HOUSE OF ASSEMBLY

Thursday, September 26, 1974

The SPEAKER (Hon. J. R. Ryan) 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:

Egg Industry Stabilization Act Amendment,
Local Government Act Amendment (General),
Motor Fuel Distribution Act Amendment,
Superannuation Act Amendment.

PETITION: COUNCIL BOUNDARIES

Mr. RUSSACK presented a petition signed by 345 persons stating that they were dissatisfied with the first report of the Royal Commission into Local Government Areas, and praying that the House of Assembly would not bring about any change or alteration of boundaries.

Petition received.

QUESTIONS

The SPEAKER: I direct that the following written answers to questions be distributed and printed in *Hansard.*

HOPE VALLEY SEWERAGE

In reply to Mrs. BYRNE (September 12).

The Hon. J. D. CORCORAN: It is intended that Mayfred Avenue, Hope Valley, will be sewered when an approach sewer can be constructed, and when warranted by development. A long-approach sewer to serve this street must be laid from Payne Street through land that is at present unsubdivided. Further consideration will be given to this when subdivision of the area to the west of Mayfred Avenue is completed.

MURRAY RIVER FLOODING

In reply to Mr. OLSON (September 11).

The Hon. J. D. CORCORAN: A revised prediction on the estimated levels on the Murray River in South Australia cannot be made until the flood in the Murrumbidgee reaches Balranald. This is expected during the first or second week in October. These flood predictions are forwarded to all district councils along the river, irrigation associations and other constituted bodies, and the *Advertiser* has agreed to publish the next prediction in full when it is made.

DEVALUATION

Dr. EASTICK: Can the Premier say what effect revaluation will have on the State's finances, particularly in relation to financing such projects as those at Red Cliff Point and Monarto? Will revaluation cause further escalation in the cost of the Redcliff project, particularly? Since the Premier is already looking at new and additional taxes to levy on the South Australian public following this State's poor deal from the Commonwealth Government in its Budget brought down last week, the question arises whether revaluation has caused our position to worsen. The escalation in the costs of the Redcliff project of $2 000 000 a month must surely increase, having regard to the fact that much equipment and plant for this project will come from overseas.

The Hon. D. A. DUNSTAN: In his explanation, the Leader repeatedly referred to revaluation; in fact, there has been a devaluation. No suggestion has been made to me that this will cause any difficulty in relation to the Redcliff project, which I expect to proceed as arranged. Having been in touch with the Commonwealth Minister for Minerals and Energy this morning, I expect that project will proceed as planned. There will be no significant effect on the State's finances as a result of devaluation. True, employees in the Agent-General's office in London might have some reduction in overall payments because, as a result of what had happened previously, we have paid them in Australian currency terms. Because of some adjustments from the Treasury, the full effect of devaluation will not occur. That is the only immediate effect I can see in State Treasury terms.

Dr. Eastick: Even though it's inflationary.

The SPEAKER: Order!

The Hon. D. A. DUNSTAN: The Leader says it is inflationary.

The SPEAKER: The honourable Leader is out of order.

The Hon. D. A. DUNSTAN: I have heard Liberal Party politicians advocate devaluation over some considerable period. The Leaders of the Commonwealth Opposition Parties have welcomed devaluation.

Dr. Eastick: No, they haven't.

The Hon. J. D. Corcoran: I heard Anthony saying on *A.M.* the other morning that he welcomed it.

The SPEAKER: Order!

The Hon. J. D. Corcoran: You couldn't do without him.

The SPEAKER: Order!

The Hon. D. A. DUNSTAN: I have a little difficulty in following all the quarrels and differences among the Liberal Party's affiliates in Canberra. I can only say that, in terms of the Leader's rural base, so far as he still claims to have any, I should think he would be welcoming it, too.

MOUNT GAMBIER SEWERAGE

Mr. BURDON: Can the Minister of Works say what is the current situation with regard to the work in connection with extensions to and improvement of the sewerage system at Mount Gambier?

The Hon. J. D. CORCORAN: The honourable member was good enough to notify my office this morning that he would seek this information this afternoon, and I have a report for him.

Members interjecting:

The SPEAKER: Order! The honourable Minister of Works.

The Hon. J. D. CORCORAN: That is not unusual. Opposition members sometimes have the courtesy, if they require a detailed reply, to contact my office beforehand, as has been done in this case by the member for Mount Gambier. Sewerage of the city of Mount Gambier protects the quality of the underlying groundwater and reduces the risk to general public health. The city's sewage is discharged through 30 km. of pipe into the sea at Finger Point. This pipe consists of three distinct sections, which are 8 km of pumping main, followed by 22 km of gravity main and then the sea outfall. Government policy on water pollution control in the South-East is that, amongst other things, all untreated wastewaters in the city should be discharged into this system. The rapid expansion of industry in the city has brought with it an associated large increase in the volume of sewage. This has led to the present situation, when the system can only just cope with the increased volume. Replacement of the 8 km long pumping main with a larger pipe will begin in October and will involve the expenditure of $600 000.

The capacity of the 22 km gravity main section might also have to be increased in the future to handle the continually growing volumes to be discharged. When the scheme was completed in 1966, the Finger Point area was

a remote and relatively inaccessible stretch of the coast. However, the improvement of roads in the area has provided greater access for people attracted to the area. Surveys of the seawater have indicated the development of undesirable bacteriological quality at times, and the Engineering and Water Supply Department has erected signs warning people against swimming or fishing in the area. Investigations are proceeding into the selection of the best solution to this undesirable situation. The Government has engaged Environmental Resources of Australia to conduct physical oceanographic studies. The first phase of this work is now complete and the final phase is about to commence. An assessment of marine flora and fauna is being made by the Fisheries Department. An engineering survey of the seabed in the area has recently been made. Assessment of environmentally acceptable alternatives will be made by the E. and W.S. Department to determine the right course of action. This might involve re-laying of the sea outfall section to a point farther off shore and/or treatment of the sewage.

TORRENS RIVER

Mr. COUMBE: In view of recent public statements regarding the condition of the Torrens River, will the Minister of Works assure the House that no sewage is flowing into the river? Although I am aware of the new trunk sewerage scheme being installed by the Engineering and Water Supply Department to overcome some of the problems there, I point out that last Sunday morning I was present at the Gilberton Swimming Club, of which I am President and which has been forced out of the river because of pollution. My attention was drawn to a sizeable discharge coming constantly from the Norwood District side, not the Torrens District side, into the river, and it contained a considerable mass of solids. Earlier we had trouble from discharges from the zoo area, which I understood from the Minister had been overcome. Therefore, in the interest of people concerned I ask the Minister whether he can give an assurance that no sewage is being discharged currently into the Torrens River.

The Hon. J. D. CORCORAN: I am sure the honourable member is aware that we do have a problem but that it will be solved once the new trunk main sewer is in operation. The current system is overtaxed in certain areas bordering the Torrens because when rain falls it creates the problem to which the honourable member has referred. To the best of my knowledge, effluent is not discharged deliberately, but this happens as a result of heavy rainfall, although I do not know whether it rained last Sunday morning or whether it had rained on Saturday night. I will get a report for the honourable member because I do not wish to see people taking deliberate steps to discharge effluent or sewage into the Torrens River. I do not know whether this is. a matter of management or not, but I will get a full report. I will also ascertain what progress is being made on the measure that will improve the situation and also ascertain whether, during rain, something cannot be done to improve the situation in the area.

MINI BUDGET

Dr. TONKIN: Does the Treasurer intend to introduce a comprehensive mini Budget in the House next Thursday, after increases in State taxation have been discussed and approved by Cabinet and Caucus, or will the measures be introduced in a piecemeal fashion over a period in an attempt to cushion the electoral impact of these imposts on the public, as was done before the recent State Budget?

The Hon. D. A. DUNSTAN: I do not know what the honourable member thinks he is talking about. The Budget consists of the Revenue Estimates and Expenditure Estimates that are placed before the House, and the Expenditure Estimates are voted on after consideration by honourable members. Revenue proposals are then considered *seriatim* by the House in the course of dealing with other matters. That has always been the procedure and I would have thought that the honourable member had been here long enough to know that that is the case.

Dr. Tonkin: But you don't always follow that procedure.

The SPEAKER: Order!

The Hon. D. A. DUNSTAN: I have pointed out to this House several times that the course of State Budgets has followed this procedure for so long that it would be absurd to expect all financial matters for the year to be dealt with in one document.

Dr. Tonkin: But you don't always follow the procedure. What about the new ones?

The Hon. D. A. DUNSTAN: Imposts were forecast in the original Revenue Estimates, and additional imposts will be put before the House as soon as possible.

Dr. Tonkin: When?

The Hon. D. A. DUNSTAN: As soon as I can get them here. It depends to some extent on the Parliamentary Counsel and on Treasury advice. Some imposts were approved in detail this morning by Cabinet in accordance with the Budget. Much work over a considerable time was necessary to obtain the background details for the Parliamentary Counsel to draft the measure. I hope that the measure will be introduced next week. As to the remainder, I cannot say that they will be introduced next week; however, I can say that they will be introduced as soon as I get them. Moreover, I assure the honourable member that the sooner I receive the revenue measures and get the revenue started the better it will be for State revenue.

I assure the honourable member that there will be no unnecessary delay on my part. If the honourable member is talking about electoral impact, I point out to him that the course I have followed constantly as Treasurer of this State has been unlike that of his own Party. I have constantly told people in South Australia, when it has been necessary, that it was required in South Australia that we raise additional revenues, and I have said that specifically before an election. However, my opponents have not once submitted a specific revenue proposal immediately before an election.

Mr. Wells: You did it because you're honest.

The Hon. D. A. DUNSTAN: That is right, and I will continue to be so.

STUART HIGHWAY

Mr. GUNN: Will the Minister of Transport say whether he has consulted his Commonwealth colleague Mr. Jones about the building of Stuart Highway? During the recent Commonwealth election campaign, the Prime Minister promised that the Commonwealth Government would commence construction of this important road immediately, but as yet we have not heard anything further from the Prime Minister about that. Therefore, I ask the Minister whether he has approached his Commonwealth colleague to find out what the Commonwealth Government is doing about its promise.

The Hon. G. T. VIRGO: Obviously the honourable member has not been near Stuart Highway for a long time.

Mr. Gunn: That's not right, either.

The Hon. G. T. VIRGO: If he had been there, he would have seen that work was proceeding.

Mr. Gunn: Nonsense!

The Hon. G. T. VIRGO: It may be nonsense to the honourable member but I am sure the people using the highway will appreciate that it is a good road, and I do not think that they would use the word "nonsense" about the work. As the honourable member should know, the Australian Government has passed the necessary legislation to provide funds for the States. One of those measures was the National Highway Bill (I think that was its title), which appropriates to South Australia, in this financial year, over $16 000 000 for national highways, namely, Stuart Highway, Eyre Highway, South-Eastern Freeway, and any other work that is approved. Work is progressing at present on those three roads.

BUILDERS LICENSING ACT

Mr. PAYNE: Will the Minister of Development and Mines consider introducing at some future time a Bill to amend the Builders Licensing Act to allow for the issue of licences under the Act for a longer period than the present period of 12 months? Section 14 of the Act prescribes a period for validity of licences of, I think, 12 months. Several builders in my district who have called on me to have their renewal forms or application forms witnessed have suggested to me that a longer period of validity would be more acceptable, because much time is involved in preparing the form and having it witnessed. Further, administrative economy might be effected if a longer period applied.

The Hon. D. I. HOPGOOD: Any scheme that may save administrative costs is attractive to me, and I certainly will have the matter examined, but I think such a scheme would be contingent on the successful enactment of the amendments to the Act that this House has already passed. However, we will see what happens in that regard. As I am not by any means unattracted to the proposition, I will have it examined further.

PORT WAKEFIELD ROAD

Mr. BOUNDY: Will the Minister of Transport say whether, because of lack of funds, Highways Department work on the Port Wakefield Road will cease and the department's camp at Two Wells will be dismantled? Further, if it is intended to do that, will the Minister reverse the decision because of the priority of that highway as the gateway to the north and the west, as well as in the interests of road safety and because the work is a means of providing continued employment opportunities in the country town of Two Wells and elsewhere? I have been told by employees of the Highways Department and residents of Two Wells that Mr. lack Wilkins of the Highways Department told the men at the Two Wells camp early this week that, because of lack of funds, work would cease on the road and the camp would be dismantled. He told the men that their jobs would be safe so long as they were prepared to move to other highway camps, perhaps as far away as Hawker, but that, if they did not wish to be transferred, they would face unemployment. Their information is that, when work is resumed, a gang from Adelaide will be engaged and they, the local people, will be denied the opportunity to work.

The gang presently employs 21 persons as well as 13 private contractors' trucks. They face a substantial loss of employment for a small country town. Further, the residents of Two Wells and of the whole State north and west of Adelaide are concerned that work on a road of such importance could be delayed at all. My informants understand that work will cease when funds run out, irrespective of the stage of the road work. They are concerned that the bad safety record of this road should be allowed to continue by their not completing forthwith work to remove the bottlenecks at the Cavan overway bridge, Waterloo Corner, Ajax Motors, and on the flood-prone section of the road beyond Two Wells.

The SPEAKER: Order! The honourable member is going far beyond the limits of a brief explanation.

Mr. BOUNDY: The people of Two Wells are concerned about this road, which is at least equally as important as South-Eastern Freeway, serving as it does the top-producing areas of the State, the tourist industry, and interstate freight and tourism. I hope that the Minister—

The SPEAKER: Order! Leave is withdrawn.

The Hon. G. T. VIRGO: I understand from what the honourable member has said about the welfare of the employees that he is using as his authority Mr. Wilkins, an engineer of the Highways Department.

Mr. Boundy: That's my information.

The Hon. G. T. VIRGO: The honourable member does not know whether it is correct?

Mr. Millhouse: He wouldn't say it if he didn't believe it was correct.

The Hon. G. T. VIRGO: I am glad the member for Mitcham assures me that his colleague is using Mr. Wilkins as an authority and that he is not speaking on a hearsay basis.

Mr. Millhouse: What I said—

The SPEAKER: Order! In accordance with Standing Order 169, the honourable member for Mitcham is warned.

The Hon. G. T. VIRGO: The position regarding that job is the same as that applying to all works contained within the highways programme, including grants to local councils. It has been necessary to revise the works programme and there will be some rearrangements—

Mr. Gunn: Whose fault is that?

The Hon. G. T. VIRGO: I assure the House that in the rearranging we will try to the best of our ability (and I am sure we will succeed) to make no dismissals at all but, wherever there has to be, through Jack of funds, a curtailment of activities and a reduction in the work force, that will be achieved through natural wastage. That is the policy we have consistently followed in the past and one we will persistently—

Mr. Gunn: Does that mean you'll get rid of private contractors?

The SPEAKER: The honourable member for Eyre is continually and persistently disregarding Standing Orders and, in accordance with Standing Orders, I warn him.

The Hon. G. T. VIRGO: We have followed that policy in the past and we will continue to follow it in the future. I will obtain information about the roadworks near Two Wells, check the veracity of the statements of the member for Goyder and his claim that he is using Mr. Wilkins as an authority, and report back later.

STUDENT IDENTIFICATION

Mr. MATHWIN: Will the Minister of Education investigate the possibility of high school students being given, at the beginning of each school year, cards which state that the students actually attend a certain school and which are signed by the headmaster or deputy headmaster of that school? Many complaints have been made to me about cases in which bus drivers, train

conductors or attendants at the Royal Show or other places of entertainment have had to guess the age of students when a lesser charge than normal would apply to school students; in some cases, the cheaper rate has been refused, with embarrassment thus being caused to the employee concerned as well as to the students and their parents. Will the Minister investigate possible methods of solving this problem?

The Hon. HUGH HUDSON: First, I congratulate the honourable member on the colourful item of attire that he wears today in anticipation of a certain event on Saturday. I am pleased that he and I see eye to eye on at least one matter. I shall be pleased to investigate that matter raised by him and bring down a report.

BEE-LINE BUSES

Mr. WELLS: Did the Minister of Transport see in this morning's newspaper the suggestion in a letter to the Editor that fares be charged on Bee-line buses, a service so handsomely provided by the Minister? The author of the letter claimed that a large sum would be collected by the Treasury if this were done. Has the Minister considered charging such a fare?

The Hon. G. T. VIRGO: Although we have often looked at the matter of a fare on Bee-line buses, we have always come back to the decision we took when the service was first introduced. There are two reasons why a fare is undesirable. First, the success or failure of the service depends greatly on how Jong it takes for buses to travel to and from Victoria Square and the Adelaide railway station. If fares had to be collected, obviously the service would be slower. Secondly (and this reason is even more important), as most people who use this service have already travelled on the Glenelg tram, on a bus service that terminates at Victoria Square, or on the train, they have already paid a fare to reach a certain point. The only reason why they have to get into another bus is that their tram, bus or train does not go along King William Street. It seems wrong that people who travel on the bus from, say, Colonel Light Gardens or Westbourne Park can be taken through King William Street to Rundle Street or some other destination in that area without paying an additional fare whereas, if there were a fare on the Bee-line bus, people travelling on, say, the Glenelg tram would have to pay an additional fare to reach the same destination. On this basis, we decided initially that the Bee-line bus service should be free. When reviewing the position subsequently, we have found nothing to suggest that we should change out attitude. Accordingly, we have no intention of charging a fare on the Bee-line buses.

MONARTO

Mr. DEAN BROWN: Can the Minister of Development and Mines say whether the South Australian Government, either through the Monarto Development Commission or other Government departments, is planning to develop a programme of work to minimise the geological deficiencies in the Monarto area? Recently, I understand a geological survey has been completed, from which a geotechnical report, containing seven conclusions, has been prepared. Although I am not concerned with four of those conclusions, I wish to refer briefly to the other three. First, the bedrock or base-rock being close to the surface, the installation of underground services will require heavy blasting or ripping. I refer particularly to the Kanmantoo schist that will require heavy ripping, and the granite schist and migmatite that will require blasting. Secondly, the report concludes that there are large areas where internal drainage of water will cause water logging and, perhaps, flooding. I understand that, as providing drains in the area will be difficult, water may have to be pumped away from such areas. The third conclusion to which I wish to refer—

The SPEAKER: Order! Are there many more conclusions?

Mr. DEAN BROWN: This is the last to which I wish to refer. The report states that wind erosion will be severe in the area; during summer it will be absolutely essential to have a thick plant cover to ensure that extensive wind erosion does not take place. I realise that nothing can be done about the first problem. However, as much money can be spent in trying to reduce the adverse effects of the other two problems, I ask the Minister whether the Government will do anything to try to make up for these deficiencies.

The Hon. D. J. HOPGOOD: Geologists will know what I am talking about when I say that schist is not very gneiss. The honourable member and I have had this matter out in the House before, as he raised it in, I think, a grievance debate some time ago. I explained then that a thorough survey of the area had been made before we undertook any of the planning studies that have since proceeded. I also invited the honourable member to go to the office of the Monarto Development Commission to examine there the various reports that have been placed before us, particularly a report relating to the cost of engineering at various parts of the site. I indicated that, regarding development, the division between what would be open space areas and what would be residential and industrial areas has already been determined on the basis of engineering and environmental costs. I told the honourable member that these matters had already been explored before any of these decisions had been taken. I do not know whether the honourable member has taken the opportunity of going to the commission and discussing these matters with the staff there and looking at the reports that were available to us 12 months ago. As far as I am aware, the situation has not changed and there is no reason for our altering in any way the planning studies already in motion.

CAPITAL GAINS

Mr. MILLHOUSE: Will the Premier say whether the Government will make representations to the Commonwealth Government that its proposal to place a 10 per cent surcharge on income derived from property and shares be abandoned? One of the least desirable (and I use a neutral term) proposals in the Commonwealth Budget announced last week was that a 10 per cent surcharge be placed on income received from property and shares, and this would bear hardly and unfairly on many citizens of the State.

The Hon. G. R. Broomhill: On Army fees?

Mr. MILLHOUSE: That is income from personal exertion.

The SPEAKER: Order!

Mr. MILLHOUSE: I notice that the Commonwealth Caucus is now having second thoughts about this undesirable proposal, that the matter is to be referred to one or other or several of its subcommittees, and that a report is to be presented next Wednesday for a final decision by that body. I know that the Premier is in the habit of making representations, although he refused to do so yesterday on another matter, to his Commonwealth colleagues on matters of this nature and, as it is so desirable that this proposal not go ahead, I ask him this question in the interests of South Australian taxpayers.

The Hon. D. A. DUNSTAN: No.

GOVERNMENT EXPENDITURE

Mr. VENNING: Will the Premier consider trimming Government expenditure, particularly in Labor-held seats, to a commonsense level by the various means available to him, instead of placing further impositions on the people of South Australia? It is common knowledge that taxation in South Australia has increased by 100 per cent over the past two years. It is also common knowledge that Cabinet is divided on the possible imposition of an additional petrol tax in this State. Will the Premier and his front bench colleagues consider trimming Government expenditure?

The Hon. D. A. DUNSTAN: The honourable member's question is whether I shall trim expenditure in Labor-held seats.

Mr. Venning: In particular.

The Hon. D. A. DUNSTAN: If we were to trim expenditure, I assure him that it would be done overall.

Mr. Venning: That wasn't my question.

The Hon. D. A. DUNSTAN: It would be an overall trimming of expenditure if that is what the honourable member has asked me to do. However, I point out that the major areas of increase in expenditure under this Government have been education, health, and community welfare. If he suggests that expenditure in those areas be reduced, because there is no other area in which the Government can reduce expenditure significantly to cope with anything like the gap between revenue and expenditure we are now facing, it is up to him and other Opposition members, if they support him, to say which schools and hospitals should be discontinued and which teachers, nurses, doctors, and social welfare workers should be sacked.

Mr. Mathwin: What about the arts?

The Hon. D. A. DUNSTAN: If the honourable member wants us to ensure that South Australians do not have the sum spent that is spent by Liberal Governments in other States in these areas, he has only to say so.

Mr. Venning: Answer my question!

The Hon. D. A. DUNSTAN: The honourable member has tried a little bit of politics which is as empty as is his usual kind of question in the House.

HOUSING TRUST HOUSES

Mr. EVANS: Does the Minister in charge of housing support the statement, appearing on page 8 of this morning's *Advertiser,* under the heading "State wants extra housing finance", attributed to him? The report states:

> There is no way of knowing how many people on high incomes are living in low-rent Housing Trust homes. . . . A survey to find out would not be feasible. Rentals would be renewed annually and had in fact been raised on March 30, but substantial increases could cause hardship to many people budgeting for hire purchase. . . . Social consequences have to be taken into account. This Government and trust will not be party to turfing people out on the streets.

The latter part of the statement is also the view of my Parly and me. How could the Minister say that, because a means test is applied to people who apply for trust houses and they must prove that their income is 85 per cent of the average income? Why does the Minister believe it impossible to ask them to face up to a means test once they are in their house? The Minister said that some of the trust's tenants were buying goods on hire-purchase, but I point out that other people do not have a roof over their heads. The General Manager of the Housing Trust (Mr. Ramsay) said that the position for low-income families could become even worse as regards housing. The Minister was commenting on the report of the trust. How can the Minister justify helping people with their hire-purchase agreements at a time when other people are denied houses that should really be made available to them? Does the Minister still support the statement attributed to him and does he also believe it impossible to apply a means test to people living in trust houses?

The Hon. D. J. HOPGOOD: I suppose it would be possible for the trust to take up many hours of its officers' time by going around door-knocking all of its tenants and asking them to fill in a form as to their present income. However, I make the point that this information is not, in the normal present course of the trust's operations, available to officers of the trust.

Mr. Mathwin: That's a weak way out.

The Hon. D. J. HOPGOOD: I have not finished yet. I have only just started, for the benefit of the member for Glenelg.

The SPEAKER: Order! The honourable member for Glenelg is out of order.

Mr. McAnaney: Start building more houses.

The SPEAKER: Order! The honourable Minister.

The Hon. D. J. HOPGOOD: We are talking here about people who became trust tenants up to 25 years ago when different conditions of entry to trust tenancy prevailed. In a sense, they entered into a contract with the trust that they would receive tenancy under those conditions. However, the rules have now been changed: under the new Commonwealth-State Housing Agreement, tenants are means-tested, and we are applying that policy as we are required to do under the agreement. The question arises whether we should, in a sense, back-date and make retrospective the present contract in respect of people who have operated under a previous form of agreement as tenants of the trust over, say, 25 years: people who have existing hire-purchase commitments that they may have entered into some time ago. I was not referring to future commitments and, if the honourable member reads my statement fairly, he will understand that I was speaking about their existing commitments, their whole general life style, and possibly even the decision on the size of their family, because these economic considerations of rent could have a bearing on whether they had three or four children, six or more years ago.

All these matters have to be considered before we determine whether, as a Government, we are to introduce over an extremely short period an arrangement whereby old trust tenants will operate under the same conditions as do new trust tenants who come in knowing what are the new arrangements. I make the point that it would be an unbearable hardship on existing tenants of the older type who came in before the present Commonwealth-State Housing Agreement if this action were taken. The Housing Agreement contains provisions to upgrade all rents, and this has occurred, is occurring during this calendar year, and will occur again. However, to suggest that we should arbitrarily lift existing rents on older properties to what replacement cost is, which could mean in many cases a lifting overnight by up to $12 or $15, is not acceptable to this Government.

LEGAL AID OFFICERS

Mr. DUNCAN: Is the Attorney-General aware that at least one Supreme Court judge has stated that he will refuse to grant audience to members of the legal profession employed by the Australian Legal Aid Office representing members of the public who have sought aid? If this is the case, will the Minister undertake to take such action

as is available to him to ensure audience for officers of the Australian Legal Aid Office? In the past the Supreme Court has had a general rule that persons who appeared before it must be in practice on their own account. However, there have been numerous exemptions from that rule, and members of the legal profession who work for the Attorney-General as legal officers are given audience. Also, other examples can be cited. Unless the Supreme Court is willing to grant audience to members of the legal profession working for the Australian Legal Aid Office, the good intentions of the Commonwealth Government in setting up this office are likely to be thwarted, because it will not be able to grant aid to persons whose matters must be determined in the Supreme Court.

The Hon. L. J. KING: I have read the decision of Mr. Justice Sangster on this point, and I note that in his judgment he said that the attitude he had taken had been approved by the other judges at a conference of the judges. It must be conceded that this attitude is in line generally with that traditionally taken in the Supreme Court: that those who appear before this court must be principals practising on their own account. However, as the honourable member has said, this practice has not been universally observed, and the honourable member gave some instances of departure from it. At one time a public solicitor operated in South Australia and I assume that he must have had the right of audience to the Supreme Court, although I have not checked that point.

Concerning the present ruling, I have not been approached either by the Commonwealth Attorney-General or by the judges of the Supreme Court to do anything about it. All I know is that some negotiations may be taking place. I noticed that Mr. Justice Sangster in his judgment said that no approach had been made to the Supreme Court in relation to the possible standing of employees of the Australian Legal Aid Office, and perhaps the matter could be resolved between the Commonwealth Attorney-General and judges of the Supreme Court. This matter has not been brought to my attention officially: I learned of it only by reading the judgment, and I do not know whether the Australian Government or the judges of the Supreme Court want me to do anything about it. However, I will keep an eye on it and, if the State Government can do anything useful, the matter will be considered.

MONITORING SERVICE

Mr. GOLDSWORTHY: Can the Premier give further details about one of his officers giving star ratings to Government and Opposition members on their television performances? What for many people would be a rather disturbing report appears in the *News* today. It may not be disturbing to members of Parliament, but the press report states that Mr. Kevin Crease is to be employed not only to look after the $7 000 worth of sophisticated media-monitoring equipment that the Government has seen fit to invest in: he is also to be employed to monitor television programmes and to make daily assessments on a star rating from one to four stars of the performances on television of Government and Opposition members. The report states that Mr. Crease will make his star assessment in daily private reports to Ministerial press secretaries.

The Hon. J. D. Corcoran: Are you worried about it?

Mr. GOLDSWORTHY: I am not worried personally but, as many members of the public seem to think that the money is being spent to give some political advantage to the Government, I ask the Premier why he is employing Mr. Crease to make star assessments and hand them to the Government via its press secretaries.

The Hon. D. A. DUNSTAN: The honourable member evidently has not read or listened to previous replies in the House about the employment of this officer. The employment of an officer to monitor radio and television services on behalf of the Government is not new: it was undertaken by Mr. Hall when he was Premier. Miss Joan Bullock was originally appointed for that purpose, although she did not have this equipment and could not do the monitoring that was involved. As to Mr. Crease's assessment of the performance of people, I do not think this will be any different from what is done by the Leader's Press Secretary. I am sure that he watches the Leader's performance, as well as other people's television performance, and says, "Well, I don't think you went too well that time", or "That was all right, boss."

The Hon. L. J. King: That's not often.

The Hon. D. A. DUNSTAN: I am being charitable. This situation is no different. The Government media co-ordinator, in sending material to various Government departments about matters concerning them on radio and television programmes, will be able to say, "We think that was properly represented" or "We think you did a ruddy awful job in putting the Government's point of view." I believe that that is a perfectly proper thing for him to do. Heavens above, on that score my staff is frank with me, and I would expect that other Ministers' staffs are frank with them. In fact, I am sure that Mr. Middleton is frank with the Leader, too.

INDUSTRIES

Mr. McANANEY: Can the Premier say whether the claims that some of our industries, particularly in the country, are being forced out of business by the recent Commonwealth tariff reductions are correct, or whether, as I was informed by the Attorney-General in this House on August 15 last, the situation has been created by increased wages, the added costs involved in providing improved workers' compensation, four weeks annual leave, a 17½ per cent annual leave loading, and the introduction of equal pay for equal work as performed by women?

The Hon. D. A. DUNSTAN: I do not know to which workers the honourable member is referring so, if he supplies the details, I will inquire into the matter.

WATERLOO CORNER

Mr. RUSSACK: Can the Minister of Transport say when the reconstruction of the Waterloo Corner intersection on Port Wakefield Road will be completed? In addition, in the interests of safety, will he do everything in his power to have this work expedited? A week or two ago a constituent of mine, while travelling south along this road in a truck carrying stock, was directed off the road to allow a low loader carrying a transportable house to proceed along the road. Immediately my constituent proceeded to the side of the road, his truck overturned. Last Sunday week, when passing the intersection, I saw an accident that had just occurred where, as one travels north, the road converges into a single lane. A difficulty exists especially at night and in wet weather, because of the colour of the road surface, which has apparently been repaired occasionally and which is most deceptive, the tendency being to lead traffic into the wrong lane. I therefore ask the Minister when it is expected that the work will be completed and whether he will use his good offices to see that the work is expedited.

The Hon. G. T. VIRGO: I will get a report.

T.A.B.

Mr. BECKER: Can the Attorney-General, representing the Chief Secretary, say whether consideration has been given to amending the Lottery and Gaming Act to provide for the accounts of the Totalizator Agency Board to be audited by the Auditor-General? In the board's annual report, tabled in Parliament this afternoon, reference is made to the sum of $1 820 834 lost on the Databet operation. On the other hand, the sum of $1 745 900 for distribution to participating clubs is a 22.37 per cent increase over the 1972-73 distribution. When perusing quickly the accounts contained in the report, I noticed that for the financial year just ended T.A.B. had a bank overdraft of $1 096 643. The distribution to participating clubs is yet to be made. However, in view of the various statements contained in the report relating to the racing inquiry, the confusion concerning Databet, and T.A.B. on-course operations, can the Attorney say whether consideration has been given to such a proposal?

The Hon. L. J. KING: I will refer the matter to the Chief Secretary.

AMERICAN RIVER

Mr. CHAPMAN: Will the Minister of Works, at his convenience, provide me with a guide as to when the American River area will enjoy a water mains extension service from the Middle River supply? Several questions have been directed to the Minister about this matter and on each occasion he has said that American River residents, tourist operators, and local industrialists have been denied a water supply for various engineering, practical, and economic reasons. On one occasion the Minister made clear that departmental officers could not obtain a reasonable agreement from landholders adjacent to the course known as the short route. Since then, and for some time now, I understand the Minister has had a report that includes evidence to show that there is an adequate supply of water at Middle River or that, if there is not now, it is feasible that an added supply will be obtained from that source. I am aware that the Minister has also been furnished with information from the area showing that landholders adjacent to another route are overwhelmingly in favour of a supply and that there is no question about their desire to enjoy a water supply and to pay the ruling rates for it. Will the Minister therefore provide at least some guide as to when this area will receive a reasonable mains water supply?

The Hon. J. D. CORCORAN: It is true, as the honourable member says, that this matter has been raised several times, several inquiries and investigations having been conducted into it. It is also true that an urgent need exists for this service to be provided to that part of Kangaroo Island.

Mr. Chapman: They are co-operating.

The Hon. J. D. CORCORAN: I am not denying that, but I am not aware of the latest situation. I believe (and I do not wish to be held to this) that the situation regarding departmental funds has a bearing on the matter, because it will not be a cheap undertaking. However, I do know that only a small percentage of the capital cost will be returned to the department. I will get a full report from the department, including a time table, if possible, for the honourable member. The matter may have to be referred back to the Public Works Committee, because I do not think it recommended the project on a previous occasion, although I am not certain whether that is the case. However, the project would certainly have to be referred to that committee, because the capital cost would exceed $300 000. I will examine the matter for the honourable member and let him know.

At 3.7 p.m., the bells having been rung:

The SPEAKER: Call on the business of the day.

ROYAL INSTITUTION FOR THE BLIND ACT AMENDMENT BILL

Received from the Legislative Council and read a first time.

LICENSING ACT AMENDMENT BILL

The Hon. L. J. KING (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Licensing Act, 1967-1974. Read a first time.

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

That this Bill be now read a second time.

The Bill makes miscellaneous amendments to the Licensing Act. It will be convenient to explain it by reference to its various clauses. Clauses 1 and 2 are formal. Clause 3 amends the trading hours for the holder of a full publican's licence. He is permitted to trade on a Monday, Tuesday, Wednesday or Thursday for a continuous period of not less than 10 hours approved by the court, commencing not earlier than 5 o'clock in the morning and ending not later than 10 o'clock in the evening. This accords with the present position regarding 10 o'clock closing, although not as regards the period of hours during which he is required to open. However, on Friday or Saturday a publican is permitted, by the amendments, to trade for a continuous period of not less than 10 hours approved by the court, commencing not earlier than 5 a.m. and ending not later than 12 midnight. These amendments follow representations from the hotel industry. It is considered that in many areas there is a definite public demand for hotel trading beyond 10 p.m. on Fridays and Saturdays.

This question of the hours during which hotels should be open has received much consideration. Of course, it was considered exhaustively by the Royal Commission in 1966, and the Royal Commissioner reached the conclusion that hotels should close at 10 o'clock in the evening. Several things have happened since that time, and amongst them has been the extension by the court of hours of licensed clubs. The court has granted clubs permission to remain open often until much after 10 o'clock in the evening, and this privilege is exercised by clubs, particularly on Friday and Saturday evenings.

Moreover, the publicans themselves have used the permit provisions of the Act, and much trading pursuant to the permit provisions takes place after 10 p.m. on Friday and Saturday evenings. I think the indications are that there is a substantial public demand for later trading hours at the weekend; that is to say, on Friday and Saturday evenings. If this demand exists (as I believe it does) and if publicans are willing to meet that demand (and the Australian Hotels Association has told me that it is), there seems no reason why the law should not permit this to occur.

Mr. Coumbe: If they applied?

The Hon. L. J. KING: Yes. They must apply and have the hours approved. Of course, the hours will be optional, in the sense that publicans will not be compelled to open for the later hours, although if they obtain the approval of the court to open they will be

obliged to open. It seems that, if the demand is there, as I believe it is, and if the hotel industry is willing to meet it, the law ought to permit the need to be met. Of course, in dealing with licensing hours, one always considers whether any undesirable social consequences are likely to result from a change, and I think that one always gets into the area of speculation to some extent.

However, it is clear that at present much trading goes on between 10 o'clock and 12 midnight on Friday and Saturday evenings in clubs and in hotel premises under the permit provisions of the Act, and there does not seem to be any reason to think that undesirable social consequences will result from the extension of the general licensing hours to midnight. It will be seen from what I have said that the obligation on the publican under the amended provisions will be to remain open during the period approved by the court and that it must be for a continuous period of 10 hours. There is no maximum span of hours. Under the existing Act, the maximum number of hours during which a publican's premises may be open is 13. That has been abandoned under these amendments, and he will be entitled to open for any period which he likes, and which is approved by the court, between 5 a.m. and 10 p.m. from Monday to Thursday and between 5 a.m. and 12 midnight on Friday and Saturday, with a minimum of 10 consecutive hours. The period must be consecutive.

This gives to licensees, in choosing their hours, a degree of flexibility that does not exist under the present Act, and this will have certain consequences. It will enable licensees in certain areas to assess the needs of their areas and to apply to the court for hours that are tailored to suit those needs, with the court, naturally enough, making the final decision. It also means that licensees will have the obligation to remain open not for 13 hours but for only 10 hours, if they so desire, because there are areas where the 13 hours obligatory trading produces problems for the licensee. He does not have the spread of trade to. justify the cost of remaining open during that period. True, under the existing Act there is no obligation to open and trade during the trading hours allowed to the publican, but in practice the licensing administration has required publicans to remain open for the hours during which they are entitled to open, and this has produced unnecessary financial hardship in some cases.

Clause 3 also makes provision for what are, in effect, tavern licences. It is possible, of course, under section 19 of the principal Act as it stands at present, for the court to tailor the conditions of a licence so that a full publican's licence becomes virtually a tavern licence. However, this power is, in practice, limited by the nature of section 19 to licensees who were enjoying trading conditions of that kind before the commencement of the 1967 Licensing Act. The new provision includes a much wider power under which the court may create a tavern licence out of a full publican's licence at any stage. Thus an applicant for a new full publican's licence will be able to seek the limited form of licence that he requires to operate a tavern.

The traditional philosophy underlying liquor licensing in this country has been that the privilege of selling liquor should carry with it the obligation to provide accommodation for the public, but I think members will be aware that circumstances in our community have changed dramatically in the past few years. There is much audible conversation in the House, if I may draw your attention to it, Mr. Speaker.

The SPEAKER: Order! The honourable Attorney-General.

The Hon. L. J. KING: Circumstances have changed greatly in the past few years, and I think that the most significant thing that has happened is that the motel industry has shown that, contrary to what used to be said, providing accommodation is an economically viable industry in itself. In other words, accommodation can be provided to the public at a profit. The public has shown that in many cases it prefers the type of accommodation so provided, and the need to require those who are licensed to sell liquor to provide bedroom accommodation has correspondingly diminished. The need undoubtedly still exists in many areas, and it is not suggested in these amendments that there should be wholesale relief for licensees from obligations of that kind, but there are areas where there is no demand for the accommodation provided by publicans and where the money that goes into providing bedroom accommodation—

The SPEAKER: Order! There is far too much audible conversation and it is difficult to hear the Attorney-General's second reading explanation.

The Hon. L. I. KING: Thank you, Mr. Speaker. It is not suggested that there should be wholesale relief for publicans from the obligation to provide accommodation, but undoubtedly in many areas this accommodation is not needed. The capital that is required now to be invested in bedrooms for which there is no demand could much better be invested in the provision of more satisfactory drinking and eating facilities for which there is a demand. It is undesirable in some places for publicans to be forced to spend their capital on providing bedrooms where the real need is for better drinking and eating facilities. We are now faced with a situation in the inner city area of Adelaide especially, and in some of the suburbs, where hotels are gradually disappearing and where public drinking facilities are gradually disappearing as a consequence.

It seems that these facilities can be provided for the public only if we have tavern-type establishments which do not occupy the whole of a site but form part of a building that is devoted to other purposes, and, of course, a tavern-type licence is admirable for this purpose. Consequently, the Government has decided that the time has come to extend the present provisions of the Licensing Act to enable an existing licensee to be relieved of his obligation to provide bedroom accommodation and extend that to applicants for new licences as well. Clause 3 also imposes upon the holder of a full publican's licence the obligation to keep his licensed premises open to the public for the sale of liquor throughout authorised trading hours. That provision does not exist in the present Act, although it was the practice of the licensing administration to expect that the licensee would do so and, if he failed to do so, he could expect to have the renewal of his licence objected to.

Clause 4 deals with the removal of a retail storekeeper's licence. At present, section 22 of the principal Act provides that a new retail storekeeper's licence shall not be granted unless the court is satisfied that the public demand for liquor cannot be met by other existing facilities for the supply of liquor in the relevant locality. This test is not applicable, however, to the removal of an existing retail storekeeper's licence to new premises. As a consequence of that, the present provision in section 22 and the policy underlying it could be circumvented by the buying-up of a storekeeper's licence perhaps in a country district and removing it to some other area, usually in the metropolitan

area, where a profit could be expected to be made out of it. The court had no control over this situation, and the policy of section 22 could thereby be circumvented. It is now proposed that it can be removed only if the applicant can show there is a need for it in the locality to which it is being removed and that the requirement in section 22 is complied with.

The new provision extends the test, which applies now to an application for a new retail storekeeper's licence, to the removal of the licence. A further matter was drawn to my attention by the member for Chaffey, and I am indebted to him for drawing it to my attention some time ago. He pointed out that section 22 itself does not deal with the needs of the area from which the licence is to be removed. After all, the storekeeper has obtained his licence by demonstrating to the court that there is a need for it in the area in which it is to be established. There seems to be sound reason for saying it should therefore only be removed if the needs of the people for whom it was first established have been taken into consideration, and 1 foreshadow I will attend to that aspect of the matter if and when this Bill reaches the Committee stage.

However, an exception is allowed in the case of the removal of a retail storekeeper's licence to premises situated not more than 500 metres from the premises from which it is removed. It happens occasionally that a storekeeper desires to move his premises a short distance for some reason of convenience; perhaps a lease runs out, or he may want better premises and, so long as he is not removing it from the immediate locality for which the licence is granted, there is no need for him to encounter the problems that would be raised by section 22.

Clause 5 deals with the trading hours of the holder of a brewer's Australian ale licence. Some of the breweries have experienced difficulty in delivering liquor to carriers within the hours at present fixed by the Act. This clause therefore extends the trading hours of the holder of such a licence to 8 o'clock in the evening. Clause 6 deals with the conditions that must be attached to a club licence. At present the court has a discretion to require the holder of such a licence to purchase liquor from a retail source. This has presented some difficulties to the court, and they have been intensified by the fact that a growing number of clubs are reaching proportions in their trading which mean that they can no longer continue as a permit club and they apply for a licence.

The question then arises whether the licence should be made subject to the condition that they purchase their liquor from a retailer. The court has experienced difficulties because of the lack of guidelines as to the circumstances in which this condition should be imposed. The view the Government takes is that, where a permit club is becoming a licensed club, in ordinary circumstances the condition should be imposed. The club is purchasing from a retailer as a permit club and it should continue to do so ordinarily when it becomes a licensed club unless there are some special reasons why that condition would not be appropriate. It should continue to be subject to that condition unless the circumstances so change that it would be unreasonable to continue the condition. That is the provision that is included in this Bill, and it will give a clear indication to the court that only in exceptional circumstances would one expect a permit club to be granted a licence free from the condition that purchases be made from a retailer. If the existing licence is subject to a condition, the condition would be removed under the amendments only if it was shown that the continuance of the condition would be unreasonable in the changed circumstances.

The Government believes that, in the interests of a balanced industry, this kind of condition should be imposed as a matter of course unless there are good reasons for not imposing it. Clause 7 deals with outdoors permits. At the moment section 65a makes no provision for the granting of an outdoors permit to the holder of a wine licence. This deficiency is remedied by the Bill. Clause 8 amends the machinery provisions dealing with the granting of a permit under section 66 of the principal Act where the promoter of some entertainment desires that liquor should be available at that entertainment. At present a duplicate of every application must be served on the Commissioner of Police. This is an unnecessary administrative burden, and the section is therefore amended to provide that the Superintendent of Licensed Premises may request the Commissioner of Police to make a report on any application for a permit under section 66, and may refer any report obtained to the court.

Clause 9 deals with the sale of liquor by licensed auctioneers. At present, where liquor is sold by an auctioneer on behalf of a licensed person, the sale must take place on the premises to which the licence relates. This may, however, be unduly restrictive in the case of the holder of a vigneron's licence or a distillers storekeeper's licence. The problem which has particularly arisen relates to wine auctions. Vignerons favour a system under which they can pool their resources for a wine auction and in which a licensed auctioneer can conduct an auction, usually in a town in the centre of a wine district, such as Nuriootpa, and can auction wines that are the produce of several vignerons. That is not possible under the existing legislation but it will become possible under this amendment.

The amendments therefore provide for the court to specify the premises (either licensed or not) for the sale of liquor by an auctioneer on behalf of such a licensee. Clauses 10 and I I provide for the payment of a fee in respect of an application for the approval of a change of manager. Clause 12 expands the provisions of section 118 requiring the exhibition of certain information by the holder of a full publican's licence. The licensee is required to exhibit the hours during which his premises are open for the supply of liquor to the public, and any restrictions to which his licence may be subject. Clause 13 is a consequential amendment. Clause 14 provides that, subject to certain specified exceptions, the holder of a licence or a club permit must keep the licence or permit on the premises to which it relates. This new provision is designed to facilitate policing of the Act.

Mr. BECKER secured the adjournment of the debate.

DAIRY INDUSTRY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from August 27. Page 687.)

Mr. DEAN BROWN (Davenport): I support the Bill. Last evening, we reached the Committee stage with the Margarine Act Amendment Bill. Now, we must deal with this Bill and the Dairy Produce Act Amendment Bill, as all this legislation relates to dairy blend. I do not think it is necessary to add to what I said last evening during the debate on the Margarine Act Amendment Bill, except to point out that in this Bill dairy blend is clearly defined. It can contain not less than 12 per cent and not more than 20 per cent of vegetable oil. I understand

that the composition and percentage of vegetable oil is a secret. From what I understand of the work at Northfield in this connection, a certain amount of tolerance will be allowed in the composition. I hope South Australian housewives will look forward to receiving dairy blend on the market as soon as possible, and South Australia can become the leading State in Australia in the production of dairy blend.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Commencement."

The Hon. J. D. CORCORAN (Minister of Works): I move:

After "proclamation" to insert "not being a day that occurs before the first day of February, 1975".

The effect of the amendment is to ensure that this legislation, in common with other legislation involved in the marketing of dairy blend, will not operate before February 1, 1975.

Mr. DEAN BROWN: I support the amendment. What companies are interested in producing dairy blend? Have there been any firm assurances by companies that they will produce it? Is similar legislation being introduced in other States and, if it is, when is it likely to be proclaimed?

The Hon. J. D. CORCORAN: Licences to manufacture dairy blend have been taken out, although I do not know how many. It is intended that legislation will be introduced in other States to provide for the sale of dairy blend.

Mr. Dean Brown: Do you know when?

The Hon. J. D. CORCORAN: No, but I will try to find out.

Amendment carried; clause as amended passed.

Clauses 3 and 4 passed.

Clause 5—"Restrictions on manufacture of butter in or near margarine factory."

Mr. DEAN BROWN: Does the conversion to metric units in any way affect existing factories?

The Hon. J. D. CORCORAN: My information is that it does not.

Clause passed.

Clause 6 and title passed.

Bill read a third time and passed.

DAIRY PRODUCE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from August 27. Page 687.)

Mr. RUSSACK (Gouger): I support the Bill, which is complementary to the Margarine Act Amendment Bill and the Dairy Industry Act Amendment Bill. I wish to compliment the Agriculture Department and the officers responsible for the research undertaken so that dairy blend could be produced. I understand that the department undertook this research on behalf of the industry in Australia. It is laudable that it has come forward with this product. The Bill has a two-fold purpose. First, it includes the definition of "dairy blend". I understand that the product might become known as dairy spread. It has been necessary to include in the legislation reference to dairy blend, as well as reference to butter and cheese. Secondly, the Bill provides for metric conversion where that is appropriate.

Mr. DEAN BROWN (Davenport): I support what the member for Gouger has said. I pay a tribute to the Agriculture Department, particularly the research group at Northfield and Mr. Hehir who have done excellent work in producing dairy blend. I also pay a tribute to the Dairy Produce Board and its research committee that made the finance available to our Agriculture Department to carry out the necessary research. That was a stroke of genius at the time, and a certain amount of genius, much hard work and expertise also went into the production of the mixture by the small group of people involved. I am pleased to see that the Government is backing up this research and that it will be implemented in a practical way.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Commencement."

The Hon. I. D. CORCORAN (Minister of Works): I move:

After "proclamation" to insert "not being a day that occurs before the first day of February, 1975".

The reason for my amendment, which is identical to the amendment I moved to the Dairy Industry Act Amendment Bill, will mean that the scheme for the marketing of dairy blend will not commence before February 1, 1975.

Amendment carried; clause as amended passed.

Remaining clauses (3 to 8) and title passed.

Bill read a third time and passed.

LOCAL AND DISTRICT CRIMINAL COURTS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from September 12. Page 922.)

Dr. EASTICK (Leader of the Opposition): I support the Bill but, in doing so, I draw the Attorney-General's attention to several questions that need to be answered before the Bill is passed. I agreed before the 1973 election that such a measure should be introduced, a similar court having been established in another State. From the information available to us concerning South Australia's requirements, it was an obvious area that needed consideration. Therefore, there can be no argument about the Opposition's desire to initiate this measure, which has now received Government support.

However, the problem arises regarding how the small debts court will be conducted, having regard to rules of evidence, etc. The Attorney-General did not say in his second reading explanation how a court of this kind, which basically should be a court of low cost to the people involved in cases before it, would be conducted. He did not say, for instance, whether actions would be heard in open court or whether, as occurs elsewhere, they would be heard in chambers. Further, he did not say whether special consideration would be given to convening such a court during the day, when there might be additional cost to people as a result of their having to miss work, or whether the court would sit at night.

The Attorney-General did not say how a person would initiate an action: whether it would be left to court officials to help him fill out the required documents, or whether he would have to pay legal costs outside the court to obtain the assistance he required in having his case heard. These are important matters. I have no argument about the intention of the Bill, but a real question arises regarding its method of implementation and whether it will be possible for the people involved to initiate a claim without incurring considerable additional cost. Although the Bill precludes a lawyer from becoming involved in a case, it does not make clear what may

happen if he is the person making the claim. This could well happen if a person failed to pay his lawyer's fees, the sum involved coming within the jurisdiction of this court.

Will the lawyer himself be allowed to appear before the court? As I understand the Bill, he will not be permitted to appear in the small debts court. Who will be responsible for the conduct of the court? Will it be conducted at magisterial level, presided over by a special magistrate, or will it involve special justices, who appear from time to time in the lower courts? It is important that the House be given this basic information before we are asked to vote on the Bill.

As a result of research undertaken in other States, I find that, regarding small claims, the New South Wales Act merely gives special jurisdiction to the lower courts, and a lawyer or agent can represent the parties. I believe that the small debt situation should be determined without either party having to pay expensive legal costs. In New South Wales a lawyer or agent is allowed to represent the parties, but the scale of costs is limited to the scale contained in the schedule of the Small Claims Court. Also in New South Wales all rules applying to any civil claim (for example, garnishee orders) apply to small claims. Therefore, small claims are still involved with the law, and are not made cheap or easy for the man in the street. The procedures are not easy for him to understand, and it is not possible for him to undertake them himself.

One can question whether the Small Claims Court has served its purpose in that State. In Queensland the work is undertaken before a tribunal, which has been established as part of a consumer protection programme. No appeals from the decision of the tribunal are allowed, and its determinations are entered into court records. In 1973, a small claims tribunal was established in Victoria; no costs are allowed and legal representation is permitted only if both parties agree, as legal representation could defeat the real aim of reducing costs. Provision also exists for the tribunal itself to allow legal representation when it is deemed necessary. Both Queensland and Victoria do away with all legal extras by instituting a separate, independent body to deal with these matters. The referee is nothing more than an independent tribunal. Proceedings, which are informal, are aimed at simplicity.

This legislation suggests that the matter will be heard in a courtroom, but one wonders whether this is desirable. A courtroom is never a place in which the minds of most people are at rest. Because they have to appear in a courtroom and endure courtroom procedures, they may be disturbed. The Attorney-General, when amending our juvenile court system, ensured that juvenile cases were taken from a courtroom setting and heard in a relatively informal way. Was the possibility of allowing small claims to be heard in a similar informal chamber setting, rather than in a courtroom, considered? It seems to me that hearing these matters in a courtroom would be detrimental to the aim of the Bill.

I have the distinct impression that the provisions of new section 135 (2) should be widened, as it refers to a "body corporate". One could ask whether it refers to partnerships and persons in business on their own, because it seems that the situation is not clearly dealt with by this provision. Victoria allows an agent to act for a body corporate, or where it seems to the tribunal that an agent should be allowed as a matter of necessity. The question arises whether this system should cover all cases and whether we should adopt it in this State. Obviously, for registered partnerships or partnerships of arrangement between professional people, an agent would be needed. I hope the Attorney-General, when replying to the debate, will indicate why the courtroom situation has been adopted, and why, as in Queensland and Victoria, provision has not been made to have the decision entered into the court records in cases where the tribunal's order is enforceable.

In Queensland and Victoria the successful applicant lodges a certified copy of the tribunal's order, plus an affidavit, at the local magistrates court (which is equivalent to the Local and District Criminal Court in this State), and the order is deemed to be a judgment that requires payment of money duly made by that court pursuant to its statutory authority. The order becomes a judgment enforceable by normal legal process. These are the matters I raise, and I hope that the Attorney-General can clearly indicate the background of and the reasons for deciding to present the Bill in this way.

Depending on the information given, it may become necessary to consider whether the Bill should be amended. The Attorney-General is to make several recommendations concerning the levels of financial involvement in the activities of the Local and District Criminal Court, but it is not proper for me to discuss these matters at this stage.

Mr. MILLHOUSE (Mitcham): I support the second reading of the Bill, although I am not sure how much of an advance the proposals employed in it will be in law. However, I acknowledge that there is a need in the case of small claims to cut down expense because, as the Attorney-General said in his second reading explanation, people frequently will not go to court at all over small claims because the money they would spend with the attendant risk of not getting it back does not justify that action. There are arguments both for and against the provisions regarding the appearance of legal practitioners in these matters.

There is a good argument, I think, for allowing practitioners to appear but not allowing costs in any circumstances, because the legal profession knows what laymen learn only through bitter experience, and that is that nothing is more legalistic than a tribunal consisting of laymen who are trying to act as though they were a court. That often happens, and one has only to look at the nonsense that goes on in the many industrial jurisdictions where lay advocates and laymen conduct the proceedings to see that. In the end hearings are often far less satisfactory, far longer, and far more costly than if they were conducted by people trained for the purpose—people in the legal profession.

However, these remarks are by the way because some people might think that I have a vested interest in the matter. They are my views and we shall see from experience just how this measure works. There are one or two things I should like to say, having listened to the Leader of the Opposition speaking for his Party. The first is that he made a half suggestion, I think, that proceedings under this Bill should be conducted in Chambers and not in an open court. I am opposed to that. One of the things we value in our system is that it is open to the public and that anyone can come in and listen to what is going on. Although the claims involved under this measure will be small, and as it is to be a summary justice court, I cannot see any reason at all for abandoning the open hearing.

I point out to the Leader that if a hearing is held in chambers it is held in private and that no-one can listen to what is going on. Present practice in the Supreme Court is that, as a rule, even the parties involved in the matter are not allowed to go into chambers to listen to what is going on. Their counsel goes in and represents them, and that is that. I believe that what the Leader suggested would be undesirable to import into the Bill. I thought, with some charity to the Leader, that his was a rather pettifogging suggestion that a legal practitioner (a solicitor only) suing for his costs could not appear for himself. Under new section 135 a party to an action or proceeding in a local court of limited or special jurisdiction may appear personally to conduct his action or proceeding, and I believe that covers the position. Tt does not provide that anyone but a legal practitioner may appear personally: it merely provides that a party may appear personally. The prohibition against a legal practitioner is contained in new section 152b, which provides that a party shall not be represented by a legal practitioner or an articled law clerk. I should have thought that that took care of the point raised by the Leader.

There is only one other matter to which I wish to refer, and that is the reason for my speaking at all. Referring to clause 3 of the Bill, I raise the point now so that the Attorney-General may consider my suggestion. Clause 3 inserts a new definition of "small claim." in section 4 of the Act. Placitum (*b*) refers to a claim in respect of a quasi-contractual obligation. To my knowledge that is an inexact term. "Small claim" means a claim for a pecuniary sum not exceeding $500. That is definite. Placitum (*a*) provides:

upon a contract or by way of damages for breach of contract.

There is no problem about that, either, because a breach of contract is a perfectly well-known concept. I raise no question about clause 3 *(a)* and clause 3 (*c*) by way of damages for tort, but clause 3 *(c)*, I believe, is technically out of order because the Manufacturers Warranties Act, 1974, does not yet exist; however, I suppose we can bend the provision a bit and assume that that Bill, currently before the House, will pass.

Dr. Tonkin: What about an insurance claim?

Mr. MILLHOUSE: If there were a squabble between an insurer and an insured it would be a claim on a contract or, if it were a question of indemnity of an action, say, a running-down case, it would be a tort action, so there would be no problem. I just wonder what is really meant by clause 3 *(b)* in respect of a quasi-contractual obligation. My attention has been drawn to the definition of "quasi-contract", in *Osborne's Concise Law Dictionary,* that confounds me rather than clears up the matter. "Quasi-contract" is defined at page 262 (and simply refers to Roman law), as follows:

The term is an abbreviation of the *obligatio quasi ex contractu.*

So it may be. It then goes on to canvass the place of quasi-contract in our English law system and does not come to a conclusion on the matter. We want to be non-technical in this measure and to know exactly where we stand; we do not want to have in this jurisdiction arguments about the jurisdiction itself. I am afraid that by inserting, in clause 3, placitum *(b)* in respect of quasi-contractual obligations more problems than it is worth could be caused. If the Attorney would explain what is meant by that term I should be pleased. It may be better to amend it to make his intention clear, or it may be better to cut it out altogether. I believe it would be all right if the jurisdiction of the court were in terms restricted to contracts in tort, because that would cover most actions without venturing into an area that I believe is imprecise. I understand we are not going to proceed far with this matter today, but that we shall simply get it into the Committee stage, so there will be a chance to have a good look at it. Perhaps, when the Attorney-General replies, as apparently he will reply, he will deal with the points I have raised.

Dr. TONKIN (Bragg): I welcome the introduction of the Bill from the viewpoint of its principles, but there are one or two matters on which I am not clear. I believe the Leader has touched on one or two and that the member for Mitcham has touched on others. I cannot help wondering whether a tribunal or referee could not hear these matters in an open form more efficiently than they could be dealt with in a small claims court. I do not know because I have not had experience in this matter. However, I understand it works well in the other States of Australia and overseas. Nevertheless, I agree that justice must be seen to be done and that, as in most other judicial cases, the proceedings must be open. I welcome the idea that informality shall prevail, because many people appearing in a court of law, either as defendants or to put forward their own case, are tremendously overwhelmed by the occasion, and to some extent the purpose of a court of law is to bring home to individuals the importance of the occasion and the fact that serious business is being undertaken. That is why many of the old traditions of the law courts, by and large, are upheld. However, when small claims are dealt with, it would be better if an informal atmosphere prevailed.

The Leader has said that a legal practitioner appearing for himself to claim payment of a debt may find that the other party objects to his appearance because he is a legal practitioner. This could be a difficult situation. I take it that the person's status as an individual would override his status as a legal practitioner, but people are not sure how this will apply: certainly, I am not sure. Many people in the community, such as small business men, dentists, medical practitioners, and solicitors, give credit, and over a time they accumulate many small debtors.

Previously, these people employed debt collection agencies to collect debts and, if the debts were not paid, they engaged legal practitioners to represent them in court. Under clause 6, which enacts new Part VIIA, it will be possible for a person who owes money to object to the appearance of a legal practitioner, and that will require the dentist, doctor, lawyer, or small business man to appear in court. Many such people would find that it would not pay them to do that if it involved their giving up time to go to court and, presumably, wait for the case to be called. The amount involved could be only $15, and these people could spend half a day or more waiting for the case to be heard. I do not think that is the intention of the legislation and, if it happens, it may defeat one of the main purposes of the Bill.

Another interesting aspect with which I should be pleased to hear the Attorney deal is that some people are professional debtors who never pay their bills. Every man in a profession probably has one or two of these people on his books. They go from doctor to doctor, butcher to butcher, veterinary surgeon to veterinary surgeon, and sometimes from house to house, without paying. They could well take advantage of the situation by objecting to the appearance of legal practitioners and doing well out of it, because it would not pay people prosecuting small claims to waste time in court.

I agree with the member for Mitcham that the good intention behind the legislation would be better served if the creditor was denied the right to recover costs of being represented legally rather than denied the right to engage legal representation. Clause 6 inserts new section 152*a* (2), which provides:

> Where a party to proceedings based upon a small claim is not represented by a legal practitioner the court shall give that party such assistance (if any) as appears necessary to ensure that his case is properly presented . . .

That, with the provision that he has no right to recover costs, may meet the position better, and I should be pleased if the Attorney would explain that matter. Regarding insurance claims or recoveries, the member for Mitcham has explained that they would be covered by the definition of small claims. Many recovery proceedings take place. Basically, if one car collides with another and it can be established that the fault is with one party, the insurance companies will repair the cars but, in order to avoid loss of the no-claim bonus, one company will take action against the other to recover the cost, so that the company representing the party that is to blame will be required to meet the total costs involved if the action is successful.

Basically, if one party is not insured, the other person's insurance company can take action against the uninsured party in that person's name. That is as I understand the position under the law of subrogation. Again, the company can press for costs of repairing the vehicle and, if it is successful, the no-claim bonus is saved. In these days, the no-claim bonus is extremely important. The proceedings are taken entirely at the expense of the insurance companies and I understand that, under the Bill and under the law of subrogation, it would not be competent for the insurance company to act on behalf of an individual as it can do now.

All that the other party or insurance company need do is object to the appearance, on behalf of one insurance company, of a legal practitioner or other skilled advocate. That would prevent the claim from being prosecuted in this court. I do not know whether I have read the provisions properly, but those matters have concerned me and I should be grateful if the Attorney would explain them and perhaps reassure the community generally, including legal practitioners.

Mr. EVANS (Fisher): I support the proposal. However, I doubt the wisdom of providing for an amount of $500 in dealing with small claims. Whilst that may not be a large amount to professional people, it is a large amount to the average person. The amount will not be reduced, because as time goes on claims will be made involving amounts such as $550 and $600 and moves will be made to increase the amount laid down. Eventually, the State may tend to carry all the burden in court cases or claims of one individual against another.

In 1968, when I first came into this place, I made the point that the legal profession and the courts were areas in which the average citizen was afraid. He would never walk into a court with any confidence or into a. solicitor's office with any confidence that he would be on the right side and win his case. Because of the methods used in interrogation and the way the law was written, it was difficult for the individual in the community to understand the position. He always seemed at variance with those who made the decision, and he was always looking for a one-armed lawyer who would say, "I think you could win" or "You will lose".

I have always supported the view that small claims should be decided by a tribunal or informally in a court where there should be no legal representatives to use the cut and thrust and ask for a "Yes" or "No" answer when, quite often., a qualifying remark was called for. If the individual tries to qualify his reply he is told that he must give a "Yes" or "No" answer. At least, that was my short experience at a coroner's inquest.

Mr. Millhouse: What you are saying is nonsense.

Mr. EVANS: What I have said is true. The average citizen has been afraid of the system and is still afraid of it.

The Hon. L. J. King: I should like to read the transcript of your evidence.

Mr. EVANS: It is brief, if the Attorney cares to read it. It was just before I came to this place. I found from experience, even though it was in a small business, that not once in 10 years did I go to court to decide a dispute, because it was not worth taking up the fight. The one occasion when it looked as though it would be a fight was with the State Government over the interpretation of some words used by - a man in the Engineering and Water Supply Department in 1962. I would prefer to walk away from the system and lose money, even though I believed I was right, rather than face the interrogation that goes on to try to establish a point.

How a person reacts to interrogation is influenced by his approach and his attitude to life. For that reason, I support the measure, although I have some hesitation in agreeing to the figure of $500, which may be too high a figure to set for a small claims court. I accept the point raised by the member for Bragg that some professional people may find it more beneficial financially not to appear in an informal court. Perhaps that is unfortunate. The sum of $50 or some other figure may not seem much to a professional man, but it is a large sum to the individual on the other end of the economic system. He must take time off from work and, if he loses only $2 or $3 by appearing in court, that may be just as important to him as the professional fee would be to a lawyer. Even though I understand the point made by the member for Bragg, I do not think we should consider that situation in introducing this type of legislation and this type of court. I accept the Bill, but I shall make my final decision on the third reading after hearing further discussion and any amendments.

The Hon. L. J. KING (Attorney-General): I shall deal briefly in the first place with the points raised by the member for Fisher. I am disappointed, as I often am, to hear a member of Parliament speak as he has spoken of the procedures evolved over so many years (indeed, over centuries) and with so much labour in an effort to produce a system that will ascertain the truth, detect error and falsehood, and do all that in an objective and impartial way and with sufficient publicity to enable justice to be done and to enable it to be seen to be done.

It is disappointing when one hears a member of Parliament speak of those procedures as the member for Fisher spoke of them, because it shows a complete lack of understanding of what happens in the courts and of what the courts try to do. There is no doubt, of course, that the procedures used are imperfect, just as every human activity is imperfect. There is no doubt that there is room for continuing examination and change in the procedures we use to bring them (and to keep them) in touch with modem conditions.

However, it is absurd to describe them as though they were somehow got up to conceal the truth rather than to get at the truth. The description of the member for

Fisher of the questioning that takes place in a court is misconceived. Courts, in fact, bend over backwards to see that a witness is given the opportunity of saying what he knows about a matter. Also, of course, the courts must take care that a witness is not allowed to shelter behind a mass of words and refuse to face up to the questions. This is the judicial art: to hold the balance between giving the witness an opportunity to say what he wants to say and preventing him from running away from questions by using a mass of words. If the member for Fisher does not understand that, he does not understand anything about the way in which the courts are conducted. Procedures can be improved, and their effectiveness will depend on the skill of the presiding judge. Like other human beings, judges vary in the degree to which they can use the machinery at hand.

What surprised me even more was that the honourable member, having expressed his dissatisfaction with court procedures, drew the conclusion that the amount of $500 should be reduced. If I thought as he did about the existing court procedures, I would want to eliminate the limit and get rid of the existing procedures in all cases. I could not reconcile the low opinion he has of court procedure with his belief that $500 is too high. In fact, the figure of $500 is related to the cost of legal proceedings.

I agree with the member for Fisher to this extent: 1 hesitate to deprive people with a claim of, say, $400 of the right to be legally represented, but I recognise that legal representation is just too expensive in respect of amounts such as this. It would be a good thing if everyone could have legal representation in all matters, of whatever amount, because that is the best way of arriving at the truth of the matter. The plain fact is that it is a luxury we cannot afford in relation to small claims. One has to set a limit, and the figure of $500 is the limit selected in that way.

The Leader of the Opposition raised several points. He asked whether night courts were intended. They are not intended, at least for the present. Many difficulties are associated with them, not the least of which is that court staff would have to work at night. That produces several difficulties, one of which is the expense. Night courts are most expensive, because people who work in them have to be rewarded for the fact that they are working outside normal hours. I doubt the necessity for night courts, although they would certainly offer an advantage to people prosecuting and defending small claims, as they would to people charged with various offences. However, it is not often that a person has a claim in court: the average would be even less than one in a lifetime. Therefore, perhaps it is not asking a great deal that people give up a day's pay to attend court during normal business hours. People take a day off from work to attend to other business that I would think would be of much less consequence at times than would be attendance at a court.

Mr. Coumbe: You could have Saturday morning courts.

The Hon. L. J. KING: Yes, but whatever is done out of normal working hours involves additional expense. In this area, as in all other areas, we are trying to minimise expense. Saturday morning courts would also mean asking people to work outside normal working hours, and that would create problems. Unless there is some serious reason for it, I doubt whether night courts are really necessary, although this is something we may have to reconsider in future. However, I can think of many other things in the administration of justice on which I would like to spend the limited money available before I spent it on night courts.

The Leader questioned how the litigant in a small claim would initiate proceedings. The fact is that at present in limited jurisdiction matters the staffs of the courts assist litigants in preparing proceedings. In the local court jurisdiction, proceedings are initiated by means of a summons; one indicates a desire to contest a matter by means of entering an appearance. The staffs of the courts assist litigants in preparing papers in limited jurisdiction matters. That process will continue, but additional instruction will be given to court staffs to give special assistance to people involved in small claims.

Mr. Gunn: At no cost?

The Hon. L. J. KING: Yes, except the cost of actually filing the document, when a small fee is paid to the court whether the documents are prepared by the person himself or a solicitor. There will be no charge for the services of the court staff for assisting to prepare the documents. The question has been raised whether we should have a small claims court or a special tribunal. Members who have raised this matter do not really say what they mean by a special tribunal, except that the Leader referred to Queensland legislation, under which the presiding officer is not required to have legal qualifications at all. I do not know whether the present officer has legal qualifications, as I do not have that information. I would very much oppose that sort of situation. It is one thing to have a small claims tribunal in which legal representation for the parties is prohibited except under certain conditions, but it would be quite another matter to have a presiding officer without legal knowledge or training.

Mr. McAnaney: An accountant would be able to do it.

The Hon. L. J. KING: I will not say much about that, because, if I did, I might be accused of the same types of fault and fallacy of which I accused the member for Fisher. I very much oppose the idea of having a non-lawyer as the presiding officer. If this were done, claims and litigations involving amounts of less than $500 would be taken right outside the rule of law. They would not be decided according to the rule of law, because the presiding officer would not be trained. These claims would be decided only according to the subjective notions of the presiding officer of what was fair in the circumstances. In other words, the rule of law would be abrogated in relation to disputes in matters involving sums of less than $500. Whatever we do about legal representation, people who have a claim in respect of sums of less than $500 are entitled to have the matter adjudicated on according to law, in the same way as if it involved $5 000 or $5 000 000. The law applies to everyone, no matter what the amount of the claim involved. We have to adjust the procedures because the optimum procedure for getting at the truth and justice of a matter is too expensive if it is a small matter. However, it is another matter altogether to abrogate the rule of law completely by saying that the presiding officer must not be a lawyer.

If he is to be a lawyer, no advantage is gained by setting up a special tribunal. We have all the machinery of the court now, with officers, staff and procedures; these could be utilised for small claims. If a new tribunal were set up, all this machinery would have to be duplicated at considerable expense and to no good purpose. The only advantage suggested is that it is said that this would somehow remove what is claimed to be the formality of the court atmosphere or procedures. Existing limited jurisdiction or special jurisdiction claims nowadays are conducted, I think, with considerable informality. The magistrate involves himself in the case, helping the parties when they are not represented. I do not think there is

anything very terrifying about the atmosphere of a special jurisdiction court, although I know it will always make some people apprehensive, I know that doctors' consulting rooms frighten some people and that they find hospitals more frightening. Whatever is outside ordinary day-to-day experience will frighten some people. This will have more effect on some people than on others, according to the degree of firmness of mind, experience of life, and so on; this is inevitable.

We must also remember that because the amount involved in litigation is small it does not mean that very real issues do not have to be dealt with, often involving what is called the credibility of the witness (whether he is telling the truth or lies). These issues must be faced up to. Often, they are faced up to better in a courtroom, with some degree of control and formality, than would be the case in a room with people sitting around a table. That procedure is all very nice, perhaps, where an attempt at conciliation between husband and wife is being made in the Family Court or, in some circumstances, if juveniles are involved. However, where a litigation is involved, with one party asserting black and the other white, and where it must be decided who is telling the truth and who is lying, with fairly firm questions being asked, a greater degree of formality is often necessary. I do not really think such formality is a serious obstacle. The advantages of keeping small claim matters within the existing court system, if only as they relate to cost, are great enough to make it unwise to set up a completely new tribunal.

If a new tribunal were set up, we could get into the sort of difficulties that the Leader referred to in relation to Queensland, where there must be procedures to enable an order from the tribunal to be translated into a judgment of the court. Affidavits are necessary. In this situation, we come back to the technical procedures involved in getting orders registered as judgments of the court. In the procedure outlined in the Bill, once an order is made it will automatically be a judgment of the local court, just as if the sum involved were more than $500. There will be no difference, other than that it will be enforceable as an ordinary judgment of the court without further procedure. The matter of a legal practitioner who is a party to the proceedings has already been explained by the member for Mitcham. I would not refer to it now, except that the member for Bragg raised it again, asking me to explain it further.

Mr. Millhouse: I'm afraid he doesn't trust me.

The Hon. L. J. KING: Perhaps; I make no comment on that, or on the merits or otherwise of such an attitude. I will simply take the non-controversial course of explaining the matter for the benefit of the member for Bragg. New section 152b (1) (this is the section prohibiting legal practitioners from appearing) provides:

> In any proceedings based upon a small claim a party shall not be represented by a legal practitioner or an articled law clerk . . .

In other words, the only prohibition against a legal practitioner's appearing is when he is representing a party. If he is not, there is no prohibition against him. The other section to which the member for Mitcham has referred is new section 135, in clause 5 of the Bill, which provides:

> A party to an action or proceeding in a local court of full jurisdiction—
>
> (*a*) may appear personally . . .

New subsection (2) refers to limited or special jurisdiction. So, a party may appear, whatever his profession or calling may be, a legal practitioner being prohibited only when he represents a party.

Dr. Eastick: Then he has a distinct advantage over a person who is not a legal practitioner.

The Hon. L. J. KING: That, no doubt, is true, but we cannot have everything. We cannot very well prohibit a man from pursuing his own claim because he happens to have, by virtue of his profession, some advantage. For instance, the member for Heysen would have an advantage, in pursuing a claim, over those members who did not have the advantage of accountancy training. An accountant would have an advantage, particularly in relation to matters involving books of account, over another litigant who did not have the training of an accountant.

Let us face up to this: when we deprive litigants of the right to be represented by counsel, we introduce the inevitable inequality that is inherent in human qualifications and training. We cannot get away from that. The great advantage of the right to counsel is precisely that, no matter how ignorant, illiterate or disadvantaged a person may be, when he comes to our courts of law, he is entitled to be represented by someone who can put the case for him. In this Act we are taking away that right. We are taking it away for reasons that seem to be sufficient, for the reasons already mentioned. However, when we do that, inevitably we introduce inequality between parties in their representation—there is no escaping that. We cannot deprive a person of the right to appear for himself because he has a better education or better training and experience than has his opposite party in the litigation. That is something we have to tolerate; it is one of the disadvantages of the small claims court system.

Mr. Gunn: Will you review it after it has been in operation for 12 months, if it is not satisfactory?

The Hon. L. J. KING: Yes. I think the operation of small claims tribunals will have to be watched. Like the member for Mitcham, I think we still do not know much about how it will operate, in practice. I have talked to people overseas. These courts have been in existence in parts of the United States for a long time, and it is claimed they are working satisfactorily. I have to accept that. However, we must watch how they work in other States of Australia and how they will work in South Australia to see whether we need to make improvements. I rather think we shall probably learn by experience and find situations in which they are not working satisfactorily.

There is no advantage, in my view, in authorising appearance by agents other than legal practitioners. In fact it is a very dangerous course to adopt, because, if we are to allow agents to appear, we may as well allow lawyers to appear. There is no advantage, but there may be a great disadvantage. Where one person appears for another in legal proceedings, he should be not only qualified to do the job he has been paid to do but should be bound by the disciplines which can be imposed on members of the legal profession but which cannot be imposed upon others. The danger of the abuse of the position a person has when appearing for another person in legal proceedings is too great to allow people who are not bound by these disciplines to appear for others. We have made an exception in those cases where there may be an illiterate or disadvantaged person who cannot put his own case. Such person can be helped by a friend, provided that friend is not paid for the services he renders: in other words, he is someone who genuinely renders assistance.

The Leader of the Opposition has asked whether the expression "body corporate" is too narrow. The answer is "No". The principle here is that, as legal practitioners are excluded, parties must appear on their own behalf. A partnership is simply a collection of individuals, and one of them must turn up to conduct the case. There is no difference in this respect between three or four individuals in a partnership acting and persons acting separately and individually. A body corporate must have provision made for it, because a body corporate cannot itself appear: it can appear only by some representative and we are confining it to "an officer or employee of the body corporate".

The member for Mitcham asked whether the expression "quasi-contractual" was satisfactory in this context. I will look at this again, but I cannot agree with the honourable member that it would be satisfactory simply to refer to "actions in contract" and "actions in tort", because there are many actions which are neither actions in contract nor actions in tort but which should be dealt with by a small claims court and which often are dealt with by the text writers under the general heading "quasi-contractual". They are particularly actions for money had and received, which is a common way of recovering money where the claim does not arise as a result of any contract between the parties; and also money paid for a consideration which wholly fails and which is recoverable at law.

There may be circumstances in which *quantum meruit* claims arise that are not claims in contract. The point the honourable member makes is that the expression "quasi-contractual" is not sufficiently a term of art to enable the court to say exactly what is comprehended within it. That is perhaps a difficulty. Text writers use the expression, and there are certain causes of action dealt with under that heading. That is why the expression is used here. I will look at the matter again. If, on consideration, it appears that we should spell out, or try to spell out, more exactly the claims which are neither claims in contract nor claims in tort but which are claims that we want dealt with by the small claims court, I will see whether that can be done.

Mr. Gunn: Will the court report to Parliament each year?

The Hon. L. J. KING: No; it is an ordinary court. There would be no occasion for any special report. The member for Bragg raised two points, one being what happens with the professional gentleman (or anyone else, for that matter) who is endeavouring to recover his debts. Under this legislation he would have to appear on his own behalf: he could not employ a lawyer. That is one of the consequences of excluding legal practitioners. However, I point out that this applies only if there is a contest, only when an appearance is entered. In a summons for debt, when no appearance is entered, judgment is signed, enforcement proceeds, and this small claims hearing never occurs anyway, so there is no problem. If there is a contest, the plaintiff, the person bringing the claim, has to go anyway, as a matter of practice. After all, if a medical practitioner sues for fees and the patient says he will not pay them because the doctor made the wrong diagnosis, messed everything up and put him to a lot of expense (as actually happens sometimes, I am given to understand), and if the medical practitioner wishes to pursue his claim, he has to be there. He can employ a legal practitioner; but his counsel cannot do much if his client is not present to swear that all this is false and that, in fact, he diagnosed correctly and gave the proper treatment.

Dr. Tonkin: You wouldn't be an expert, would you?

The Hon. L. J. KING: No. In practice, in a contested case, the plaintiff has to be at court to instruct his counsel and give evidence. The only difference here is that he will have to conduct his own case as well.

Dr. Tonkin: Does he have to appear on the off chance that an appearance will be entered?

The Hon. L. J. KING: No. The summons is issued and served, and the time of six days, under the rules of court, is allowed for an appearance to be entered. If an appearance is not entered the plaintiff can sign judgment, and there is no hearing. If the appearance is entered, a day is fixed for the hearing, and that is when the plaintiff must attend.

The other point raised by the honourable member has merit in it. I am considering it at present, for a possible amendment in Committee; the point is in relation to subrogation. The difficulty is that if an insurer brings an action in the name of the insured, under his right of subrogation under the policy of insurance, he sues in the name of the insured, so the insured is the party. Under the Bill as it stands it would have to be the insured person who appeared in court, not the insurance company's employee, but the insurance company would be the real party in the proceedings. There is a case for saying that, where an insurer is exercising the rights of subrogation, its employee should be entitled to appear. This is a difficult question, because there are many circumstances in which one party sues in the name of the other. This matter is being considered.

Dr. Tonkin: Do you intend to move an amendment along these lines?

The Hon. L. J. KING: I am considering whether we Can move an amendment in Committee to solve the problem that has been raised. I am conscious, as are other members, of the problems associated with any tribunal from which legal practitioners are excluded. Once we take away the right to counsel, which is a basic right that we have every reason to value in our system, for the reasons to which I have referred, people are unequal in their capacity to press and present their own case. Our whole system is based on the right of counsel to appear, a right that was fought for. In the criminal sphere, the right of an accused person to be represented by counsel was properly regarded as one of the great milestones in the development of our law.

We are taking a serious step in depriving people of the right to counsel in certain circumstances. I am persuaded that the step taken is justified in the circumstances, but I do not under estimate the problems which may arise and which must be carefully watched. I think we must accept that many of the points that have been raised by members are real problems and real drawbacks, but we must be willing to accept them if we want this less expensive and less formal method of dealing with small claims. We must accept that a small claims tribunal which does not conform to the rules of evidence that have been devised to get at the truth of matters between parties who cannot have counsel is necessarily an inferior instrument for handling litigation and getting at the truth and justice of the matter. There will be a much higher rate of miscarriages of justice: that is inevitable. What we must consider is whether the expense involved in the conventional way of litigating can be justified when only a small sum is involved. This is the consideration that has led to the introduction of the Bill.

Bill read a second time.

Mr. MILLHOUSE (Mitcham) moved:

That it be an instruction to the Committee of the Whole House on the Bill that it have power to consider new clauses relating to an extension of the jurisdictions of the Local Court.

Motion carried.

In Committee.

Clauses 1 and 2 passed.

Progress reported; Committee to sit again.

LOCAL GOVERNMENT ACT AMENDMENT BILL (MEETINGS)

The Legislative Council intimated that it insisted on its amendment No. 5 to which the House of Assembly had disagreed.

ADJOURNMENT

At 4.52 p.m. the House adjourned until Tuesday, October 1, at 2 p.m.