HOUSE OF ASSEMBLY

Tuesday, February 29, 1972

The SPEAKER (Hon. R. E. Hurst) took the Chair at 2 p.m. and read prayers.

ASSENT TO BILLS

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

Adelaide Festival Centre Trust,
Apprentices Act Amendment,
Constitution Act Amendment (Members),
Criminal Law Consolidation Act Amendment,
Harbors Act Amendment,
Health Act Amendment,
Hire-Purchase Agreements Act Amendment,
Housing Grants Administration,
Industrial Code Amendment (Commissioners),
Irrigation Act Amendment,
Licensing Act Amendment,
Local Government Act Amendment (General),
Metropolitan Milk Supply Act Amendment,
Mining,
Pistol Licence Act Amendment,
Savings Bank of South Australia Act Amendment,
Second-hand Motor Vehicles,
South Australian Railways Commissioner's Act Amendment,
South-Eastern Drainage Act Amendment,
Stamp Duties Act Amendment Act, 1971, Amending,
Valuation of Land,
Weights and Measures,
Workmen's Compensation Act Amendment.

QUESTIONS

M.V. *MAREEBA*

Mr. HALL: Although one aspect of my question relates to tourism, I direct it to the Minister of Marine, for an obstructive element in his department is preventing an important tourist project from proceeding. In view of the growing importance of the tourist industry to South Australia, will the Minister reverse his present antagonistic attitude toward the owners of the motor vessel *Mareeba* and direct the Marine and Harbors Department to lay down reasonable and well-defined conditions under which that vessel may ply a tourist passenger service in St. Vincent Gulf? At the end of August last year, Mr. Vic Wilson and his son brought the *Mareeba* to South Australian waters from Queensland. They invested a considerable sum of money in the vessel, which was, and still is, operating under a current Queensland survey certificate. That survey was made by Commonwealth surveyors at the port of Townsville on behalf of the appropriate State authority in Queensland. The vessel is insured by Lloyds of London. Mr. Wilson has requested approval from the State Marine and Harbors Department to operate the vessel in South Australian waters. He has been met with a determined attitude of obstruction and antagonism from the department. He has been told that certain aspects of the ship have been unsatisfactory for the passenger trade, yet no clear definition has been laid down by the department of what is required of him. It appears that there are no regulations that indicate why the ship is acceptable in Queensland but not in South Australia.

As an example of this, I point out that, even though Mr. Wilson in his last request asked for only day-time excursion approval, it was still demanded of him that he replace, at great expense, overnight accommodation. His opinion that his effort to develop a business that would provide a whole new dimension to the South Australian tourist trade is being deliberately sabotaged is based on the fact that he was told by a senior departmental officer that the vessel would never operate in South Australia. Mr. Wilson, in company with his partners, has visited the Premier's office and has been interviewed by the Premier and the Minister of Marine. I understand that at that interview an unfortunate event took place, in that the Premier took a most antagonistic view of their attitudes until it was pointed out to him that he was basing his opinions on the wrong file, which dealt with an entirely separate project. The result, or lack of result, is that no offer of assistance has been given to Mr. Wilson by the Department of the Premier and of Development or by the Minister of Marine. No member of Parliament or Minister of the Government has visited this vessel. None of the numerous and recently appointed development officers or their assistants have been aboard. The owners of the *Mareeba* have now decided that the difficulties encountered by the owners of the *Philanderer* in establishing a service to Kangaroo Island and the spirit of non-co-operation that a Mr. Stratton encountered from the Government and the department before he received approval for a passenger vessel to operate from Port Adelaide have

been so multiplied in their case as to indicate that the Government simply does not want a tourist industry to develop around a sea passenger service in our gulf.

The SPEAKER: Order! I have no desire to curtail any member unduly from explaining a question, but the honourable Leader is commenting, which is contrary to Standing Orders. If he wants to explain his question further, he may do so, but he is not permitted to comment.

Mr. HALL: They were not my comments but those of the present owners, who had protested to me. At their invitation, last Friday, I went aboard the vessel and made a personal inspection. In explaining my question I am passing on the comments they made to me. I have come to the last two paragraphs of my explanation. I have said that the owners believed that there was antagonism towards their developing a passenger service in the gulf, and I was about to say that they had consequently decided to offer the *Mareeba* by auction on Wednesday, March 15. If the Minister can show enough interest to look at last Saturday's newspaper, he will see a photograph and a notice of the auction. If the Minister has not seen the vessel, he will, at least, see a photograph of it in the auction column (as sad as that portrayal may be). I am asking this question to avert a decision forced on the private tourist industry by an incompetent Government through an incompetent department.

The Hon. J. D. CORCORAN: It is delightful for the Leader to be able to stand in his place and put one side of the story, which sounds very good. True, Mr. Wilson, the owner of the *Mareeba,* and other people interviewed the Premier and me in the Premier's office, I think on February 8. Also present at that meeting was a senior officer of the Marine and Harbors Department who was familiar with all the transactions that had previously taken place in connection with this vessel since its arrival in South Australia. It seemed to me that the main objection taken by Mr. Wilson was that the surveyor, or surveyors, of the department, who are trained in their particular duties, had submitted a list of work to be carried out on the vessel before it would meet the specifications of this State which apply in any other State but which were considered unreasonable by Mr. Wilson. He said that they were unreasonable because certain works had been carried out on the vessel, and he considered it would be most unreasonable to change these works in order to do other work.

Mr. Wilson was told that it was imperative to be certain that the vessel was completely seaworthy, because it would be carrying paying passengers. The responsibility for the vessel's being seaworthy remains with the surveyor and, finally, with me, it being my prime responsibility to ensure that safety at sea is a principle that is adhered to in this State. I want to point out the result of the meeting, which was not mentioned by the Leader. On February 11, 1972, I wrote to Mr. Wilson, because Mr. Wilson objected to many of the points raised by the surveyor and said that they were unreasonable. My letter stated:

> I wish to confirm the verbal information given to you during our discussions with the honourable Premier on Tuesday, February 8, 1972, that, in order to resolve the problems that have arisen with the survey of the vessel *Mareeba,* you could appeal to the court of survey pursuant to section 86 of the Marine Act, 1936-1970. Should you agree, you should complete the attached appeal and return it to me. A copy is also enclosed for your retention.

This form was not completed or returned to me, and I ask the Leader why that is so. The opportunity was given to Mr. Wilson to take action under the Act, whereby an independent person could be appointed to establish whether the department's surveyors were being unreasonable and, if they were, in what areas they were being unreasonable, and the findings of the court would have been final. Mr. Wilson did not take this action, and I presume that he had doubts about its success.

I am fully aware that the vessel has been offered for auction. This has been brought to my attention and, in fact, approval was sought from the Marine and Harbors Department to hold the auction. That approval has been granted but it has been pointed out that, in the holding of the auction, either Mr. Wilson or prospective purchasers must not infer that the department is associated with some of the information contained in the auction advertisement. Several vessels have come to this State from Queensland recently and it has been claimed that they have held current certificates of survey from the Queensland department. We have been in touch with the Queensland department on this matter and, to put the matter straight, because I am not so familiar with the case that I can answer all the points that the Leader has raised today, I will examine his question closely and bring down a full report for him as soon as I can obtain it, I hope by

tomorrow. However, I do not want the House to feel that I have been antagonistic towards Mr. Wilson, as the Leader has said I have been. On the contrary, so far as I am aware, my officers have gone out of their way to help Mr. Wilson.

Mr. Hall: That's not my information.

The Hon. J. D. CORCORAN: The Leader may say what he likes to say: I will say what I want to say, and from interviews with my officers on this matter I have got the impression that they have been courteous and have tried to help Mr. Wilson in many respects since his vessel arrived in this State. I think Mr. Wilson does not like to face up to the fact that many things will have to be done to the vessel, at fairly high cost, before the vessel is satisfactory so far as the Marine and Harbors Department surveyors and I are concerned. I am willing to be guided only by my officers, because the department employs them to do a technical job and there is no way in which I could dispute the need for what they have said should be done. A way was offered to Mr. Wilson but he chose not to take that course. Every facility would have been made available to him to exercise that right, but he did not take it up.

Mr. COUMBE: Does the Minister realize that the *Mareeba* is the holder of a current Commonwealth survey certificate issued in Queensland and that the vessel is insured by Lloyds of London? Does he also realize that the owners complained that they could not receive from the Minister or his departmental officers information on the steps to be undertaken to make the vessel comply with the survey requirements demanded by the South Australian Department of Marine and Harbors? Will the Minister take steps to avoid losing this potential tourist trade to South Australia by co-operating with the owners to avert the proposed auction? In view of the Minister's action, what steps must be taken by persons wishing to extend this type of tourist trade in South Australia? Is the Government really interested in promoting this type of trade, as the Premier has often said it is?

The Hon. J. D. CORCORAN: Of course the Government is interested in promoting tourism, but we do not mean to promote it at the expense of the safety of people who wish to go to sea, and we will not do so. The Leader of the Opposition and the member for Torrens have made much of the fact that the vessel currently holds a Commonwealth survey certificate or the Queensland equivalent to the survey certificate of the Department of Marine and Harbors. There is a feature of the certificate which escapes my mind that has an important bearing on the whole matter and, as I have told the Leader, I will obtain a full and detailed report on the question after I have studied it. I am sure that study will reveal an inconsistency or something lacking in the certificate held by the owner. I do not deny that a certificate is held.

Mr. Hall: That's not a very expert way of denying—

The SPEAKER: Order!

The Hon. J. D. CORCORAN: Further, I do not know whether insurance with Lloyds is of any import. It may mean—

Mr. Coumbe: It is of vital importance.

The Hon. J. D. CORCORAN: I do not know. I think he is getting something confused here. I have often heard of Lloyds of London and about certain things; there is a register, about which some people get confused, and I think the honourable member may be referring to this. The vessel is not referred to in that register or, if it is, it is not given a high rating. I will obtain a full report and examine the honourable member's question when that report has been received.

CHRISTIES BEACH HOUSING

Mr. HOPGOOD: Will the Premier, as Minister in charge of housing, do all in his power to obtain housing accommodation for a young couple in my district who are in the position that I shall now explain to the House? It is not normally my habit to raise housing matters in this place, because I think that they can be dealt with by correspondence with the Housing Trust. However, this is a particularly needy case, and that is why I am raising the matter here. The young couple approached me last evening. The man was unemployed for many months but now he has employment with the Engineering and Water Supply Department. His wife is expecting their second child in two weeks time and both the husband and the wife have been living with the wife's parents in the parents' small house at Christies Beach. The husband has been sleeping in the family car in the driveway and the first child has been sleeping with the wife's grandparents. The couple applied to the trust, having sent their application through the post last year, but the trust has said that their application did not arrive. They have now reapplied to the trust.

The Hon. D. A. DUNSTAN: I will certainly have my officers examine the matter of trying to find special or emergency accommodation for the honourable member's constituents. At present the backlog of housing demands in South Australia is worrying and grievous. Indeed, we have the greatest build-up in demand for low-income housing than at any previous time in the history of South Australia. We have been providing record sums to the Housing Trust to cope with this situation but, if we were to take the sums that would be required for special emergency accommodation construction from the normal housing programme, it would only extend remarkably the time over which we could accommodate people in permanent housing. This is not a course which so far we have been willing to take. From time to time we have vacancies in accommodation not part of the normal housing Housing Trust programme where some emergency assistance can be given. If the honourable member will supply my office with the details of this case I will have it investigated to see what help can be given.

TUMBY BAY JETTY

Mr. CARNIE: Will the Minister of Marine say what is the estimated cost of the current proposal to demolish part of the Tumby Bay jetty? Will he say whether he has considered any alternative proposal and, if he has, what is the cost of the alternative? This matter has been under discussion for some years and has been the subject of questions asked by me in this Chamber and of approaches made to the Government by Tumby Bay residents. Explaining this question, I should like to recount some of the more recent history that has led to the present situation, about which members have no doubt read. Last Friday a notice to mariners appearing in the *Advertiser* stated that the navigation light on the end of the jetty, as well as about 560ft. of the jetty, would be removed, work to commence on Monday, February 28 (yesterday).

In passing, I ask why, as a matter of courtesy, the people of Tumby Bay and I, as their member, were not told of this. Over the weekend I was informed of an alternative possibility that would allow the jetty to remain at its present length but narrower. It was estimated that this would involve little, if any, additional cost to that of the current plan. Accordingly, I telephoned the Minister yesterday morning and put this alternative in broad detail, and I asked that it be investigated, particularly regarding cost. The Minister assured me that he would do this and, taking him at his word and in good faith, I notified the residents of Tumby Bay of his assurance. Within a matter of hours, news reports were issued that demolition would proceed, and instructions to this effect were given to the Marine and Harbors Department in Port Lincoln. As a result of this, the Minister's credibility is in serious doubt—

The SPEAKER: Order! The honourable member cannot in any way reflect on the Minister or comment when asking a question. The honourable Minister of Works.

Mr. CARNIE: Mr. Speaker—

The SPEAKER: I have called on the Minister of Works.

Mr. CARNIE: On a point of order, Mr. Speaker—

The SPEAKER: What is the point of order?

Mr. CARNIE: I have not finished my explanation, which I had sought leave to make.

The SPEAKER: I cannot uphold the point of order. The honourable Minister of Marine.

The Hon. J. D. CORCORAN: I think the honourable member said that my credibility was at stake, because he said he had requested me yesterday morning to look at an alternative, and this he did. I suppose that 30 to 35 minutes after he telephoned me I had the Director of Marine and Harbors in my office, and I examined the alternative—

Mr. Carnie: And its cost?

The Hon. J. D. CORCORAN: We examined the alternative, and the plan available to us even showed the location and condition of every pile in the jetty.

Mr. Carnie: If you costed it, answer my question.

The Hon. J. D. CORCORAN: Let me finish. You had your go.

Members interjecting:

The SPEAKER: Order! When a member asks a question he is entitled to get a reply. The honourable Minister is replying to the question and is entitled to be heard in silence. The honourable Minister of Marine.

The Hon. J. D. CORCORAN: I immediately discussed the alternative that the honourable member had put forward, and it involved the use of the centre rows of piles. In fact, there are four rows of piles on the outer end of the Tumby Bay jetty, and this alternative involved

the two inner rows of piles. It was revealed in our discussions that the condition of the inner piles was even worse than that of the outer piles: from memory, I think we would have had to replace 11 or 12 of these piles in the centre in order to carry out the work suggested by the honourable member, and the Director suggested that the reduction in costs would be minimal, although he did not give me an exact figure. The total estimated cost of repairing the whole jetty is $31,000-odd.

Mr. Carnie: That isn't what I asked.

The Hon. J. D. CORCORAN: The cost of repairing the jetty to the standard required by the department, to the 600ft. mark where it would cut off, is, I think, $18,000 and the cost of demolishing the outer part, involving the four rows of piles, is about $6,000, making a total of about $24,000. I want to make perfectly clear that, when the press officers telephoned me last evening and asked me what was happening, I said that the work would proceed, because I had investigated the proposal of the honourable member, and I had decided that it was not feasible. I did not want to tell the press. I wanted to tell the honourable member, but he did not want to wait for me to tell him, because I believe he had something to say to the press this morning.

Mr. Carnie: I couldn't get hold of you.

The Hon. J. D. CORCORAN: I do not sit at my telephone waiting for people to call. I am a busy man, as the honourable member will know, and this morning I had certain things to attend to apart from this matter. The honourable member having approached me about the alternative, I thought I owed it to him to tell him first of my decision. If that is unreasonable, or if my credibility is at stake because of that, I cannot understand the honourable member's reasoning. The honourable member is correct when he says that this matter has a fairly long history. I have been accused today of not giving anyone an opportunity to make representations to me on this matter. Ever since I have been Minister of Marine, we have been negotiating with the Tumby Bay council, as were my predecessors (both the member for Victoria and, I think, the member for Torrens, as well as the former member for Flinders, were involved in this matter), and for two years or more I have not been able to make any headway at all with the council.

We have made various offers to it and have suggested conditions under which it might take over the control of the jetty, but each of these has been refused. I see a statement in the *News* today that, if the jetty were cut in half, the number of tourists coming to Tumby Bay would be reduced also by half. I do not know how this is worked out but, if the people of Tumby Bay and the council are so concerned to retain the full length of the jetty, if they are willing to meet the cost involved in connection with the section beyond the 600ft. mark at the width suggested by the honourable member as a compromise (the cost could be up to $11,000), and if they are willing to take over the jetty at a peppercorn rental (we will not charge them anything) and continue to look after the maintenance of the jetty, I have no objection at all to that. However, I will not and do not at this stage intend to spend more than the $24,000 indicated.

We have about 55 jetties in this State and, placed end to end, they would cover a distance of more than nine miles. Much money has been and is being spent now on their maintenance. Tumby Bay has two jetties, not one. It would possibly have more length of jetty than would any other place in the State, except Port Germein. The depth of water at the suggested cut-off point will still be 11ft. at low water, according to my information; it is 17ft. at the end of the jetty as it exists now. I do not see that this will be any great disadvantage to the people of Tumby Bay or to the tourists who visit the place. However, if people used the jetty in its present condition and something untoward happened as a result of which lives were lost, I know who would then be in trouble, and rightly so. My responsibility is to see that the jetty is put in good order at a reasonable cost to the Government and the people of the State, who have to bear the cost. If the honourable member wants to place before the council the proposition I have outlined, I am prepared to have him do so, but I want an answer within a week. In the meantime, work should proceed without interference with regard to the outer section of the jetty. If the honourable member wishes me to do so, I will put formally tomorrow to those concerned the proposition to which I have referred.

EYRE PENINSULA JETTIES

Mr. GUNN: In view of the importance of tourism to South Australia, has the Minister of Marine, when agreeing to the demolition of a number of jetties and goods sheds on Eyre Peninsula, considered the loss of future tourist development that this will cause in that area? There is a widespread belief amongst people

living on Eyre Peninsula that the decision by the Marine and Harbors Department to demolish a number of jetties and goods sheds will have a detrimental effect on the future development of tourism in this important part of South Australia. Therefore, I ask the Minister to review his somewhat unfortunate decision.

The Hon. J. D. CORCORAN: The honourable member referred to various jetties, but I should like him to be more specific.

Mr. Gunn: Tumby Bay, Haslam, Fowler Bay—

The SPEAKER: Order! The member for Eyre has asked his question. If the Minister cannot understand the question, I am afraid that he is not permitted to indulge in cross-chatter across the Chamber because of that. There is an obligation on the member for Eyre to explain his question so that it can be understood. If the Minister cannot understand the question, he should say that he cannot understand it and leave the matter there. This cross-chatter must stop.

The Hon. J. D. CORCORAN: To the best of my knowledge, decisions have been made over several years to shorten 16 jetties throughout South Australia, and for councils to take over the jetties at a peppercorn rental and maintain them. I understand (I could be wrong about this) that it has been decided to demolish four jetties in the State, including those at Sceale Bay and Minlacowie. I believe this policy, which has obtained for about 15 years, to be the correct policy when the cost of maintaining a structure is such that to maintain it becomes completely uneconomical. The honourable member knows the arguments that have gone on about Sceale Bay; the matter has been dealt with in the House often. I cannot agree with the honourable member that we are interfering with the development of tourism on the West Coast by taking the action we are taking with regard to the structures to which he refers. I believe that what we are doing is good business. Our action has not been taken lightly, as the honourable member should know. I know the problem that the member for Flinders has at the moment. I remember when the jetty at Kingston, which was half a mile long, was cut in half. When such thing occur, people become disturbed. However, as these matters are properly investigated, I believe the decisions taken are correct, so I have no intention of reversing them.

TRADING HOURS

Mr. MILLHOUSE: Will the Minister of Labour and Industry say whether the Government still intends during the present session to introduce legislation to change shopping hours and, if it does, when such legislation is likely to be introduced? Since the House met last at the end of November, a number of public reports have been made that the Government has decided to alter the law again, despite the referendum, to provide for Friday night and Saturday morning trading. The *Sunday Mail* of last weekend contained a report that Adelaide would have Friday night shopping by May (this was supposed to be the tip from high Government and retail sources). It was further reported that the executive of the South Australian Trades and Labor Council had decided to move to rescind the resolution in which it previously opposed Friday night shopping. This morning's lead story in the *Advertiser* refers to a hitch in the agreement on night shopping and to the opposition of the Shop Assistants Union; the Government cannot move without the approval of that union. This afternoon's *News* refers to a crucial meeting of Caucus this morning to press ahead with Friday night shopping legislation. I understand that Caucus met not only this morning but also yesterday afternoon.

The Hon. D. A. Dunstan: It didn't do anything of the kind.

Mr. MILLHOUSE: Not only is the public intrigued to know what is going on between the Government and the union, and what is the nature of the dilemma, but also Opposition members are naturally anxious to prepare themselves for a debate on the topic should it be raised again during the present session. Therefore, I ask the Minister for a clear and unequivocal statement.

The Hon. D. H. McKEE: I have often previously told the honourable member that he should be wary of rumours, and this advice also applies to newspaper tips. Newspapers also tip as winners horses that sometimes do not get in. In all of the consideration that the Government has given to the requests and suggestions made in recent months that there should be an extension of shopping hours, we have had two major objectives. They have been, first, that if a weekly late shopping night is to be introduced generally, the increase in costs which must result from shops opening for extended hours will have to be kept to a minimum. We regard

it to be of paramount importance that any increase in prices which may result from those increased costs is as small as possible. Therefore, we have primarily considered not only the wishes and needs of the public for greater convenience and flexibility in shopping hours but also have been concerned to ensure that this convenience will not further erode the purchasing power of the dollar. Secondly, we have been conscious of the need to protect and, if possible, improve the working conditions of retail employees who are one of the few groups in our community that until now have not been able to work their normal working hours in five days.

Over the last few months I have had numerous discussions with representatives of the associations of storekeepers, particularly the Retail Traders Association, and with representatives of the retail employees—union officials and those who have represented groups of shop assistants from various centres. I know that representatives of the employees and employers have also had many discussions. This has proved the value of full and frank discussion of the facts without emotion and with a genuine desire on the part of all parties to come to an arrangement that will be satisfactory to all. We have endeavoured to arrive at arrangements that would be acceptable to both the retailers and the union, as it is the employers and employees in the industry who will have to make any new trading hours operate satisfactorily, not only for themselves but also for the benefit of the public. It would be improper of me to reveal publicly the substance of matters under discussion with the representatives of employers and employees and it could be misleading to the public to do so. As soon as a decision is reached, I will tell the House.

Dr. EASTICK: Can the Minister say (although he may consider that my question should be asked of the Premier, as it involves policy) whether the people of South Australia have any assurance that the Government will make available to them extended shopping hours, irrespective of union and other outside pressures? I consider that the question requires only a "Yes" or "No" reply. We had the spectacle, when the matter of shopping hours was last discussed in this House, of visitations to Klemzig and other places, and the people of South Australia still have an impression about that matter. They wish to know whether the Government will act as I am asking it to act in this question.

The Hon. D. H. McKEE: The honourable member will soon see legislation but we will not be guided by members opposite, who would like to ride roughshod over the public and the employees in the industry, making the prices of goods so prohibitive that the people will not be able to shop at any time. We have no intention of doing anything to the detriment of the public and the people in the industry.

TABLING OF PAPERS

The SPEAKER: Have honourable Ministers any papers to table?

The Hon. D. A. DUNSTAN: The honourable member will be happy with the legislation—

Mr. Millhouse: Will the people be happy with it?

The Hon. D. A. DUNSTAN: The honourable member is always trying to play politics on this matter.

Mr. COUMBE: On a point of order, Mr. Speaker. I understand that you called on Ministers to table papers.

The SPEAKER: I must uphold that point of order.

The Hon. D. A. DUNSTAN: Obviously the member for Torrens does not want me to reply to his colleague's interjection. I am sorry that I was out of order, Mr. Speaker, in trying to give the member for Mitcham some more specific information.

DAYLIGHT SAVING

Mr. VENNING: Can the Minister of Environment and Conservation and Minister Assisting the Premier say where he got the information for his reported statement that the people of South Australia were happy with the provision of daylight saving in this State? Not only do I represent a rural area of this State but I have interviewed many people who live in the metropolitan area and, at the many meetings that I have attended during the period that daylight saving has been operating, only one person amongst the many hundred people I have spoken to has said that he favoured daylight saving. Likewise, people in the metropolitan area have expressed their dislike of it and have spoken of the inconvenience it has caused.

The Hon. G. R. BROOMHILL: The honourable member will recall that, when the legislation was introduced in this Parliament originally, it was brought to the attention of

members that the actions of Liberal Governments in other States had forced a decision on this Government.

Mr. Venning: That had nothing to do with it.

Mr. Goldsworthy: Use a bit of responsibility yourself.

The SPEAKER: Order!

The Hon. G. R. BROOMHILL: Since then, we have had a period of daylight saving and I have been reported as stating that, on my observations, it is clear that the overwhelming majority of South Australians approves of daylight saving. This statement was made on the basis of personal contact made by me and information from other members of Parliament who have gone to some trouble to find out what is public opinion on the matter. I think it fair to say that in some parts of the State the percentage that supports daylight saving is not as high as the percentage elsewhere but it was clear that a Gallup poll conducted recently (the honourable member may not have read the results of that) established overwhelmingly that a substantial majority of South Australians has supported the daylight saving provision that we introduced recently. In addition to the personal contact with the public that I have referred to, correspondence to me and other members of Parliament and local newspaper polls conducted on the matter have established that what I said was correct. I am surprised that the honourable member has failed to accept it.

Mr. GUNN: Can the Minister say whether the Government intends to consider the views of country people when deciding whether to continue to have daylight saving, and will he give an undertaking that South Australia will not adopt Eastern Standard Time?

The Hon. G. R. BROOMHILL: The reply to the first part of the question is "Yes" and that to the second part is "No".

MURRAY PARK TEACHERS COLLEGE

Mrs. STEELE: Can the Minister of Education say whether it is not now intended to proceed with the swimming pool at the Murray Park Teachers College? Has the pool, which was part of the original plan and was, I understand, to cost $100,000, been deleted from the overall plan, which was to cost $4,000,000? Such a pool plays an important part in the programme of the physical education course, and concern has been expressed to me that the pool is now not to be installed. In the light of this information, and if it is correct, will the Minister say why this decision has been taken?

The Hon. HUGH HUDSON: I think the honourable member will recall from her own term as Minister of Education that the provision for Murray Park Teachers College was for the construction of the college at a cost of $3,100,000, not $4,000,000, that the Commonwealth Government provision of funds for the current triennium in relation to the building of teachers colleges was for $3,600,000, and that the programme of the Education Department for the triennium that was put to the Commonwealth Government through the Commonwealth Minister for Education and Science involved $3,100,000 for Murray Park Teachers College, $100,000 for initial planning on rebuilding of Western Teachers College, which was then proposed, and $400,000 for the purchase of land at Underdale for the new Western Teachers College. These amounts total $3,600,000. I understand that that programme went to the Commonwealth Government before I became Minister of Education, although I am not sure of that. However, when tenders were called for Murray Park, the lowest tender was about $400,000 more than the original estimate and, consequently, decisions must be made, in relation to the whole project, about whether any legitimate economies can be achieved. Certain decisions have been made, one of which has eliminated the heated indoor swimming pool at this stage. The estimated cost of that is $150,000 not $100,000. It is unfortunate that the project came in at a significantly higher cost than had been estimated originally, and the project could have been proceeded with as originally planned, with the swimming pool and everything else planned for it, only at the cost of developments proposed for Western Teachers College. That was the reason for the decision. However, I hope it will be possible to make some kind of arrangement whereby the swimming pool can be reinstated, but at this stage no finality has been reached on that matter.

MOUNT GAMBIER HOUSING

Mr. BURDON: My question is to the Premier, as Minister in charge of housing. During recent times I have made many representations to the Housing Trust—

The SPEAKER: What is the question?

Mr. BURDON: The question concerns the Housing Trust and building activities in the country—

Mr. Millhouse: That's not a question.

The SPEAKER: What is the honourable member's question?

Mr. BURDON: The question concerns additional housing.

Mr. Millhouse: What's the question?

The SPEAKER: Order!

Mr. BURDON: What Housing Trust activity is taking place in Mount Gambier? Recently, representations have been made to the Housing Trust for additional housing in Mount Gambier, having regard to the extremely heavy demand for trust rental houses in that city. The trust is constructing 27 units in Mount Gambier and it has just let a contract for an additional 47 units. I am pleased to read in this morning's *Advertiser* that the Premier has indicated that a contract for additional rental accommodation will be let for Mount Gambier and other country areas. Can the Premier say anything further about the additional housing to be provided in Mount Gambier?

The Hon. D. A. DUNSTAN: I cannot give the honourable member an exact figure. He spoke to me about this matter this morning but I have been unable in the interim to get from the trust the precise number of the additional units the contract for which will be let immediately as a result of the provision of funds for the trust out of the extra Loan moneys granted by the Commonwealth Government. However, after an inspection at Mount Gambier by me and the General Manager of the Housing Trust a short time ago, it was determined that two major expansions in the trust's activities would be made in Elizabeth and Mount Gambier from the additional Loan funds. In both of these places there is an urgent need for additional housing. T will bring down a more precise reply as to the number of units to be let under the new contracts, which will be in addition to the 27 being built and the 47 for which contracts have already been let.

NORTH-WEST NATIONAL PARK

The Hon. D. N. BROOKMAN: Can the Minister of Environment and Conservation say whether the Government intends to revoke the declaration of the large national park in the North-West of the State? I understand that this has been indicated in the press and that the Minister recently visited Maralinga and other places, giving the impression that he intended to revoke that national park and proclaim another area. Does he deny that this is correct and, if he does not, what is the reason for the revocation? Will the revocation apply to the whole or only part of the area, which comprises about 5,000,000 acres?

The Hon. G. R. BROOMHILL: I cannot answer the honourable member in detail but I can tell him that the matter is being considered. Recently, I visited the area with a team of officers from the National Parks Commission to determine what areas would be available if such a revocation were made. The officers are still examining the whole of the North-West and, upon receipt of their report, the matter raised by the honourable member will be further considered.

BOOK SALESMEN

Dr. TONKIN: Has the Attorney General inquired into the activities of Global Readers Service salesmen who have been active in the suburbs of Adelaide in recent weeks? These salesmen are selling books and periodicals using the so-called points system technique, with an address in Darlinghurst, New South Wales. No actual samples of the items are carried, only descriptive literature, and after the money has been paid customers are told not to expect receipt of the goods for at least 120 days and therefore not to bother to inquire before that time. I believe this could be a legitimate business, but I believe that the techniques used as described by my constituents warrant investigation.

The Hon. L. J. KING: I think the activities of this organization were the subject of a previous question, but I am not sure how long ago. The matter having been raised again, I shall have further inquiries made. I think that probably the activities to which the honourable member refers have already received my attention. Naturally, the provisions of the Book Purchasers Protection Act are in some respect less stringent than the requirements of the Door to Door Sales Act which will come into operation tomorrow. Under the Book Purchasers Protection Act it is still possible to refund a deposit within the cooling-off period, but under the Door to Door Sales Act this is not possible. This is one of the problems the honourable member has pointed out. I will investigate this, and if the honourable member has further information about the activities of these people I shall be pleased to receive it.

WATER RATING

Mr. EVANS: As a large proportion of Adelaide's reticulated water is wasted as a direct result of this Government's out-dated water rating system, will the Government help save our natural resources by introducing a rating system that will encourage water saving and not water usage and also help save our native fauna and flora? There is no doubt that because of the water rating system factories do not recycle water through their plants but flush it out through their drains or sewerage system, and householders tend to use up the quota of water allocated because they are rated on a proportion of the value of their property and they use the volume allocated to them. We are considering building more reservoirs in the Adelaide Hills, and I refer especially to the Clarendon reservoir. If we could use less water it might not be necessary to build the Clarendon reservoir for 20 years or more, and by then, because of improved methods of desalination, we might not need the Clarendon reservoir at all. We could then save the native gums and other flora in the valley the dam would cover. In building the dam thousands of acres of flora would be destroyed and the bird life now in the Onkaparinga River area would be destroyed. Also destroyed would be the few kangaroos remaining in a native state, as well as the smaller marsupials, including the marsupial mouse. I believe that, if we could only bring about conservation of water by this method, we could save possibly 30 per cent of the water consumed at present and the new system of water rating would be warranted.

The SPEAKER: The honourable member is commenting.

Mr. EVANS: I will further explain my question by saying that I believe that the Minister of Works has a report recommending an improved system. Will he introduce the improved system of water rating?

The Hon. J. D. CORCORAN: I take it from the honourable member's comments that he opposes the construction of the Clarendon dam.

Mr. Evans: If it is unnecessary, yes.

The Hon. J. D. CORCORAN: I do not suppose the department would recommend it if it were unnecessary. Nevertheless, I want to tell the honourable member (he thinks it might be unnecessary but he is not sure) that he should know and would know that the points he has raised are currently being considered by the Engineering and Water Supply Department. He would also know that the Sangster committee report was received by this Government 15 months ago—

Mr. Evans: That's right.

The Hon. J. D. CORCORAN: —and I emphasize that it was 15 months ago. That report is still being evaluated by a working committee of the department. I discussed with the Engineer-in-Chief, I think about a fortnight ago, the matter to which the honourable member has referred, and it may still be three to four months before we receive any recommendations from this committee.

Mr. Millhouse: That is the committee on the committee!

The Hon. J. D. CORCORAN: The honourable member is being facetious.

Mr. Millhouse: No; I'm just—

The SPEAKER: Order! There must be one question at a time. The honourable member for Mitcham is out of order.

The Hon. J. D. CORCORAN: If Cabinet decides that the matter should be referred to the Treasury, that will be done, because the Treasury will naturally want to examine the matter.

Mr. Millhouse: When will that be?

The Hon. J. D. CORCORAN: I think the honourable member will appreciate the complexity of the problem. I say seriously that the matter has not been delayed deliberately or unduly: the committee has constantly worked hard on it.

The Hon. D. N. Brookman: We would appreciate it more if you would release the report.

The Hon. J. D. CORCORAN: The honourable member is being rather ridiculous, because he knows that we would not consider releasing the report until the whole matter had been thoroughly examined by the Government.

The Hon. D. A. Dunstan: It would be like the M.A.T.S. Report.

The Hon. J. D. CORCORAN: Yes, it would be exactly like the fiasco with that report. I have said that, when the report is finally used by the Government, we will consider whether or not we will release it. All these matters are being investigated by the Government, and I think it will be some time yet before I can announce the outcome of the Government's deliberations on the matter. In many respects, I do not disagree with what the honourable member says, but it is just not as simple as he suggests, and I think he appreciates that, too.

There is something in what he suggests: if a person pays for what he uses, he will be more careful about the quantity he uses. However, we do not expect the demand on our system to remain as it is; we expect it to increase. Therefore, even if we make any savings in respect of the current situation, that does not necessarily mean this will meet the situation in 10 or 15 years time.

Mr. Evans: This could be a chance at desalination.

The Hon. J. D. CORCORAN: Yes, in 20 years time. Some research has been undertaken into this matter, but we are not actively pursuing it at present, because of the cost involved. However, we are closely watching oversea development in this area and, if any further examination of the position is needed, it will be made. I want the honourable member to appreciate the complexities of the problem he has raised. Because of these complexities, it has taken this working committee so long to evaluate the Sangster committee's report. I want him to appreciate also that the Government still has not received that working committee's recommendations and that it must wait for those recommendations before taking any further action in the matter.

FIRE-FIGHTING VEHICLES

Mr. GOLDSWORTHY: Will the Minister of Works ask the Minister of Agriculture to investigate the increased third party premium charged in connection with vehicles used solely by organizations registered under the Bush Fires Act, with a view to having the rates substantially reduced? I have a letter from the secretary of a fire-fighting organization in the country, which is a completely voluntary organization, and I should like briefly to quote from that letter. It is in connection with a substantial increase in premiums now that the collection of these premiums is administered by the Motor Vehicles Department. The letter states that the department has insisted on the increased charge but, be that as it may, the premiums of the organization concerned have risen from $6 to $40. Among other things, the letter states:

> I point out that all organizations registered under the Bush Fires Act are volunteer organizations, whether E.F.S. units or not. I think the new charge stinks and certainly does not give any encouragement to people who give much time and energy to fire protection.

I think that fairly succinctly sums up the feelings of others who are connected with volunteer fire-fighting organizations. An examination of the schedule made available by the Motor Vehicles Department indicates that in respect of Fire Brigade vehicles, which are manned by personnel in the employment of the State, the premium is $5 a vehicle, whereas the premium on vehicles used by the volunteer organizations is under a miscellaneous class and is exactly double the premium payable in respect of Fire Brigade vehicles. This seems to me to be anomalous, and I completely agree—

The SPEAKER: The honourable member is permitted to explain his question but not to comment.

Mr. GOLDSWORTHY: I ask that the Minister of Agriculture take up this matter with a view to having the premium in question substantially reduced.

The Hon. J. D. CORCORAN: As I think the matter is one for the Motor Vehicles Department, the Minister of Roads and Transport may care to comment on the question.

NARACOORTE HIGH SCHOOL

Mr. RODDA: Can the Minister of Works, who is in charge of the activities of the Public Buildings Department, throw some light on the reason for the delay in completing the change-room and shower block at the Naracoorte High School? On November 4 last, I asked a question of the Minister of Education about this work, the contract for which was let on February 12, 1971. The Minister was kind enough to tell me on November 24 that there had been some difficulties at Naracoorte with regard to contracting but that it was thought by the department that this building would be completed by the commencement of the 1972 school year. At present, the brick walls of the building in question are constructed to about window height, and the timber window and door frames have been attached to this unroofed section. The timber has been exposed to the weather experienced last winter and now to the summer heat, and this is not doing it any good. The school opened in February with 691 students, and the enrolment has now been increased to 696 (366 girls and 330 boys). The girls have no shower facilities at the school, and the boys have only the old two-shower system that was installed when the school opened. The contractor comes from Lucindale. No work whatever was done on this building for some weeks before Christmas. I shall be pleased if the Minister will look at this contract. Arguments have taken place between the subcontractors and the contractor, and it is the students of the Naracoorte High School

who are suffering. In this case only the Minister's intervention will enable the building to be completed.

The Hon. J. D. CORCORAN: I regret very much hearing that this situation obtains at Naracoorte. I assure the honourable member that someone will get a rocket and that we will get things moving.

DARTMOUTH DAM

Mr. COUMBE: Can the Premier say whether the agreement on the financial aspects of Dartmouth dam has now been finalized and what escalation of costs has occurred as a result of South Australia's delay in ratifying the agreement after the three other parties had passed enabling legislation at least three years ago? Also, can the Premier say what will now be the Commonwealth Government's financial contribution to the proposed scheme?

The Hon. D. A. DUNSTAN: There is no escalation of costs as a result of the negotiations that took place between South Australia, the Commonwealth and the other two States regarding the Dartmouth agreement. The escalation of costs that has taken place would have taken place in any event.

Mr. McAnaney: Come on!

The Hon. D. A. DUNSTAN: In any event. The honourable member obviously was not aware of the time table in the original proposal; perhaps he had better look at the history of the matter. I will read to the House the following reply given by the Prime Minister on this subject to me (and a similar reply was given to the Premiers of the other States):

I refer to your letters of October 22 and November 26, 1971, concerning arrangements for the proposed Dartmouth reservoir. The Government has given consideration to the whole question of the proposed reservoir, and I am pleased to inform you that the Commonwealth would be prepared to proceed with the project as set out hereunder. Following the bringing into operation of the relevant Commonwealth and State legislation, the Commonwealth would be prepared to have a formal review in accordance with subclause (2) of clause 5 of the Dartmouth Reservoir Agreement, based on a revised estimate of $64,000,000. Upon such review, the Commonwealth would be prepared to agree to make payments by way of loan under clause 5 (1) of that agreement up to a maximum of $8,800,000 to each State on the basis of the cost estimate of $64,000,000 plus 10 per cent escalation.

On the assumption that all four Governments proceeded with the project, the Commonwealth would, of course, also meet its own one-quarter share of the actual cost of the project. I am informing the Premiers of Victoria and New South Wales in similar terms. If all are agreed to proceed on this basis, I would propose that my colleague, the Minister for National Development, should arrange with the Ministers concerned in the three States for an appropriate date for the proclamation of the legislation associated with the Dartmouth Reservoir Agreement and the amendments to the River Murray Waters Agreement. I would envisage that the commission would then, in accordance with clause 24 of the River Murray Waters Agreement in its amended form, notify the contracting Governments of this revised estimate of $64,000,000. The four Governments would then, upon review, agree as indicated above for the purposes of clause 5 (2) of the Dartmouth Reservoir Agreement and would notify the commission, in accordance with clause 24 of the River Murray Waters Agreement, that they concurred in the work proceeding, subject to the proviso that Governments would again be advised if at any time the cost estimate of $70,400,000, that is $64,000,000 plus 10 per cent escalation, was likely to be exceeded.

I understand from the Governments of the other two States that, in fact, this is in accordance with their request to the Commonwealth. At present, the Commonwealth Minister for National Development is arranging a date for the proclamation of all legislation to coincide. It is expected that diversion works for the dam will be commenced in about May this year.

LAKE BONNEY

Mr. HALL: Will the Premier make a clear statement to the House that the Government will not under any condition divert further drainage waters from Barmera into Lake Bonney? Last Thursday I visited Barmera and, whilst talking to local residents at the caravan park fronting Lake Bonney, my attention was drawn to a reported statement by the Premier in the *Murray Pioneer* of January 17. The Premier was speaking as a special guest at the twenty-fifth anniversary dinner of the Barmera Community Centre. Part of the report states:

"In any planning for Barmera, involving tourism or other purposes, a prime consideration must be obviously given to the matter of Lake Bonney," said Mr. Dunstan. "This must, and will, involve consideration of all aspects, the lake's obvious attraction as a tourist-puller, pollution, Murray salinity, and environment control." There had been in recent weeks some concern expressed here about the possible use of the lake in river regulation and its possible use as a control mechanism to dispose of drainage water. He explained that salinity investigations were being made, but before any decision was made on the future of the lake there would have to

be detailed field and other studies and the fullest consultations. But, he stressed, the fullest consideration would be given to the sociological and environmental aspects of the problem. This plainly included consideration of the lake's value as a tourist attraction.

The Premier, by this statement, has revealed that the Government has not yet decided against turning Lake Bonney into an evaporation pond for drainage waters. This situation is greatly distressing local residents, and indeed all Murray River residents, who believe this attractive area of recreational waters must be retained as one of the river's most enticing tourist drawcards. These local residents say that it is unthinkable that in this age, when so much emphasis is placed on conservation, the Government has given no clear indication whether or not it will destroy South Australia's main tourist lake. I therefore put the question to the Premier, trusting that he will have the courage to declare now just what is the Government's policy in regard to Lake Bonney.

The Hon. D. A. DUNSTAN: The Leader is obviously carefully glossing over the facts in relation to Lake Bonney. He must know that there is, in fact, drainage water going into Lake Bonney .

Mr. Hall: I didn't say there wasn't.

The Hon. D. A. DUNSTAN: The Leader is asking me to cut it off.

Mr. Hall: No.

The Hon. D. A. DUNSTAN: The Leader said that no further drainage water was to go into Lake Bonney.

Mr. Hall: Correct.

The Hon. D. A. DUNSTAN: Should we cut off what there is now? The studies in relation to Lake Bonney will include proposals to see to it that we improve Lake Bonney. There is a real problem in relation to this lake in keeping the water at a satisfactory level of purity for tourist purposes. As the Leader must know if he has had a look at the engineering in the area, this is a real problem indeed. Until the evaluation of all the possible alternatives in order to ensure that we maintain Lake Bonney has been looked at, I cannot make an announcement for the Leader. What I have told the people of Barmera is that the Government considers Lake Bonney to be a major tourist attraction that we want to maintain. That is the position and aim of the Government.

Dr. TONKIN: Can the Minister of Works say (although, perhaps, the Premier may care to have a hand in the reply) how often analyses are made of the discharge from Drain No. 2 into Lake Bonney at Barmera and what is the result of the most recent examination? Originally I had another part of this question, in which I asked what action was being taken to deal with this source of pollution of the lake. However, it is obvious from the unsatisfactory reply given by the Premier that no action is being taken, so, if I may, I will explain the first part of the question. While I was at Barmera and on Lake Bonney recently, I and other people were shown an area of the lake around the drain discharge point that was totally discoloured over an area of about 100 yards or up to 200 yards, and dead fish were floating on the shores of the lake at that point. I have been told that a difficulty in keeping the lake clean is that the only inlet to it is through Chambers Creek, which has a navigable channel now of about eight miles. We were shipwrecked in traversing that channel. It seems to me that a proposal has been made that fresh water farther upstream should be brought into the head of the lake through a pipeline or canal and that some other action should be taken to keep Lake Bonney clean. Apart from that, it has also been stated that a logical first step would be to prevent the discharge from Drain No. 2 from going into the lake. The Premier has given a most unsatisfactory reply. I think we all agree that the lake is a tremendous tourist attraction, a wildlife sanctuary, and an area that must be preserved. The Government should do more than institute investigations. Surely there is one direct action that it can take in relation to Drain No. 2.

The Hon. J. D. CORCORAN: As I understood the question, it was contained in the first few words that the member uttered. The remainder of what he said was comment and debate on the whole situation. The honourable member suddenly has become an expert on the Murray River and its backwaters, and I think he should have read the Gutteridge report before he made some statements recently. However, I will have the information that the honourable member seeks looked up. I do not know what the results were or when the most recent test was made, and I think that is what the honourable member has asked.

SWIMMING POOLS

Mrs. BYRNE: Will the Premier have the existing power relating to standards for private swimming pool safety examined with a view to its being strengthened or with a view to new legislation being introduced? The Premier

will be aware that I have raised this matter four times previously, but regrettably tragedies continue to occur. Yesterday, a local newspaper report stated that four such accidents had occurred this year. I am aware that the Local Government Act at present empowers a council to require the fencing of a swimming pool if it presents a danger to people's safety. I also know that the provisions in the Building Act refer to a pool as building work. However, there is a possible deficiency in relation to pools that had already been constructed before the new Building Act was introduced. The report in yesterday's newspaper states that the Swimming Pool Institute of South Australia believes that standards for pool safety now enforced in Western Australia could be used as a basis for standards in South Australia. As existing legislation here is obviously inadequate and certainly not effective, I ask that the matter be urgently considered.

The Hon. D. A. DUNSTAN: I shall have the matter examined.

DRIVERS' LICENCES

Mr. NANKIVELL: I understand from reading the newspaper that a Ministerial statement has been made concerning a substantial change that is proposed in the form of drivers' licences. Will the Minister of Roads and Transport explain in more detail what is intended by this change and say whether, as in my own case, whereas I could previously drive a motor cycle, a motor car and a motor truck on one licence I would now be required to have three licences or one licence endorsed for three purposes, and whether I would need to pay three separate licence fees in order to have issued to me the licences previously issued for one fee payment?

The Hon. G. T. VIRGO: I gave notice today that I would seek leave tomorrow to introduce a Bill and, subject to the concurrence of the House, I will explain the Bill so that all will be made known. The honourable member should have no fear whatever, because he will be charged only the one fee although, if he is capable of driving a motor cycle, a motor car, a motor lorry or even a bus, he will be able to drive all four on one licence for one fee. However, he will not need a licence to ride a horse.

TRACTOR SAFETY

Mr. LANGLEY: Will the Minister of Labour and Industry consider the provision of further protection for bulldozer and heavy machine operators? A bulldozer operator was recently crushed to death while demolishing a wall, when debris fell on his vehicle. The number of heavy vehicles has increased greatly over the years but it appears that the safety measures in respect of machine operators are insufficient. Improved safety provisions could reduce the number of casualties in the future.

The Hon. D. H. McKEE: I will have the honourable member's suggestion examined, but the honourable member will know that a Select Committee is currently sitting and the committee's terms of reference include the consideration of all matters associated with tractors and all other vehicles. This is one question that has been raised with that committee.

CONSTITUTIONAL CONVENTION

Mr. MILLHOUSE: Will the Attorney General amplify the announcement last Friday following a meeting of State Attorneys-General concerning the constitutional convention proposed to review the workings of the Commonwealth Constitution? I know it is understood by the Attorneys-General that the host Attorney makes an announcement before and after meetings of the Standing Committee of State and Commonwealth Attorneys General. However, this meeting, as I understand it, was peculiar because the Commonwealth Attorney General was not present. As this is a matter of great importance to future development and certainly the constitutional future of Australia, I ask that the Attorney General make as much detail on the matter as possible available to members of this House. As I understand the convention will be held at Albury, I ask when it will take place, which bodies are to be invited, and who will chair the meeting. Further, what is the policy of the present Government and does it still support the proposal contained in the Commonwealth platform of the Party to clothe the Commonwealth Parliament with unlimited powers?

The Hon. L. J. KING: True, on Friday last there was a meeting in Melbourne of a steering committee created for the purpose of arranging a constitutional convention. Some time ago the Victorian Government communicated with the South Australian Government and suggested that there should be a constitutional convention. The South Australian Government was invited to take part in discussions relating to the form that this convention should take. The invitation was accepted and the initial step proposed by the

Victorian Government and acceded to by the South Australian Government and the other State Governments was that there should be a steering committee to make initial arrangements and explore the possibility of arranging for a convention. It so happened that the members of that steering committee were the Attorneys-General of all the States, because the Government of each State nominated its Attorney General as the Minister to take part in the deliberations. The steering committee has now agreed that certain recommendations be taken back to the respective Governments. In our case the recommendations have not yet gone before Cabinet, but I expect that they will be discussed when Cabinet meets next Monday. A statement was made by the chairman (the Victorian Attorney General) after the meeting and I am therefore at liberty to disclose what was contained in that statement and to explain the matters involved.

The first decision taken, by way of recommendations to the respective Governments, was that there should be a constitutional convention. A matter that was much discussed by the steering committee was the part that the Commonwealth Government should play. Various viewpoints were expressed on this matter and the view of the South Australian Government, which I expressed at the meeting, was that the Commonwealth Government should be involved at a very early stage. At the meeting I insisted that the South Australian Government's view be adopted and that an approach should be made to the Commonwealth Government. It was decided that an approach should be made to the Commonwealth Government to seek its views on participation in the convention. The matter rests there until the attitude of the Commonwealth Government is known. Another recommendation of the steering committee is that the convention should consist of delegates who are Parliamentarians and that the maximum number of delegates from any one Parliament should be 10. It was also decided that the delegates should be elected by the respective Parliaments and the intention expressed by the committee was that the delegation should represent the widest possible spectrum of views existing in those Parliaments.

It is true that it was recommended that the convention be held at Albury. However, it is not known when it will be possible to hold the first session. It was thought that it would probably be difficult to arrange a convention before September, but much depends on the position in the various Parliaments and the commitments of those people who would form the delegations. I stress at this stage that everything that I have said now simply represents the decision made by the steering committee to take recommendations back to the respective Governments, and at this stage I cannot take the matter any further than that. It is proposed that an agenda be drawn up and the steering committee's recommendation is. that, before items are submitted for the agenda, there should be consultation with the various points of view represented in the Parliaments, including those of Oppositions, of third Parties in those cases where there are third Parties, and also of Upper Houses. Also, some attempt should be made at consultation with other interested bodies in the community who may have suggestions about the agenda.

As I say, the South Australian Government will discuss the matter on Monday. I think it important for me to stress at this stage that South Australia, or indeed any other of the States, is at this stage not committed to participate in the convention, and it may be that the final decision about whether this exercise would be worth while will depend on the Commonwealth Government's attitude and approach. At present, South Australia is committed no further than saying that the South Australian Cabinet will consider the recommendations made by the steering committee and, if it approves them, the initial steps will be taken along the lines I have referred to as to the formulation and framing of an agenda. However, I must say, speaking for myself at present, that much depends on the reaction of the Commonwealth Government when it is approached.

There was one further matter dealt with in the question asked by the honourable member that I am sorry I almost overlooked. I think it important for me to say that the situation that we in this country face is that we have a federal system and, whatever views may be entertained on whether that is the most desirable form of Government for South Australia, either now or in future, it exists and will continue to exist, I should think, during the political life of both the member for Mitcham and me. Certainly, as far as one can see, the federal system will be the basis of the constitutional arrangements in this country and it is therefore incumbent on everyone to see that within that context the constitutional arrangements are such as to best serve the interests of

the community. Consequently, the purpose of the South Australian Government in entering upon an exercise of this kind would be to try to secure the enactment of constitutional alterations and arrangements that may best make the federal system work in the interests of the whole country and in the interests of South Australia.

RESOURCES OWNERSHIP

Mr. HOPGOOD: Will the Leader of the Opposition say whether he was enunciating Liberal Party policy when he suggested to the Young Liberals convention in Queensland recently that Australia should do more to retain ownership of its resources? If he was enunciating Liberal Party policy, can he say why his Commonwealth Government colleagues have been active in contravening this policy for so long? If he was not enunciating Liberal Party policy, will he use whatever influence he has in his Party to induce it to adopt this policy, which has long been a cardinal plank in the Australian Labor Party's platform? If the Leader will do none of those things, will he admit that a Young Liberals convention in Queensland is an extremely comfortable place at which to make pseudo-radical statements?

The SPEAKER: The question asked by the member for Mawson has nothing whatever to do with the business of the House.

Mr. HALL: Mr. Speaker—

The SPEAKER: I have ruled the question out of order because it has nothing to do with the business of the House.

ONKAPARINGA BY-PASS

The Hon. D. N. BROOKMAN: Can the Minister of Roads and Transport say when it is expected that the Onkaparinga River by-pass at Noarlunga will be completed and in operation? The Minister said in July, 1970, that he expected the work to begin in November of that year and that the work would take about 18 months. That time will expire in May, in about two or three months time. I ask the Minister whether the work will be completed on time and, if not, when it will be completed.

The Hon. G. T. VIRGO: I know that the time for completion is some time this year, but I will try to get more accurate information and let the honourable member know.

CLARENDON RESERVOIR

Mr. EVANS: Will the Minister of Environment and Conservation have his officers carry out a survey to find out the effect that the construction of the proposed Clarendon reservoir is likely to have on the native flora and fauna in the Onkaparinga valley?

The Hon. G. R. BROOMHILL: I shall be pleased to do that.

PORT LINCOLN SHOPPING

Mr. CARNIE: Can the Minister of Labour and Industry say whether the decision to hold a poll on the abolition of the Port Lincoln shopping district was made by him or by Cabinet? Why was it considered necessary to hold such a poll when the Government obviously intended to take action concerning the alteration of shopping hours throughout the State? Why were people under the age of 23 years prevented from voting? I understand that only people who were on the electoral roll before a specified date were permitted to vote and this precluded many shop assistants from voting because many shop assistants in Port Lincoln are under 23 years. For a Government which has introduced 18-year-old voting, this was an odd decision.

The Hon. D. H. McKEE: The Minister has the authority to call for a poll when such a decision is to be made and that is exactly what took place. The Returning Officer for the State was in charge of conducting the poll. As I am not familiar with the last matter referred to, I will obtain a report on it.

FISHING LICENCES

Mr. BECKER: Can the Minister of Works, representing the Minister of Agriculture, say whether applications for fishing licences are treated in the strictest confidence? On the application form for a fishing licence the applicant is asked to disclose the quantity of fish caught over a three-year period and other relevant information concerning the value of the catch is required.

The Hon. J. D. CORCORAN: I take it that the honourable member is referring to B class licences and not A class licences?

Mr. Becker: Yes.

The Hon. J. D. CORCORAN: I will refer the matter to the Minister of Agriculture for his reply but I should think it would be the case that any information given on the application would be treated in the strictest confidence. I take it that the honourable member is inquiring because he does not want any collusion between the Fisheries Department and the Taxation Department.

PUBLIC WORKS EXPENDITURE

Mr. McANANEY: Can the Treasurer explain why only $77,500,000 was spent in the first seven months of this financial year on public works when the expenditure of an additional $6,000,000 over this period would have reduced considerably the number of unemployed persons in this State? The allocation for public works in this financial year was $142,000,000 and on a proportionate basis $83,000,000 should have been spent by the end of January. Why was no effort made to boost the economy? Alternatively, was there a breakdown in administrative initiative?

The Hon. D. A. DUNSTAN: There has been no breakdown in administrative initiative. I will bring down a full report to the honourable member tomorrow dealing with his arithmetic.

EFFLUENT DRAINAGE

Mr. VENNING: Can the Minister of Works say when a decision will be made regarding the attitude of the Government toward the financing of effluent systems in country areas? When the Minister of Health visited Port Augusta recently, he said that the Public Health Department would help the city council provide an overall effluent drainage scheme for the city. He told the council that the department would design and survey the scheme which would take in the two-thirds of Port Augusta not already serviced by effluent drainage. Mr. Shard said that State Cabinet would consider soon a request by the council—

At 4 o'clock, the bells having been rung:

The SPEAKER: Call on the business of the day.

COLEBROOK HOME

Mr. MILLHOUSE (on notice):

1. When did the Minister receive the report on the use of Colebrook Home?

2. Is the Minister still studying it?

3. If so, when does he expect to complete his study of it?

4. Will the report then be made public?

5. If it is not to be made public, has a conclusion been reached on the future use of the home and what is that conclusion?

The Hon. L. J. KING: The replies are as follows:

1. The report was completed by the committee in June, 1971, and furnished to the Minister in July, 1971, for his study.

2. Yes.

3. The report raises many complex issues in relation to residential facilities for Aborigines which need careful consideration. The recently formed Aboriginal Resources Branch of the Department of Social Welfare and of Aboriginal Affairs will evaluate the report in the context of total needs and priorities.

4. The question of publication of the report will be further considered when the evaluation is completed.

5. A conclusion has been reached in relation to the old buildings now established as Colebrook Home. These are beyond satisfactory repair and are not providing the physical conditions for the quality of care desired for Aboriginal children. There has been recent consultation with the United Aborigines Mission executive and agreement has been reached for the continuation of the mission's work in a different location. These arrangements will be implemented in the next six months. Once the present building is vacated it will be demolished and the site will then become an open park area until the new plans are decided upon.

LAW REFORM COMMITTEE

Mr. MILLHOUSE (on notice):

1. When are the members of the criminal and penal law reform committee to be appointed?

2. What has held up the appointment of the members?

3. What will be the terms of reference of the committee?

4. When is it expected that the committee will report?

5. Will the report be made public?

The Hon. L. J. KING: The replies are as follows:

1. The committee was established on December 14, 1971.

2. The process of seeking the services of the best qualified persons to serve on the committee and of negotiating for their appointment.

3. The terms of reference of the committee are as follows: The committee to examine and to report and make recommendations to the Attorney General in relation to the criminal law in force in the State and in particular as to whether any, and if so what, changes should be effected *(a)* in the substantive law; *(b)* in criminal investigation and procedures; *(c)* in court procedures and rules of evidence; and *(d)* in penal methods.

4. The committee will make reports from time to time on various topics within the scope of the inquiry. It is not possible to indicate when these reports will be available.

5. Yes.

PUBLIC WORKS COMMITTEE REPORTS

The SPEAKER laid on the table the following reports by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

Clarendon Dam,
Mount Gambier Technical College Additions,
Albert Park to Hendon Railway Line (Interim and Final Reports),
Glanville to Semaphore Railway Line (Interim Report),
Parliament House Redevelopment,
Tea Tree Gully High School.

Ordered that reports be printed.

BOOL LAGOON

The SPEAKER laid on the table the report by the Parliamentary Committee on Land Settlement on a proposal to improve the water flow through Bool Lagoon to the outlet drain.

Ordered that report be printed.

CRIMINAL INJURIES COMPENSATION ACT AMENDMENT BILL

The Hon. L. J. KING (Attorney General) obtained leave and introduced a Bill for an Act to amend the Criminal Injuries Compensation Act, 1969. Read a first time.

The Hon. L. J. KING: I move:

That this Bill be now read a second time.

Before explaining the Bill, I thank all members, particularly Opposition members, for their co-operation in agreeing to a suspension of Standing Orders to enable the second reading explanation of this Bill and of three other Bills to be given. This will mean that members will have an opportunity to consider these Bills, as it is not intended that the second reading debate should proceed before Thursday next.

The Bill is designed to make the provisions of the Criminal Injuries Compensation Act more comprehensive and to improve its operation in a number of respects. The Bill widens the definition of the "offences" upon which claims for compensation may be founded to include conduct that would constitute an offence if it were not for the insanity of the perpetrator or for the fact that some ground of excuse or justification exists at law in respect of the conduct. Thus, if a person injures another in circumstances that would normally constitute an offence but it subsequently appears that he was insane at the time, or acting as an automaton, or acting in defence of his person, the injured person may nevertheless bring a claim for compensation under the Act. The Bill also deals with procedural matters. It is felt that questions of compensation raise difficulties that justices cannot be reasonably expected to resolve. Accordingly, the Bill provides that, when an application for compensation is made to justices, they should refer the matter to a court constituted of a special magistrate. A new provision is inserted in the principal Act dealing with service of the application for compensation. This arises out of a case in which a defendant was dealt with by a court but had disappeared before the application could be served upon him. The court is empowered by the Bill to dispense with service upon a person against whom an order is sought where his whereabouts is not readily ascertainable or where there is no reasonable likelihood that he will satisfy the order. Finally, the Bill removes the responsibility of paying claims that are made on the general revenue in pursuance of the Act from the Treasurer and places it upon the Attorney General.

The provisions of the Bill are as follows: Clauses 1 and 2 are formal. Clause 3 amends the definition of "offence" to include conduct that would constitute an offence if it were not for the fact that the actor was insane or grounds of excuse or justification exist in law in respect of his conduct. Clauses 4, 5, 6, 8 and 9 remove references to the Treasurer and replace them with references to the Attorney General. Clause 7 enacts new sections 7a, 7b and 7c of the principal Act. New section 7a provides that, where an application is made under the principal Act to justices, the justices must refer the matter to a court constituted of a special magistrate. New section 7b makes it clear that the Crown is entitled to be heard upon all applications under the Act. New section 7c requires service of any application upon the Crown Solicitor and upon any person against whom an order is sought. Service may be dispensed with in the latter case where the whereabouts of the person against whom the order is sought is unknown and not readily ascertainable, or where there is no reasonable likelihood that he will satisfy the order for compensation.

Mr. MILLHOUSE secured the adjournment of the debate.

EVIDENCE ACT AMENDMENT BILL

The Hon. L. J. KING (Attorney General): I move:

That Standing Orders be so far suspended as to enable me to introduce a Bill and move its second reading forthwith.

I understand that advance copies of the Bill are not available, although copies of the other Bills are available. Nevertheless, I ask the House to enable me to proceed to the second reading explanation of this Bill and if, by reason of the absence of the advance copies, time is desired before the debate resumes, I undertake that that will be facilitated.

Motion carried.

The Hon. L. J. KING obtained leave and introduced a Bill for an Act to amend the Evidence Act, 1929-1969. Read a first time.

The Hon. L. J. KING: I move:

That this Bill be now read a second time.

It arises largely from the first report of the Law Reform Committee, although in some respects its provisions go further than the recommendations of the committee. The most important amendments are undoubtedly those designed to relax the hearsay rules which in certain instances militate against the admission of documentary evidence. There have been cases in recent years in which obvious miscarriages of justice have occurred because reliable documentary evidence has been excluded from a court's consideration by technical rules of evidence. The principal Act at present provides for the admission of bills of lading in evidence without formal proof. The Bill extends this principle, with appropriate safeguards, to other business records and to other documents prepared by a person with first-hand information of the matters to which the document relates.

The Bill also makes other important amendments. The obsolete and in some ways offensive provisions relating to evidence from Aborigines are struck out and more general provisions applicable to any person who does not understand the obligation of an oath are inserted. The grounds upon which a court may permit a witness to make an affirmation instead of an oath are widened to some extent. The provisions relating to the admission of telegraphic messages in evidence are modernized and made applicable to criminal as well as civil proceedings. The provisions for the admission of computer output in evidence are reintroduced. Finally, an amendment consequential upon the repeal of the Administration of Justice Act by the Foreign Judgments Act is inserted in the principal Act.

The provisions of the Bill are as follows: Clauses 1, 2 and 3 are formal. Clause 4 slightly widens the definitions of "electric telegraph" and "telegraph station" in the principal Act. Clause 5 widens the discretion of a court to permit a witness to make a solemn affirmation instead of an oath. Where a witness requests that an oath be administered by means not readily available to the court, the court is permitted to administer a solemn affirmation in lieu of an oath. Clause 6 repeals sections dealing specifically with Australian Aborigines and uncivilized persons and replaces them with a provision generally applicable to persons who do not understand the obligation of an oath. Clause 7 repeals and re-enacts the provisions of section 12 of the principal Act which deals with the admission of evidence from a child under the age of 10 years. The present provision appears to relate only to criminal proceedings, and accordingly a provision of general application is inserted. Clauses 8 and 9 make consequential amendments to the principal Act.

Clause 10 repeals section 45 and enacts new sections 45, 45a and 45b. New section 45 covers much the same ground as the old section which related to the admission of bills of lading and other similar documents in evidence. However, the scope of the new section is widened to cover documentary evidence of the transportation of human beings as well as goods. New section 45a provides for the admission of business records in evidence. Safeguards are inserted enabling a court to prohibit the admission of a business record where it is of the opinion that the person who prepared or directed the preparation of the document should be called to give oral evidence, that the prejudice resulting from the admission of the document would outweigh its evidentiary weight, or that it would be otherwise contrary to the interests of justice to admit the document in evidence. New section 45b is a more general provision enabling a court to admit documentary evidence where it is satisfied that the document was prepared by, or at the direction of, a person with first-hand knowledge of the matters contained in the document. Similar safeguards are adopted relating to the admission of documents in evidence under this section.

Clauses 11 and 12 extend the operation of Part VI of the principal Act, which relates to the admission of telegraphic messages in evidence, to criminal proceedings. Clause 13 makes amendments to section 56 consequential upon the establishment of the office of Solicitor-General and the abolition of the Marine Board. Clause 14 reintroduces the provisions relating to the admission of computer output in evidence. These provisions are, of course, in

accordance with a report of the Law Reform Committee. Clause 15 enacts new section 63a of the principal Act. This new section provides that, where any question as to the law of any other country arises in proceedings before a judge and jury, any question as to the effect of evidence given in relation to that question shall be decided by the judge and shall not be submitted to the jury. A similar provision existed in the Administration of Justice Act. However, that Act was repealed by the Foreign Judgments Act. It was thought desirable to re-enact the provision in the Evidence Act, where it falls more appropriately. Clause 16 makes a consequential amendment to the schedule.

Mr. MILLHOUSE secured the adjournment of the debate.

INHERITANCE (FAMILY PROVISION) BILL

The Hon. L. J. KING (Attorney General) obtained leave and introduced a Bill to assure to the family of a deceased person adequate provision out of his estate. Read a first time.

The Hon. L. J. KING: I move:

That this Bill be now read a second time.

It is designed to replace with more adequate provisions the existing Testators Family Maintenance Act. The general purpose of this legislation is to provide that, where a member of a deceased person's family who has been left by the deceased, contrary to his legitimate expectation, without reasonable provision for maintenance, education or advancement in life, he may claim an allowance for those purposes out of the estate left by the deceased. The present Act applies only in the case of a person who dies leaving a will, and the Bill, which covers cases of intestacy, will bring our law into line with that of England, New Zealand, and certain other States. The Bill also enlarges the classes of potential claimants against the estate of the deceased. This extension also has precedent elsewhere. The Bill makes various other procedural improvements to the existing law. Amongst these are improvements suggested by the Law Reform Committee in its third report.

The provisions of the Bill are as follows: Clauses 1 and 2 are formal. Clause 3 repeals the Testators Family Maintenance Act and enacts transitional provisions. Clause 4 inserts various definitions required for the purposes of the new Act. Clause 5 deals with the application of the new Act to the estates of persons who died before its commencement. Clause 6 describes the classes of person who may claim pursuant to the Act against the estate of a deceased person. Clause 7 provides that, where a person dies and leaves inadequate provision for the maintenance, education or advancement of a person who might legitimately have expected the deceased to make such provision for his benefit, the court may order that provision be made out of the estate of the deceased for that person's maintenance, education or advancement in life. The court is empowered to order that the provision made under the Act should consist of a lump sum or of periodic payments.

Clause 8 provides that an application under the new Act must be made within six months after the grant of probate or letters of administration in respect of the estate of the deceased. The court is empowered to grant an extension of this period. Where an application for extension of time is granted, no order is to be made disturbing the distribution of any portion of the estate prior to the date of the application. Clause 9 provides for the manner in which the amount of an order under the new Act is to be borne. Those who are beneficially entitled to the estate of the deceased are, in general, to bear the additional burden on the estate in proportion to the value of their respective interests in the estate. Where, however, successive interests in property are given by a will, the burden of the additional provision is to be charged against the *corpus* of that property. The clause also contains provisions relating to procedural matters.

Clause 10 provides that an order under the new Act shall, subject to the provisions of the Act, operate in the same manner as a will or codicil. Clause 11 provides that the court may fix periodic payments or a lump sum to be paid by any person to exonerate any portion of the estate to which he is entitled from any charge arising under the provisions of the new Act. Clause 12 enables the court to vary or discharge an order where the person for whose benefit the order is made obtains moneys for his maintenance, education and advancement from other sources.

Clause 13 prohibits a person for whose benefit an order has been made under the new Act from mortgaging or charging, without the permission of the court, the provision to which he becomes entitled in pursuance of the order. Clause 14 protects any administrator of the estate of the deceased from liability to account to any claimant who subsequently

becomes entitled to provision from the estate of the deceased. He incurs no liability to the claimant unless he has had proper notice of the claim. Clause 15 provides for the apportionment of duties payable on the estate of the deceased where an order is made under the new Act. Clause 16 is a special provision to bring the Public Trustee within the terms of the new Act. Clause 17 empowers the judges of the Supreme Court to make rules of court regulating the practice and procedure upon applications under the new Act.

Mr. MILLHOUSE moved:

That this debate be now adjourned.

The DEPUTY SPEAKER: Is the motion seconded?

Mr. MILLHOUSE: Yes.

The DEPUTY SPEAKER: Standing Orders provide that a motion must be moved by a member. They do not provide that the same member can second his own motion. Is the motion seconded?

Mr. MATHWIN: Yes, Sir.

Debate adjourned.

ADMINISTRATION AND PROBATE ACT AMENDMENT BILL

The Hon. L. J. KING (Attorney General) obtained leave and introduced a Bill for an Act to amend the Administration and Probate Act, 1919-1971. Read a first time.

The Hon. L. J. KING: I move:

That this Bill be now read a second time.

It makes a number of miscellaneous amendments to the principal Act. Perhaps the most important of these is the validation of certain long-standing practices upon which doubt has recently been cast by legal opinion. The Public Trustee has, in the past, been accustomed to pay into a common fund all moneys not impressed with a trust for investment in a specific manner. It was assumed that he had power to do this under section 102 of the principal Act. However, a close examination of that provision has disclosed that it applies only to moneys that are received under the Administration and Probate Act. Accordingly, moneys that are received by the Public Trustee pursuant to other statutory provisions and certain court orders would not come within the terms of section 102. Under the rules of equity, the present practice of the Public Trustee could technically be said to give rise to a breach of trust. There is, of course, no logical reason why these moneys should not be invested in the same way as are moneys that come into the Public Trustee's hands under the Administration and Probate Act. Hence, the Bill removes the technical invalidity of the present practice and validates past actions of the Public Trustee in connection with the payment of these moneys into the common fund.

Under section 88a of the principal Act, the Supreme Court may, upon giving judgment in any proceedings, make an ancillary direction that money or property subject to the judgment be paid or transferred to the Public Trustee to be held on behalf of the party in whose favour judgment was given. The Bill extends this provision to enable any court exercising jurisdiction within or outside this State to make such a direction. The Bill increases the amount that the Public Trustee is empowered to borrow on the security of the common fund from $200,000 to $1,000,000. Finally, the Bill provides that the scale of charges to which the Public Trustee is entitled in respect of his services should be fixed by regulation rather than by Rules of the Supreme Court. Their Honours the judges of the Supreme Court have pointed out that the function of fixing these charges is executive rather than judicial and have asked that it be removed from the sphere of their responsibility.

The provisions of the Bill are as follows: Clauses 1 and 2 are formal. Clause 3 amends section 88a of the principal Act. As has been previously mentioned, this section enables the Supreme Court to order that money or property subject to a judgment be transferred to the Public Trustee, to be held by him on behalf of the judgment creditor. The power is extended by the amendment to other courts exercising jurisdiction within or outside the State. Clause 4 amends section 102 of the principal Act. The Public Trustee is authorized to invest all moneys received by him (other than moneys impressed with a trust requiring investment in a specified manner) into a common fund. His past action in investing moneys in this manner without statutory authority is validated. Clause 5 empowers the Public Trustee to borrow up to $1,000,000 on the security of the common fund. The increasing volume of the Public Trustee's business makes a more extensive borrowing power desirable. Clauses 6 and 7 provide for the Public Trustee's charges to be fixed by regulation rather than by Rules of the Supreme Court.

Mr. MILLHOUSE secured the adjournment of the debate.

PLACES OF PUBLIC ENTERTAINMENT ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 17. Page 3169.)

Mr. MILLHOUSE (Mitcham): This Bill has been on the Notice Paper since November 17 and, frankly, I have not heard of any reaction to it in the general community. My first view was that the Bill should be allowed to pass with perhaps only a few general comments. However, there is one matter which, on a closer look at the Bill, I think is of great importance, and I intend to deal with it after I make one general observation with regard to entertainment tax. One of the provisions of the Bill is that entertainment tax, which was imposed by this Government and then speedily taken off (with even greater speed than we had at one time expected that the question of shopping hours would be changed back and forth), is deemed never to have been imposed. That raises a few questions.

We know that for a few weeks entertainment tax was levied by proprietors, in pursuance of the original imposition, on the patrons of entertainments. It was only a few cents in each case, no doubt, but it was levied, and I have no doubt that in some cases payments were made, pursuant to the Act, to the appropriate Government authority. We now have a Bill which provides that this is deemed never to have taken place. One presumes that the Government refunded the moneys paid to it but, of course, this does not cure the situation; indeed, it is impossible to cure the situation, because I cannot conceive that it would be possible for the proprietors of places of public entertainment to have refunded to their patrons what they paid in tax. Therefore, no doubt, the result will be that the proprietors of those places will keep (because they have no-one to give it to) the proceeds which they collected, believing it would be payable in tax. This is a farce; it is the sort of thing which should not have occurred, and it is the sort of thing about which the Opposition has complained.

This Government is rather fond of saying and doing one thing one day and then changing its mind and direction the next. When I say that, I sympathize with the Government in its present dilemma over the shopping hours impasse. It is perhaps for the general community a far more serious matter than is entertainment tax. One can see from the looks on the faces of Government members today that they certainly regard it as of the utmost gravity. This is another example of the same on-off mechanism that we have seen from the Government, which does not seem to know its own mind. I think I have said enough on that topic, and I will now pass to what I consider is a grave flaw in the present Bill. I should be grateful if all members would look at proposed new section 16a of the Bill. In his explanation about this new section, the Minister said:

> Clause 9 repeals and enacts new sections 16 and 16a of the principal Act. Provision is inserted in new section 16 empowering the Minister to cancel a licence if the proprietor of a place of public entertainment has committed an offence against the principal Act or is not a fit and proper person to be the proprietor of a licensed place of public entertainment, or if offences against the principal Act or any other Act or law are habitually or frequently committed in the place of public entertainment. In the event of the cancellation of the licence, the proprietor may appeal to a local court of full jurisdiction.

So far, one could have little objection, but I just wonder how many miscellaneous jurisdictions we are imposing, or are going to impose, on Their Honours the Local Court judges. Since the previous Government brought in the scheme of intermediate courts in South Australia, the number of miscellaneous jobs given to the judges by the present Government is quite high, and the process is going on.

The Hon. L. J. King: Do you disapprove?

Mr. MILLHOUSE: I do not disapprove, but I am mildly surprised in view of the opposition, voiced by the colleagues of the Attorney General, to the original scheme. But now, again, as with entertainment tax, the Government has turned completely the other way, and is giving as many jobs to that court as it can, although I make no complaint about that. However, I now go on with the explanation given by the Minister, and this is the part to which I object:

> New section 16a empowers the Minister to direct the Commissioner of Police to prevent the conduct of a public entertainment where the Minister is satisfied that the entertainment would involve a breach of the law.

There is a number of principles involved here. First, this Parliament is being asked to give to a Minister the power to direct the Commissioner of Police in the exercise of his powers. One may say, "All right, in this case the power of direction is limited to one matter." As all members know, going on in the community today (and no doubt it will be introduced in this House in due course) is a

controversy about the position of the Commissioner of Police, concerning whether or not he should be subject to the control of the Government of the day, whether he should be answerable to Cabinet or to an individual (a Minister), or whether he should ultimately be answerable only to the two Houses of Parliament. I give the warning that this amendment introduces the principle of direction of the Commissioner of Police, and, if nothing is said about it, it may well be used by our friends opposite later on as a reason why generally the Commissioner of Police should be subject to direction by the Government of the day. I therefore raise it at this stage, because I should not like it to go without notice during this debate.

But that is not the only objection that I have to this provision. No doubt it is meant to cover a certain case. Let us take an example. I am talking off the cuff, as it were, but I think members will correct me if I am wrong. Say a pop festival is to be held under conditions that the Minister regards as entirely unsuitable and unsatisfactory. At present it would be possible to prosecute but not prohibit. This proposal would allow the Minister, if he formed the opinion that the conditions were unsuitable, to prohibit the holding of the festival and to direct the police to enforce the prohibition. That is what it comes to.

When put that way it sounds all right, but what if, in fact, the Minister is mistaken? What if his opinion is based on facts that turn out to be inaccurate? What if as a result the promoters of the pop festival suffered great damage? If the festival is prohibited and people are turned away, undoubtedly the promoters, if they are in it for gain (as they will be), will suffer a loss. (Of course, if they are not in it for gain, they cannot suffer a loss.) They have no remedy under this clause; there is no appeal for them to any court; they have no right to damages against the Government for the prohibition, on the say-so of the Minister, of an action which is not, in itself, unlawful.

This seems to me to be a new and undesirable principle which should not be allowed to creep into the law. Frankly, I do not know the answer to this, because I admit that it was only recently (in fact, in the last hour or so) that, having scrutinized the Bill, I came across this imperfection in it. I ask the Attorney to consider these matters; certainly, they will be raised again during the Committee stage. I believe that as a principle it is quite wrong for Parliament to give the Minister a power of discretion which may injure, perhaps unjustifiably, a person in any sort of business undertaking and give that person no redress whatever. That is the position, and that is the other matter to which I draw attention in new section 16a, which is enacted by clause 9. I can see what the Government wants to do and I sympathize with it. The promoters of a pop festival may say, "To hell with you; we are going on with this. You cannot stop us and we will risk a prosecution."

The Hon. L. J. King: This in fact happens.

Mr. MILLHOUSE: Yes. That is undesirable, but this is not a good way to get around it, because it will create (and the Attorney, on reflection, will agree with me) a grave danger of injustice to an individual. At the least, we should give the person some remedy and some right to compensation if it is subsequently found that the Minister has acted hastily or ill-advisedly. There is no need for me to say any more at this stage about the matter. I hope members on both sides will give some thought to this provision. Apart from that, the Bill seems to me to be unexceptionable, and I do not propose to vote against its second reading. It gives added discretion to the Minister in cases in which I think it is perfectly all right, but on the matter I have mentioned I suggest that, when we get to the Committee stage, some more thought should be given.

Mr. COUMBE (Torrens): The only matter I shall speak on, briefly, is new section 16a, which has just been referred to by the member for Mitcham. Under this provision the Minister, if he is satisfied that certain things are occurring, may direct the Commissioner of Police to take certain action that may result in the closure of a place of public entertainment, which would prevent its being used for the conduct of a certain entertainment. As I approach this matter, I am reminded of a certain principle regarding the direction of the Police Force by the Government. My dilemma, as I am sure it was the dilemma of the Government, was in relation to the proposed staging last year of *Oh! Calcutta!* which was to have taken place in my electoral district. At that time, the Minister took quite a different point of view in replying to questions that were asked on that matter. I was not very keen on seeing *Oh! Calcutta!* go on—not because I am a prude (I am far from that) but because of the number of objections raised by constituents

of mine and constituents in adjoining areas to that production.

However, as I understood the matter then, the Attorney said he would prefer to see the play go on and police officers to view the performance and, if they thought the law was being contravened or the show was distasteful, the Commissioner of Police himself would take action. I hope I am not misquoting the Attorney; that is how I recollect his approach to the matter then. The Attorney was requested by me and other members of this House to take action, under the powers he already had, to prevent or prohibit that production going on.

The Attorney undoubtedly has certain powers that he can exercise in that regard, and I am citing *Oh! Calcutta!* as an instance because the Minister had something to say on that occasion. In fact, he refused to take action. He frankly admitted it himself. He said, in effect, that the people were more or less grown up, that they could make up their own minds, that police officers would be there and that, if in the opinion of the officers concerned (as they would report to the Attorney) an offence had occurred, the Attorney would then take action under the powers he already possessed. But this is quite different. We have now the position where the Minister, if he is satisfied that a public entertainment will take place that will contravene the law, may in writing direct the Commissioner of Police to close down that production, to close the place or the hall where that production is to occur.

The Bill provides that the Commissioner of Police shall comply with the direction so given to him. The Attorney at the moment has the power (it has been exercised by several of his predecessors, as he would be the first to admit, and I think it has been exercised fairly sympathetically) to close down a show or prohibit it going on if he believes it is not in the interests of the public on the grounds of indecency or, if we like, obscenity.

The Hon. L. J. King: There are other considerations, too.

Mr. COUMBE: We have to consider now what are these other considerations. In his second reading explanation, the Minister states:

> New section 16a empowers the Minister to direct the Commissioner of Police to prevent the conduct of a public entertainment where the Minister is satisfied that the entertainment would involve a breach of the law.

What are these breaches of the law? As the Attorney has not said what they are, we must use our imagination. The question of indecency is already covered. If a theatre is unsafe, provisions already exist under the Building Act whereby a production in such a place can be. stopped. Certain provisions also apply in regard to the Licensing Act. What are these other matters?

The Hon L. J. King: Safety provisions.

Mr. COUMBE: As I have always understood it, one of the main aims of this legislation is to ensure the safety of the public. When I have been connected with local government we have sometimes been asked to look at these matters. I recall famous fires occurring in theatres when they have been overcrowded, with insufficient space being kept in the aisles to permit rapid egress by patrons. I am aware of the provisions with regard to the proscenium curtain and other requirements backstage. I understood this was covered in this legislation, and that these safety provisions were the main reason for this Act's being on the Statute Book. However, now we find that the Attorney wishes to insert a new provision. I should have thought that the Attorney could deal with legitimate matters of safety by the tightening of certain provisions and in the issuing and withdrawing of licences. I believe that Mr. Turner is the officer who administers this Act; I think he does his work well. Is new section 16a really necessary in its present form? By this provision, the Attorney can direct the Commissioner of Police to close a show down for certain reasons. At present, if a breach of safety regulations occurs, surely the attention of the police can be drawn to the fact and police officers can take action accordingly.

The Hon. L. J. King: They can prosecute but, if the people choose to be defiant, they can just go on. In one case, they went on for 4½ months, and no-one had the power to shut them up.

Mr. COUMBE: If this is the matter that is exercising the agile mind of the Attorney, I can tell him that an easier way out would be to increase the increments of the fine, as is done in other legislation. The fine for a first offence may be X dollars; for a second offence the sum can be three times that amount; then six times; and then 10 times the original sum.

The Hon. L. J. King: That wouldn't make any difference with a pop festival, which is only a two-day event. If they want to defy the health authorities, what can you do? We have no power such as that we are seeking.

Mr. COUMBE: I still say I do not like this new section. As in the case of the Meadows festival, I imagine a permit has to be acquired from the council before a festival can be held. Surely it could be stipulated that these matters be conformed with before a permit is issued in the first place. I am not sure that the Attorney is going about this in the right way. Apart from matters such as *Oh! Calcutta!,* a problem increasing in my district and in the metropolitan area generally is the noise that emanates from discotheques from midnight to 1 a.m. or 2 a.m. This causes much concern wherever these discotheques are situated in residential areas. The problem is aggravated by the fact that many patrons, when they leave these places in the small hours of the morning, use language that is not the best. This is accentuated by the stillness of the morning. The hooting of horns of motor cars, and so on, contributes to this nuisance. In fact, my telephone has often run hot with calls about this. We have a problem with regard to parties and discotheques, and the new type of dance music which is becoming more and more popular. No doubt some of the problem flows from the effects of the new licensing legislation. The question is whether these people cause a public nuisance; I understand the police handle the matter on that basis at present. Although I am in a dilemma with regard to one aspect, as a matter of principle I express sincere doubts whether the Attorney is going about the matter in the right way.

Mr. PAYNE (Mitchell): I support the Bill. The Attorney clearly outlined its provisions in his second reading explanation. I am glad to see that the present remission of four-fifths of the licence fee for places of public entertainment owned by councils or institutes is to be retained, as that is a worthwhile saving to those bodies. I welcome the provision for the appointment of a chief inspector. Clearly, with the amount of entertainment increasing, the extent of the duties involved necessitates the full-time presence of a person in such an office. The member for Mitcham, as is his wont, sought to make some political innuendo with regard to the entertainment tax, claiming that the Government had typically imposed an on-again off-again tax. Many people in South Australia would be glad if the honourable member would prevail on his colleagues in Canberra to have the wine tax made an on-again off-again tax. The member for Torrens expressed concern about the inclusion of new section 16a, which provides that the Minister, by instrument in writing, may give certain directions to the Commissioner of Police.

I cannot see anything wrong with the clause. I understand that a course of action along these lines has been advocated by the Commissioner in investigating another matter. It did not seem to perturb him; he had a chance to investigate what the Commissioner of Police might or might not be called on to do. The direction of the Minister by suitable means such as a letter is reasonable in the circumstances. The Minister, by interjection, flattened all arguments raised by the Opposition.

Mr. Clark: It didn't take him long!

Mr. PAYNE: It took him about one sentence to demolish the Opposition's arguments. Opposition members seem to be perturbed at the Minister's power and what he may do, but what I am more concerned about is the interests of the public of South Australia. The Minister's responsibility is to ensure the safety of patrons and would-be patrons of such entertainments and, if he needs this power, I am happy to give it to him.

The Hon. L. J. KING (Attorney General): I think only one issue has really been raised in the debate, namely, the desirability of proposed new section 16a. Essentially, power should exist to prohibit an entertainment where it is clear that it will be carried on in contravention of the Act, and by interjection I made that point when the member for Torrens was speaking. I think the member for Mitcham saw clearly, from the tenor of his remarks, that that be so. He pointed out that, had the organizers of a public festival held in South Australia last year chosen to defy the authorities as regards safety or health measures, there would have been no way in which the matter could be dealt with other than by prosecution after the event.

No matter how much the penalties are increased, it is unlikely to have any real influence on people who have already conducted their entertainment, made their profit, and can well afford to pay a fine. Whether or not they can pay, the public of South Australia is exposed to danger, and it is too late to undo what has been done. An actual case brought this matter to a head, but I suppose I had better not name the place. It was a discotheque, and in that case there was a lack of elementary safety facilities, so that every night this went on the public was

endangered. The organizers defied the inspector every night for about 4½ months, and the members of the public were exposed to danger.

I emphasize it is essential that there be some procedure to enable a place of that kind simply to be closed down. The objections made by the member for Mitcham and by the member for Torrens are that this depends on the Minister's opinion and that the section provides no means by which the people affected could oppose an order and challenge his opinion. Incidental to that, it was suggested that it was inappropriate that the Minister should give a direction to the Commissioner of Police. I know, as the member for Mitcham said, that a controversy exists in this House, at all events, whether the Commissioner of Police should be (as he is in the other States) subject to governmental correction on questions of policy; that is an issue which this House will have the opportunity of deciding this session.

Whatever one's views may be on that general question, I cannot see that it is a valid objection to the provision in the Bill, because clearly someone must form the opinion. If it is the Minister who is charged with that responsibility, he decides and is responsible for the decision. Quite plainly, he cannot go out personally and close the entertainment down, and no other force is available except the police. In a situation where the Minister takes the responsibility, I am unable to see that any general arguments that might be made about Ministerial control of the Commissioner of Police have any real application.

The other point made by the member for Mitcham and by the member for Torrens has more force, namely, that those affected by the order have no means, under the clause as drawn, of challenging the correctness of the grounds on which the Minister has acted. I think that perhaps at this stage all I wish to do is to indicate that, when the clause is reached in Committee, I shall ask that progress be reported to enable me to give further consideration to that matter. It may be that the points which have been raised can be satisfactorily met, without impairing the effectiveness of the clause, as a means of protecting the public. It may be possible to devise some appeal provision or some provision that would enable the Minister to apply to the court for an order and, in that way, it would give the persons affected by the proposed order an opportunity of canvassing the matter in court.

There are difficulties about this because in many ways the matters to be decided will be administrative matters rather than the things which are ordinarily decided by judges; that is perhaps not an insuperable obstacle. At all events, I think that that aspect of the matter merits further investigation. I think that whatever decision might be made as to the procedure and giving persons likely to be affected by an order an opportunity of being heard, some effective procedure is necessary to ensure that entertainments cannot proceed where there is an obvious danger to the public or some other aspect of the law is being infringed.

Bill read a second time.

In Committee.

Clauses 1 to 8 passed.

Progress reported; Committee to sit again.

MISREPRESENTATION BILL

Adjourned debate on second reading.

(Continued from November 10. Page 2906.)

Mr. MILLHOUSE (Mitcham): This Bill really contains two sets of provisions. The first set makes misrepresentation in certain commercial transactions an offence, in addition to whatever civil remedies there may be at present. This set of provisions follows the principles of section 14 of the English Trade Descriptions Act. The other set of provisions concerns the purported adoption of the principles in the English Misrepresentation Act, 1967. The Bill is a technical one. With respect to my colleagues in this House, I believe it is not easy for a lay person to follow the Bill. I believe the House ought either to accept or to reject the Bill as it stands. I do not believe that we, on the spur of the moment or even after some consideration, are competent to amend it unless we follow the course, which I had thought of but which I have discarded, of rewriting some provisions to follow closely or exactly their English counterparts.

After consideration, I intend to support the Bill in the form in which it has been introduced into the House, but that does not mean to say that there are not a few matters that I think deserve canvassing at this stage. The first such matter is a fundamental consideration: do we want to impose additional sanctions on business and commerce in order to give additional protection to the public? On balance, I believe it is desirable that we should do so, but it is a point that I raise, because there are legitimate arguments against saddling business and commerce generally with additional shackles and restrictions. I am thinking

not so much of Part II of the Bill, which is related to the provisions of the English Trade Descriptions Act, but of Parts III and IV of the Bill, dealing with misrepresentation in a contract. That is the fundamental consideration. If one says, "All right, it is justifiable to impose these restrictions and shackles in the interests of further protecting the public", then one has to look further at the Bill.

Part II arises out of a decision of the Supreme Court of South Australia in the case of *Athens-McDonald Travel Service Proprietary Limited v. Kazis,* as the Attorney General said in his second reading explanation. It is a decision of His Honour Mr. Justice Zelling on appeal from a Special Magistrate, Mr. Grubb. I do not need to canvass the facts of the case, because they are set out in the second reading explanation, in essence, and they are set out in the Law Reform Committee's report. No doubt the following is the passage in the judgment that has given rise to the present provisions; at page 276 His Honour says:

> I feel that before parting with this case I should point out that had these events happened in England the appellant travel agency might well have faced a criminal prosecution under section 14 of the *Trade Descriptions Act,* 1968 (Imp.) and a possible penalty of a fine not exceeding £400 on summary conviction or if the man Josephides was charged as an aider and abettor to imprisonment on conviction on indictment for a period not exceeding two years.
>
> From my reading of English newspapers and journals it would appear that this section has had a very salutary effect on English travel agencies minded to act as the appellant did here, and I draw the matter to the notice of the Government in case it may be thought proper to enact similar legislation here to prevent a repetition of what happened in this case.

Knowing the workings of the Law Reform Committee, over which Mr. Justice Zelling presides, I imagine that he himself suggested, or the committee itself suggested, to the Attorney General that this matter should be inquired into by the committee. With great respect, I wish to point out how satisfactorily the Law Reform Committee, under the chairmanship of His Honour, is operating, and I regard the establishment of the committee as one of the important achievements of the previous Government. I am glad that the present Government is using the committee, in spite of the scoffing that went on from the then Leader of the Opposition earlier. I wish the present Government would use the committee to a greater extent.

I wish to make one criticism; we are departing substantially from the wording of the English section. The committee's report asserts that the wording of the English section is not satisfactory, and I do not quarrel with that. However, I respectfully point to the dangers of departing from the wording of the English legislation, the principles of which we are adopting. It means that we do not achieve uniformity with the English law, and this must reduce the value of English decisions on that legislation.

In spite of imperfections of drafting in Imperial Statutes, we may do better to stick to that drafting so that we can have the advantage of it and therefore have the full benefit of English decisions, rather than trying to improve it ourselves. I say that with respect to the committee and to the draftsmen. Throughout this Bill, in this provision and in the others that follow, we have tried to improve on the English draftsmanship, and we may, of course, by doing that, cause results that are now unforeseen and may be unexpected. I hope we have not caused such results, and I am sorry in some ways that we have taken the risk. Anyway, in the circumstances of the Kazis case we are by this Bill imposing a maximum penalty of $500 on a person convicted of the offence that is being created. I say no more about that. I do not think that this particular provision is open to the objections that I have mentioned earlier about saddling commerce and industry with an additional restriction. If a person is, as apparently persons were in the Kazis case, downright dishonest and dishonestly misrepresented to residents of Australia who wanted to go back to Cyprus, then I consider that prosecution should be available.

We come now to the other matter, the question of the law of misrepresentation in contracts, and this, of all parts of the law, is one of the most complex, and many of the rules that have been evolved over a century or so in developing the common law are quite artificial. Briefly, the present position is that damages are not a remedy for what we call innocent misrepresentation. They are a remedy when the misrepresentation is fraudulent, but the remedy for innocent misrepresentation is rescission of the contract, but even this remedy is barred if *(a)* the contract has been confirmed by the representee after he knows it is a misrepresentation or *(b)* where third parties have, in good faith, acquired rights and valuable consideration after the

contracts have been made, and there are other cases where remedy is barred.

In such circumstances where remedy is barred, there is no remedy at all, and the objective of the Bill is to give a right to damages not only in circumstances where there is now no remedy but also, in the discretion of the court, where remedy is also available, the court may decide whether the contract should be rescinded or whether it should be confirmed and damages awarded.

This part of the Bill arises from a draft Bill which was sent to me in 1969 by the Law Society but upon which we, when in office, had no opportunity to act. As I have said, the Bill alters the law so that it will follow the principles of the English Act, which in turn are based upon a report in 1962 of the English Law Reform Committee but, again, the drafting has been altered with the object of improving it.

In essence, the Bill provides the remedy of damages for innocent misrepresentation. It gives a discretion to the court to award damages and then rescind where rescission is now the only remedy, and it also provides for the avoidance, again at the discretion of the court, of any clause in the contract providing for contracting out. I accept these principles but I point out to the House that there has been much criticism of the English Act, upon which this Bill is modelled.

The English Act has been operating for less than five years and I have not been able to find (although I must confess that I have not looked very hard) any English decisions on the Act itself. Certainly, Halsbury's Statutes, 1970 (I think it is the third edition), do not record any decision on the Misrepresentation Act, and it is still too early to know whether the criticisms made of it are valid. This may be one reason why perhaps we would have been wise to wait a little longer before bringing in such legislation here, although I think that probably we are justified in going ahead.

I want to refer to some of the criticisms of the English Act that have been made. As a warning to honourable members, I say that, although we may pass this Bill, we may do so with some reservations and a resolve to see how it works and amend it in the light of experience in the next few years. I will now quote from an article in volume 30 of the *Modern Law Review* by Lord Chorley. This is a discussion of the English Act and I will not quote the article in length, because it runs to 20 pages, but at the bottom of page 369 it states:

> The Act in sections 1, 2 and 3 uses the expression "misrepresentation made".

Our Bill does the same. The text continues:

> This seems to refer to active misrepresentation and not, therefore, to cover non-disclosure.

That is when you shut up altogether. If a person makes an active misrepresentation, the provisions of the Bill apply but, if he says nothing, the provisions of the Bill do not apply. The text continues:

> Thus the Act does not impose liability for non-disclosure where none existed before; nor does the Act vary or affect any existing liability or defence based on non-disclosure. Nevertheless, many of the cases which are sometimes discussed in relation to non-disclosure could be affected by the Act.

That is one point I make. Another relates to the discretion that has been given to the courts. In respect of other Bills in this place I have complained about the wide discretion that this Government, anyway, is in the habit of giving the courts without any proper guidelines. I am fortified to find that the learned authors of this article take the same view. At page 383 they state:

> Discretion of the court: The operation of the section is entrusted entirely to the discretion of the court. This discretion is an exceptionally wide one, for it enables the court not merely to uphold or reject the exclusion clause, but to uphold it "to the extent (if any) that the court finds fair and reasonable in these circumstances".

And we have used either that language or similar language. The text continues:

> On the face of it, this confers a quite remarkable power of remoulding the clause on the court with absolutely no guidance as to the factors to be considered by the court in exercising its discretion.

At page 385, on the same point, it is stated:

> The truth is that this section is an abdication by Parliament of its proper responsibility in the formulation of policy for satisfactory law reform. It is little short of scandalous that no attempt whatever should have been made to indicate the circumstances in which exempting clauses should be permissible.

That is pretty strong language and, as I say, it is the same sort of sentiment that I have expressed on other Bills. I now refer to the bottom of page 387, where it is stated:

> One further point appears to have been overlooked. It is a debated and unsettled point whether statutes reforming the law of torts bind the Crown and a similar debate might be raised with regard to statutes reforming the law of contract.

And both the English Act and our Bill are silent on that point. I now refer to the first

paragraph of the article, because it gives a general outline of the criticisms of the Bill, at page 369, as follows:

This Act, which is based on the Law Reform Committee's Tenth Report, makes some improvements in the law as to the effect of misrepresentation on a contract and as to certain more or less closely related matters. To this extent, the Act may be welcomed, but it is also open to serious criticism. Some of the reforms are enacted in a manner which is quite extraordinarily tortuous and obscure. Others are based on policy decisions which are at any rate questionable and seem to have been reached without adequate discussion. And the Act has altogether failed to simplify the law.

And to that I would add a respectful "Hear, hear!". The text continues:

It has left in force many of the distinctions which existed before and has superimposed its own structure upon them. The resulting state of the law is almost incredibly complex. It is indeed fortunate that the Act will be largely superseded when the Law Commission codifies the law of contract.

That has still not been done and I do not know when it is likely to be done. That is the sort of criticism levelled by the writers at the time the English Act was passed. However, there is an echo of this in an Australian work, Cheshire and Fifoot's *Law of Contract* (second Australian edition) at page 399. This was written three years later in 1969, when the Act had been in operation for about 18 months in England. Presumably it was written a few months before that, and the learned authors state:

The new Act has been the target for some sharp criticism by English commentators, particularly on the ground that the construction of certain provisions gives rise to doubts and difficulties. It is believed, however, that in its practical working the Act will prove a sound remedial measure, and therefore the application and implementation of its provisions can be watched with sympathy and interest in Australia.

At least by Cheshire and Fifoot, or the Australian editors, people from Monash, there is a qualified approval of it. I now refer to *The Law of Contract* by G. H. Treitel (third edition) at page 271, chapter 9, "Misrepresentation". The author of this work is one of the authors of the article to which I have earlier referred in the *Modern Law Review.* I quote this again only because this edition is dated 1970 when, presumably, the author would have had time to change his views (if such a change was warranted) because the Act had been in operation for a while. As general introduction to the subject it is stated:

A person may be able to claim some form of relief on the ground that he was induced to enter into a contract by a misleading statement. The law on this subject has recently undergone two major upheavals. The first occurred when the House of Lords, in Hedley Byrne & Co. Ltd. *v.* Heller & Partners Ltd., held that damages could be recovered at common law in certain cases of negligent misrepresentation.

Another situation arose in the Supreme Court of New South Wales, in *M.L.C. v. Evatt,* one of the wellknown members of the New South Wales Labor family, and this, perhaps, goes further than Hedley Byrne's case. The text states:

The second is the result of the Misrepresentation Act, 1967, which has considerably increased the scope of the remedies of rescission and damages for misrepresentation. But unfortunately these developments have done little to simplify the law. Most of the distinctions which existed before them have survived, though their practical importance may have diminished. At the same time, new problems have been raised by Hedley Byrne's case and by the 1967 Act. These remain largely unresolved so that the present law is extraordinarily complex and in many important respects uncertain.

That is what the learned author said in 1970. We in 1972 are about to introduce in our own law changes which, although they are not exactly the same, are the same in principle and really do little to reduce the complexities of the English Act about which these complaints have been made. I am prepared to support the second reading. I believe that on balance we are right to bring in this Bill and to change our law, but I do not want anyone to think that I believe that this is a panacea and that we will not have any further problems in this very difficult field of law—misrepresentation in the law of contracts.

Mr. McRAE (Playford): I listened with interest to the remarks of the member for Mitcham, and on some points I immediately agreed with him. This is clearly an area of law which is most confusing, because it is based on concepts which arose in a haphazard fashion over some centuries in England. To my knowledge, no attempt has ever been made to produce a new set of concepts to deal with misrepresentation in the law of contract. It seems obvious that the best course would be to attempt a codification of the law of contract, but I agree with the member for Mitcham that this will not come about for a long time.

The honourable member referred to various authors who criticized the English legislation, but in three of the cases to which he referred he was dealing with the same authors. Atiyah

and Treitel are the authors of the article in the *Modern Law Review,* and one of those gentlemen is the author of the book to which the honourable member referred.

Mr. Millhouse: I made that clear.

Mr. McRAE: Yes. Many other commentators have found at least some alleviation in the law following what happened in England. No legislation of this kind can produce a completely satisfactory result; in order to get such a result one would have to codify the whole of the law of contract in this area. However, something must be done in the meantime, and it seems that the measures we have now before us are about the best we can do. They have the support to some degree of the English commission and also of the Law Reform Committee in South Australia and the South Australian Law Society.

In relation to the first half of the Bill, the member for Mitcham admitted that in such cases as that of the Cypriot migrant Kazis it was only fair that the criminal law should be introduced to impose criminal punishments upon those who had made misrepresentations. For the benefit of members who find the conceptual part of the argument almost impossible to follow, I shall give an outline of the facts in the Kazis case, so that some conclusion can be drawn. I shall make my remarks fairly brief, but that case does show the sort of difficulty that can arise in this area of the law.

The plaintiff in this case had determined for some years that he wanted to take himself, his wife, and his four young children back to Cyprus. He had worked overtime for three or four years to raise the money. He was a man of some intelligence and he determined that he would require a definite period of three months free in Cyprus to do all the things he wanted to do. He had the money available and he entered into a contract with a travel agency, the exact name of which I cannot remember, but I think it was the Athens Travel Agency, which assured him that by his entering into a contract the agency would be able to arrange his travel to Cyprus and he would have a definite period of three months available on reaching his destination.

Having been given that assurance, he made arrangements for another person to take over his business and for the departure of himself and his family. Twice following the formation of this contract he was informed that difficulties had arisen. The travel agency had the opportunity, right up to the time the family left Australia, to admit freely that it could no longer comply with its obligation. If it had done that, under the peculiar state of the law he would have had the right to sue for the money he had paid. However, the agency chose not to do that but enabled him to travel to Cyprus, where he found that the period of three months was not guaranteed, and so he had to lose not only about three weeks of his projected holiday but also another four or five days in tracking backwards and forwards to make new travel arrangements and to sort things out.

In this situation, the plaintiff was able to demonstrate that there had been a breach of contract and he was able to get a small measure of damages, but the case brought to light the state of the law where a commercial agency of this kind could boldly and blatantly, in full knowledge that it could not carry out the contract, allow another person, its customer, to go ahead in the belief that it could do so. In those circumstances it is fair that the criminal law should be applied.

The Bill provides for a number of defences. The most obvious is that the person by whom the representation was made believed upon reasonable grounds that the representation was true. That seems to deal with the most harsh criticism that can be made of this sort of concept. One could say it is possible for a commercial organization to make a misrepresentation, not fraudulently, but nevertheless not checking on it properly, and still claim that the matter is not a criminal one. Here we have created a criminal offence while at the same time allowing for reasonable defence to it.

Part III of the Bill deals with the extension of remedies either at common law or in equity for misrepresentation. Here, as the member for Mitcham says, the common law itself is a jungle of technicalities. In the case of innocent misrepresentation one cannot get damages; in the case of fraudulent misrepresentation one can. Yet in so many cases it is difficult to characterize whether the misrepresentation has been fraudulent or innocent. Whatever the case may be, we have provided a right for rescission or for damages, as the court may see fit. This is reasonable, while not being perfect. Certainly many commentators would advocate the throwing out of all the distinctions that have applied in the law between fraudulent and innocent misrepresentation, between terms and warranties, and so on. Again, I believe it to be reasonable.

Part III of the Bill also provides for the prohibition of certain exclusion clauses. This is one part of the Bill that I most strongly

support. I believe that in modern-day transactions so many contracts are governed by standard forms and that the party presented with the standard form has little option but to sign it. It is, of course, the overwhelmingly common thing, not the rare thing, to find that the standard form provides for exclusions of virtually all sorts of liability with which the commercial house might expect to be caught. The Government realizes that the ordinary member of the community is in such a weak position that he has little option but to sign the contract as presented to him. If he does not sign the contract including the exclusion clause, he has no opportunity to bargain. I therefore believe that this part of the Bill is also useful.

Regarding the observations made by the member for Mitcham about the change in drafting from the English Bill, I believe that this, too, is a highly technical matter that is being examined carefully by experts in the field. I find it extremely difficult to contrast the style of drafting of the 1967 English Act with that of the legislation now before us, except that at least the legislation now before members is more flexible than is the English Act.

To summarize, I support the Bill, although I do not think there will ever be a satisfactory solution to the problems in this area of the law and, indeed, in many other areas of the law until an entirely fresh start is made, because we are still being ruled by concepts laid down by our forefathers many years ago. However, in so far as it is some remedy for the consumer, I support the legislation. In contrasting it with the English legislation, I believe that, in the limited terms I have used, it is as good as and, on the whole, somewhat better than the English legislation.

The Hon. L. J. KING (Attorney General): I do not intend to occupy the time of the. House by replying at length to what has been said, because there has been no opposition to the Bill. However, I take this opportunity of reminding members (as, indeed, the member for Mitcham has done) that this Bill, so far as it deals with the civil consequences of misrepresentation, had its origin in the work of the Law Reform Committee of the Law Society in 1968 and 1969. Although I was the Chairman of the committee at that time, I do not claim credit to any extent for what was done, as most of the work in relation to this matter was done by Mr. J. M. White, as he then was (now Judge White), who devoted much time and attention to this difficult topic and produced the draft Bill, which was then approved by the Law Reform Committee and finally by the full council of the Law Society. That draft Bill then went to the Attorney General, then the member for Mitcham. I take this opportunity of paying a tribute to my fellow members of that committee and most particularly to Judge White for the work he put into this difficult problem.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Arrangement."

The CHAIRMAN: There are certain typographical errors in the Bill which I will correct as we proceed.

Clause passed.

Remaining clauses (4 to 12) and title passed.

Bill read a third time and passed.

ADJOURNMENT

At 5.49 p.m. the House adjourned until Wednesday, March 1, at 2 p.m.