasts, not only tow-truck drivers. Every member in this Chamber knows that. Why should tow-truck operators be singled out for a double penalty regarding an offence under the Wireless Telegraphy Act for listening to police broadcasts? The Bill does not apply that double penalty to any other section of the community in this State.

**The Hon. T. M. Casey:** What other people listen to the police band, and for what reason?

**The Hon. R. C. DeGaris:** How does the Minister know that tow-truck operators listen?

**The Hon. T. M. Casey:** We all know.

**The Hon. R. C. DeGaris:** I know several people who listen to the police radio, for certain reasons, and who are probably breaking the law. It is well known that the criminal element listens to it.

**The Hon. T. M. Casey:** Are you sure of that?

**The Hon. R. C. DeGaris:** I am certain of that. I also know a taxi driver who used to listen to police broadcasts, and many other people listen to them. Why is the tow-truck operator singled out for a double penalty? Under the Wireless Telegraphy Act, he breaks the law, and is not only penalised under that Act, but also under this Bill. It is all quite useless. To avoid the double penalty, another person could listen to the police broadcasts, and someone could phone through to say that there has been an accident on a certain corner. No-one knows where the call came from. The clause is a waste of time. I object to the fact that it imposes a double penalty on one section of the community.

**The Hon. T. M. Casey:** The Leader never ceases to amaze me. I asked him a simple question. He could not prove the point about who listens to the police band. He said criminals did. He must have a hot line to that area, because he said that he has information. Tow-truck operators listen to the police band so they can make a profit out of what they hear. It is done for profitability, and because everyone tunes into it sometimes half a dozen tow-trucks attend an accident scene.

**The Hon. C. M. Hill:** What about an accident involving half a dozen cars.

**The Hon. T. M. Casey:** Then there would probably be about 20 tow-truck operators there. I was interested to hear the Hon. Murray Hill say that these people provide a service by taking people home in a private vehicle.

**The Hon. C. M. Hill:** You did not hear me say that at all. I did not speak in the debate. You are referring to someone else.

**The Hon. T. M. Casey:** It might have been the Leader. If that is true, I apologise to the Hon. Mr. Hill. On second thoughts, I think it was the Hon. Mr. DeGaris. Tow-truck operators make a handsome profit on the towing operation, and if they did not make a profit they could not stay in business.

**The Hon. C. M. Hill:** You are talking about a livelihood.

**The Hon. T. M. Casey:** I am talking about profitability. That is why inspectors should be able to inspect this equipment, because the tow-truck operators



do it for profitability, and other people who might listen in to the police band do so for information. The Hon. Mr. DeGaris said that a criminal element listens in. He must have mixed with criminals. He cannot substantiate what he said. Do they do it for profit?

**The Hon. R. C. DeGaris:** I was Chief Secretary for two years. Of course they do.

**The Hon. T. M. CASEY:** The tow-truck operators listen into the police band for profitability, and nothing else.

**The Hon. R. C. DeGaris:** Will the Minister take action against representatives of the news media who listen to police broadcasts? Will the Minister impose a double penalty on them?

**The Hon. T. M. CASEY:** Because tow-truck operators listen to police broadcasts, they rush to the scene of an accident, creating great congestion.

**The Hon. R. C. DeGaris:** The Minister has not convinced me that his viewpoint is correct. We have finally got out of him the reason why the clause was included in the Bill, but his explanation still does not satisfy me, because many other groups listen to police broadcasts, including the School of the Air. It was suggested that people break the law by listening to police broadcasts, whether for profit or for other reasons. I am not convinced that the clause is necessary, because it is an over-restriction on the tow-truck industry. It is an exaggeration to say that many tow-truck drivers converge on the scene of every accident.

**The Hon. T. M. CASEY:** Police broadcasts are not the only broadcasts to which tow-truck drivers listen. They also listen to St. John Ambulance broadcasts and their own competitors' broadcasts. So, there is a three-way deal. While we get traffic congestion if tow-truck drivers listen to police broadcasts, we do not get traffic congestion if representatives of the new media and the School of the Air listen to police broadcasts. No doubt the first tow-truck operator at the scene of an accident switches on a flashing light, but soon afterwards many other tow-truck operators are there, creating great congestion.

**The Hon. R. C. DeGaris:** What the Minister says has no bearing on what I have been saying. The Minister has admitted that representatives of the news media and the School of the Air listen to police broadcasts; they break the law, but evidently that is all right.

**The Hon. T. M. Casey:** I did not say that. I said "if they did".

**The Hon. R. C. DeGaris:** If this clause is passed, it will not make one iota of difference. All that tow-truck operators have to do is have someone away from the tow-truck operation (perhaps the operator's wife) who can let the operator know that there has been an accident at a certain corner; in that way the whole provision is overcome. It is a useless appendage to the Bill.

Clause negatived.

Clauses 64 to 67 passed.

Clause 68—"Prohibition against towing of any vehicle unless driver of tow-truck has authority to tow the same signed by the owner or driver, etc., of the vehicle."

**The Hon. R. C. DeGaris:** Because I would like to consider another amendment, I ask the Minister to report progress.

Progress reported; Committee to sit again.

#### MURRAY PARK COLLEGE OF ADVANCED EDUCATION BILL

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

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

*That this Bill be now read a second time.*

In view of the lateness of the hour, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

#### Explanation of Bill

If passed, this Bill will complete the process of amalgamating the Kingston and the Murray Park Colleges of Advanced Education to form the Murray Park College of Advanced Education. This merger, like that between the Adelaide and Torrens colleges, is the result of policy adopted by the Government following the Report of the Committee of Inquiry into Post-Secondary Education in South Australia. Since most of the background material and explanations which I gave in respect of the Adelaide College of the Arts and Education Bill apply with equal force to this Bill, I shall mainly direct my remarks to significant differences.

One of the major recommendations of the Anderson Committee was that the two institutions should merge and that an Institute of Early Childhood Studies should be created within the so-formed college. The Government accepted the recommendation and established a joint interim committee comprising council, staff and student members to produce detailed plans.

The new college will, in addition to its other existing courses, be a significant centre in Australia for the provision of early childhood education studies. Both colleges presently have courses in this area and Kingston has trained early childhood education teachers with distinction since 1907. From the outset, it has encouraged its students to understand the complete development of the child rather than merely teaching students to appreciate cognitive aspects of growth, an approach which has become marked in other areas of teacher education only in more recent years.

The small size of the college, however, threatened its viability with the decrease in the need for pre-school teachers: a reduction in intake of the magnitude required would seriously prejudice the early childhood programme, as, indeed, it would the similar programme at Murray Park were both courses to stand alone. The merger will therefore create a viable programme and generally cushion the effect of a reduction in student numbers.

Other benefits will follow. Murray Park Early Childhood Education staff are necessarily limited in the range of specialist skills while the size of Kingston does not allow for a range of optional subjects which would contribute to the professional and personal development of teachers. But the Institute of Early Childhood Studies, formed from both, will have access to the excellent facilities of a larger institution including staff who are skilled in a wide variety of disciplines relevant to the training of pre-school teachers. Furthermore, the merger will provide overall a greater diversity of resources than is at present available to either institution.

As a merger of the two colleges will result not so much in a new college as a college significantly extended in one of its functions, there is merit in retaining the name of the major component—the Murray Park College of Advanced Education. This college, itself the successor of the Wattle Park Teachers College, has only been so named since 1972. But already it is widely known as an institution concerned with teacher education and communication studies and particularly well known to its surrounding community which uses the facilities for recreational and cultural purposes. These facts suggest two further reasons for calling the institution the Murray Park College of

Advanced Education. The name of the multi-purpose college is the more appropriate of the two existing names; secondly, since the Institute of Early Childhood Studies will vacate the Kingston campus at the earliest possible time, and move to the campus at Magill, the retention of the latter's name, already well known, seems desirable.

The decision so to name the institution in no way reflects on Kingston College of Advanced Education which will make a highly significant contribution to early childhood studies in particular and, more generally, extend staff expertise in the various disciplines taught at the college.

As indicated earlier, since many of the clauses in both this and the Adelaide College of the Arts and Education Bill are identical, I shall emphasise in my remarks the differences between the two. Clause 4 establishes the college as an autonomous body resulting from the merger of Kingston College of Advanced Education and Murray Park College of Advanced Education. Clause 5 sets out the functions of the college and identifies communication studies, including journalism, and teacher education as areas of expertise within the college. Subclause (c) of this clause makes provision for widening the scope of the college to cover education in other fields.

Clause 8 provides for the creation of a council, the constitution of which bears strong similarities with that proposed for the Adelaide College of the Arts and Education. As with the latter, there will be equal representation of academic staff, general staff and students; likewise, the persons nominated to council by the Minister of Education will not be prescribed in any way. The number of such persons may, as in the case of the Adelaide College, vary between 14 and 16. This will allow scope for a wide range of viewpoints to be represented on council reflecting the interests of a larger and more diverse institution. In contrast to the proposed council for the Adelaide College of the Arts and Education, there is no requirement within the Murray Park legislation for former graduates to be included on council.

There will be two *ex-officio* positions on council, namely, the office of Director and one other intended for a senior member of staff. It is proposed that the latter person shall, in the first instance, be the Head of the Institute of Early Childhood Studies. An additional two persons with relevant expertise may be co-opted to Council under subclause (g). The initial electorates for the staff and student representation are defined in subclauses (5), (6) and (7) and ensure that persons are elected from each existing college campus.

The next clause to which I would draw attention is clause 10 which relates to the term of office of members of council. This clause differs in two respects from the parallel clause for the Adelaide College of the Arts and Education. Student members will be appointed for a one-year term so that final year students may not be deterred from standing for election because of their unavailability for a two-year term of office. All other members of council, other than *ex-officio* members, will be appointed for two years. The second difference relates to vacancies on council: subclause (4) provides that an elected member may at the discretion of council and with the concurrence of the electing body, complete his full term of office, even if he ceases to hold the position by virtue of which he was elected. The intention is to ensure that the services of valuable members of council are not summarily lost. As with the Adelaide College of the Arts and Education, appointments to council will be staggered.

In view of the distinguished history of Kingston College of Advanced Education as a centre for teacher training in

the field of Early Childhood Education, it is proposed in clause 15 (2) to designate one school or division within the new college as the Institute of Early Childhood Studies. Furthermore, under clause 17 (3), provision is made for the current Director of Kingston College of Advanced Education to become the head of this institute.

Clause 17 makes identical provision to that contained in the Bill for the Adelaide College of the Arts and Education for the protection of staff rights and the terms of their transfer to the new college. There is one additional provision, however, in the superannuation arrangements available to staff. Under subclause (6), current contributors to the superannuation fund established by the Kindergarten Union may elect either to continue their membership or become contributors to the South Australian Superannuation Fund. Subclauses (7) and (9) set out specific details consequent upon the exercise of this option.

The remaining clauses of the Bill are identical to the provisions of the Bill for the Adelaide College of the Arts and Education including clause 29 which makes the powers conferred on the college subject to the powers of the Tertiary Education Authority of South Australia.

**The Hon. JESSIE COOPER** secured the adjournment of the debate.

#### ADELAIDE COLLEGE OF THE ARTS AND EDUCATION BILL

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

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

*That this Bill be now read a second time.*

I propose to introduce two Bills which will complete the process of amalgamation of, on the one hand, Adelaide and Torrens Colleges of Advanced Education to form the Adelaide College of the Arts and Education and, on the other, Kingston and Murray Park Colleges of Advanced Education to form the Murray Park College of Advanced Education. While the two Bills are similar and contain much common material, the different natures and traditions of the colleges involved and the significant inputs from councils, staff and students by way of separate Joint Interim Committees made it desirable to have separate Bills. However, much of the information and explanation which I offer to members will apply equally to both Bills. It will be further noted that both will be subject to the Bill to establish the Tertiary Education Authority of South Australia, although it is proposed that, in the first instance, the colleges will continue to be subject to the functions of the Board of Advanced Education.

The major purpose of this Bill is to create the Adelaide College of the Arts and Education by a merger of the Adelaide College of Advanced Education and the Torrens College of Advanced Education. This merger results from the policy adopted by the Government following an inquiry into post-secondary education in South Australia. By 1975 it had become apparent that the State was over-provided for in terms of tertiary education institutions. There were by this time two universities and eight colleges of advanced education, six of which were involved in teacher training at a period when South Australia was facing a dramatic downturn in the demand for teachers. As a result, discussions began on "rationalising" the system by merging existing institutions.

These were held, for example, between the Adelaide College of Advanced Education and the South Australian

Institute of Technology. It soon became apparent, however, that, if rationalisation was to occur in a systematic manner, it could only be achieved as a result of close examination. To this end in 1976 the Government established a committee of Inquiry into Post-Secondary Education in South Australia under the chairmanship of Dr. D. S. Anderson. One of the major recommendations of this committee was that the Adelaide and Torrens Colleges of Advanced Education should plan for a merger "which should be completed as early as possible". The fact that the two colleges had themselves made a submission to the inquiry supporting such a move made the recommendation all the more acceptable.

Since, as will be remembered, Torrens College had originally been formed by the merger of Western Teachers College and the South Australian School of Art, the present merger brings together two colleges which have existed for over a century, namely, Adelaide College and the School of Art, and the previous Western, which had itself been an offshoot of Adelaide. It augurs well for the new college that the parties to the union share much common history. The importance of tradition in shaping the future and the reassurance gained from a sense of continuity, embodied in the new name "Adelaide College of the Arts and Education", are likely to be instrumental in ensuring its success as a multi-purpose institution which will be the sixth largest in Australia.

In practical terms the complementary resources of both institutions will enhance the quality of the education and increase the options available to students, thus benefiting the education of teachers generally. In terms of academic resources, it should be noted that both colleges had plans to develop further courses in reading education, education administration, ethnic studies and continuing education. Such courses should be designed to serve teachers across the whole range of schooling which will now be possible with the merging of primary and secondary training. This, indeed, reflects changes that have been occurring in the structure of the education system in the State following the recognition that a division between primary and secondary teaching is too inflexible. It should be further noted that the combination of primary and secondary teacher education provides the potential for absorbing any reduction in enrolments.

There are advantages, too, in terms of physical resources. The present site of the Adelaide College of Advanced Education is overcrowded, necessitating rental of accommodation on North Terrace; no space exists for further development. Torrens College, on the other hand, is on a 17-hectare site for which the original brief postulated a student body of 3 500. If present trends continue it is unlikely that Torrens College would, on its own, exceed 2 500 students. The additional space allows both for the appropriate housing of at least some present Kintore Avenue activities and the more efficient use of the Torrens campus. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

#### Explanation of Clauses

Clauses 1 and 2 are formal. It is the intention of the Government to proclaim the Act in the new year. The interpretation clause provides the usual range of definitions on matters relating to the identification of the college. Clause 4 establishes the college as an autonomous body resulting from the merger of Adelaide College of Advanced Education and Torrens College of Advanced Education.

Clause 5 sets out the functions of the college and

establishes its particular commitments in the areas of the visual and performing arts and teacher education. Paragraph (c) of this clause makes provision for widening the scope of the college to cover education in other fields. Clause 6 brings the college within the purview of the Tertiary Education Authority of South Australia for the accreditation of its awards. The college may award degrees, diplomas and other accredited awards.

Clause 7 is the normal non-discriminatory clause. Clause 8 makes provision for the establishment of the college council. There will be equal representation of academic staff, general staff and students on the council. In the first instance, provision has been made to ensure that elected membership is drawn from each college campus. Since the new college will have a diversity of interests, it is not proposed to prescribe the categorisation of members appointed by the Governor other than to include four former graduates of the new college or its predecessor colleges, of whom one shall be a graduate in art or design. It is intended to allow the number of persons appointed to council on the nomination of the Minister to vary between 14 and 16, so that the Associate Director, who was formerly Director of Adelaide College of Advanced Education and the Head of the South Australian School of Art, may be appointed under this category. In order that the council may gain the services of people with specific knowledge or expertise of value to the college, provision is made under paragraph (g) for the council to co-opt up to two additional members from outside the college.

Subclauses (5), (6) and (7) define the initial electorates for student and staff representation on the council. Subclause (6) contains a device to enable the council to be appointed on proclamation of the Act. Once the Bill is passed, I propose to cause elections to be held prior to Christmas.

Clause 10 defines the term of appointment of members of the council and the grounds on which a member may be removed from office. Although the normal term of office will be for two years, some of the initial appointments to council will be for one year only, with the right of reappointment. The intention of introducing staggered appointments is to ensure some continuity of experienced membership with regular turnover in the council. Clauses 11 and 12 are normal provisions for the conduct of the council's business and include a precise definition of a quorum.

Clause 13 sets out the specific powers of the council. Clause 14 requires collaboration with other appropriate authorities and provides a reserve power for the Minister to ensure that there will be an adequate supply of teachers. Clause 15 gives the council authority to determine the internal organisation of the college and subclause (2) perpetuates the designation of one of the schools or divisions within the college as the South Australian School of Art. The South Australian School of Art has made a significant contribution to education in this State. The perpetuation of the name within the framework of the new college ensures the continued recognition of this distinguished art centre.

Clause 16 provides for the position of Director as the chief executive and for the appointment of the first Director. The interests of staff transferring from the present colleges to the new college are protected under clause 17. It is proposed that staff within the two colleges transfer automatically to the new college as from the date of proclamation of the Act. Subclauses (1) and (3) protect existing salary and accrued leave entitlements whilst subclause (5) entitles staff to contribute to the South Australian Superannuation Fund. The appointment of the

Associate Director and the terms and conditions of that appointment are specified in subclauses (2) and (3).

Clause 18 makes possible the encouragement of an active student life within the college. Clause 19 makes provision for land to be used by the college in the conduct of its business and transfers property currently owned by the existing colleges to the council of the new college. Clause 20 gives the council authority to make statutes governing the detailed operations of the college. Members will note that any such statutes will be subject to disallowance by either House of Parliament. Similarly, the by-laws for which provision is made in clause 21 will be subject to disallowance in the usual way. Clause 22 attests the validity of statutes and by-laws and provides in subclause (5) that the council may adopt the statutes and by-laws of the present colleges. This provision is necessary if the college is to have a working base from which to operate in the new year. Subclause (6) recognises that a great deal of work is involved in the establishment of statutes and by-laws and therefore permits the adoption of present practice for up to two years.

Clause 23 requires the college to report to Parliament annually, while clause 24 requires the keeping of accounts audited by the Auditor-General. Clauses 25 and 26 relate to the funding of the college and its borrowing rights. Clause 27 specifies the college's exemption from certain charges. Clause 28 refers to legislation which will need to be repealed or amended consequent upon this Bill. Clause 29 makes the powers conferred on the college subject to the powers of the Tertiary Education Authority of South Australia.

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

### PRICES ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.  
(Continued from 16 November. Page 2050.)

**The Hon. J. C. BURDETT:** I support the second reading of the Bill. When the previous amending Bill was before Parliament, the Government attempted to put all the provisions of the Act permanently on the Statute Book. The Opposition then considered, and still considers, that power to control prices can really be used to control all the economic enterprises of the State—socialism by administration.

Therefore, we believe that the price-fixing provisions should remain directly under the control of the Parliament by coming before Parliament periodically. However, we recognised the argument that it was administratively difficult if every year the department was faced with the possibility of the price-fixing provisions coming to a grinding halt. Accordingly, I gave an undertaking, which was reported to the Parliament, that the Liberal Party would, in the next 12 months, consider putting the renewal of the price-fixing provisions on a triennial basis. The Liberal Party scrupulously honours its undertakings and supports this part of the Bill. Part of the second reading explanation states:

Thirdly, it extends the power of the Commissioner to receive, advise upon, investigate and resolve complaints, conduct research and undertake programmes of consumer education in relation to real property transactions, as well as transactions involving goods, services and credit facilities.

In dealing with this part of the Bill in the House of Assembly, the members for Kavel and Fisher referred to the attack made by the Commissioner of Consumer Affairs on Parliament for having declined to pass these

provisions last year. In my opinion, the report came very close to being a breach of privilege. The member for Kavel can be pardoned for saying, "I would have thought that the Attorney-General, who is a political animal, might have written it himself." The Attorney-General, in reply, referred to "the filthy allegations" made against the Commissioner.

I could not find those "filthy allegations" in *Hansard*. The Attorney took it on himself to defend the Commissioner's name and honour. There would be no need for the Attorney to defend the Commissioner if the Commissioner would refrain from criticising the decisions of Parliament and "some members of the Opposition", to use the Commissioner's words. To have done what he did was quite extraordinary and was clearly designed to bring pressure to bear on Parliament and those Opposition members to mend their waywardness in future.

For a public servant to be telling Parliament and some of its naughty members what to do seems to me to be a clear case of the tail trying to wag the dog. I do not believe that the Commissioner ought to have the power to exercise his already wide powers in regard to real estate contracts. The excuse given by the Government is that the largest purchase that the average consumer ever makes is the purchase of a house. I should have thought that that was the reason why the summary procedures open to the Commissioner should not apply. The Commissioner's powers are appropriate to purchases of consumer goods and to credit.

Because of, not despite, the importance to most people of the purchase of a house, they should get more specialised and more expert advice than the services of the Commissioner. They should get the assistance of the legal profession, brokers, and so on. This is the appropriate place for them to go. Legal assistance is available to them if necessary. True, if this Bill is passed in its present form members of the public can still go to these sources. However, many of them will be persuaded by advertisements, put out at public expense, stating that the services of the Commissioner will be provided gratis and will be adequate.

The Commissioner will not be liable for any negligence in trying to assist members of the public, and he will be able to institute legal proceedings with the consent of purchasers. Once a consent has been given, he will have the complete conduct of those proceedings without further instructions from the purchaser and even contrary to the purchaser's expressed wishes. The legal proceedings may be of a most complicated kind, including actions for specific performance, rectification, and so on. The powers of the Commissioner are peculiarly suitable to transactions related to consumer goods and are not suitable to land transactions. I cannot see that advice and educative programmes cannot be carried out by the Commissioner now, as an administrative act.

However, as the Government and the Commissioner have determined to extend the Commissioner's empire to land transactions, I will not oppose them. Earlier, I proposed a private member's Bill to make the Commissioner liable, as other people are when he acts negligently or gives negligent advice. At least, if the Commissioner wants to get out of his league and enter into real estate transactions, he must not have immunity when he acts negligently.

I foreshadow an amendment to cure this. I mention that it will not be a matter of "the same question": we have had enough of that subject today. I foreshadow an amendment to the effect that the Commissioner will be liable when he acts on behalf of consumers as that will be defined. The amendment will extend to all advice given by the

Commissioner and to acts carried out by him under the legislation. The second reading explanation refers to the extension of the power of the Commissioner to receive, advise upon, investigate, and resolve complaints, and to conduct research and undertake programmes of consumer education in relation to real property transactions.

It is interesting to note that the explanation did not refer to legal proceedings. Therefore, I take it that the Government will not object to the Commissioner's not having the power to institute and conduct civil legal proceedings allegedly on behalf of purchasers. I notice that the Hon. Mr. Griffin has on file an amendment to preclude the Commissioner from exercising this power, and I will support that amendment. In the meantime, I support the second reading.

**The Hon. K. T. GRIFFIN:** I have some concern about the breadth of the power of the Commissioner in respect of his involvement in litigation and the extent to which that will be expanded if he is given the opportunity to conduct proceedings with respect to dealings in land or interests in land. Under section 18a of the Prices Act, the functions of the Commissioner include:

The investigation of and conduct of research into aspects of and matters relating to or affecting the interests of consumers generally or any particular consumer or consumers;

The publication of reports, the dissemination of information, and the taking of such steps as he thinks proper for informing the public on matters relating to or affecting the interest of consumers;

The giving of such advice to persons on the provisions of the Act or any other law relating to or affecting the interests of consumers as he thinks proper;

The investigation of excessive charges for goods or services or of unlawful or unfair trade or commercial practices or of infringement of a consumer's rights arising out of any transaction entered into by him as a consumer.

Those powers are extremely wide. According to the Commissioner's 1977 report, they have been exercised in a wide variety of areas that have affected consumers. On page 19 of that report, under the heading "Section 10B Real Estate Package Deals", he states:

Although outside its jurisdiction the branch received 1 331 requests for advice or assistance on real estate matters in 1977 compared with 638 in 1976.

He believed that he did not have the jurisdiction to undertake those areas of responsibility to which I have referred where it affected interests in land and dealings with those interests. I am doubtful about whether his attitude is correct but, if he believes that he has not the necessary power, I should like to support to a certain extent his getting that power to deal with inquiries, to make investigations, and to deal with all the other matters to which I have referred with respect to dealings in land.

The Hon. Mr. Burdett has indicated that there are avenues open to persons who have complaints about particular dealings with respect to land and interest in land. Assistance is available from the legal profession, from the Law Society, and from other agencies that offer advice in these areas.

As the Commissioner has received many requests for advice, I see no reason technically why he should not be given the express power to deal with them. If he is given that power, two other consequences flow that should receive the Council's consideration. The first relates to the Commissioner's liability for the advice that he gives or any action that he takes.

Section 49a of the Act provides that the Commissioner is not liable for advice that he gives. I support the proposition advanced by the Hon. Mr. Burdett that the Commissioner should be liable therefor, just as any other

person giving this sort of advice is liable for negligent and faulty advice that he gives. There is no reason why persons who rely on the advice given by the Commissioner, who sets himself up as being competent to give that advice (which advice may be faulty or negligent), should not be able to recover from the Minister in that event. So, at the appropriate time, I will support the Hon. Mr. Burdett's amendment on that matter.

The other matter that is of concern is that under section 18a(2) the Minister has power to institute legal proceedings on behalf of a consumer. Once he has instituted proceedings, begun a defence of proceedings, or assumed the conduct thereof, the consumer's rights are thereafter relegated to nil. The Commissioner then has the conduct of the proceedings, and the consumer loses control. The consumer need not even be consulted in relation to the conduct of the proceedings.

The Commissioner may compromise a claim and arrange settlement even without consulting the consumer. However, the consumer, in the conduct of proceedings, is liable for any amount that may be awarded against him, even though he may not have had any responsibility for those proceedings once they were taken over.

I have spoken previously about what I regard as being the inappropriateness of this provision in the Prices Act. I think it is doubly inappropriate if the Commissioner is given power to institute, defend, or assume the conduct of proceedings where those proceedings involve interests in land or rights under contract dealing with interest in land. True, the purchase, sale or other dealing in land represents for the ordinary person a significant part of his life's savings. However, it is also true that consequences that flow from litigation involving real estate can have a more significant impact on any of the parties to proceedings than can the ordinary proceedings relating to consumer items and contracts, for which purpose the power was originally given to the Commissioner.

The consequences of the Commissioner being involved in these proceedings in respect of land could, as I have said, be as disadvantageous to an aggrieved consumer as it could to the party against whom the proceedings were being taken. I will give one illustration. I refer, for example, to a contract for the sale and purchase of land. The vendor could refuse to settle, whereas the purchaser requires settlement. He would give the appropriate notice and action would be taken by the Commissioner for and on behalf of the consumer for specific performance of the contract.

This sort of action could take months or even years to resolve by way of litigation, depending on the complexity of the matter. During that period, the purchaser might rethink his position and want to pull out and absolve himself of any further claims and liabilities under the contract. Yet, if the Commissioner has the conduct of the proceedings, the purchaser has no right with respect to any compromise on or withdrawal from the proceedings.

In fact, the purchaser may want to know what his ultimate liability will be for the purpose of deciding whether or not he will purchase another house that he may require for his domestic purposes. However, he may be precluded from doing so by the litigation that has been undertaken. Of course, that litigation also carries with it the risk of high costs and a high liability, win or lose.

Although parties may be on an equal footing and may not involve a land agent or other person who is often said to be in a better bargaining position, on the facts of that sort of case the Commissioner may believe that the party who has come to him for advice can institute proceedings. The other party may be more disadvantaged although he may have as good a case. However, the Commissioner

may not have had an opportunity to hear that case. In those circumstances, it is possible that the person against whom the proceedings have been taken will not have the available resources to fight the Commissioner's resources. But he may be perfectly justified in so doing, and in that context an injustice will occur.

It is in that sort of case that I see the Commissioner's power as being unwarranted. In the circumstances to which I have referred, it would be inappropriate for the Commissioner to have the wide powers of institution, defence, and assumption of control of proceedings. Therefore, I contend that that provision of the Act ought not to apply where the Commissioner has some powers and responsibilities with respect to real estate transactions. At the appropriate time I will move an amendment in this respect. In the circumstances, however, for the present I support the second reading.

**The Hon. R. C. DeGARIS (Leader of the Opposition):** I do not intend to cover the ground that has already been covered by the Hon. John Burdett and the Hon. Trevor Griffin. I support the views which they have expressed and the foreshadowed amendments about which they have spoken. I now refer to another matter that I should like the Minister to examine and reply to at the close of the second reading debate.

The Urban Land (Price Control) Act Amendment Bill, which passed through the Council in, I think, 1973, contained a schedule that repealed sections 18 and 38 to 42 inclusive of the Prices Act. Irrespective of whether I am right about those clauses, the point is that the schedule to the Urban Land (Price Control) Act repealed certain parts of the Prices Act that related to the old national security regulations regarding price control on land.

The Urban Land (Price Control) Act expires at the end of December 1978. If that is so, does the repealing of section 18 and sections 38 to 42 (inclusive) of the Prices Act still stand, or at the expiry of the Urban Land (Price Control) Act, are we reinstating in the Prices Act the sections repealed? I would like an answer to that question. If those sections do not stand repealed at the expiration of the Urban Land (Price Control) Act, I will seek an instruction to include in this Bill the certainty that those particular provisions in the Prices Act will be repealed. I support the second reading.

Bill read a second time.

**The Hon. J. C. BURDETT** moved:

That Standing Orders be so far suspended as to enable me to move an instruction without notice.

Motion carried.

**The Hon. J. C. BURDETT** moved:

That it be an instruction to the Committee of the Whole Council on the Bill that it have power to consider a new clause relating to the functions and liabilities of the Commissioner.

Motion carried.

In Committee.

Clauses 1 to 3 passed.

New clause 3a—"Functions of the Commissioner."

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

Page 2, after clause 3—Insert new clause as follows:

3a. Section 18a of the principal Act is amended by inserting after subsection (3) the following subsection:

(3a) The Commissioner shall not institute, defend or assume the conduct of any proceedings relating to any dealing with an interest in land.

This clause seeks to provide that the Commissioner shall not have power to institute, defend, or assume the conduct of any proceedings which relate to any dealing with an interest in land. The Commissioner will have sufficiently

wide powers to inquire into and to deal with complaints from consumers with respect to dealings with an interest in land, and for him to have the much broader power of being able to institute, defend, or assume the conduct of proceedings with respect to any interest in land is, in my view, much too wide and is likely to cause hardship and injustice in the circumstances in which it is exercised.

**The Hon. D. H. L. BANFIELD:** We oppose the amendment because under section 18a, the Commissioner can only institute, defend, or assume that conduct of any proceedings where the amount does not exceed \$5 000. If the Opposition is worried that the Commissioner is going to become involved in many cases involving the purchase of land, that fear is misconceived because of the monetary limitation, although there are some cases where the Commissioner would wish to assist consumers in such transactions. There are cases, however, where the Commissioner might, in the public interest, wish to become involved in proceedings relating to "any dealing with an interest in land" where the amount involved is less than \$5 000: for example, a warrant of execution for the sale of a consumer's land to enforce a judgment debt of \$1 500, or action taken by a mortgagee to enforce a mortgage over land, the balance of which is less than \$5 000.

Other safeguards are built into section 18a, besides the monetary limit. The Commissioner must be satisfied that it is "in the public interest or proper to do so" before he assists a consumer in legal proceedings. For those reasons, we oppose the amendment.

**The Hon. J. C. BURDETT:** I support the amendment, and I do not think that the Minister has refuted any of the matters raised by the Hon. Mr. Griffin. In the second reading explanation, when the Minister mentioned the third thing he said that the Bill did, he referred to extending the power of the Commissioner to receive, advise upon, investigate and resolve complaints, conduct research and undertake programmes of consumer education in relation to real property. He said nothing about conducting actions, so it seems to me that, if the second reading explanation was comprehensive and the Minister was trying to tell the House what the Bill set out to do, he did not tell us all the things that it was to do.

It seems that the Government is not concerned about the power to conduct actions in regard to real estate, notwithstanding that the monetary limit is \$5 000. Some of the kind of actions that the Minister outlined are quite complicated. There seems no reason why they should be conducted by the Commissioner and why they should not be conducted elsewhere, nor does there seem to be any reason why the Commissioner should, once the consumer has consented, be able to conduct those actions without the approval of or contrary to the wishes of the consumer.

**The Hon. D. H. L. BANFIELD:** The Hon. Mr. Burdett and others opposite are always concerned about the cost of land to people. Here is an opportunity for them to allow the purchaser of the land to take some advice and get protection without having to go to costly lawyers. That is all that members opposite are looking after; they are denying the rights of people to get advice on these matters other than from a solicitor.

**The Hon. J. C. Burdett:** We are not denying that right.

**The Hon. D. H. L. BANFIELD:** Honourable members are denying the Commissioner the opportunity to assist these people, and they are looking after lawyers' interests. The amendment is nothing but a lawyer's benefit amendment, and we oppose it.

**The Hon. J. C. BURDETT:** I point out clearly that this amendment does not in any way prevent the Commissioner from giving advice to land purchasers.

**The Hon. D. H. L. BANFIELD:** The fact remains that it prevents the Commissioner from assisting the public in this regard. The Hon. Mr. Burdett knows very well that this is correct.

**The Hon. K. T. GRIFFIN:** The Minister has said that there are other safeguards in section 2, and that the Commissioner has to be satisfied that there is a cause of action. That is correct, but it does not state that the Commissioner must be satisfied that the cause of action will be successful, only that there is a cause of action. There are many cases where there seems to be a cause of action, but once both sides are heard it becomes obvious that it may not be a successfully prosecuted cause of action. That is not really a safeguard.

The other area that he indicated where there was some safeguard was that the Commissioner had to be satisfied that it was in the public interest to be involved, or proper so to be. That is a fairly broad concept, and it is quite probable that in many cases it will be in the public interest, but it might not necessarily be in the consumer's interest, yet the provisions of subsection (2) require him to take into account the public interest.

I know that there is a present limit of \$5 000: that was increased in 1976 from, I think, \$2 500. But \$5 000 is a large sum, and this is likely to be increased further in the future. As the Hon. Mr. Burdett has said, such a claim with respect to an interest in real estate can be complicated, and there ought to be the opportunity for expert advice. I can envisage cases where the Commissioner may put another party, who may equally deserve assistance and have a claim to it, at a disadvantage. So, there is a prospect of injustice being caused, rather than justice being achieved.

**The Hon. D. H. L. BANFIELD:** The Commissioner does not take up every case, but he can take up cases in the public interest where it is proper so to do. There may be the possibility of a case being a test case. It is in those circumstances that the Commissioner comes into the proceedings.

The Committee divided on the new clause:

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

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

**The CHAIRMAN:** There are 10 Ayes and 10 Noes. So that the matter can be further considered, I give my casting vote to the Ayes.

New clause thus inserted.

Clause 4 passed.

New clause 4a—"Commissioner not liable for certain acts."

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

Page 2—After clause 4 insert new clause as follows:

4a. Section 49a of the Principal Act is amended:

(a) by striking out the passage "The Commissioner" and inserting in lieu thereof the passage "Subject to subsection (2) of this section, the Commissioner"; and

(b) by inserting after the present contents thereof as amended by this section (which is hereby designated subsection (1) thereof) the following subsection:

(2) This section does not apply in relation to—

(a) any advice given by, or with the authority of, the Commissioner; or

(b) the exercise of any function under section 18a of this Act.

Section 49a gives immunity to the Commissioner from all actions for negligence in respect of anything done pursuant to the Act. In some areas there is a case for immunity where something is done on behalf of the Crown. In this matter, the Commissioner is acting on behalf of consumers on their instructions initially. Sometimes the Commissioner can proceed even without consumers' instructions or contrary to their express wishes after initial consent has been given. The Commissioner may act or purport to act on behalf of consumers and not in the public interest at large. He has to take account of the public interest before he decides to act. If he acts negligently, why should he not be responsible in the same way as others would be responsible?

**The Hon. N. K. FOSTER:** I take it that the honourable member believes that once consent is given it cannot be withdrawn. A matter may be taken up, but the original complainant may not wish to continue. However, in the public interest, the Commissioner may believe that he should proceed. Surely the community should be protected against a firm that sells faulty products.

Does the fact escape the honourable member that a person, once having made a complaint that is taken up, could be got at by a retailer and bribed, etc.? Should the case no longer proceed because a member of the public was afforded protection that should be dealt with in a normal court?

**The Hon. J. C. BURDETT:** I have considered that. The Hon. Mr. Foster missed the point of the amendment, which is to make the Commissioner, when he acts on behalf of a consumer, responsible to that consumer if he acts negligently.

**The Hon. D. H. L. BANFIELD:** It should be pointed out that the Consumer Services Branch legal officers dispense legal advice and action, but not in competition with practitioners in private practice. The Commissioner, with section 18a(2), only accepts the legal carriage of a complaint when it is in the public interest. This is comparatively rare; occasions when legal action is sought and declined, and when private legal action is suggested as an alternative, are frequent. In fact, it is probable that the Commissioner's office is responsible for directing more legal work to the profession than it undertakes.

The solicitors seconded to the Commissioner's office from the Crown Law Office are not authorised officers under the Act and therefore cannot in any way take advantage of section 49a. The advice given to complainants by ordinary investigation officers is not legal advice. In performing their normal duties, investigation officers are not in competition with the private legal profession. They provide practical educative advice on how to get out of or, hopefully, to avoid the problems that the market place can present. Consumers are encouraged to think critically for themselves and are under no obligation to put into action any course suggested as an option by the investigator. This advice could be regarded as analogous to the advisory services of departments such as Agriculture and Fisheries, Community Welfare, etc.

Section 49a serves to protect the Commissioner for Consumer Affairs, authorised officers employed in the Consumer Services Branch and the Crown from acts of the Commissioner or an authorised officer in good faith and in the course of his duties. Section 49a is designed to provide protection against traders, not to deprive consumers of any rights. It advances the rights of consumers by protecting the Commissioner and authorised officers from frivolous attempts to obstruct their consumer protection activities.

The intention of the provision was basically to enable the Commissioner fearlessly to name publicly traders

taking regular unfair advantage of consumers, even where no offence against the law could be proven. This important educative function could have been severely inhibited had protection against the threat of defamation suits not been provided by the Parliament. In the event, however, it has been responsibly discharged, in good faith and for the benefit of all consumers in South Australia, as in New South Wales, Western Australia, Queensland, Tasmania and the Australian Capital Territory, where the equivalent officers have similar protection.

If section 49a were repealed, the Commissioner would need to be far more cautious in the day-to-day operations of the branch and in his approach to warning the public of current undesirable individuals, companies or trade practices. Without statutory protection there are wide repercussions for all officers engaged in giving advice to consumers and investigating complaints. The amendment may be aimed at the branch's legal officers but it would affect all ordinary investigation officers.

The branch receives in excess of 2 000 telephone and personal inquiries a week. The great majority of inquiries handled by investigation officers are by telephone. Investigation officers have no means of assessing the identity of the person to whom they are talking. Officers often need to give off-the-cuff information and advice on complex situations to consumers who frequently seek such information as a matter of urgency, but it can only be based on the facts given at a stage when the officer is in no position to know of any relevant facts withheld by the inquirer.

If investigation officers feel that they may be personally accountable for their advice and actions they will become reluctant to give the information that experience shows is of real assistance to most consumers until all the facts are obtained from both consumer and trader. There would be much greater hesitation and delay in reaching decisions if officers thought that either the Crown or the individual could be liable for damages. In many circumstances such delay would be prejudicial to both the consumer's and the trader's interests.

Also, the New South Wales Consumer Protection Act was introduced by a Liberal Government in 1969. True, the Liberals split up from week to week, but that legislation has stood the test of time for almost 10 years.

**The Hon. J. C. BURDETT:** I have heard that speech before, because it is the identical speech that the Minister delivered against my private member's Bill earlier this session. It is now quite inappropriate. My earlier Bill set out to repeal section 49a of the principal Act. The amendment does not do that: it simply writes back the liability and makes the Commissioner liable in respect of any advice given by or with the authority of the Commissioner or in the exercise of any function under section 18a of this Act. It does not apply to defamation.

The Minister has not answered the question at all about why the Commissioner, when he acts on behalf of the consumer, whether or not it is in the public's interest, should be relieved of any liability if he does act negligently.

**The Hon. D. H. L. BANFIELD:** Obviously, if the Hon. Mr. Burdett puts up the same argument that he used originally, the same answer will apply. The situation has not changed. The advice given to clients by investigation officers is not legal advice. If the Commissioner advertised in a newspaper that people should not deal with a certain firm because of certain acts, that could be taken as defamation.

**The Hon. J. C. Burdett:** That's not struck out.

**The Hon. D. H. L. BANFIELD:** It is. That is why the honourable member received the same reply as before:

because he is taking exactly the same action as before.

The Committee divided on the new clause:

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

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

**The CHAIRMAN:** There are 10 Ayes and 10 Noes. I give my casting vote for the Ayes.

New clause thus inserted.

Clause 5—"Duration of Act."

**The Hon. R. C. DeGARIS:** I ask the Minister whether he has a reply to the question I asked about the Urban Land (Price Control) Act as it is involved in this matter.

**The Hon. D. H. L. BANFIELD:** The Acts Interpretation Act covers the point mentioned by the Leader. The expiry of the Urban Land (Price Control) Act will not revive the repealed provisions of the Prices Act. They remain repealed.

Clause passed.

Title passed.

Bill read a third time and passed.

#### PLANNING AND DEVELOPMENT ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 16 November. Page 2052.)

**The Hon. C. M. HILL:** I oppose the Bill and intend to vote against the second reading. The main issue relates to the subdivision of land into allotments in excess of 30 hectares. The people most concerned in this area are farmers, people on the land.

**The Hon. N. K. Foster:** What about speculators, like you?

**The Hon. C. M. HILL:** I said that the people most concerned were farmers, people on the land. Many such people have already taken out separate titles, within their farm properties, on allotments of 30 hectares each, because they have feared a Bill of this kind. Those who have not done so will now be subjected to extra expense and the long procedures of necessary applications. They may find it impossible for them to subdivide in this way, because consent may be refused.

I see no reason why farmers in such a position should now have to be involved with bureaucracy in this way. I question seriously the statement made by the Minister about what he claimed to be the need for the legislation. Development plans and interim development controls now encompass almost the whole State. Other people and I have accepted that concept. I think the only area that seems to be the last remaining bastion where owners are free to divide land if they wish without coming under the umbrella of bureaucracy is this subdivision of land into holdings of 30 hectares or more. This last feature is being encompassed.

The Government has presented its argument in support of the measure and has mentioned three matters to substantiate that argument. The first is the actual number of such allotments being created. The Government has indicated that 750 allotments of 30 hectares each were created in 140 localities in 1970 and has said that, because of that, it must have this control. It has not said that many of the allotments created were created not for sale but simply because farmers feared the possibility of this law



and subdivided their farms. They are still farming, but they hold five, six or seven titles, each for 30 hectares, whereas previously they held one title for the whole farm.

**The Hon. B. A. Chatterton:** They want to subdivide ultimately, not now.

**The Hon. C. M. Hill:** At some stage, they may wish to sell or transfer to a child.

**The Hon. B. A. Chatterton:** They wouldn't do that if they had that in mind.

**The Hon. C. M. Hill:** Yes, because in their minds it has a bearing on the value of the property. They believe that a property is worth more in subdivided form. I do not criticise people because they conduct their own affairs and try to maximise their capital.

The second example that the Government put forward was Kangaroo Island, where a local owner had been involved in this kind of subdivision. The Government said, in effect, that the subdivision was extremely bad and was causing much concern with the local council on the island. In another place, the member representing Kangaroo Island, as reported at page 1758 of *Hansard*, said:

As far as the Kingscote council is concerned, I can assure the House that it is not at all worried about what is happening in the specific case of the Snug Cove subdivision.

That is a contradiction of the Minister's statement that, because of the problem on Kangaroo Island, the Government needs this Bill. He said that there was bad business there, but the local member did not agree with him.

**The Hon. B. A. Chatterton:** I would take the word of the Minister for Planning against that of the local member.

**The Hon. J. E. Dunford:** So do I.

**The Hon. C. M. Hill:** I would expect the Hon. Mr. Dunford to concur with his Minister on this point. However, at least it leaves some doubt (an in this respect the Hon. Mr. Dunford might agree with me) that all the Minister's contentions regarding Kangaroo Island subdivision are questionable.

The other example used by the Minister in support of this Bill was a subdivision of land in an area near Strathalbyn relating to what the Minister called Highland Valley Pastoral Company. The Minister said that 49 allotments of 30 hectares were being subdivided there without control and that this was a terrible subdivision because people would not be able to live there satisfactorily. He also said that the property could not be serviced.

I thought about the land at Highland Valley, and then I noticed a press report concerning a commune. Under the heading "Commune upset for council", the report stated that the town's mayor, Mr. O'Driscoll, was making a statement as he stood on the 30-hectare commune site at Highland Valley, about 60 kilometres from Adelaide. It seems that this commune is located on one of the subdivided areas of land to which the Minister for Planning is taking strong objection in relation to this Bill.

**The Hon. J. E. Dunford:** I thought it was at Strathalbyn.

**The Hon. C. M. Hill:** It is near there. The press report to which I refer stated as follows:

Mr. Dunstan said approval for the commune had been given within the State planning laws and that, if building at the site did take place, it would be within conditions already laid down. "Their presence—  
referring to the people in the commune—

should not be more of a hazard than an equal number of individuals who live in one house," Mr. Dunstan said. "They have received the approval of the S.P.A. and will have to comply with any conditions imposed by that body." Mr. Dunstan said he would stress that the S.P.A. had reached its decision without any interference from him. He said he

welcomed the initiative of people who, rather than face a life on the dole, got themselves together to live cheaply but effectively as good citizens.

The State Planning Authority has given consent for these people to live on this 30-hectare site, which seems to be one of the subdivisions that the Minister for Planning, who is in charge of the State Planning Authority, has said should never have taken place.

When introducing the Bill, the Minister told the Council that the people should not be able to live on these sites at Highland Valley, yet the Minister's own department can give approval to these people to do this.

**The Hon. B. A. Chatterton:** How can it stop them?

**The Hon. R. C. DeGaris:** Didn't the Premier give them a subsidy?

**The Hon. C. M. Hill:** I do not think it went quite that far.

**The Hon. R. C. DeGaris:** What about the alternative life style?

**The Hon. C. M. Hill:** A subsidy was provided to investigate that. The Minister, in an attempt to substantiate the need for this control, has used the subdivided allotments at Highland Valley as an example that should not happen, because, he said, it was not right for people to live there. At the same time that the Minister is saying that to Parliament, the State Planning Authority is giving consent to people to live on this allotment.

**The Hon. B. A. Chatterton:** How can they stop them?

**The Hon. C. M. Hill:** Of course they can be stopped. These people have to apply to the State Planning Authority for consent, so the Minister's own department could stop them. Is the Minister saying that he could not stop them?

**The Hon. B. A. Chatterton:** They can have subdivisions there of more than 30 hectares.

**The Hon. C. M. Hill:** They cannot do so after this Bill passes.

**The Hon. B. A. Chatterton:** No, but they can now.

**The Hon. C. M. Hill:** That is so, and the Minister says that that example of subdivisions at Highland Valley is the reason why he wants control. The Minister says that it is not right that subdivision occurred, because it was not a satisfactory living environment for people. The Minister said that his department could not service these allotments with water and that, because of economies, electricity and council services could not be supplied. Despite this, the Minister's own department is encouraging people to live in that area.

**The Hon. C. J. Sumner:** How?

**The Hon. C. M. Hill:** It is doing so by giving these people consent.

**The Hon. R. C. DeGaris:** The Premier congratulated them.

**The Hon. C. M. Hill:** That is so, and he gave them money so that they could study this alternative life style.

**The Hon. B. A. Chatterton:** How can they prevent these people going there?

**The Hon. C. M. Hill:** They could not prevent subdivision before this legislation, but they will be able to do so if this Bill passes. The Minister says that is wrong because his department cannot service people living on this land. Having said that one day, the next day his own department consented to a whole group of people living on the same land that the Minister has quoted as an example. Those three arguments regarding the numbers of allotments that the Minister says are being subdivided, for which reason controls should be implemented, can be refuted.

As an example the Minister quoted the Kangaroo Island example, which is denied by the local member. Although

the Minister used the Strathalbyn example, he has encouraged people to live in an environment that he says is unsatisfactory.

The Minister's argument that services cannot be supplied is always used in matters of this kind when subdivisions are opposed. In some instances, I am willing to admit that that is a relevant factor. However, one must be pragmatic and admit that a purchaser of a 30 hectare rural site, hobby farm, or retreat knows what he is letting himself in for. The department is not bound to supply water; the Electricity Trust is not bound to supply power; and councils are not bound to supply services such as rubbish collection that they supply in their urban areas.

People know their circumstances in relation to services, and many who have allotments of 30 hectares or more simply do not want those services. Indeed, it seems to me that they are acquiring that land to get away from those services that are the norm for urban living.

I do not place much credence on that aspect. The few bad cases which slip through and create problems and which are uneconomic in relation to the supply of services must be weighed against the adverse effect on our whole farming community throughout the State, if this umbrella of control involves it. So, I oppose entirely the Government's having control of land where allotments of 30 hectares or more are being sold by owners of farm properties.

The second point in the Bill that I oppose deals with the power that the Government is seeking to oppose the creation of separate allotments where a farm is divided by a road, railway, drain, or some other physical feature of that type. I see no reason why these pieces of land should not be available for disposal to a neighbour who immediately adjoins them, or why they cannot be transferred to any other party without the need for consent of a Government department.

In opposing the measure, I am mindful of the fact that a completely new Bill on planning and development is contemplated by the Government. Recently, the Government set up an inquiry under Mr. Stuart Hart, whose initial report has been published.

That must be the forerunner to great change in the planning area. I am also mindful that the Government may adopt land use as a basis for future controls, and that that would solve many problems with which we are faced. Regarding legislation concerning land division, if that approach was adopted, it would be a great improvement. It seems that Mr. Hart recognised that we should give local government more power over land division. I have been arguing that matter since I came into this Chamber.

I vividly recall the arguments in December 1965 when planning and development legislation was first introduced by the Labor Party. I said then that more power should be given to local communities specifically through local government in this area. That seems to be one of the bases upon which new legislation will be proposed. With these new approaches, I cannot see any reason why this Chamber should pass this piecemeal legislation.

Clause 5 concerns me because it leaves the Registrar-General to make decisions as to when land, which was in the process of being subdivided, will be allowed to proceed without consent. That is a responsibility that must weigh heavily upon him. That clause could have been worded in such a way that many landowners, and others acting for them, such as surveyors, might be assured that where they had genuinely set in train the procedure to subdivide under the then existing law, in which 30 hectare or greater allotments could have been divided without any controls, I think that Parliament should go to great lengths to see that those genuine cases proceed without such control.

However, for the main reasons that I have emphasised, I oppose the measure.

**The Hon. R. C. DeGARIS (Leader of the Opposition):** I appreciate the Hon. Mr. Hill's argument, but I will support the Bill, not because I like it, nor because I think it is of any value to anyone, but in the hope that I can amend it in its passage through the Chamber. As the Hon. Mr. Hill pointed out, the Bill concerns control of subdivisions of more than 30 hectares. The Minister has quoted certain areas that caused concern, as did the Hon. Mr. Hill.

I appreciate that in some areas there is need for control over subdivisions of more than 30 hectares. One particular area of subdivision concerns me: it is close to the metropolitan area, and receives less than 10 inches annual rainfall. It is completely wrong for us to allow subdivisions in these areas of about 100 acres, on which someone builds a weekend shack and runs a couple of cows or horses. I do not think any member would care for that sort of subdivision.

On the other hand, much concern is being expressed throughout the rural sector that where there is a genuine subdivision of, say 2 500 acres, or about 1 000 hectares and maybe 100 hectares has been sold to a neighbour, approval will involve a long process. One appreciates that in many subdivisions the State Planning Office and Environment Department are involved, and it is a long process.

We should be proud that in South Australia for many years we have had an excellent land titles system, a quick subdivision method, and sale of areas in the rural sector. People in rural areas do not want to be bogged down in red tape with many of the proposals made in the past few years. Not long ago a regulation was proposed and circulated. I do not know whether it came before the House or not, but under planning regulations in Kangaroo Island a farmer had to get permission to move any structure more than 4ft. 6in. in height or length, so that he had to get permission from Adelaide to move a water trough from one paddock to another. Also, strict regulations controlled felling trees for fence posts, the colour of paint one could use to paint one's house, or on a fence post to fit in with the visual environment: it had to be green or brown. This sort of thing causes concern regarding the excesses of planners in every part of our lives.

The more we rely on the local organisations or the local community, the more sensible will become our planning approach. I do not believe that we can have a blanket regulation or piece of legislation applying to all of South Australia, because it varies from area to area. In some areas of this State there are not enough 20-acre blocks. In my district, many of the most successful farmers got their start on 20-acre blocks milking 10 cows or running a few beef cattle, working in the stockyard, and gradually increasing their holding. We need to cater for this market. It is difficult to get the point across to some planners that these sorts of subdivision are in the community's interest. I agree with the Hon. Mr. Hill's point that if we rely on local government consent in these matters, we will have a very good guide as to what the community wants.

**The Hon. J. R. Cornwall:** It doesn't work out too well in Queensland, does it?

**The Hon. R. C. DeGARIS:** I have heard nothing that the honourable member has said about Queensland that is good. It is one of the only growth States in Australia. If this State could boast of the expansion and economic health of Queensland, we would all be pleased. In low-rainfall areas 100-acre subdivisions for holiday farms should not be allowed and local government in those areas

would be totally opposed (and rightly so) to such subdivisions. If we allow the State Planning Office to have its say regarding these matters, we will get some very silly decisions.

Also, we will get a tremendous hold-up in relation to subdivisions that should not take any time at all. This problem has caused concern all around the world. We should note what has happened in Great Britain, where there is no control whatever over the size of subdivisions. Here, we have a consideration of whether or not a block is economic. It is utterly impossible for any person, other than the person who will occupy the block, to make a rational decision as to whether or not it is economic. In some districts apiarists need 10-acre blocks, which they use as their depot, and they move their hives around the district.

If we could change the emphasis and if we could think about the question of land use, the problems would be largely overcome. This is the approach taken in Great Britain, where there are areas zoned for rural pursuits. In such areas there is no control over size; it is left entirely to the person involved, but the area must be used only for rural pursuits. If the person cannot make a go of it, he will sell to his neighbour and get out.

**The Hon. B. A. Chatterton:** If a house was built, it would be a change of use.

**The Hon. R. C. DeGARIS:** In Great Britain they look at land use. A farmer and his son may farm 1 000 acres, and the son may wish to build a house. The farmer may transfer to his son between 20 acres and 30 acres. He may seek a mortgage and build a house. I see no reason why that should not be done. The local council would be the best body to which the farmer could go for advice. The more we are involved in hard and fast rules, the less satisfactory will be the control. I will vote for the second reading of the Bill in the hope that acceptable amendments will be made during the Committee stage.

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

#### PIPELINES AUTHORITY ACT AMENDMENT BILL

Adjourned debate on second reading.  
(Continued from 16 November. Page 2052.)

**The Hon. D. H. LAIDLAW:** I have read correspondence stating that the Pipelines Authority of South Australia will increase the price of gas to direct buyers by considerably more than 10 per cent from 1 January next. It intends to increase the price for three reasons; first, to impose a levy upon users to pay for exploration in the Cooper Basin and other areas. I refer in this connection to the Pedirka Basin. This item accounts for the 7 per cent rise referred to by the Minister of Mines and Energy in the *Advertiser* this morning.

The second reason for increasing the price is to cover the extra cost of operating the Pipelines Authority. This amounts to about 3.5 per cent and was overlooked by the Minister when he was estimating the size of increase. The third reason for increasing the price is to meet the claims by the producers in the Cooper Basin for a price rise. Mr. Alan Bond, having purchased Burmah Oil's holdings and having become the major shareholder in the Cooper Basin consortium, will be particularly interested in the outcome.

The Minister of Mines and Energy has introduced this amending Bill in order to establish without doubt that the Pipelines Authority can use its surplus profits to buy shares in the South Australian Oil and Gas Corporation and also invest in debentures as well as taking an equity

interest in companies with interests in petroleum resources.

The Minister pointed out in his second reading speech that the Government had decided to impose a levy upon users to assist in financing the exploration programme in the Cooper Basin and other areas for 1979 which amounts to about \$5 000 000. A letter to users from the General Manager of the Pipelines Authority on 24 October said that the levy would be 3.7c per gigajoule. I realise that you, Mr. Acting President, know exactly what a gigajoule is, but, for those honourable members who are used to thinking of gas usage in terms of therms, let me remind them that, in the interests of progress and the metric system, we now speak in terms of gigajoules.

The Minister added an ominous warning that in future years the levy on the transport of gas by the Pipelines Authority would have to be increased above 3.7c per gigajoule so that the authority can pay back to the Treasury \$5 000 000 borrowed to set up the South Australian Gas and Oil Corporation in association with the South Australian Gas Company. The Government also intends to use this levy upon users to find \$12 000 000 to reimburse the Treasury for the money used to purchase its interest in the Cooper Basin from the Commonwealth, or to be more precise, from the Australian Industries Development Corporation. So, the levy at present is 3.7c, which will raise about \$2 500 000. It will be increased in future to pay back \$17 000 000 in addition to possibly \$5 000 000 a year for exploration.

The Minister said that the Electricity Trust and the South Australian Gas Company could cope with this levy of 3.7c and that the latter would be negotiating an increase from the Prices Commissioner in the near future. He was referring presumably to the price for domestic use in the Adelaide metropolitan area. I remind the Minister that industrial companies which use large quantities of gas could be seriously handicapped by this policy, which is fashionable amongst Governments, that the user, rather than the public at large, should pay.

I realise that the spending of 3.7c per gigajoule is but a beginning, and we have been warned of further increases in years to come.

Consider, for example, the impact upon three companies which buy gas directly from the Pipelines Authority, namely, Adelaide Brighton Cement Limited with works at Birkenhead and Angaston, the Samin copper oxide works at Burra which was until recently in receivership and is now owned by Adelaide and Wallaroo Fertilizers Limited and Tarac Limited at Nuriootpa which produces brandy and spirit for the wine industry.

I wish at this stage to declare a pecuniary interest in this Bill because I am a director and shareholder in both Adelaide Brighton Cement Holdings Ltd. and Adelaide and Wallaroo Fertilizers Limited. However, I remind honourable members that the impact of this levy affects anyone in this Chamber who happens to own a gas stove or a gas heater.

Adelaide Brighton Cement sells almost half its annual production of cement and cement clinker overseas or interstate, and of course has to compete with other producers located nearer to the users. The exploration levy of 3.7c is the initial one and will add about \$160 000 annually to its gas bill with promises of higher charges in the future. In addition, there will be a further charge of about \$100 000 a year to cover the increased cost of operating the Pipelines Authority and a yet to be determined increment to satisfy the members of the Cooper Basin consortium.

The Samin Company sells almost all of its produce of copper oxide overseas and is involved in an exploration

programme to find more copper in order to continue operating in the future. The company has been in financial trouble for years and, as the main employer in the Burra area, must be kept in existence in order to prevent another pocket of unemployment in a decentralised area. Marginal mining operations such as Samin cannot withstand many unexpected on-costs such as this exploration levy.

Tarac Limited at Nuriootpa has been hit by the huge increase in the brandy levy imposed by the Federal Treasurer in the Budget last August. This was another example of applying the user-should-pay principle. However, it was so savage that the consumption of brandy has dropped dramatically, and it is doubtful what extra revenue the Federal Government eventually will receive. Now the Minister of Mines and Energy has got into the act to add to Tarac's woes. If he imposes too high a levy these companies will lose orders, and his actions will be counter-productive.

I recognise that the Government wants to explore the Cooper Basin and other potential areas such as the Pedirka Basin to establish gas supplies for the South Australian market after 1987. In order to do this, it has undertaken to pay all exploration costs in the Cooper Basin unless producer members of the consortium choose to contribute. It must be remembered that Australian Gaslight Limited in Sydney is entitled to a portion of whatever is discovered in the Cooper Basin, and I wonder whether the New South Wales Labor Government will also impose a levy on its users to assist with exploration.

I realise that actual percentage increases will vary depending upon the base price being paid at present by individual users. However, I presume that the Pipelines Authority will impose the same charges upon each user as is written into its supply contracts. In the case of Adelaide Brighton Cement the increase due to exploration levy and the extra cost of operating the Pipelines Authority is over 10 per cent without any increment for the Cooper Basin producers, led now by Mr. Alan Bond. Having voiced a protest of which I hope the Minister will take note, I intend to support the second reading of this Bill.

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

#### NATIONAL PARKS AND WILDLIFE ACT AMENDMENT BILL (No. 2)

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

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

*That this Bill be now read a second time.*

In a Ministerial statement given in the House of Assembly on 13 July 1978, the Minister for the Environment foreshadowed these amendments to the National Parks and Wildlife Act to enable a smaller, scientifically based committee to be established in lieu of the large 17-member National Parks and Wildlife Advisory Council that operated until 30 June 1978.

The council provided continuity between the various bodies existing prior to 1972 which were involved in reserve management and wildlife conservation and were incorporated into the National Parks and Wildlife Service under the 1972 Act. Since 1972 a working relationship between the Minister, the Environment Department and the National Parks and Wildlife Service has evolved. More recently the emphasis on policy development in the department and the proposed formation of trusts mean

that the Minister has other opportunities for advice on parks and wildlife issues, and the role of the council has been re-examined. As the Minister for the Environment stated in July, the term of office of members terminated on 30 June 1978, and the appointments have not been renewed.

The advisory council has at present three principal functions: it advises the Minister on the disbursement of money from the Wildlife Conservation Fund; it tenders advice and recommendations in relation to management plans prepared in relation to reserves constituted under the principal Act; and it investigates and reports on matters referred to the council for investigation. The Government believes that these matters could be more expeditiously handled by a smaller, scientifically based group. The amendment to the Bill therefore provides for the establishment of a five-member Reserves Advisory Committee.

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

Leave granted.

#### Explanation of Clauses

Clauses 1, 2 and 3 are formal. Clause 4 makes consequential amendments to the definition section of the principal Act. Clause 5 provides that the Minister is to disburse moneys from the Wildlife Conservation Fund on the advice of the new committee, where appropriate, in lieu of the Advisory Council.

Clause 6 repeals and re-enacts Division II of Part II of the principal Act. The new provisions establish the proposed new Reserves Advisory Committee, set out its powers and functions, and deal with the terms and conditions on which its members are to hold office. Clause 7 substitutes references to the committee for references to the Advisory Council in section 38 of the principal Act, which deals with the preparation of management plans for reserves.

**The Hon. M. B. CAMERON** secured the adjournment of the debate.

#### POLICE PENSIONS ACT AMENDMENT BILL

Adjourned debate on second reading.  
(Continued from 16 November. Page 2053.)

**The Hon. R. C. DeGARIS (Leader of the Opposition):** The Bill seeks to achieve two things. First, it allows for a widening of the powers of investment in the Superannuation Fund. At present, funds can be invested with the Treasurer only in trustee securities or in local government securities. As the powers of investment have been widened in the South Australian Superannuation Fund, it is reasonable that the powers relating to police pension funds should follow suit.

One problem with the State Superannuation Fund has been the restriction on the investment power which, during a period of dramatic inflation, has meant that the fund has been able to maintain viability. I have drawn attention to this matter previously when speaking on Bills dealing with superannuation. While I approve of the amendment made in this Bill, I emphasise that, financially, the future taxpayers' commitment to the funding of State and Federal Government superannuation must raise concern in the mind of everyone who realises the position. The problem in South Australia is more

dramatic than that facing the Federal Government.

Recently, at a luncheon in Adelaide, I heard an interstate actuary point out clearly the same problem as I and other members have been speaking about for some time in relation to the State superannuation scheme. It was unfortunate to find in the *Public Service Review* a rather disparaging comment by a correspondent. The comment was that my views on the State Superannuation Fund were the result of my having been brainwashed by a previous State Actuary, Mr. Peter Stratford. Mr. Stratford invited me to lunch because he knew my interest in superannuation problems. While Mr. Stratford has his views, I assure the Public Service Association and this Council that the views that I express from time to time on the Superannuation Fund are my views and are based on my application of my own logic.

In no way am I a mouthpiece for Mr. Stratford. I realise that he is an excellent actuary, and I am not casting aspersions on him. Nevertheless, it was disappointing that the *Public Service Review* claimed that I was only mouthing the views of someone else. While some public servants may not like what I say about the State Superannuation Fund, I assure all who are contributing that the prime cause of the difficulty (and, as I see it, the prime cause of severe difficulties in future) is Government policy. I make that allegation not against this Government only: I make it against what has been Government policy for many years.

In a speech about eight years ago, I was laughed at when I predicted that the taxpayers of South Australia soon would be paying 82 per cent of the superannuation to retired public servants. In the superannuation payments, the taxpayers would be paying 82 per cent and the contributors would be paying 18 per cent. I point out that at present the contribution by the taxpayers of South Australia is exactly 82 per cent. Can any part of the private sector match this sort of deal on superannuation? The blame falls not on public servants but on Government policy over the years that has leant on the Superannuation Fund and has not funded the scheme until the pension has fallen due. That is the major reason why the present position has arisen.

The second thing that the Bill does is drop the contribution from 5.1 per cent of salary to 5 per cent for persons aged 19 years. This brings the Police Pensions Fund into line with the State Superannuation Fund. I do not know what effect this amendment will have on the fund but I should think the effect would be small.

Finally, I would like to make a general comment. I believe that the time has come to examine the whole question of superannuation and pensions in Australia (I refer to pensions that are payable by right to certain people in the community from the public purse) so that all people are able to contribute equally to their retirement benefit. There are essential differences between the superannuation scheme operating in South Australia and the schemes operating in other States and the Commonwealth. Different superannuation schemes also operate in the private sector. Special superannuation arrangements are made by the Government for some people. Commitments from the superannuation fund have been made by this Government which deserve criticism, if the information supplied to me is accurate. If the Government uses the Superannuation Fund to make special provision for certain people and calls upon the fund to meet payments not contributed to by the superannuant in the future, that arrangement should be strongly criticised. I believe that such arrangements have been made at times in South Australia. The examination of superannuation and pensions to which I refer would be lengthy, would require

experts, and would need the co-operation of all States and the Commonwealth.

**The Hon. J. R. Cornwall:** Are you advocating national superannuation?

**The Hon. R. C. DeGARIS:** Not necessarily. The honourable member has misinterpreted what I have said. I am saying that Governments have the power, with the taxpayers' purse behind them, to engage in all sorts of arrangements concerning certain people; these situations deserve criticism. Also, State Governments and Federal Governments, in an attempt to get votes, commit future taxpayers to a large burden which some future Government has to meet. This principle is wrong. Even in the South Australian Government superannuation scheme, there is not an equalitarian system. The Government chases popularity from certain sections of the tax-paying public and promotes policies that are quite disastrous to the Superannuation Fund in the long term. I believe that pension and superannuation schemes need to be examined carefully. I support the second reading.

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

[Midnight]

#### PLANNING AND DEVELOPMENT ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading (resumed on motion).

(Continued from page 2128.)

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

#### WORKMEN'S COMPENSATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 November. Page 2053.)

**The Hon. D. H. LAIDLAW:** In April last year the Government introduced legislation to provide that sportsmen under contract to a sporting club, whether full-time or part-time, should not be covered by the Workmen's Compensation Act. This came about because of a case in New South Wales where a rugby player successfully sued his club for compensation for injuries suffered. Sporting clubs in this State, especially the small ones, were concerned about their potential liability for compensation.

To give them some time to make proper arrangements, the Government enacted that the Act should expire on 31 December 1978. It was stressed that this exemption from the Workmen's Compensation Act applied where the contract referred to remuneration as a player and not, for example, where a professional footballer was employed as a club groundsman.

This amending Bill extends the life of the Act for a further two years until 31 December 1980, that is, until such time as the committee reviewing the whole field of workmen's compensation has completed its work. This means that sporting bodies in this State will be exempted from liability for injuries suffered by any of their players.

However, it is provided in this Bill that full-time professional sportsmen will not be exempted, but will be covered in the ordinary way for workmen's compensation.

Such a person is defined in the Bill as one who derives his entire livelihood, or an annual income of more than a prescribed amount, from participation in sporting contests or related activities. I support the second reading.

**The Hon. J. R. CORNWALL** secured the adjournment of the debate.

### PETROLEUM ACT AMENDMENT BILL

Adjourned debate on second reading.  
(Continued from 16 November. Page 2066.)

**The Hon. R. A. GEDDES:** I support the second reading of this Bill. The main reason for this Bill is that there are three principal areas of natural gas or oil discoveries in the Cooper Basin area: the Pedirka, Arrowie and Cooper Basins. The Bill is designed to increase the amounts that the exploration companies will have to spend in the Pedirka and Arrowie Basins while leaving the Cooper Basin free because it is already a producing basin, where the Minister gives his consent in writing to various companies when their petroleum licences are due for renewal next year. Clause 4 of the Bill states:

Section 4a of the principal Act is amended by inserting in paragraph (f) of subsection (3) after the passage "shall apply thereafter" the passage "(subject to any written agreement between the Minister and the licensee)".

This causes me a degree of concern. Section 4a of the principal Act states:

... the licensee may apply for the renewal of the licence and upon that renewal, the area comprised in the licence shall not be reduced by virtue of section 18 of this Act but the provisions of section 17, 18 and 18a of this Act shall apply thereafter.

This is where this amendment comes in with the words:

... (subject to any written agreement between the Minister and the licensee).

Section 18 of the Act spells out that upon each renewal of the licence an area not less than one-quarter of the area in respect of which the licence was originally granted shall be excised and the licence renewed only in respect of the residue. This area should comprise not less than 800 square miles or 2 000 square kilometres. The second reading speech, for such an important Bill, is in itself vague and difficult to follow. It states, in relation to clause 4:

Clause 4 amends section 4a, which is the transitional provision relating to the Cooper Basin licences. The amendments provide that the new petroleum exploration licence that is to be granted upon the expiry of the oil exploration licence to which the previous covenant relates shall comprise an area agreed upon by the Minister and the licensee. The provisions of sections 17, 18 and 18a (which relate to the areas to be excised upon the renewal of a licence and the amount to be expended on exploration works by a licensee) may be modified by written agreement between the licensee and the Minister.

It says that the new exploration licence shall comprise an area agreed upon by the Minister and the licensee, and that the amount to be expended in exploration works by the licensee may be modified by written agreement. The Petroleum Act applies to relatively few people, but the costs in money terms to the licensees for a petrol exploration licence are measured in millions of dollars, and the energy future of this State is, in fact, at stake should negotiations fail between the Minister and the licensee as to an agreement on the area of the licence and the amount of money to be spent on exploration.

My concern is that there appears to be no right of appeal, no reference to a higher authority should a capricious Minister in the future make unjust or unfair demands on the oil exploration companies. These remarks are not intended for the Minister of Mines and Energy (Hon. Hugh Hudson) but, once this amendment is enshrined in the statutes, it is applicable at any future time. What would happen if a Minister demanded excessive spending on exploration, and the petroleum companies refused or were unable to meet the requests because of financial difficulties? What would happen if, in five years time, the Minister demanded that the known gas field areas were to be removed from the licence, and that the exploration companies were denied their income from these sources? My concern is that the amendment suggests a gentlemen's agreement made in 1978 with the knowledge of the companies involved, but with little regard to the possible consequences next time round when the licences have to be renewed again.

In my opinion, it would have been fairer on the Parliament, and those who wished to contribute constructively to the debate, if the reasons behind the amendment in clause 4 could have been spelled out. Could the Minister satisfy my concern, either privately, because of the possibility of delicate negotiations between the various parties that perhaps should not be made public, or by a report to Parliament about those reasons?

I do not wish to spend time on the urgent need to provide more oil and gas for South Australia and New South Wales. These facts are well known to those who have shown any concern for the future energy requirements of the States, and in fact the nation. The problem is urgent and the job must proceed.

The balance of the Bill deals with amendments to bring the Act up to date with modern terminology and includes changes to allow increased expenditure for exploration licences in those other fields, the Pedirka and Arrowie Basins. This has been brought about principally because of the inflationary value of money. I wonder at this point whether the Parliament will ever amend an Act to reduce the spending in this type of field?

In conclusion, I repeat my question: is the Minister satisfied that the intent of the amendment made to clause 4 is wise, having regard to the possible future review of petroleum licences? Furthermore, would it not be better if the words "for the 1979 licences" were added so that the future need not be vague and uncertain for exploration companies themselves? On this point, I respectfully ask that the Minister give me some reply at a later date. I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Transitional provisions."

**The Hon. R. A. GEDDES:** The Minister was to obtain information for me about clause 4, and I ask that progress be reported.

Progress reported; Committee to sit again.

### HUNDRED OF KATARAPKO

Consideration of the following resolution received from the House of Assembly:

That this House resolves to recommend to His Excellency the Governor that, pursuant to section 16 (1) of the Aboriginal Lands Trust Act, 1966-1973, section 80, Weigall Division, Cobdogla Irrigation Area, hundred of Katarapko, be vested in the Aboriginal lands Trust; and that a message be sent to the Legislative Council transmitting the foregoing

resolution and requesting its concurrence thereto.

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

That the resolution of the House of Assembly be agreed to. Section 80 contains 1 265 hectares and is located adjacent to the Gerard Reserve. Irrigation perpetual lease 2315 over the section was transferred to the Gerard Reserve Council Incorporated in September 1975 following negotiations with the lessees. Funds for the purchase were provided by the Australian government. The Gerard Reserve Council has requested that section 80 be vested in the Aboriginal lands Trust, subject to the trust leasing the land back to the council for 99 years with a right of renewal on expiry of the lease.

Gerard has an Aboriginal permanent residential population of over 125 persons, whose livelihood is dependent at present on the farm and irrigation activities. The acquisition of additional land is vital to the continued survival of the community as it will allow for expansion of primary production thus providing continued employment for the growing population and at the same time a training medium for the younger people who wish to be employed and skilled in this direction.

The Community Welfare Department and the Aboriginal Lands Trust agreed to the proposal, and section 80 has now been absolutely surrendered to the Crown as a necessary step to enable the vesting to proceed. A plan of section 80 is exhibited for the information of members. In accordance with section 16 of the Aboriginal Lands Trust Act, the Minister of Lands has recommended that section 80, Weigall Division, Cobdogla irrigation Area, be vested in the trust, and I ask members to support the motion.

**The Hon. R. C. DeGARIS (Leader of the Opposition):** I support the motion. We are aware of the success of the Gerard mission, and I can find no opposition to the motion.

Motion carried.

#### HUNDRED OF BONYTHON

Consideration of the following resolution received from the House of Assembly:

That this House resolves to recommend to His Excellency the Governor that, pursuant to section 16 (1) of the Aboriginal Lands Trust Act, 1966-1973, section 250, hundred of Bonython, County of Way, be vested in the Aboriginal Lands Trust; and that a message be sent to the Legislative Council transmitting the foregoing resolution and requesting its concurrence thereto.

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

That the resolution of the House of Assembly be agreed to.

Section 250 has an area of 0.5169 hectares and is situated alongside the Eyre Highway at Ceduna. This section was formerly part of section 192, hundred of Bonython, which was dedicated as a reserve for the use of the then Aboriginal Affairs Department and placed under the control of the Minister of Aboriginal Affairs in *Government Gazette* dated 23 October 1969.

There are several buildings on the property including a residence that is fenced off from the other improvements. The fenced area and residence are to be retained for the use of the Community Welfare Department for a school for agricultural science, and it is intended that the balance area, together with all the improvements thereon, is to be conveyed to the trust. The department and the Aboriginal Lands Trust agree to the proposal and the area now numbered section 250 has been resumed from the previously mentioned dedicated reserve as a necessary step to enable the vesting to proceed. Thus this section is now Crown lands.

A plan of section 250 is exhibited for the information of members. In accordance with section 16 of the Aboriginal Lands Trust Act, the Minister of Lands has recommended that section 250, hundred of Bonython, County of Way, be vested in the trust, and I ask members to support the motion.

**The Hon. R. C. DeGARIS (Leader of the Opposition):** I support the motion.

Motion carried.

#### ADJOURNMENT

At 12.26 a.m. the Council adjourned until Wednesday 22 November at 2.15 p.m.