LEGISLATIVE COUNCIL

Thursday 25 March 1982

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

EVIDENCE ACT AMENDMENT BILL (No. 2)

The Hon. K. T. GRIFFIN (Attorney-General): The managers for the two Houses conferred together at the conference, but no agreement was reached.

The PRESIDENT: As no recommendation from the conference has been made, the Council, pursuant to Standing Order 338, must either resolve not to insist on its amendments or lay the Bill aside.

The Hon. K. T. GRIFFIN (Attorney-General): I move:

That the Council do not further insist on its amendments.

This situation is similar to the situation which arose in the last session of this Parliament when agreement could not be reached between the House of Assembly and the Legislative Council on amendments to the Evidence Act with respect to the abolition of the unsworn statement. It has been clearly known since before the last election that the Government is committed to the abolition of the anachronism of the unsworn statement. It had its origins in antiquity, at a time when it was intended to be a protection for the illiterate, because ordinarily the accused person had few if any rights to present a case to the court before which he was charged.

In Western Australia and Queensland the right to make an unsworn statement has been abolished. It has been recommended for abolition in the United Kingdom by a recent Royal Commission. It has been abolished in New Zealand. There was a recommendation in the early 1970s by the Mitchell Committee in South Australia that the right to make an unsworn statement should be abolished, although it is fair to say that a recent report from Victoria recommended retention of the right of an accused person to make an unsworn statement. Notwithstanding the minority of reports which have recommended retention of the unsworn statement, the Government is still committed to this reform of the criminal law, believing that the unsworn statement is an outdated anachronism, that in the form of the legislation as introduced by the Government on this occasion in another place there were adequate protections for an accused person, and that we should still proceed to abolish the right of an accused person to make an unsworn statement.

In fact, the Select Committee of this Council which met to consider the Evidence Act Amendment Bill in the last session heard evidence in respect of the Queensland and Western Australian experiences that ordinary defendants had not been disadvantaged by the abolition of the unsworn statement. There have been suggestions that perhaps the unsworn statement should be abolished but ought to be reserved, in the discretion of a trial judge, for those who might be of Aboriginal decent, other ethnic background or illiterate. The difficulty with that proposition is that we would then have, in effect, a trial within a trial, as the judge would have to exercise his discretion.

We would undoubtedly have a situation which presently prevails with the *voir dire* hearing which, as a result of amendments made to the Criminal Law Consolidation Act recently, no longer has to be done after the jury is empanelled, but which nevertheless can absorb a considerable amount of time in examining primary points. I suggest that, if there were to be a limited aboliton of the right of an accused person to make an unsworn statement we would be likely to have the same sort of difficulties prevailing and the same sort of difficulties which judges would meet in exercising their discretion. Of course, we would also have the situation where even further avenues of appeal would be opened up if that sort of compromise was accepted.

The conference of managers did explore some possible areas of compromise. It is fair to say that one compromise was that the amendments proposed by the Legislative Council should, in general terms, be accepted with a commitment for Parliament to review the operation of the limited scope of those amendments within two or three years. That is a far cry from what the Government seeks to do. It is correct to say that the amendments proposed by the Council do tighten up the rules on which unsworn statements may be made. However, they go only a small way towards implementing the significant reform to which this Government is committed. Even in the amendments which have been proposed by the Council, difficulties are likely to be presented in practice before the court.

For example, there is a strict limitation on the sort of material which should be included in an unsworn statement. The difficulty with that is for a judge to call a halt to an accused person's unsworn statement while he is making it to indicate that the material he is using is not admissible in that unsworn statement.

The Hon. C. J. Sumner: It could be checked beforehand.

The Hon. K. T. GRIFFIN: The Leader suggests that it could be checked beforehand, but that is not provided in the amendments and it does not happen in practice now. The real difficulty for judges, even in the present situation, is that they are sensitive to the prejudice to an accused person's case if they were to prevent an accused person from making some part of a statement to the jury in an unsworn capacity.

There are even practical difficulties, I suggest, in the amendments proposed by the Council. The Government, as I have said, is committed to the abolition of the right of an accused person to make an unsworn statement. It believes that the amendments proposed by the Council go only a small way towards effecting the significant reform that we have in mind. We believe that the Bill, which we presented originally in the House of Assembly, provides adequate safeguards for an accused person and that it would work effectively in the interests of justice and in the interests of both the accused and the victim.

One must not leave out of consideration the situation of the victim, although I recognise that it is the accused person whose liberty is at stake in any trial. However, one must ensure that fairness is seen to prevail in the trial of an accused person where considerable harm has been done to the victim. I suggest that it is important for everybody to recognise that the concerns of the victim must also be taken into consideration and weighed against the desire of the majority of the Council to retain the unsworn statement. If the Council does not support the motion I have moved, the Bill will be laid aside. That will be regrettable, but it has happened once before during this Parliament, and I venture to suggest that it may happen yet again, because if the Bill is laid aside the Government will give further consideration to the matter and it is quite likely that a Bill for the abolition of the unsworn statement might be presented again at the next session.

The Hon. C. J. SUMNER (Leader of the Opposition): I oppose the motion. I ask the Council to insist on the amendments which it made to the House of Assembly's Bill which proposed the abolition of the unsworn statement. Our amendments, which were in line with the report of the Select Committee which this Council established, were for reform of the unsworn statement but not for its abolition.

I will not detain the Council long on this matter because it has been with us now for two years and we have debated it amply. This Council established a Select Committee which heard evidence over a period of 12 months, gave careful consideration to the issues involved in this Bill, and recommended that the unsworn statement should be retained.

It also suggested that there were some undesirable features in law and in the practice of the unsworn statement and that, therefore, reforms should be made to it. That is the basis upon which the amendments that I moved to this Bill were made. I frankly find that the Attorney-General and the State Government are being extraordinarily pigheaded in their attitude to abolition. As I said, we had the Select Committee, and reforms were suggested; the proposition was retention of the statement with reforms. I am staggered that the Government is not prepared to compromise. The fact is now that, if the Bill is laid aside, the use of the unsworn statement will continue completely unchanged.

The Hon. Barbara Wiese: So much for the Government's concern—

The Hon. C. J. SUMNER: Yes, so much for the Government's concern for the victims of crime. The fact is that the Government is cutting off its nose to spite its face and has missed the opportunity to introduce desirable reforms. There is common ground between the two Houses that there is a need for some reform and that there are undesirable practices in relation to the unsworn statement.

The House of Assembly and the Government believe in abolition. The Legislative Council has suggested reform. Surely, reform is better than the position which will now pertain if members opposite vote for the Attorney-General's motion.

The Hon. M. B. Cameron: Abolition is better than reform.

The Hon. C. J. SUMNER: That is the Hon. Mr Cameron's opinion, but it is not the opinion held by a majority of Parliament.

Members interjecting:

The PRESIDENT: Order!

The Hon. C. J. SUMNER: That is a fact; it is not the view held by a majority of Parliament. The majority of members of this Council believe that the unsworn statement should be retained with reforms. I am suggesting to honourable members opposite that, if they vote for the Attorney-General's motion, they will jettison any hope of achieving reforms to the unsworn statement. As I have said, I find that a very pig-headed attitude. By not allowing the Bill to be laid aside and by accepting the reforms, the Government would improve the situation in relation to the unsworn statement. Apparently, the Government does not want to do that. As I have said, the position that the Government has taken is staggering.

The Hon. Frank Blevins: It's irresponsible, too.

The Hon. C. J. SUMNER: It is irresponsible. I suppose the Government has decided to do it because it is standing on its dig. The pride of members of the Government will not allow them to accept the Opposition's amendments, which would improve the situation. That is the simple fact of the matter. The Attorney-General mentioned that there are reports which favour the abolition of the unsworn statement. There is no unanimity in the community, in the legal profession or anywhere else about the abolition of the unsworn statement, and that is why we are still debating this measure.

A Law Reform Commission report in New South Wales did not recommend abolition. The Law Reform Commission in Victoria recommended the sorts of reforms put forward by the Opposition in this State, which would improve the use of the unsworn statement. I offer the Attorney-General and members opposite an opportunity to adjourn this debate and I offer the following compromise: that they accept the principle that as far as Parliament is concerned the best result that can be obtained at the moment is the retention of the unsworn statement with reforms. If the Government is prepared to accept that proposition at the present time I am prepared to enter into negotiations with it about the specific drafting of the Bill and the Opposition's amendments. The Opposition is prepared to look at the specific reforms that have been suggested to see whether they need tidying up or any alteration.

If the Government is prepared to make a statement now, that the best it can get from Parliament on this issue is reform of the unsworn statement, I am prepared to enter into negotiations and look at the drafting of the Bill and some aspects of the recommendations made by the Opposition. Further, I am prepared to compromise by moving for the establishment of a committee to review the operation of these reforms within three years. The Opposition will support the establishment of such a committee from this Chamber, a joint committee or a committee established in the House of Assembly. I think I have put forward a reasonable package: it will allow for reform, which is an improvement on the existing situation; and it will give Parliament an opportunity to review the operation of those reforms in three years. That is a reasonable proposal.

However, as I have said, apparently members of the Government will have nothing to do with it because of their pride or their pig headedness. I do not wish to canvass the matter any further. The Opposition's proposal is desirable. The arguments have been canvassed at great length. Finally, I again offer honourable members opposite a compromise along the lines that I have suggested.

The debate should be adjourned now. We could go into negotiations along the lines that I have suggested. The Council should insist on its amendments, which are proper and which are based on the report of a Select Committee of this Council. There is, therefore, no reason for us not to insist further on the amendments. I oppose the motion.

The Hon. K. L. MILNE: I support completely what the Hon. Mr Sumner has said. He summarised very adequately the feeling of those who worked on this matter without, I hope, any bitterness. The Attorney-General said that the unsworn statement is an anachronism. In its present form, it is an anachronism. However, as recommended by the Select Committee and as portrayed in the Bill, the unsworn statement is not an anachronism because of the reforms which have been suggested in relation to it and which would place it very close in context to the sworn statement.

In fact, the statement on oath is becoming an anachronism, as persons do not tell the truth under oath, either, although charges of perjury are very rare. Indeed, I do not remember one such charge having been laid. The reforms that have been recommended would, in my view, solve nearly all the problems about which the Government was concerned, particularly in relation to rape cases. We must not forget that two women served on the Select Committee. Those women, representing women's interests, believed that this would solve a great deal of the problems experienced by women. I do not think that the Government is being fair to them at all.

As some countries and other Australian States have abolished the unsworn statement, retained it, reformed it, or are considering the matter, it is obvious that there is no unanimity on what should be done in this respect. It would be much more sensible if we were to go half way, as the Select Committee recommended, taking the matter a step at a time and reviewing it later, rather than abolishing the unsworn statement, thereby putting the clock back in a barbaric fashion. Why should we put back the clock like this when we do not have to do so?

By not compromising (after all, what the Select Committee recommended was, in effect, a compromise), the Government has maintained the *status quo*, thereby enabling barristers to take advantage of it. One can see from the statistics that this is happening more in South Australia than it is in any other State. I deeply regret my part in this matter and that the conference was not successful.

The Government says that it had a mandate to abolish the unsworn statement. However, that is a rather tenuous argument, as the Government did and did not have a mandate. This matter was not referred to in the Premier's policy speech. I do not know where it was mentioned.

The Hon. C. M. Hill: If we put it in next time, will you vote for it?

The Hon. K. L. MILNE: Well, the Government can do so.

The PRESIDENT: Order!

The Hon. K. L. MILNE: The Government, having introduced the Bill twice, and now contemplating introducing it a third time, is simply using political tactics with the people, who would have derived benefits from a reform of this matter. I am disappointed with the Government's attitude and, in supporting completely what the Hon. Mr Sumner said, oppose the motion.

The Hon. ANNE LEVY: I, too, support the stand of the Leader of the Opposition in opposing this motion. The last two speakers have adequately illustrated why the conference failed. I want to make one point clear: I completely reject any insinuation that the people who supported the Legislative Council viewpoint in any way were unsympathetic or uncaring about the plight of the victims in court cases, particularly victims in rape trials.

It was very much with the plight of such victims in mind that the Select Committee came up with its recommendations, which have been embodied in the amendments passed by this Council. My basic premise is that one does not cure one evil by creating another: to abolish the unsworn statement will not necessarily do anything to help the victim in a rape trial. My evidence for this is that in States such as Queensland and Western Australia, where the unsworn statement has been abolished, there is still exactly the same pressure to do something to help the victims in rape trials.

People who are concerned about this do not feel that abolishing the unsworn statement will solve their problems. Other measures are required to solve the problems of victims in rape trials, as was recommended by the Select Committee. One forthright way of doing this is to completely investigate a redrafting of section 34i of the Evidence Act. This causes most problems and needs to be looked at. The Select Committee recommended that there should be a thorough investigation of that section.

The reforms which have been proposed by this Chamber improve the situation enormously and will prevent abuse of the unsworn statement. The question arises as to how it could be administered with the judge reading the unsworn statement before it is given to the court. The Select Committee took these things into consideration and proposed practical solutions for making the system workable. With reform of the unsworn statement as has been agreed by this Council, abuses will be prevented and justice will then be seen to be done, as well as be done. I support other speakers in opposing the Attorney-General's motion and stress again that, if people are concerned about the victims in rape trials, they will not only support this motion but they will also support a complete investigation and redrafting of section 34i of the Evidence Act.

The Hon. M. B. CAMERON: I do not wish to delay the Chamber too long, but it is necessary to clear up some of the misconceptions.

Members interjecting:

The PRESIDENT: Order!

The Hon. M. B. CAMERON: This is the end of an attempt by the Opposition to play a smart political tactic. The Opposition started out opposing the Bill, which is its normal procedure and, when it found that it had support, it thought it could take the matter further and embarrass the Government. It has gone further than that today: it is trying to wriggle out of what will be the end result. The Hon. Mr Milne is included in this. The end result is that this procedure in the courts, which is nothing more than a licence to deceive, to smear and to distort the truth, will continue.

The Hon. Anne Levy: You haven't even read the amendments.

The Hon. M. B. CAMERON: I have read the amendments. They are an attempt to wriggle out of the blame for what will occur. The Hon. Mr Milne said that we did not have a mandate from the people. I do not know what one has to do to be able to stand up in this Chamber and present a Bill based on a mandate. It was clearly spelt out, and no attempt by the Hon. Mr Milne to say that it was not included in the half-hour speech by the Premier on television will alter the fact that the Liberal Party did say this before the election.

It was our policy, yet a combined Opposition who got well below 50 per cent of the vote in this Council has said that the Government must compromise, that we must alter our policy. It says that we have to go out and say to the people, 'We are sorry that we cannot carry out our policies, and it is all our fault.' There is no doubt about whose fault this will be, or about who will be blamed—it is the combined Australian Democrat and Labor Party Opposition in this Council.

It is a shame that this Council is taking this action, because there are many people in the community affected and, as the Hon. Mr Milne has said, this system is still being used and people are being affected by this device. This situation is unfortunate. The amendments moved do not alter that and will not alter it. They will be unworkable. The Hon. Mr Sumner has virtually admitted that by saying, 'Let us get a committee together and have a look at it.'

The Hon. C. J. Sumner: I did not say that.

The Hon. M. B. CAMERON: The Leader said that we should look at it in three years. The Government believes in the abolition of the unsworn statement. The Government is not embarrassed that we have presented the Bill twice or that we will have to present it three times. Finally the Opposition will come to its senses.

The Hon. K. T. GRIFFIN (Attorney-General): I want to respond to two points made, one by the Hon. Mr Sumner and one by the Hon. Miss Levy. The first concerns the offer by the Leader of the Opposition to adjourn this debate and to consider some form of compromise. It is not a compromise. It is merely a tidying up of the drafting of the Opposition's amendments which he is suggesting, and a review in three years by a Parliamentary committee. I cannot accept that. It is nothing more than an adjustment of the Opposition's and the Democrat's position that the unsworn statement should be retained.

The point that the Hon. Miss Levy made was in respect of section 34i of the Evidence Act. I can tell the Council that this section has caused concern amongst members of the community. It is already under review by the Government to see whether there is an effective way of overcoming the difficulties which we are presently facing in that section without prejudicing the rights of an accused person. It is difficult to tighten up section 34i and ensure that there is

still an adequate and appropriate balance between the rights of an accused person and the protection of the victim.

It is not as easy as the amendments moved in the Council suggest that it might be. Notwithstanding that, I indicate to the Council that that section is currently under review and, if it is possible to achieve amendments which provide a proper balance between those two factors, then it is certainly the Government's intention to do something about it in the future.

The Council divided on the motion:

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

Noes (10)—The Hons Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, Anne Levy, K. L. Milne, C. J. Sumner (teller), and Barbara Wiese.

Pair—Aye—The Hon. C. M. Hill. No—The Hon. N. K. Foster.

Majority of 1 for the Noes.

Motion thus negatived.

The PRESIDENT: The Bill is laid aside.

QUESTIONS

ST CLARE NURSING HOME

The Hon. J. R. CORNWALL: I seek leave to make a brief explanation before asking the Minister of Community Welfare, representing the Minister of Health, a question on nursing homes.

Leave granted.

The Hon. J. R. CORNWALL: In recent months the standard of patient care in nursing homes in South Australia has been a matter of great public controversy and concern. I make crystal clear to the Council that, as far as I can ascertain, the nursing homes being conducted by church, charitable, and community organisations provide the highest quality of patient care possible within the financial limits placed on them. I certainly have many grievances about the way Government finance is granted and administered, but I repeat that the organisations are conducting nursing homes which are satisfactory.

The complaints which I have received and which members of the public and the media have received have overwhelmingly concerned the private for profit nursing homes conducted by individual proprietors. These supply approximately 50 per cent of nursing home beds in Adelaide. I have not the slightest doubt that many of them supply good quality patient care. However, some are a disgraceful blight on our society. Furthermore, there is a massive amount of evidence that the inspection systems of the South Australian Health Commission and the local and county boards of health are almost totally inadquate. Unless a staff member employed at a nursing home or someone directly connected with the home provides hard evidence, proprietors at best receive a mild wrap over the knuckles. In some of the worst cases they receive no penalties whatsoever.

The secretary of the Private Hospitals and Nursing Homes Association, Mr Alwyn Crafter, has consistently asked publicly that persons who have made the complaints in recent months about nursing homes should name the homes. Mr Crafter, I should think, would know full well that under the libel laws it is not possible for members of the public to do that. I have also been loath to do so. To take that action without very solid evidence could be seen as an abuse of Parliamentary privilege. As all members are aware, Parliamentary privilege is something which must be used most responsibly.

Today I have a horrifying document concerning a nursing home that I am compelled to reveal to Parliament in the public interest. It is a report from Health Commission officers to the Unley council's local board of health. The institution concerned is the St Clare Nursing Home, 5 Mitchell Street, Hyde Park. The proprietor is a Mr Peter Newton and the manager is Matron Elizabeth Lee Kolusniewski. I will quote directly from the document prepared by Health Commission officers.

This report requests that the Local Board of Health give consideration to a recommendation that the licensed manager of the St Clare Nursing Home at 5 Mitchell Street, Hyde Park, be requested to show cause why her licence should not be revoked.

On 26 January 1982, a series of complaints were made to the Health Commission by a member of the staff of the St Clare Nursing Home. The Health Commission notified an officer of the council of the complaints by phone and on 27 January two officers of the commission inspected the establishment. The complaints and the Health Commission officer's reports on same are listed below:

I will not go right through them but will mention some of the worst examples, as follows:

1. Terminally ill patient was thrown onto a bed by nurse assistants and his humerus was fractured.

The investigating officer's response was:

The terminally ill patient had died on 26 January 1982. However, it was reported in the nurse's report book that he had suffered a fractured humerus and a collar and cuff bandage had been applied.

The report continues listing the complaints, with the officer's response included in italics:

2. Medications ordered, but not given.

Doctors' orders are not written or signed by the Medical Officer directing treatment, therefore checking is difficult.

3. Infected toes, etc., not dressed or attended.

A patient was noted as having oedema discharging from feet and legs into blanket boots. There were no dressings provided and his toenails required urgent attention.

4. A patient was tied in a chair and not showered because she had defaecated on the floor.

The matter of the patient being punished for defaecating on the floor was brought to the attention of the Acting Manager.

5. The attending Medical Officer has sutured a head wound without local anaesthetic being given.

The matter of a Medical Officer suturing a head wound without local anaesthetic was later discussed with the Medical Officer of Health.

7. Nurse Assistants restrict patients fluids in the hope of reducing wet beds.

Nurse assistants restricting fluid to the patients was brought to the attention of the Acting Manager.

9. Tea towels and packing sheets for incontinent patients are washed together.

Tea towels and sheets used for incontinent patients are washed together.

[The sheets would be saturated in urine]

11. Blankets remain on the beds all year long. If not required, they are folded back eight (8) thicknesses onto the patients' feet.

Blankets were noted as being folded, a number of times and placed firmly over the helpless patients' feet.

15. No supplies of cotton wool balls, dressings, sterile trays etc., provided.

There were no supplies of cotton wool swabs, sterile dressing trays or dressings provided.

The report also states:

The following additional comments, observations and recommendations were recorded by the Health Commission Officers following inspection:

1. The condition of bedlinen and blankets has deteriorated and requires urgent replacing or hired linen be provided.

6. The overgrown garden adjacent to the main entrance be cleaned of weeds.

7. The staff on duty for the afternoon shift were:
One registered nurse,
Four nurse assistants,
No domestic staff.

The number of patients in their care was 45, 35 of which are classified extensive care. The staff are required to prepare, serve and clean up after the evening meal, feed patients and supervise

others, carry out general nursing care as well as doing laundry duties.

The entire staffing levels should be reviewed and a roster submitted to the local board of health for approval together with in-service training details for nurse assistants.

8. The evening meal available at the time of inspection at 4.00 p.m. was vegetable soup and sweets. It was suggested that sandwiches were to be made by the staff, however, there were none available.

A complete menu, including portions, should be submitted to the local board of health for approval.

Subsequent to the inspection by officers of the Health Commission on 27 January the following has taken place:

1. 29 January—Medical Officer of Health, Officer of Health Commission, Council Health Surveyor, inspected premises and discussed complaints further with proprietor and temporary manager. During this inspection it was noted that the number of staff present was less than required and the temporary manager was requested to upgrade staffing levels to meet the Code of Practice requirements.

2. 9 February [that is 12 days later]—Council Health Surveyor inspected premises and noted staffing levels had not been upgraded. Proprietor contacted and advised to take urgent action to rectify situation.

6. 1 March—At a meeting between the Medical Officer of Health, Council Health Surveyor, the manager and proprietor, it was confirmed that measures requested to be undertaken to rectify unsatisfactory conditions and practices at the nursing home were being implemented.

The question now immediately arises about penalties on the proprietor and on the manager, Matron Elizabeth Lee Kolusniewski. One would have thought that, with a damning report such as that, all hell would break loose and that the legislation would be sufficient to immediately revoke the licence and come down in the most Draconian way on them. If a report such as that were made about dogs and cats being kept at the Animal Welfare League, or anywhere else in Adelaide, they would close the place down. Let us see what happened. The report continues (and I stress that the reference is to the manager's licence, with no penalty for the proprietor at all):

A decision by the local board to actually revoke the manager's licence would not be taken until consideration had been given to the manager's response to the call to 'show cause'; a report on the management of the nursing home subsequent to the call; a legal opinion being gained following receipt of the manager's response.

Hardly Draconian; in fact, that is absolutely disgraceful. The report continues:

It should be noted that if the local board, after considering the abovementioned matters, did resolve to revoke the manager's licence, then the manager would have a right of appeal against such decision to the Central Board of Health.

Not to the Supreme Court, but to the Central Board of Health. It is just appalling. The report continues, under the heading 'Recommendations', as follows:

That: (i) Local Board of Health being of the opinion that the Manager, Matron Elizabeth Lee Kolusniewski, of the St Clare Nursing Home at 5 Mitchell Street, Hyde Park, has breached the conditions of the regulations with respect to the running or general management of the said nursing home, call upon her, by notice in writing, to show cause why her licence as manager should not be revoked.

Again, hardly a Draconian action for the sort of dreadful things that had been going on in this nursing home. The recommendations continue:

(ii) The manager be allowed 28 days to respond and the local board of health consider the representations (if any) at its May meeting.

That recommendation was passed by the Unley council sitting as a board of health on 22 March 1982. You must note, Sir, that there is no recommendation at all that action be taken against the proprietor—none whatsoever. This sort of thing has been going on at this nursing home for years. This is the nursing home referred to in recent publicity as the one in which 1½ chickens were used to feed 45 patients. That is the disgraceful situation that has been brought to the attention of the Minister months and months ago.

It appears that nothing has been done, despite the fact that the State has the full constitutional powers to act and the full responsibility to act. That is possibly the worst chronicle of mistreatment and inhumanity that I have detailed in the seven years I have been in this Council. I hope that it will be the worst I will detail if I stay here for another 15 years. It is absolutely disgraceful! Will the Minister of Health immediately set up a full public inquiry, with the powers of a Royal Commission, into the conduct of private for profit nursing homes in South Australia?

The Hon. J. C. BURDETT: I will refer the question to the Minister of Health, and bring back a reply.

ENTERPRISE AUSTRALIA

The Hon. L. H. DAVIS: I seek leave to make a brief explanation before directing a question to the Attorney-General, representing the Minister of Education, about Enterprise Australia.

Leave granted.

The Hon. L. H. DAVIS: In last Saturday's *Advertiser*, a report appeared of the South Australian Institute of Teachers refusing an official invitation from the Premier to attend an Enterprise Australia seminar on Friday 19 March which was to consider developing a non-partisan, non-doctrinaire economic education programme in South Australian schools, with particular application to students and teachers. In a letter to the Premier, the South Australian President, Leonie Ebert, said that Enterprise Australia was not a reputable education body and represented partisan political and economic views of a particular sector of the community. She claimed that the South Australian Institute of Teachers would not compromise the professional integrity of its members by promoting or associating with the company or its activities, and that parents and teachers should be vigilant to protect the impartiality on which the education programmes for South Australian children are based.

Enterprise Australia is, in fact, a reputable organisation which has, for example, the support of the New South Wales and Queensland Governments and support of trade union representatives in other States. Mr Paul Landa, when Minister of Education in the New South Wales Labor Government, supported Enterprise Australia, along with Barry Unsworth, the Labor Council of New South Wales and other business leaders. Many would view Ms Ebert's reason for the rejection of Enterprise Australia and its visual and other aids, which are prepared for schools in co-operation with teachers in New South Wales, and allegations of partisan political views as somewhat strange, in view of the published material in the journal of the South Australian Institute of Teachers.

For example, in an issue in October 1980, the journal in its columns advised that the World Workshop, a development education research centre located at 155 Pirie Street, kept information on the environment, human rights, land rights, and many other topics. The article stated that teachers were invited to borrow resources or to take students in for discussions, simulation games or films. The article was written by Andrew Alcock, who I understand is the head of the High School Teachers Association and who last year addressed a meeting of the Communist Politics Discussion Group on the subject of international alignments and C.P.A. policy.

A visit to 155 Pirie Street reveals that the material held by the World Workshop includes pamphlets headed 'Stop the Games' (the 1982 Brisbane Commonwealth Games), 'Make South Australia a nuclear free zone', and 'Action against foreign bases in Australia'. There are several other examples in the *Teachers Journal* of information available to teachers and students which, unlike the material of Enterprise Australia, would almost certainly not be regarded

by teachers as being bipartisan. There is, it would seem, a growing view on both sides of politics that educational curricula in the schools should cover subjects such as Australian history, the structure and operation of Government, and the nature and operation of the mixed economy in which we live.

First, will the Minister advise whether Ms Ebert had seen the visual and other material from Enterprise Australia, which was produced through bipartisan support for use in schools, before making her statement? Secondly, if she had not, will this material be made available to the South Australian Institute of Teachers for scrutiny and, in any event, will the Minister consider arranging discussions between the South Australian Institute of Teachers and, if necessary, representatives of the major political Parties and employer and employee organisations, as has been the case in New South Wales and other States, to ensure a bipartisan approach on this important issue?

The Hon. K. T. GRIFFIN: On behalf of the Minister of Local Government, I will certainly refer the honourable member's question to the Minister of Education. It may be that other Ministers are involved; I will ensure that they are consulted and that a reply is brought down in due course.

MARKET GARDENERS

The Hon. B. A. CHATTERTON: I seek leave to make a short explanation before asking the Minister of Community Welfare, representing the Minister of Agriculture, a question about loans to market gardeners in the Virginia area.

Leave granted.

The Hon. B. A. CHATTERTON: Yesterday, in the Council, I outlined the very severe problems facing growers in the Virginia area who obtained loans under the Primary Producers Emergency Assistance Act to help them repair their glasshouses, which were severely damaged by a hailstorm in 1979. Yesterday, I mentioned the fact that the growers were paying 10 per cent interest on any arrears outstanding on their loans. The Minister has not yet replied to my question, but he has stated in the press that the growers are paying only 4 per cent interest.

I have now been informed by a grower in the Virginia area who has just received an interest demand that, in fact, the interest rate has been increased from 10 per cent to 15 per cent on any arrears outstanding on growers' loans. In addition, he has told me that the basic interest rate is certainly not 4 per cent, as was indicated by the Minister. The account sent to this grower showed a figure of $1 040.25 interest on a loan of about $14 000, so the interest is certainly higher than 4 per cent. Will the Minister provide an urgent reply to the question which I raised yesterday and which I am repeating today, in relation to the interest rates levied on these growers? Will the Minister defer payment of these loans, because growers in the area are in a desperate situation and have been told that they must pay the interest and capital repayments by the end of this month?

The Hon. J. C. BURDETT: I will refer the question to my colleague and bring down a reply.

POLAND

The Hon. C. J. SUMNER: Has the Attorney-General a reply to a question I asked on, believe it or not, 19 November 1981 about Poland?

The Hon. K. T. GRIFFIN: On behalf of the Minister of Local Government, the answer is as follows: on 11 February 1982, the Government approved a donation of $10 000 to the Australian National Appeal for Relief to Poland. This grant is complementary to the $1 000 provided to the Polish Medical Fund Appeal.

RADIO INTERVIEW

The Hon. C. J. SUMNER: I seek leave to make an explanation before asking the Attorney-General a question about the Premier.

Leave granted.

The Hon. C. J. SUMNER: On 19 March the Premier, Mr Tonkin, was interviewed on radio 5AD by Mr Kevin Crease. Part of the record of the interview is as follows:

Tonkin: Let's get things into perspective, Kevin. We're doing better than the other States.

Crease: We're doing better—in a negative sense . . .

Tonkin: Yes, we're slowing . . . going backwards at a far slower rate than the other States.

The Hon. Mr Milne might be interested in the Premier's statement:

Tonkin resumes: That means we're turning . . . now that's good news.

Crease: We're at the bottom of the slump.

Tonkin: I don't know whether we're at the bottom, but for the last three months . . . our unemployment situation is going a hell of a lot better than the other States.

The Hon. L. H. Davis: That's true.

The Hon. C. J. SUMNER: Actually, it is not. Does the Attorney-General agree with the Premier that South Australia is going backwards at a far slower rate than other States?

The Hon. K. T. GRIFFIN: I have not seen the transcript or the context in which the alleged statement was made. From my point of view and that of the Government we are making considerable progress.

SUPERANNUATION

The Hon. C. W. CREEDON: Has the Attorney-General a reply to a question I asked on 3 March about superannuation?

The Hon. K. T. GRIFFIN: The Superannuation Act allows retiring contributors or the surviving spouses of deceased contributors or pensioners to commute up to 30 per cent of their basic pension for a lump sum. The Act provides that the amount of the lump sum payable shall be fixed by the Public Actuary. Neither the Government nor the Superannuation Board have any part to play in fixing commutation rates. The major factor which the Public Actuary must take into account when fixing commutation rates is the rate of interest available on new investments at the time of commutation. Members interested in the reason for this are referred to section 8 of the report on the 1980 actuarial investigation of the fund, which was tabled on 5 March 1981.

In September 1980 the Public Actuary decided that the movement in interest rates which had occurred since the rates were last fixed (in 1978) was sufficiently large as to require a reduction in commutation rates. The practical problems arising from that reduction resulted in representations being made to the Government to consider changes to that part of the Act governing the mechanism for fixing commutation rates.

Following discussions with the Public Service Association and the South Australian Government Superannuation Federation, the Government has decided to amend the Act so that commutation rates are only determined once a year (instead of the Public Actuary being required to keep them

under constant review, as at present). The same rates will apply throughout each financial year in respect of all pensions commencing during that year and will be based on the semi-government interest rate ruling on 24 March preceding the start of that year. Both the organisations mentioned have concurred with the proposed amendment. The new procedure should give adequate notice to all those contemplating retirement.

The Public Actuary has indicated that, in view of the Government's intention to amend the Act, he considers it proper that he should, in the interim, use commutation rates which have been determined using the same principles as those which will be incorporated in the amendments. He has accordingly indicated that, consequent on the substantial further increases in interest rates which have occurred since September 1980, commutation rates for those retiring during the year commencing 1 July 1982 will be significantly less than those now ruling. The percentage reduction will vary according to age and sex but for most cases will lie in the range 16 per cent to 21 per cent.

The honourable member will therefore see that the reduction in commutation rates does not stem from any action of the present Government. On the contrary, the proposed amendment to the Act has enabled the Public Actuary to postpone reductions which he would otherwise have felt obliged to have introduced already. Future commutation rates will, as explained, depend upon future interest rates. It may be expected that in due course interest rates will fall and, at that time, commutation rates will increase.

CANCER REGISTRIES

The Hon. L. H. DAVIS: Has the Minister of Community Welfare, representing the Minister of Health, a reply to the question that I asked on 25 February regarding cancer registries?

The Hon. J. C. BURDETT: The Minister of Health reports that in 1975 Australian Health Ministers agreed to establish population-based cancer registries to collect cancer data on a State and ultimately a national level. Following amendments to the Health Act requiring the reporting of cancer cases, the South Australian Cancer Registry has functioned since 1977, and publishes a comprehensive annual report on cancer incidence, mortality and case survival in this State. Similar registries have been established in other States.

A national compilation would aid detection of trends for rare cancers, monitoring of survival rates and aetiological studies, and would be a Commonwealth Government responsibility. National collections have been established for paediatric tumours and mesotheliomas to detect contemporary trends in these rare cancers.

RANDOM BREATH TESTING

The Hon. FRANK BLEVINS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Transport, a question regarding random breath testing.

Leave granted.

The Hon. FRANK BLEVINS: It is obvious to the Council that the State Government has got itself into a mess as a result of its legislation that attacks motorists. The furore over on-the-spot fines has been the most recent example. It has been suggested to me that, as a result of the political back-lash that has occurred on this issue, the Government has suggested to the police that they should not, for the time being, anyway, police the random breath testing legislation as rigorously as occurred previously. My information is that fewer units are being used in an attempt to overcome the Government's difficulties politically. First, has the frequency of use of random breath testing stations been reduced in recent months and, secondly, where and when have random breath test stations been located since the introduction of the legislation?

The Hon. K. T. GRIFFIN: The operation and location of random breath test units is a matter for the Commissioner of Police and not the Minister of Transport. I will refer the question to the Chief Secretary, arrange for a reply to be obtained, and bring back that reply in due course.

HUMAN ACHIEVEMENT SKILLS

The Hon. ANNE LEVY: I have a note from the Attorney-General saying that he has an answer to my question regarding human achievement skills asked on 11 February. I also have a letter from the Minister of Community Welfare saying that he has a reply to my question of 11 February regarding human achievement skills. If I have two replies to the same question, I shall be absolutely delighted.

The Hon. J. C. BURDETT: In response to the honourable member's question concerning human achievement skills, my colleague, the Minister of Agriculture, has advised me as follows:

Training in human achievement skills encompasses four stages, which are (1) 'prehelping', which is designed to give participants insight into their current levels of interpersonal skills and individual effectiveness; (2) 'responding', which is designed to help the participant accurately observe another person's attitudes and concerns and to effectively feed the observations back to that person; (3) 'personalising', which is designed to import the skills of helping oneself or another to accept responsibility for one's situation and to define goals for improving that situation; and (4) 'initiative skills', which help individuals to learn problem solving and programme development.

The human achievement skills programme has been available to all Department of Agriculture staff members who might wish to apply to undertake the course. A total of 83 staff members have undertaken the course since 1978. Training costs, amounting to $3 000 to the end of 1980-81 and $1 200 in the current financial year, have been paid from the Department of Agriculture staff development budget.

The Occupational Psychology Group of the Public Service Board has recently evaluated the course in the Department of Agriculture and, although the report has not yet been published, inquiries reveal that the board is strongly supportive of the H.A.S. programme so far conducted.

The Hon. K. T. Griffin: The reply that I have is the same.

TRUSTEE ACT AMENDMENT BILL

The Hon. K. T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amendment the Trustee Act, 1936-1980. Read a first time.

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

That this Bill be now read a second time.

It makes two important amendments to the Trustee Act, 1936-1980, in relation to investment of trust funds. The Bill provides that commercial bills of exchange which have been accepted or endorsed by a bank should be an authorised trustee investment. At the moment, section 5 (1) of the Trustee Act provides that a trustee may invest any trust funds in his hands *(inter alia)*—

(d) with any dealer in the short-term money market, approved by the Reserve Bank of Australia as

an authorised dealer, that has established lines of credit with that bank as a lender of last resort.

There is no provision that enables a trustee to invest in this form of investment with banks. Local government brought this to the attention of Government. At the moment local council loan funds are supplied substantially by the banks which look for reciprocal business. By excluding councils from investment with bills with banks, they are forced to accept a lower return from bank deposits and use higher yielding non-bank investments. They are therefore put in the position of jeopardising their loan programmes.

It is anomalous that trustees can invest in the short-term money market with authorised dealers but not with banks. The endorsement or acceptance of a bill of exchange by a bank gives the same level of security to that investment as if it were a deposit with that bank. The amendment will benefit all trustees while in no way diminishing the security of trustee investments.

The other amendment relates to protection for trustees lending up to the total value of the property on which the loan is secured. Protection from a claim for breach of trust is currently given by section 10a of the principal Act. The justification for the protection is that repayment of the loan must be insured by the Housing Loans Insurance Corporation established under Commonwealth legislation. Proposals have been made to change the nature of the corporation so that it is owned and controlled privately. If this occurs, it may cease to be an appropriate insurer for the purposes of section 10a. The proposed amendment will allow responsible insurers to be prescribed by regulation for the purpose currently served by section 10a. This will widen the number of insurers that a trustee can choose from and will cater for any problem that may arise in relation to the Housing Loans Insurance Corporation. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanations of Clauses

Clauses 1 and 2 are formal. Clause 3 amends section 5 of the principal Act. The new paragraph that the clause inserts into subsection (1) of section 5 will enable trustees to invest trust funds in the purchase of bills of exchange that have been accepted or endorsed by a bank. To add to the security inherent in such an investment the paragraph requires that the bill mature not later than 200 days after the date of purchase. Clause 4 makes a consequential amendment to section 7 of the principal Act.

Clause 5 inserts a new subsection into section 10 of the principal Act. The new subsection will take the place of section 10a, which is repealed by clause 6 of this Bill. Even where a trustee has power to invest trust moneys by lending them on security, he may be guilty of breach of trust if the value of the property on which repayment of the loan is secured is not sufficient to properly secured the sum lent. The purpose of section 10 (1) is to protect trustees from the liability where the loan does not exceed two-thirds of the value of the property on which it is secured. Section 10a went further and allowed a trustee to lend up to 100 per cent of the value of the property securing the loan if repayment of the loan had been insured with the Housing Loans Insurance Corporation. The new provision fulfills the same function but provides for insurance with any insurer that has been prescribed by regulation. Clause 6 repeals section 10a of the principal Act.

The Hon. C. J. SUMNER secured the adjournment of the debate.

STATUTES AMENDMENT (CONSUMER CREDIT AND TRANSACTIONS) BILL

In Committee.

(Continued from 23 March. Page 3372.)

Clauses 2 to 5 passed.

Clause 6—'Application of this Act.'

The Hon. J. C. BURDETT: In the Leader's second reading speech he asked, 'Why is it necessary to extend the exemption power in section 6 (4) of the Consumer Credit Act and section 50(2)*(b)* of the Consumer Transactions Act?' In regard to a number of questions which the Leader raised, which concerned what I referred to as the tidying up provisions of the Bill, I said that I would provide answers during the Committee stage. The answer to the question on clause 6 is, first, that the exemption powers contained in the two Acts are inconsistent. The Consumer Credit Act permits exemption for any person, or persons of any specified class, whereas the Consumer Transactions Act permits exemptions of any class of transaction. The two provisions have been rationalised as a 'tidying-up' measure. Any power of exemption should be flexible, and obviously there will be occasions when it is necessary to have a power to exempt transactions or persons from some or all of the Act. It is necessary to insert a power to attach conditions to an exemption. Exemptions have been granted to various persons from the need to be licensed as a credit provider under the Consumer Credit Act in circumstances where it is desirable to grant such an exemption.

The exemptions have only been given after the persons involved were able to give written undertakings (for example, as to the rate of interest to be charged and the terms of their credit contracts). There should be a power to grant an exemption subject to a condition rather than rely on written undertakings, as has been the case so far. As I have already mentioned in my second reading explanation, this exemption provision is consistent with similar provisions in the New South Wales and Victorian credit legislation.

The Hon. C. J. SUMNER: I take it from what the Minister has said that persons can obtain certain exemptions at the moment.

The Hon. J. C. BURDETT: In regard to the Consumer Credit Act, yes, whereas in the Consumer Transactions Act exemptions can only be given to classes of transactions. There has been a rationalisation to tidy up the two Acts.

The Hon. C. J. SUMNER: I take it that the provisions with respect to exemptions after the passage of this Bill will be on all fours in both the Consumer Transactions Act and the Consumer Credit Act.

The Hon. J. C. BURDETT: That is so.

Clause passed.

Clause 7 passed.

Clause 8—'Form of credit contract.'

The Hon. J. C. BURDETT: During the Leader's second reading speech he asked why this clause was necessary. This provision has been inserted to make clear that only the obligaitons that have in fact been varied need to be notified to the consumer. The present wording is not clear. As Mr Sumner has pointed out, the consumer would already be notified of his rights and obligations under the contract (section 40 (5)). It is unfair to expect the credit provider to go to the trouble and expense of sending out documents which the consumer has already received.

As I have just said, the consumer would have been notified of his rights and obligations under the contract. The thing which seems to be unfair is to expect the credit provider to go to the trouble and expense of sending out documents which the consumer already has. Take, for example, a minor variation by way of extending the time

for payment of an instalment. Obviously a simple notice which informs the consumer of the new repayment arrangements is all that should be required. However, the present provision requires that the notice include 'the nature and extent of his obligations under the contract as varied' which, it can be argued, means that every single one of the consumer's obligations must be set out again. This is not only unnecessary, but would be confusing to the consumer because it would detract attention from the particular variation. The amendment is designed to achieve what is believed to have been the original objective of the subsection.

In regard to all questions asked by the Leader, except the question concerning section 36 of the Act, in the second reading explanation I categorised these as being of a tidying-up nature. The detailed explanation which I am now giving and which I will continue to give in regard to the questions asked by the Leader bear out that what I said in the second reading explanation was justified. The Leader may be right in saying that that should have been set out in the second reading explanation, but certainly all of those matters are of a tidying-up nature and do not detract from consumer rights.

Clause passed.

Clause 9 passed.

Clause 10—'Appropriation of payments under more than one credit contract.'

The Hon. J. C. BURDETT: The Leader said that this clause makes no sense to him. This amendment is a drafting amendment only and simply corrects the syntax of section 52. The expression 'any such appropriation' is not correct in terms of the earlier passage that enables the consumer 'to require the credit provider to appropriate . . .'. The consumer makes a requirement; the credit provider makes the appropriation.

Clause passed.

Clause 11—'Advertisements.'

The Hon. J. C. BURDETT: The Leader asked, in regard to this clause, what the rationale was behind this provision. First, I wish to point out that it is the Commissioner, and not the Minister, who publishes and who is now given power to vary or revoke the stipulations. Secondly, this provision inserts a power for the Commissioner to revoke or vary stipulations made by him. Some doubt has been expressed as to whether he presently has this power, as the section merely authorises him to make stipulations, and section 39 of the Acts Interpretation Act covers regulations, rules and by-laws, but not stipulations.

It is not correct to say that stipulations will no longer have to be published in the *Gazette*. The effect of the section as amended is that, first, the commissioner may make, vary or revoke stipulations (subsection (3a)); secondly, the method by which this is to be done is by publication in the *Gazette* (subsection (3a)); and, thirdly, credit advertisements must comply with any such stipulations (subsection (1)).

Clause passed.

Clauses 12 to 16 passed.

Clause 17—'*Bona fide* purchase for value.'

The Hon. J. C. BURDETT: The Leader asked two questions, one of which I answered and the other I omitted to answer in the second reading stage. The second part of his question was what did the amendment actually mean, and I gave that answer, which I think the Leader understood.

The first part of his question was to this effect: does the South Australian Government intend to introduce the registration of encumbrances procedure, which he referred to from Victoria—

The Hon. C. J. Sumner: Or any other scheme.

The Hon. J. C. BURDETT: Yes. I did not give that answer in the second reading stage, and I will do so now. For a considerable time, about two years ago, we were considering a scheme of registration of encumbrances to protect traders. While, as the Leader indicated in his second reading speech, the ultimate purchaser, the consumer, is protected, the trader is not protected and, in the terms of the spirit of the present Act, he really cannot be protected.

The kind of protection which he needs is a system of registration of encumbrances. About two years ago I asked a group representing various relevant departments to investigate the feasibility of setting up such a system of registration of encumbrances in South Australia. The system would involve, of course, encumbrances on motor vehicles, such as consumer mortgages, and would not be valid unless they were registered; a search could be made, and this would be much the same as with real property titles. A search could be made and the trader would be protected.

Of course, it is necessary in regard to motor vehicle sales that there be a much more rapid system than applies in regard to real property transactions, both from the point of view of the consumer and the trader. Often a car deal has to be finalised forthwith. There could be traders in the country at Mount Gambier or the like, and it would be necessary that the information be available on line for them. It would have to be computerised and available on line to satisfy the trade. The principal problem which the group that I asked to investigate the matter found was the expense of the scheme. It would have been massive and it would still be massive.

It is all very well to say that one could do it on a 'user pays' principle, that the trader must pay for the information that he takes from the system, but the problem is to retain the fee within limits and make the scheme viable. During the course of the research which the group undertook it found that the Victorian Government was undertaking similar research. Because the Victorian Government had much greater resources, particularly because of the greater population and the economies of scale which it enjoys, it was decided that we would wait and see what the Victorian working party came up with. We decided that we would postpone further consideration of the scheme until the Victorian scheme was up and running.

It is obvious that the Victorian scheme has run into some problem. As a result of its working party, the Victorian Government decided in November last year to implement a scheme of registration of encumbrances to be on line and computerised in the way that I have outlined. It was the Government's direction to the department implementing the scheme that it be up and running by March 1982. My last information from officers who have been in Victoria and looking at the situation in the last few days is that the scheme is not up and running. It indicates that, because of the requirement set by the Victorian Government that it be up and running by March, and as it is not, problems have been encountered.

We will continue to look at this scheme and monitor the Victorian experience. There is no doubt that within a comparatively short time the scheme will be operating in Victoria. We will look at it in the light of the Victorian experience. I emphasise that in Victoria there are economies of scale that are not applicable in South Australia. While the scheme has been assessed to be feasible in Victoria, on a 'user pays' basis (so that it will be self-sufficient), it would not necessarily follow that that could be done in South Australia. We will be looking at it carefully in the light of the Victorian experience.

The Hon. C. J. SUMNER: I thank the Minister for the answers that he has given to the queries that I have raised in relation to each clause. He certainly clarified the position, and I am pleased to see that he has reasserted that none of the amendments made by this Bill will detract in any

way from the rights of consumers and that basically they are tidying up amendments. I am also pleased that in relation to section 36, which we have just been discussing, although there is a changed wording, it is basically a tidying up procedure to make it clear that the provision does what it was designed to do, that is, to protect the *bona fide* purchaser for value.

In view of those assurances and the Minister's explanations, I am happy to support the Bill. I am also pleased that the Minister has under active consideration, although the consideration has taken some time, the vexed question of what to do about a trader who found himself in difficulty because of an undisclosed encumbrance on a vehicle before it was sold to a consumer. This vexed question was examined by the previous Government and is still being examined by this Government. Some lead has been given in Victoria, and it may be that that is appropriate for South Australia. There will be further consideration by the Government.

Clause passed.

Clause 18 passed.

Title passed.

Bill read a third time and passed.

JUSTICES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 February. Page 3064.)

The Hon. BARBARA WIESE: The Opposition supports this legislation so far as it relates to domestic disputes broadly defined. It is a significant piece of legislation and, if accompanied by appropriate backup measures, it should provide much greater protection in the future for victims of domestic violence. However, it will not solve all of the legal problems which surround this difficult area of law. Other pieces of legislation will also have to be amended to achieve that end. However, it is an important beginning.

The Bill gives effect to a number of recommendations of the Domestic Violence Committee, which reported to the Government in November 1981. This committee was set up in August 1979 prior to the Labor Government's leaving office. It was then, as it is now, under the auspices of the Women's Adviser in the Premier's Department, and is now chaired by the Women's Adviser, Rosemary Wighton. I mention this because I have noticed that wherever the Attorney-General refers to this committee he studiouslv avoids talking about its origin or under whose Ministerial control it comes. One could be forgiven for believing that he is deliberately vague about those things because he would like to claim the committee as one of his own.

The Hon. K. T. Griffin: I have told everyone that it is the Premier's.

The Hon. BARBARA WIESE: The Attorney-General rarely mentions its origin. As I have already indicated, the Opposition supports the measures in this Bill as they relate to cases of domestic violence. I will make some comments about some of the features of the Bill which I consider to be significant. However, before I do I wish also to indicate that the Opposition is not happy with the statement in the Attorney-General's second reading explanation which indicates that some of the committee's recommendations have been varied to arrive at legislation which is of broader application. We have had discussions with the Attorney-General about this to determine what he means by general application because we believe that legislation with such wide reaching powers should only be used in very special circumstances like those applying in domestic dispute situations. I will come back to that point later.

At this stage I indicate that we are not satisfied with the Attorney-General's response to this question and that at a later time I will be moving an amendment to safeguard the rights of individuals in the community who we believe need to be protected. I will refer to the Bill as it relates to the domestic violence cases.

It is a significant move towards providing greater protection for victims in these circumstances. It gives protection which the current law does not give. At the moment a married person, usually a woman, who is threatened with or subjected to violence from a spouse may apply for a restraining order under the Commonwealth Family Law Act. Flexibility exists under this Act to impose certain conditions on the order, for example, requiring the offender to stay away from the matrimonial home. The problem with this legislation is that it is only in very rare cases that the State police have the power to arrest the offender should he breach the order which has been issued. The victim must return to court to complain about the breach of the order and in the meantime she is vulnerable to further violence and fear.

People living in *de facto* relationships are not covered by Family Law Act and the people who are threatened in this way living in that sort of relationship have to rely on State laws for protection. All citizens, whether married or unmarried, may be charged with assault under criminal law. However, the problem is that the charge can be brought under the criminal law but must be proved beyond reasonable doubt. In domestic dispute situations this is often very difficult since there are no witnesses to the offence on most occasions. Spouses cannot be compelled to give evidence against each other, and often, despite the personal danger to which an individual may be exposed, they are unwilling to proceed with prosecution because they fear retaliation from a husband who can be released on bail within hours of being arrested.

Also, they believe that the sanctions under the criminal law are perhaps too heavy and they fear that the breadwinner will be imprisoned, leaving the family without any financial support. Added to this is the fact that police, magistrates and judges treat cases of domestic assault differently from assault between unrelated people although they have the same footing at law. Offenders in domestic disputes are likely to be treated more leniently than others. Women victims complained to the Women's Information Switchboard in 1980 that the police were reluctant to become involved in domestic disputes. Studies in New South Wales and in the United States, from a quote in the report of the Domestic Violence Committee, show that courts treat domestic assault cases differently from assault cases between unrelated individuals.

In a study in Washington D.C. in 1967 it was shown that, in cases involving unrelated individuals, 75 per cent resulted in arrest or court adjudication but in cases relating to assault within a family or between related people only 16 per cent of reported cases came to the courts or resulted in the individual being arrested. Those that did reach that stage were usually charged on minor offences. The most commonly used and most practical, albeit inadequate, source of protection for cohabitees is a common law measure—The peace complaint procedure. It is this measure which the Bill seeks to amend.

Currently, a complainant may complain to the court about an offender's behaviour and the offender can be required to enter into a bond to keep the peace. If he refuses he may be imprisoned, although this rarely happens. If he enters into the bond and then breaches it at some later stage, the police do not have automatic powers to arrest him; the complainant must go back to the court to ask that the bond be forfeited, so the bond itself is not any

guarantee of protection. One of its major limitations is that no conditions may be imposed on the offender. For example, he cannot be required to stay away from the family home, the work place, or some other place where the victim is required to be. He cannot be required to stay away from those places and therefore there is very little protection available from such a bond.

The problems with this State law and the Family Law Act have been recognised, not only by the Domestic Violence Committee but also by other committees. For example, a Federal Joint House Select Committee recommended in 1980 that the Family Law Act should be amended to allow Federal and State police to arrest an offender if he breached an order and that police should have the power to detain for 24 hours before taking the offender to court. The Federal Attorney-General has indicated that it is his intention to act on that recommendation, but so far he has not done so. In relation to State laws, and the peace complaint procedures in particular, both the Chief Justice in this State and Judge Mohr have recognised that there are deficiencies. The Chief Justice has recommended that legislative and administrative changes are necessary to remedy the defects in current procedures.

The Bill before us is significant because it will allow a victim in future to obtain a restraining order with conditions attached to it against an offender. It will be obtainable quickly, even in the absence of the offender in urgent cases, although he will be called to the court subsequently to put his side of the case. Either the victim or the police may apply for such an order; this procedure, too, is not available under current state law. More significantly, the police will have the power to arrest an offender without a warrant if there is good reason to believe that he has breached, or is likely to, breach the order. This means that in future women and children will be able to obtain immediate protection from a threatening or violent offender and this protection, as I have already outlined, is certainly not available under current law.

In addition, the police will be able to hold an offender for up to 24 hours before he goes before a court to be dealt with and, if this option is exercised by police, there will be time for the victim to cool down or sober up, and it will also give time to the victim to make her own decisions about whether or not she stays in the matrimonial home or takes some other action. It gives a cooling-off period. Another advantage that will be provided by this Bill is that it gives the court the power to limit access of an offender to certain premises, whether or not he has a legal or equitable interest in those premises. It also requires the court to consider the effects of a proposed order on the accommodation needs of the parties and any children involved.

I think that this is a real break-through for women living in *de facto* relationships in particular, or for women who previously had not had any financial share in a house or flat which was owned by their partner. It means that in future they can be given temporary control of such premises and the offender can be required to stay away. This will help to avoid situations which often occur where women and children have to leave a home in order to avoid further violence and, very often, they are just the people who have nowhere to go but who have to go in order to protect their lives.

Although this Bill is a significant step in the right direction, the problems, as I said earlier, of domestic violence victims will by no means be solved by its passing. It is disappointing, for example, that the Attorney-General has not now introduced complementary legislation to reform the laws relating to bail. Women in potentially violent situations will not be fully protected while it is still possible for a defendant to be released on bail within a few hours of being detained. I think that this remains a serious shortcoming in the protection process and I hope that the Attorney-General will amend the legislation relating to bail provisions as soon as possible.

I want now to come back to the doubts I raised earlier concerning the application of the Bill, because I think this is really a serious matter. Some of the powers which this Bill confers on police and the courts are Draconian if they are to have general application. This Parliament should consider carefully the implications of legislation which allows, for example, the police to arrest individuals without a warrant, or legislation which empowers the court to deprive an individual of some personal liberty or freedom of movement merely on the basis of a telephone call from a complainant. These are the kind of powers which are contained in this Bill.

What we have to do with this Bill, I think, is try to strike a balance between the rights of individuals to be free from undue interference in their private lives and the rights of other individuals to be free from violence and intimidation. I believe that there is a very good case to be made for the view that disputes which arise between people who have some sort of personal relationship require, in some instances, quite different legal remedies than do disputes between unrelated people. For this reason, I support the measures contained in this Bill which seek to protect victims in such cases from danger. The circumstances are often extreme and the threat of imminent danger is very real. I believe that those circumstances call for special action. In other words, I am prepared to agree to Draconian measures to restrain offenders in domestic disputes because it is necessary in order to protect the rights of other individuals.

However, I would not agree that those measures were justifiable in other dispute situations where, generally, there is not the same level of emotional anxiety and continuing danger to the victim which is brought about by a continuous source of antagonism as is the case with people who have some sort of personal relationship. There are other legal remedies available to deal with assault and other disputes which may occur between unrelated people. I believe that those remedies are adequate to deal with those situations.

The Opposition is concerned that the wide-ranging powers contained in this Bill could be abused and used in situations which do not warrant such a measure. For example, I cite the case of an industrial dispute where a picket line has been set up outside a factory. Under this legislation, it would be possible for an employer to apply to the court for a restraining order to prevent his employees from coming near the factory on the grounds that there was a possibility that some sort of confrontation might take place. The employer could take out a restraining order requiring his employees to stay away from the factory. Following the issue of such an order, if the employees returned to the picket line the next day, the police would have power to arrest them for breaching the order.

By using and, I believe, abusing the provisions of this legislation it would be possible for an employer to interfere with the rights of workers to engage in legitimate industrial action. The Opposition believes that such a use would be unwarranted and untenable—but it would be possible under this legislation. There may be other situations equally unwarranted in which individuals could be restrained from certain behaviour by invoking the provisions of this legislation.

The Hon. K. T. Griffin: Throwing a brick through a window.

The Hon. BARBARA WIESE: This legislation would not be used for situations such as that; there are other laws to restrain that sort of behaviour. For the reasons that I have outlined, I will be moving an amendment in Committee to

confine the use of this legislation to cases where a dispute based on personal animosity has arisen between individuals. My amendment seeks to prevent the unscrupulous use of these very wide-ranging powers in situations in which they are not appropriate. I will explain it fully at the appropriate time.

In conclusion, I repeat that the Opposition fully supports this Bill in relation to domestic disputes. I use the term 'domestic disputes' in a broad sense to cover disputes between neighbours and other disputes which should be covered by the Bill and which are covered by the existing peace complaint provisions of the Justices Act. The sooner this legislation is implemented the sooner people, especially women and children, in South Australia will receive greater protection. Therefore, I hope that the Committee will agree with my amendment and that the Bill will have a speedy passage through both Houses of Parliament. I support the second reading.

The Hon. ANNE LEVY: I, too, support this Bill, which has been comprehensively discussed by the Hon. Miss Wiese. As indicated by the Attorney-General in his second reading explanation, this Bill is designed to deal with situations of domestic violence, although this is not stated in the Bill. However, it certainly arises from the report and recommendations of the Domestic Violence Committee, which only considered the aspect of protection for people faced with situations of domestic violence.

It is tragic that legislation such as this is necessary. If domestic violence were not common and victims of domestic violence received adequate protection under existing legislation, a measure such as this would be unnecessary. It is a tragic fact that domestic violence occurs, that it is widespread throughout our community, and that existing remedies do not work. I have been told that one way of solving problems relating to domestic violence would be to give the police a firm instruction that they should treat cases of domestic violence as they treat any other cases of assault. If that were done, domestic violence would be considerably reduced and women, particularly, would be safeguarded from it. However, the fact that a law is on the Statute Book does not mean that it will be implemented.

I think Miss Wiese cited sufficient evidence to indicate that situations of domestic violence are treated very differently from other types of assault. The remarkable disparity between 16 per cent of cases involving domestic violence reaching a court, compared to 75 per cent of other assault cases reaching a court is such a marked discrepancy that one can only conclude that the existing legislation is totally inadequate.

One might ask how common is domestic violence and how vast is the problem. A great deal of research has been conducted on this topic. I think that all studies have indicated that they are only scratching the surface and the data produced is a considerable understatement of the domestic violence which actually occurs. Nevertheless, all studies reveal a great deal of documented domestic violence.

The most recent study in Australia was the domestic violence phone-in conducted in 1980 by the Women's Information Switchboard. Lengthy telephone interviews occurred with over 150 individuals after victims of domestic violence were asked to phone-in. These interviews covered a very large number of topics to determine not only the attitudes of theoreticians but also those of people who had actually experienced domestic violence. Many of the people interviewed still experience domestic violence.

The phone-in indicated that domestic violence in South Australia occurs across all socio-economic groups to women of all ages. It occurs predominantly to women and very rarely, if ever, to men. The attitudes of women who have suffered domestic violence were analysed following the phone-in. The vast majority of the people who phoned-in indicated that the domestic violence had begun very early in the relationship, and that the majority of them had accepted it or submitted to it with feelings even of guilt. They felt that they had failed in some way and that their marriage was inadequate because of their faults. If that is not a case of the victim blaming herself, I cannot imagine what else could be.

Interestingly, the vast majority of those who suffered from violence tried to talk to other people about their problems and to seek advice about what they could do. I am sure that you, Sir, would be interested to know that the largest number approached their medical practitioner. Others approached a priest, parents, friends or welfare agencies. However, the largest number sought medical advice, no doubt because their injuries required medical attention, as well as their seeking counselling.

These women further indicated that the domestic violence occurred very frequently. Over one-third said that it occurred at least weekly, if not daily. For a very large number, over two-thirds of the women who phoned in, it occurred at least on a monthly basis.

So, in violent situations, we can take it that in most cases the violence is constant. The injuries received by the women were considerable, involving head injuries, body injuries and with weapons often being involved. There was blood flowing, severe bruising, and, in a significant number of cases, sexual assault as well as sheer violence. The Womens Information Switchboard comments in this regard that the common occurrence of sexual assault completely vindicates the need for the rape-in-marriage laws that have been passed in this State. However, the number of prosecutions is so low that obviously it is not effective in preventing the common sexual assault accompanying domestic violence.

The Hon. J. C. Burdett: Do you know how many prosecutions there have been?

The Hon. ANNE LEVY: About three, a very large number of cases being reported in this phone-in. The women agreed that the greatest contributing factor to violence occurring was alcohol. This occurs again and again in studies of domestic violence, but this begs the question why drunkenness is occurring in these families. It is probably simple to suggest that drunkenness is the cause of domestic violence, but this begs the question of what causes the perpetual drunkenness in the first place.

The effect on children was also studied, and in most cases the children were fully aware of the violence and had often witnessed it. Small children (and this comes out in other studies also) will attempt to protect their mother and attack their father. Older children retreat and wish to have nothing to do with the situation. Primary school aged children will run away to avoid the situation and are obviously psychologically very damaged by witnessing the brutal attacks on their mother by their father.

On the other hand, teenage children, particularly male teenage children, will attempt to protect their mother from their father. One can only deplore the psychological effects that this constant violence must have on children who witness these outrageous situations, quite apart from the psychological effects on the woman herself, who is constantly battered and injured.

Further questioning of the women involved showed that many of them did not know of places where they could go for help. Some did seek help with varying frequency and from different sources, and they had different responses from the different sources to which they turned. However, the majority considered that there was nowhere that they could turn for help.

It is interesting to note that, of those women who went to Crisis Care, a solicitor, Legal Aid, the Department for Community Welfare offices, or to the Department of Social Security offices, about half felt that help had been given. However, the other half felt that the agency that they approached was not very helpful. Those who approached social workers report complete satisfaction with the help that they received. Two-thirds of those who approached the police felt that the police were unhelpful and offered no solution whatsoever to their problems.

Those who went to women's shelters were overwhelmingly satisfied with the help that they had been given. In fact, women's shelters and social workers get from these women the highest approval rating in terms of helpfulness. However, it is particularly concerning that the overwhelming majority of the women felt that there was nowhere that they could turn, and amongst the few who did feel that they could turn somewhere those who went to the police felt that they were unhelpful.

This is their subjective opinion, but obviously for women in this situation their subjective opinion is extremely important. If they feel that they cannot get help, they will not turn to a source for it, even if help would have been available at that source had they gone there.

The Hon. J. C. Burdett: What numbers were involved in this survey?

The Hon. ANNE LEVY: I think it involved 156 women. It was a self-selected sample and, although no names were taken, various personal characteristics were sought by the switchboard. The report details the questionnaire that was used, and it is agreed that, being a self-selected sample, the higher socio-economic groups were over-represented in the sample. One might suspect that higher socio-economic groups are more likely to have access to the telephone in the first place and that they are often a litle more articulate and willing to participate in such a survey.

I also have the results of another survey carried out in New South Wales, where a sample of 145 women who were largely selected by random sample from women's shelters in the western suburbs of Sydney was carried out. Here, the socio-economic data suggests that lower socio-economic groups are over-represented, as might be expected from the sample technique. But a very interesting picture emerges. For 50 per cent of those women in the random sample, domestic violence was the cause of their coming to the women's shelters, although a larger number indicated that there had been domestic violence in their relationship before they left for the women's shelters.

One thing this study looked at was the suggestion that women who suffer from domestic violence are predisposed to violence, have been brought up in violent relationships, and are likely to marry or live with someone who is violent, because of their childhood preconditioning. This suggestion has been put forward in some studies of domestic violence. This Sydney study shows quite clearly that this is not sustained, and the comment is that this is a classic case of blaming the victim.

The women concerned were classified as to whether their fathers were violent and, overwhelmingly, their fathers were not violent. They were also classified as to whether the current violent relationship was the only violent relationship they had found themselves in as adults, or whether they had had several adult relationships which were violent. The data clearly showed that those women who had a history of violence in the family were no more likely to have had a series of violent relationships than were those who did not have a history of violence in the family.

The Hon. J. C. Burdett: That was on the sample of 156 women.

The Hon. ANNE LEVY: No, this is a Sydney sample of 145 women collected from women's shelters. The suggestion to which I have referred is in no way borne out by this data.

The Hon. J. C. Burdett: It is a small sample, though, isn't it?

The Hon. ANNE LEVY: It is a small sample, but it lends no credence whatsoever to that hypothesis, and certainly does not suggest that women who have been subjected to violence as children seek out the sort of man who is likely to be violent in the relationship.

Other interesting factors came out of that study. One was the very high unemployment rates among the men involved in the violent relationship; the rate of unemployment amongst them was much higher than it was in the community at large. The information provided does not indicate whether they corrected data for socio-economic status and age. The average age was higher than the ages at which unemployment is most common. It may be that the sample is not adequate to start making subdivisions according to socio-economic groupings and age.

Certainly, unemployment did seem to be very highly correlated. Alcohol also seemed very highly correlated, as has occurred in many studies. What came out strongly was that women who are subjected to violence tend overwhelmingly to be housewives with dependent children. The sample of 145 women was analysed as to whether they themselves were employed and as to whether they had children. The question of how long the violent relationship had been continuing was also examined.

It is obvious that women who have no children or who have employment themselves, and hence a measure of economic independence, do not stay in violent relationships, as dependent women with children do. Women with jobs are much more likely to get out of the violent relationship if they have any means of economic independence themselves. This is hardly surprising, but it is a piece of information which has very rarely been looked at in studies of domestic violence.

I am grateful for this New South Wales study, carried out by Carol O'Donnell and Heather Saville, who have documented what often seems to be obvious. Women who put up with domestic violence tend to be those who are economically dependent on the perpetrator of the violence and, if they are to get out of the violent situation, they can do so only by incurring poverty and lack of financial support. While I know that these women are eligible for social security benefits, that can hardly be described as a life of luxury. For economic reasons, it seems that many women stay in the violent relationship or at least stay in that relationship much longer than do women who have some economic independence.

I mention all this not just to lecture on domestic violence, interesting though it may be, but to suggest that the legislation before us, while extremely worth while, is by no means enough. If we, as a society, are to start dealing with domestic violence, it is quite obvious that we need legislation of this type before us. However, we would need far more than that; we would need a very large education campaign both to the effect that the legislation exists and can offer remedies and also to indicate to people that there are ways out of domestic violence and that help is available.

It seems shocking to me that two-thirds of the people who have suffered domestic violence did not know that there was anywhere they could turn for help. What an indictment of our society, that these women are being bashed daily in some cases and do not know that there is anywhere they can turn. I hope that a very high priority will be placed on informing people that there are places to

which they can turn, and that they will get sympathetic treatment and help from a wide variety of sources.

This information must be got across to many people. Passing legislation will do nothing if the people do not know about it. It is probably harder to inform people that there is legislation than it is to persuade them to turn to a helping agency. If the helping agency knows of the existence of the legislation it can direct people to use it, but we must have greater emphasis on encouraging people to seek help and know where they can secure it.

Furthermore, it is obvious that the whole problem of domestic violence will not be solved until far more women in our community are economically independent. Only when they are economically independent will they be able to make proper choices and be able or feel able to get out of violent situations for their own protection and that of their children. They will no longer feel tied, by economic circumstances, to a situation that is so destructive to their own psyche, to their whole sense of worth, dignity and protection for their children.

The Hon. R. C. DeGaris interjecting:

The Hon. ANNE LEVY: It is obviously not an easy question. If we are serious about protecting people from domestic violence, we cannot remedy the situation purely by legal or educational means. We must look at ways of providing economic independence to women in these circumstances so that they will not feel economically tied to violent and destructive situations and will be able to get out of them, so reducing the misery that they and their children suffer.

The Hon. J. E. DUNFORD: I support this Bill, which is long overdue. I have not taken any samples of the community or made any great investigations, but I am close to the people out in the street and have observed and know personally the attitude of people to hooligans and larrikins who assault not only their wives in cases of domestic violence but also old people and young girls returning from school. Moreover, in cases of broken love affairs, some people believe that they will get back the affection of a female companion by violence and intimidation. This situation is rife in the community.

In fact, I know of a case last year where a larrikin had a peace order taken out against him. I talked to the lawyer representing the person concerned in the case. In reply to my question about peace orders, the lawyer said, 'Jim, the peace order is not worth the paper on which it is written. The person concerned can go out and do exactly what he has been doing previously—either intimidating or threatening the person with physical violence, even going as far as physical assault.' The Hon. Miss Levy said that the police were unhelpful on some occasions. When such a situation occurs people in the public arena ring the police, who go and interview the people concerned, but they say that they cannot do anything and explain to the complainant exactly what I have explained to the Council.

As a result, the attitude of the public is to ask what is the good of the Police Force. We all know that the Police Force can act only under the terms and authority provided by legislation passed by this Parliament. In this Bill a person who contravenes or fails to comply with the order not to approach the person concerned can be found guilty of an offence and be liable to imprisonment for a term not exceeding six months.

As the Hon. Miss Levy says, the Bill does not go far enough, but any Bill before this Council which relieves the problem, the concern and the fear of the public and people who have been intimidated by these hooligans and criminals should be supported. I do not agree in all cases that this situation arises as a result of unemployment. There are some people in society who derive joy from intimidating people by threats of physical violence and the like. It is legislation that I have talked about, and I am pleased to say that I want to associate myself with this Bill.

Honourable members must know that people who appear in court initially to give evidence against a person on bail or about whom a peace order has been made, are apprehensive about giving evidence. Even if it is not a big operation, going into court is a traumatic experience for some people and, as a result, they are reluctant to complain to the court. Further, it is ridiculous that they have to pay $15 for a peace order, but that is a fact of life. For disadvantaged or unemployed people or a woman who is not receiving assistance, a $15 fee to make out an application for a peace order is a real burden, since most people in such circumstances do not have $15. It could be a situation where an order is required not just for one person but, say, for her children, or perhaps the wife's mother or aunt who are also staying in the house. Each order is separate and must be paid for separately so that a poor person, be it male or female, with a complaint and seeking the protection of the court and the law of the land must pay $60 in the case of four orders. For some poor individuals that is a week's income, if it is to come from social service payments. Thus those people do not get the order.

Worse can follow. If they scrounge $60, go without food for the rest of the week and think that they have the protection of the law, they have much to learn. Most larrikins or hooligans know the law and, even on the same day in which they are placed in the witness box and an order is made by the court, the hooligan can go in and assault the family while knowing that no action can be taken, and that the police cannot arrest him, unless it is for assault. As the Hon. Anne Levy indicated, the police in such circumstances are reluctant to arrest these people because they have to lay charges, and the police will not do that unless there is a guarantee that they will have a witness.

The criminal or hooligan will then come down and say, 'If you give evidence against me, I will run over you or bash you up.' The provision in the Bill gives immediate protection. If the hooligan breaches the peace, he can be arrested forthwith and action can be taken against him. I do not think that one ever proves much by statistics but, if this proposition is passed by this Council and is given publicity by the press (instead of all the rot we normally see; the newspapers in this State are a disgrace) to let the criminals know in advance that, if they breach a peace order, they will be going into the slot, perhaps we will get help for these poor unfortunates in society who cannot defend themselves and who should be able to think that laws are naturally on the Statute Book to help protect them.

I believe it is a vital piece of legislation. Legislation to protect the old, the young, and the weak in our streets is necessary. This is a step in the right direction. They must be protected and I support the Bill.

The Hon. B. A. CHATTERTON secured the adjournment off the debate.

COMMERCIAL TRIBUNAL BILL

In Committee.

(Continued from 23 March. Page 3394.)

Clauses 2 to 5 passed.

Clause 6—'Constitution of the tribunal.'

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

Page 2, after line 37—Insert subclause as follows:

(6) Where the provisions of a relevant Act deal with the manner in which the Tribunal is to be constituted for the

purposes of proceeding under this Act, this section shall be construed subject to those provisons.

This is not an amendment which is really necessary as it would apply anyway. However, the purpose of the amendment is to make it quite clear. The Bill has been discussed in the second reading stage. It is an enabling Bill and sets up the structure of the Commercial Tribunal. It will not have any effect unless and until other Acts are amended to refer the jurisdiction from the existing tribunals to the commercial tribunal. In regard to the Builders Licensing Board, until the Builders Licensing Act is amended it will not have any effect.

In regard to the Secondhand Motor Vehicles Board, this Bill will have no effect unless and until the relevant Acts are amended to bring their existing tribunals under this umbrella. At that stage, when the special Acts have been considered, massive consultation is intended. One of the matters raised already is in regard to the constitution of the tribunal which, in the Bill, is set at three members. That is spelt out in clause 6. It may be that in regard to some of the special Acts it will be desirable to change the constitution of the tribunal. In some cases it may be desirable to extent it to five members. Even if this provision were not here, the special Act would take precedence over this legislation. The sort of wording expected if it were intended to change the constitution of the tribunal in the Bills to amend the special Acts would be, notwithstanding the provisions of subclause 6, in the Commercial Tribinal Act.

The purpose of this amendment simply to make it quite clear and spell it out in the Bill that the constitution of the tribinal as set out in clause 6 of this Bill may be varied by the special Acts. The constitution of the tribunal in most cases, if not all cases, is sensibly being confined to three members. It is undesirable that it be very large. I would not be contemplating that it would be the intention of the Government to make it large. However, I make it clear that when it does come around to considering the amendments and special Acts to enable the tribunal set up by it to be brought under the umbrella of this Bill, it is possible to vary the number on the tribunal.

The Hon. C. J. SUMNER: I indicated in my second reading speech that there was some consternation amongst industry groups about the fact that there had been little consultation on the Bill with industry groups before it was introduced. Indeed, Mr Gasteen from the Master Builders Association makes serious criticism of the Government following the introduction of this Bill because of the lack of consultation. I assume that the other industry groups were not consulted.

The Hon. J. C. Burdett: That is not so.

The Hon. C. J. SUMNER: The Minister says that it is not so but obviously the amount of consultation was not great. The concern of those in the building industry is that the tribunal proposed by this Bill will not be constituted in a manner which is acceptable to them. They believe that a tribunal of three is not adequate.

The Hon. J. C. Burdett: Because of the association structure.

The Hon. C. J. SUMNER: Yes. I take it that this amendment moved by the Minister is to provide that in the future when industry groups are being consulted there is a capacity to vary the constitution of the Commercial Tribunal from that continued in this Bill. That is as the Minister has explained it. It would appear now that it is acceptable to the industry groups, at least the Master Builders Association. I am not sure about the other groups involved but I would like the Minister to advise the Council as to whether or not the Bill, as it will be in its amended form, is acceptable to the industry groups concerned with the specific Acts which authorise licensing of those groups at the moment.

The Hon. J. C. BURDETT: I explained before and at the second reading stage in reply that the reason there has not been complete consultation with industry is that this is only an enabling Bill and will have no effect until the special Acts are amended. The number of organisations that need to be consulted is legion, but may of them have been consulted. However, the building industry was one which had not. This amendment takes care of the concern that they raise. No other groups have complained except in the building area.

Amendment carried; clause as amended passed.

Clause 7—'The Chairman and Deputy Chairman of the Tribunal.'

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

Pages 2 and 3—Leave out subclauses (1) to (7) and insert subclauses as follows:

(1) There shall be—

(a) a Chairman of the tribunal; and

(b) not more than five Deputy Chairmen of the tribunal.

(2) The Chairman and Deputy Chairmen of the tribunal shall be appointed by the Governor.

(3) A person is not eligible for appointment as the Chairman or a Deputy Chairman of the tribunal unless he is—

(a) a District Court Judge;

or

(b) a legal practitioner of not less than seven years standing.

(4) A District Court Judge shall not be appointed as the Chairman or a Deputy Chairman of the tribunal except upon the nomination of the Senior Judge.

(5) If the Chairman is absent, or unavailable to act in his office, a Deputy Chairman nominated by the Minister may act in the office of the Chairman.

(6) A District Court Judge is not precluded by appointment as the Chairman or a Deputy Chairman of the tribunal from performing any other judicial functions.

This amendment sets out in more detail than does the Bill the provisions about the Chairman and Deputy Chairmen and how they are to be appointed, who they should be comprised of and the relationship with the District Court. This amendment is moved as a result of representations made by the Senior Judge of the District Court in order to make it quite clear that the tribunal will be adequately staffed without interfering with the District Court. That is the reason for not appointing more than five Deputy Chairmen. There was no intention to interfere and for those reasons this amendment is moved.

The Hon. C. J. SUMNER: It is interesting to note that the original proposition in clause 7 was that the Chairman of the tribunal should be a District Court judge. Now there is a departure from the principle and an amendment so that a legal practitioner of not less than seven years standing can also be appointed as Chairman of the tribunal. In view of that change of intention by the Government, it should outline what it hopes to achieve in practice; that is, will a District Court judge be appointed to chair this tribunal or will a legal practitioner of not less than seven years standing be appointed and, if a legal practitioner is appointed, will that be a full-time appointment to the chairmanship or a part-time appointment?

It seems to me that a situation could arise where the Senior Judge of the District Court could nominate a judge of that court to be Chairman of the tribunal and then he could, at any time, and at will, without any consultation with the Government, withdraw that appointment and say to the Government that he does not intend to make a District Court judge available to sit in this jurisdiction. That appears in the original clause 7, but does not appear in the amendment. If that is the case, what will be the position *vis-a-vis* a judge appointed by the Senior Judge to this tribunal and will there be the capacity for the Senior Judge, without consultation with the Government, to remove him from that tribunal? If that is the case, what would the Government do if that occurred? The situation appears to

be that the Government believes it is desirable that this appointee be a District Court judge, yet it is leaving open the possibility for a legal practitioner of not less than seven years standing to be appointed to the position. Surely, if the Government believes that a District Court judge is a desirable appointee, the answer to any shortage of judges to man this jurisdiction is to appoint new District Court judges so that the Senior Judge has at his disposal sufficient judges to staff the District Court and the tribunal.

The Hon. J. C. BURDETT: I think the Leader has observed correctly when he read through the amendment again that, whereas the Bill would allow for the Senior Judge to withdraw a judge without consultation with the Government, the amendment does not. I can assure the Leader as to my intentions and the intentions of the Government regarding the staffing of the tribunal. We certainly believe that the tribunal ought to be staffed by a judge of the District Court. Whether he would be full-time or part-time would depend on the need that was found within the tribunal. I suspect that once the tribunal is fully up and running, and once all of the jurisdictions which it has been indicated will come within its umbrella do so, then he will be well occupied full-time.

The reason for the ability given in the amendment to allow for the appointment of a legal practitioner of not less than seven years standing who is, of course, a person qualified to be appointed as a District Court judge, is as I have indicated before: the tribunal will have no power at all and no jurisdiction until the various special Acts (eight of them) are amended to give jurisdiction to the Commercial Tribunal. Some of them are quite complex, particularly the Builders Licensing Act and the Secondhand Dealers Act, but also the Commercial and Private Agents Act and the Land and Business Agents Act. Quite a number of them are not without their complexities and I envisage that it will be over quite a considerable period that the tribunal will receive the total jurisdiction which is intended. It may be that during that period it may be appropriate to appoint, in lieu of a District Court judge, a legal practitioner of not less than seven years standing and one who is therefore qualified to be a judge of that court to be Chairman of the tribunal.

The Hon. C. J. Sumner: On a permanent basis.

The Hon. J. C. BURDETT: As may be needed. In the first place, when one started off perhaps this could happen with one of the less complex jurisdictions, for example, the Commercial and Private Agents Act. It would then need to be on a temporary basis. It is my intention and the intention of the Government (and it is the submission approved by the Government) that, on a limited basis, eventually all of the present tribunals concerned will be brought within the umbrella of the Commercial Tribunal with a District Court judge as the Chairman. As to any other appointment which may be made and additional appointments to the District Court, if that becomes necessary that is a matter for the Attorney-General.

The Hon. C. J. Sumner: I cannot understand, if you are going to have a District Court judge as Chairman, why you need the additional provision for a legal practitioner of not less than seven years standing to be appointed as Chairman of the tribunal.

The Hon. J. C. BURDETT: I think I have made that perfectly clear. There could well be an interim period of 12 months between the passage of this Bill and the amendments to the eight special Acts. It is eminently desirable to allow for flexibility in this legislation. The Leader, in a conversation with his colleague, seems to be suggesting that there is a possibility of making an appointment to the Commercial Tribunal on a temporary basis—that is not possible. The Bill is quite specific in its present form. The Chairman must be a District Court judge. It is only common sense to pass this amendment, which will allow for complete flexibility.

The Hon. C. J. Sumner: I cannot understand why a District Court judge cannot be appointed even though the various other tribunals are being phased out.

The Hon. J. C. BURDETT: That may well be possible and it may not. Some of the smaller jurisdictions are less complex, so they may be brought under the umbrella of the Commercial Tribunal before some of the major jurisdictions. That will avoid the necessity of bringing another Bill before Parliament at an early stage if it becomes necessary to make amendments for these mechanical and administrative reasons. The amendment allows for flexibility. The Government's ultimate intention is that the Chairman will be a District Court judge.

Amendment carried; clause as amended passed.

Remaining clauses (8 to 25) and title passed.

Bill read a third time and passed.

BRANDS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 March. Page 3395.)

The Hon. M. B. DAWKINS: I rise to support this Bill, which makes a number of minor amendments to the principal Act. The main objective of the principal Act has been, over many years, to enable animals to be branded with a registered brand (approved by the Registrar) to enable simple and clear identification. By and large, that has been quite successful. However, this Bill seeks to amend the Act so that the State's horse racing authorities and breed societies may require stock to be branded in accordance with their appropriate registration rules. This will identify an animal as being approved by the said authority or breed society rather than as belonging to an individual owner.

This amendment results from a request from the Australian Trotting Council and the South Australian Trotting Board. In his second reading explanation the Attorney said that the Bill will enable approved breed societies to brand stud stock according to society specifications. This may be so, although most breed societies already have registered trade marks in the form of tattoos. The relative unreliability of tattooing, which has been demonstrated many times within these societies—despite the relative amount of experience of many stud breeders—has also been the subject of complaints in relation to the body tattooing of pigs.

I recall quite early in my political career being prevailed upon by stud and commercial pig breeding societies to promote body tattooing of pigs as a cure-all in the tracing of disease, which is a most worthy object. I was intrumental in persuading the then Premier, the late Sir Thomas Playford, and the then Minister of Agriculture (Hon. David Brookman) to implement a Bill to provide for the body tattooing of pigs. I believe that legislation was introduced 18 years ago; it has been of great assistance in tracing disease, but it is by no means 100 per cent effective. Because body tattooing is not 100 per cent effective, breed societies may well be prepared to look at the alternatives suggested by the Attorney-General in his second reading explanation.

The Attorney also referred to the progress being made in the eradication of bovine brucellosis and tuberculosis, and I am sure that every primary producer and stockowner will be glad to hear that. In his second reading explanation the Attorney stated:

> Due to the progress of the national eradication of bovine tuberculosis and brucellosis, it is intended that all cattle moving from tuberculosis and disease infected properties be permanently iden-

tified. The Bill provides for the use of appropriate distinctive brands.

That is an important and very worthwhile object. The Attorney also referred to the Australian Wool Corporation and the use of a standard earmark to identify heterozygous sheep. I will not go into that in any detail, because it was dealt with in some detail by the Hon. Miss Levy yesterday. This Bill is to be applauded. Several other amendments are made to remove redundancies and update references. I support the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—'Earmarks identifying heterozygous sheep.'

The Hon. B. A. CHATTERTON: I should like, on behalf of the Hon. Miss Levy, to raise a couple of points regarding this clause. The honourable member asked whether the Minister would explain the difference between the Minister's second reading explanation, in which it was stated that the ears should be marked, and the Bill, which says that they may be marked.

The other point is that, although some sheep can be identified as heterozygous, others can be considered probably to be heterozygous. in other words, according to their siblings, which are known to be heterozygous, there is a fairly recognisable degree of probability that sheep are heterozygous. In those circumstances, I think that the Hon. Miss Levy was suggesting that it would be appropriate to use a different mark to inform potential buyers that a sheep has a fairly high degree of probability of being heterozygous. The honourable member pointed out that in certain sibling situations the probability was two-thirds, and that in others it was higher. It seems that, where the probability of heterozygosity is over half, it would be appropriate to have an earmark to indicate that, as well as the situation where it is known that the sheep is of a heterozygous nature.

The Hon. J. C. BURDETT: As the Hon. Mr Chatterton has said, the Hon. Miss Levy raised the question, first, regarding what was considered to be an apparent inconsistency between the second reading explanation and the Bill. There may have been an apparent inconsistency, but I think that this will come out in the explanation of the second point about the heterozygous gene that I will now explain.

The Australian Wool Corporation and all organisations of coloured-sheep breeders requested that a standard earmark be 'legalised' to give coloured-sheep breeders the opportunity simply to identify any sheep known to them to possess the heterozygous gene, regardless of the extent of that gene. It was never intended that such an earmark be mandatory, but only a mechanism for the identification of a particular class of animal within a specific industry. The legislation is therefore basically enabling legislation which will give status to an earmark that is already recognised in other States.

At present, there is no legislation that gives any kind of status to such an earmark. It is not the intention to identify the extent to which the heterozygous gene is present. Rather, it is intended simply to enable an earmark to be given some sort of statutory status, as applies in other cases where there is some degree of evidence of the presence of the gene.

The Hon. ANNE LEVY: I do not think that the Minister has quite got the point that I was trying to make, although I can see what he means about its being mandatory to have this earmark. There are cases where it is known definitely that a sheep is heterozygous. Obviously, in that case it is desirable to have the sheep marked. However, there are other cases where one cannot see for certain whether or not a sheep is heterozygous. One can only say that, in view of the pedigree and colour of the sheep involved, the individual sheep has a certain probability of being heterozygous.

I instance two common pedigree situations where one can state that a certain sheep has a two-thirds chance of being heterozygous or that a sheep has a half chance of being heterozygous. To earmark such a sheep to indicate heterozygosity would be wrong, because one could not say for certain that the sheep was heterozygous.

The earmark is for sheep that carry that gene. In other words, it is an earmark for sheep that definitely are heterozygous; they carry the colour pattern gene. However, there are many situations where a sheep is not known to be heterozygous, although there is a high probability that it is. There is a two-thirds chance or a half chance of its being heterozygous.

It seems most appropriate to have another mark indicating to those who are interested that there is a high probability of that sheep being heterozygous, although it may not be. The sheep that has a two-thirds chance of being heterozygous also has a one-third chance of not carrying the gene at all. Likewise, a sheep that has half a chance of being heterozygous has half a chance of not carrying the gene at all. To use a mark indicating heterozygosity would not be appropriate for those sheep, but, in like manner, not to indicate that a sheep has a high probability of carrying the gene would seem to be not giving information that a buyer would want to have, either because he wanted to buy a sheep with a high probability of its being heterozygous, or because he wanted to buy a sheep that did not have a high probability of its being heterozygous. It needs a different mark, and one could not use the mark which indicated with certainty that a sheep was heterozygous: it would need a different mark to indicate a high degree of probability of the colour gene being involved.

The Hon. J. C. BURDETT: The Hon. Miss Levy is predicating a degree of sophistication that was not intended, or indeed necessary, in the Bill. In the first place, the Bill is permissive only and is not mandatory. It may be very difficult to assess the degree of probability involved, be it one-third, one-half, or two-thirds.

The Hon. Anne Levy: No. Any Matriculation biology student could do it easily.

The Hon. J. C. BURDETT: The point that I was about to make was that the Hon. Miss Levy has not thought about the question of legal liability. If a person uses this earmark negligently, a claim can be made. It seems to me to be adequate simply to make it permissive that a person may earmark a sheep, as the Bill says clearly. If it carries a colour pattern gene *w*, the sheep may be given a distinctive earmark, identifying it as such a sheep.

I have referred to the provisions interstate. My understanding, which may not be accurate, is that the interstate provisions do not take the matter any further than does this Bill. At the present time, and without this clause in the Bill, there would not be any such permissive provision at all. The purpose of this clause is to take the matter beyond what it is at present by providing that it is permissive to place such an earmark on the sheep. As this seems to be as far as the matter has progressed anywhere in Australia, it is the most sensible thing to do at present, proceeding from the present situation where there is no such leglislation at all.

The Hon. B. A. CHATTERTON: The Minister has not understood the intention behind this clause, which seems to have come from organisations such as the Australian Wool Corporation and other people associated with the breeding of non-coloured sheep. Those people have been concerned at the gene in the breeding of coloured sheep and believe that the coloured gene will become more common than the ordinary Merino flock and that it will cause problems, if that wool is contaminated with coloured wool, to

the Australian Wool Corporation in marketing Australian wool.

The motive behind this clause is to try to identify the coloured pattern gene as widely as possible in the Australian sheep flock and to inform people what sheep have this gene so that they do not use such sheep for breeding ordinary white wool Merino sheep. What the Minister has said, in terms of legal liability) and so on, only makes the point made by the Hon. Miss Levy clearer, namely that this earmark cannot be used on sheep unless they are known to be heterozygous. The point that is being made is that the other sheep, which have a higher probability of being heterozygous, could also influence the breeding of sheep and their colour gene.

One cannot be certain that these sheep do not have that gene and will introduce coloured wool into the flock but, with a simple calculation and an elementary knowledge of genetics, it is possible to say that there is a high probability of doing this. The point raised by the Hon. Miss Levy is valid. Even if this earmark is not used, there should be another earmark to identify these sheep, which have relatives with the coloured gene and which could become carriers, bringing the coloured gene into a large number of sheep who do not carry it at present. Therefore, it is a legitimate point and one that the Government should consider. If the Government is to amend the Brands Act to introduce this clause, it would be appropriate to do it properly and not bring in any further amendments later.

Clause passed.

Remaining clauses (6 to 8) and title passed.

Bill reported without amendment; Committee's report adopted.

PASTORAL ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 March. Page 3519.)

The Hon. B. A. CHATTERTON: I oppose this Bill because it weakens the community control over management of South Australia's arid zone. The Bill goes against all the scientific evidence that is accumulating showing the slow but steady decline in vegetation of the region. It contradicts the recommendations of the Government's own inquiry into the area, that is, the Vickery Report, and it also ignores the experience that has been gained in similar regions elsewhere in the world. This Bill is designed to give perpetual leaseholders tenure to 45 000 000 hectares of land in the arid northern part of the State.

This region receives less than 200 millimetres of rainfall and, in some cases, has less than 100 millimetres of rain. The land is currently leased to pastoralists for leases of 42 years, and the annul rental paid to the Government in 1981 was $455 000, or about 1 cent per hectare per year. The productivity of the land is extremely low, but an estimate of one sheep equivalent per 10 hectares would not be unreasonable on average. This gives a value of 10 cents per sheep equivalent per year. Nowhere else in South Australia could one find such cheap grazing. The Government is either unaware of the serious deterioration of the arid zone, or it does not care what harm is done to that environment. Many people have warned of the potential desertification of the arid zone if current practices continue. In this debate, I will quote Professor Donald from the Waite Institute. He has spent most of his working life at the institute closely associated with agricultural development in this State. He has done excellent pioneering work on many aspects of agriculture which now form the foundation of profitable agriculture in the better rainfall zones of South Australia. In *Agriculture in the Australian Economy,* 1982, at page 74, he states:

> Our experience in overgrazing low rainfall pastoral country is also part of a common world pattern. The early settler based his rates of stocking on the total quantity of forage available rather than on the annual growth increment of the delicately adapted native flora. The outcome was inevitable. Sheep numbers in the arid western division of New South Wales attained 13.6 million in 1891, only to collapse to 5.4 million in the drought years to 1900; they have never subsequently exceeded 9 million. Catastrophic as this experience may have been, there was perhaps no other way of learning the stock carrying capacity of these arid environments. But having learnt, we have failed utterly to take effective corrective action. Gross overgrazing and deterioration continues over much of our dry pastoral zone. Whereas the United States, with experience similar to our own, has enacted legislation to avoid further abuse or devastation of its arid lands, Australia has done little to protect its low-rainfall pastoral areas. Nominal control of stock numbers exists in some regions (e.g. by the Pastoral Board in South Australia), but it is almost wholly ineffective in conserving the vegetation, and should be succeeded by more positive measures.

They are strong words indeed which state clearly that we have failed utterly to take corrective action, and that we should be taking more positive measures. Professor Donald goes on to look at what he considers to be the future of the arid areas, if we continue with the present policy. At page 81, he states:

> Desertification is vaguely regarded by most Australians as a problem affecting other parts of the world, notably the lands around the Sahara. But agriculturists, soil conservationists and geographers recognise that desertification has already occured over considerable areas in Australia and that a firm policy for minimising further damage is needed. A survey in 1969 indicated that 10 per cent of the arid areas, which occupy 74 per cent of the country, was already severely degenerated with little prospect of recovery and that much greater areas had suffered moderate, though remediable damage. Better management is needed, above all by a reduction of stock numbers, assisted by increased property size, and adequate fencing and watering points, each tending to reduce local stock concentrations. Some ecologists have questioned whether the pastoral zones be used any longer for grazing purposes, but instead be wholly set aside as national flora and fauna reserves. Though such an extreme step may not be biologically necessary, the effective control of stock numbers in our arid areas is among the most pressing of all national problems if this vast grazing and recreation resource is to be preserved and desertification avoided. It seems inescapable that the Commonwealth Government should assume a more active role in the care of these regions, which extend over four States and the Northern Territory.

This management failure is due to the failure of Governments, both Liberal and Labor, to take the issue seriously enough over the past 25 or 30 years. There have not been sufficient resources put into monitoring the problems of the arid zone, nor have Governments been willing to effectively enforce the controls that they already have. Of course, the leaseholders, the pastoralists themselves, have not been blameless, either. I believe that the greatest problem as far as pastoralists are concerned is the large number of absentee leaseholders, and the fact that these leaseholders have been too mean to pay for properly trained and experienced managers on their properties.

A paper was delivered to the 1981 conference of the Australian Rangeland Society by Melissa Gibbs describing the result of a survey of properties in the north-east pastoral zone of South Australia. I refer to part of that paper which describes the situation of management of these absentee-owned properties very well. Melissa Gibbs describes the results of this survey at page 70, as follows:

> Thirteen of the 30 properties in the study region were run by hired managers. Each hired manager was responsible for about twice the area controlled by an owner manager. The hired managers tended to be younger, to work longer hours, to be in charge of more men and to have less experience on their current property than the owner managers. Hired managers rarely stay in one job for more than a few years. New managers usually have little knowledge of the properties they are employed to run. Consequently, the majority of absentee lessees set rather rigid calendars and

reserve all major managerial decisions for themselves. As one astute manager remarked, 'If hired managers do not have average years they are in trouble, and whoever heard of an average year?'

Lessees who do not live on their properties have little chance of understanding what is happening to the country (more than half either manage other properties or are retired). Very few lessees appear prepared to change their plans in response to comments and suggestions made by their managers. In some cases lessees insist on doing all the purchasing and frequently do not send exactly what the managers require.

Several hired managers complained that they were receiving only $5 to $10 above the award wage for an adult station hand which was $154 per week ($8 000 per annum). Although hired managers have a lower cost of living than urban workers, in South Australia they are faced with huge educational expenses. Parents must either send their secondary schoolchildren to boarding school and pay between $4 000 and $5 000 per year per child, or move close to a secondary school. All these things leave little room for any job satisfaction for most hired managers.

Melissa Gibbs goes on to state:

Low wages, unreliable communication and isolation from social, medical and educational facilities make employment on pastoral properties relatively unattractive. The high rate of staff turnover means that managers must put a lot of time into hiring and training new employees. The best way to keep permanent employees is to treat them well. 'It may cost a little more but the loyalty gained is worth the extra cost' (Pick and Alldis 1944). 'It takes time to learn the particular aspects of stocking levels, care of stock and waters, and what stock to run where, on any particular property' (Childs 1978). Every time an experienced station worker leaves his current position there is a loss of valuable expertise. Unfortunately there is little effective formal training available and consequently workers new to the area are likely to make mistakes which could be detrimental to the land. There is a need to collect and record the experiences and advice of people who have worked on pastoral properties and who understand the country in both its good seasons and its droughts.

I think the quotes from that paper show very clearly the fact that a large number of properties are run by managers for absentee leaseholders and that the standard of management leaves a lot to be desired, as the managers do not stay on the properties long enough and are not given enough authority by owners of leases to manage them in relation to the conditions that apply rather than to a rigid programme given to them from somewhere else.

In this whole debate the Government has put forward only one argument to support the Bill. The Government argues that the leaseholders need great security to enable them to raise loans to carry out further improvements on their properties. The Minister of Lands has made this assertion but has not been prepared to provide any detailed evidence to support that claim, which is not surprising as a great majority of leases (in fact 297 out of 354—and they are the Minister's own figures) have more than 20 years to run on those leases. It is very difficult indeed for anybody, even in a rural community, to get loans that have terms longer than 20 years. The great majority of leases have terms of much longer than 20 years, so it is not surprising that he cannot produce any detailed evidence of people who have been knocked back on those grounds.

The major problem for lessees trying to obtain a loan is not the question of security of tenure and the security that that provides for a loan but rather the ability to repay it. Obviously, like everyone else in the community, they have higher repayments on loans with higher interest rates. However, at the present time they are also faced with lower returns, as livestock prices have declined by nearly 50 per cent over the past 12 months. Increased security of tenure will not assist the pastoralists in obtaining additional loans in that present economic climate of high interest rates and lower returns.

In the rough and tumble of the debate in the House of Assembly yesterday, the Minister of Lands not only made the ridiculous assertion that the Labor Party is anti-pastoralist but also gave the Liberal Party's latest conspiracy theory. This was first put forward by the Minister of Mines and Energy in the debate on Roxby Downs. He tried to put forward the theory that the Conservation Council, since 1973, has infiltrated the trade union movement and the Labor Party. The Minister of Lands gave this stupid conspiracy theory last night, claiming that all Labor speakers were following a brief prepared by the Conservation Council. I would like to point out that I have not used any material from the notes that it has provided, I have deliberately used research material from the Waite Institute and the C.S.I.R.O., which have been in the forefront of agricultural development in Australia.

The Minister of Lands claims that Labor members of Parliament have no experience in rural matters. Anyone who takes the trouble to read the debate in the House of Assembly or in this place will quickly see that that is nonsense. The Minister is the one who fails to understand the huge difference between the problems in the arid zones and the farming and irrigated zones in the State on which the Minister has based his personal experience. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

ADJOURNMENT

At 6.02 p.m. the Council adjourned until Tuesday 30 March at 2.15 p.m.