LEGISLATIVE COUNCIL

Tuesday, November 23, 1971

The PRESIDENT (Hon. Sir Lyell McEwin) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS

GOVERNMENT INSURANCE OFFICE

The Hon. R. C. DeGARIS: Has the Chief Secretary a reply to my recent question regarding the Government Insurance Office?

The Hon. A. J. SHARD: Reinsurance arrangements are as follows:

1. An excess of loss reinsurance cover has been arranged for an unlimited amount.

2. An excess of loss cover has been arranged for up to $500,000 for public liability insurance.

3. An excess of loss cover has been effected of up to $200,000 for personal accident and illness insurance.

4. A fire catastrophe cover has been arranged for the commission's fire and householders' account for an amount of up to $600,000.

5. A 15-line first surplus fire and householders' treaty, a 20-line second surplus fire and householder's treaty and a 15-line miscellaneous accident first surplus treaty have been arranged. Although I am able confidentially to disclose to the honourable member the names of the actual undertakings through which the arrangements were made, I do not think it is proper to disclose publicly the names and details of business which, if undertaken between ordinary insurance companies, would be regarded as private. The excess of loss treaty was negotiated through Sydney offices and placed on the London market only because unlimited liability insurance is unavailable in Australia. The fire catastrophe cover was placed through Sydney based reinsurers and the surplus treaty arrangements were concluded with four Australian companies.

The following cover has been effected for members of the State Government Insurance Commission who are not public servants:
Personal Accident Insurance:

	$
(*a*) Death	15,000
(*b*) Loss by severance of two limbs at or above the wrist or ankle or complete and irrecoverable loss of sight in two eyes, or such loss of one limb and sight in one eye	10,000
(*c*) Loss by severance of one limb at or above the wrist or ankle or complete and irrecoverable loss of sight in one eye	10,000
(*d*) Total and absolute disablement from engaging in or attending to usual profession, business, occupation or pursuits—per week (limit 52 weeks)	200
(*e*) Partial disablement from engaging in or attending to usual profession, business occupation or pursuits—per week (limit 52 weeks) . .	50
(*f*) Total and permanent disablement (other than disablement resulting from loss of sight and/or physical severance of hands or feet) from engaging in or attending to any profession, business, occupation or pursuits whatsoever	15,000

The premium for the above cover was the same as that quoted for a workmen's compensation policy covering the members of the commission whilst on commission business. No extra insurance has been arranged in relation to those in the Public Service who may be serving on the commission.

SPEED LIMITS

The Hon. A. M. WHYTE: Has the Minister of Lands received from the Minister of Roads and Transport a reply to the question I asked on November 17 regarding the reassessment of speed limits for trucks?

The Hon. A. F. KNEEBONE: My colleague, the Minister of Roads and Transport, has supplied me with the following answer to the honourable member's question:

It is expected that the legislation relating to increased speed limits for heavy commercial vehicles will be introduced in the autumn session of this Parliament.

ABATTOIRS

The Hon. L. R. HART: I seek leave to make a short statement prior to directing a question to the Minister of Agriculture.

Leave granted.

The Hon. L. R. HART: Many South Australians will be very concerned to know that the strike of the meat employees at the Metropolitan Abattoirs is to continue. At this time of the year, many thousands of lambs are

awaiting slaughter and any undue delay in having them treated will bring about deterioration in these lambs, involving the producers in considerable loss. Can the Minister tell the Council exactly what is the point at issue in the strike at the abattoirs and in what way the Government has been involved in any action to effect a settlement?

The Hon. T. M. CASEY: I understand that negotiations are still taking place between the board and the unions concerned, and the latest information I have is that a meeting is to be held tomorrow morning at 9 o'clock. That is as far as I am able to inform the honourable member.

KANGAROO ISLAND TRANSPORT

The Hon. C. M. HILL: Has the Minister of Lands a reply to a question I asked last week about whether or not the purchase money for the m.v. *Troubridge* was to come from the Highways Fund?

The Hon. A. F. KNEEBONE: My colleague, the Minister of Roads and Transport, has asked me to point out to the honourable member that section 32 (1) (*n*) of the Highways Act was enacted in the last session of Parliament to provide for, among other things, "the provision or operation of a ferry service to Kangaroo Island and works ancillary thereto".

The Hon. M. B. CAMERON: Has the Minister of Lands a reply from the Minister of Roads and Transport to my question of November 16 about the Kangaroo Island ferry?

The Hon. A. F. KNEEBONE: The honourable member referred to reports that had been forwarded to the Minister of Roads and Transport for his guidance in connection with the Kangaroo Island ferry. My colleague has informed me that the reports referred to are not public documents and, therefore, those reports will not be made available.

BOLIVAR LABORATORY

The Hon. M. B. DAWKINS: I seek leave to make a short statement prior to directing a question to the Minister of Agriculture.

Leave granted.

The Hon. M. B. DAWKINS: I understand that preparations are in train, and in some cases have been made, for the soil tests in the Virginia area, about which honourable members are so concerned. I believe a laboratory is being supplied in the compound area of the Bolivar treatment works, which are under the control of the Engineering and Water Supply Department; I understand, too, that the situation envisaged for the laboratory is about a quarter of a mile from the main headquarters. Although plenty of electric power is available to the headquarters, I believe none is available at present at the location of the laboratory. An installation at this point may require an additional transformer. In view of the urgency of the situation, of which I am sure the Minister is aware, and of the need for the facilities to be fully equipped, will he inquire whether my information is correct and, if so, will he do all in his power to see that the laboratory is supplied with electric power as soon as possible?

The Hon. T. M. CASEY: I assure the honourable member that I will comply with his wishes.

DROUGHT BONDS

The Hon. A. M. WHYTE: I seek leave to make a short statement before asking a question of the Minister of Lands.

Leave granted.

The Hon. A. M. WHYTE: One of the requirements for a man to recoup money invested in drought bonds is that the area in which he lives must be proclaimed a drought area by the Commonwealth Department of Primary Industry. However, it is not uncommon in the North for a property to suffer severe drought while neighbouring properties are not suffering in that way. I have made several requests in this Council and through various organizations that the State authorities, particularly the Pastoral Board, should have the right to declare a property a drought area. If that is not possible, drought bonds are of very little value and, in fact, are misleading. People could buy drought bonds that had no real application. Consequently, will the Minister have this matter investigated once more, with a view to the Pastoral Board's being permitted to declare an area a drought area, thereby allowing holders of drought bonds to redeem the money they have invested, when it is most needed?

The Hon. A. F. KNEEBONE: The main difficulty in achieving that object is that the Commonwealth Government is the Government that proclaims an area a drought area, on the recommendation of the State. An application would still have to be made to the Commonwealth for approval for the Pastoral Board to declare an area a drought area. Every area would have to be looked at individually for this purpose. However, I will consider the situation, discuss it with the Pastoral Board, and see what can be done.

WHEAT RESEARCH

The Hon. C. M. HILL: Has the Minister of Agriculture a reply to my question of November 11 about whether his department is investigating the breeding of dual-headed wheats, as a result of an inspection by his officers on Eyre Peninsula?

The Hon. T. M. CASEY: The Director of Agriculture has informed me that officers of his department now know of two sites where dual-headed wheats have been found; in each case the variety is Heron. It is suspected that the dual heads have formed as a result of incorrect 2-4-D applications at one site, but there is no apparent reason at the other site. Usually these changes are caused by environmental factors such as hail, frost or 2-4-D and are not fixed genetic changes that could be bred from. Heads will be collected from these sites at harvest time, and within the next six months the seed will be grown to determine whether it has genetically changed. If this proves to be the case it will be brought to the attention of wheat breeders.

REFLECTORIZED STRIPS

The Hon. A. M. WHYTE: My question is directed to the Minister of Lands, representing the Minister of Roads and Transport. Will the Minister ascertain from his colleague the life of the reflectorized strips attached to guide posts on the highways; are they replaced as a matter of routine, or are they periodically inspected for effectiveness; and if so, how often?

The Hon. A. F. KNEEBONE: I shall be delighted to take the honourable member's question to my colleague. I will endeavour to get a reply before we adjourn at the end of this week; if not, I will convey the reply to the honourable member by letter.

RENMARK RATING

The Hon. C. R. STORY: During the course of the debate on the Renmark Irrigation Trust Bill I asked the Minister of Lands a specific question regarding section 78 (1). Has the Minister been able to obtain the information I sought?

The Hon. A. F. KNEEBONE: Yes. The honourable member was concerned, as I recall it, regarding the conversion of a half acre into one-fifth of a hectare, and he was also concerned that this may affect the rating of a number of properties in the area covered by the Renmark Irrigation Trust. I assure the honourable member that this will not be so. At present areas as recorded for title and rating purposes are given to the nearest perch, and if the total of ratable lands is two roods or more then the property is recorded on the assessment book and in all cases (of which there are 79) where the area is 1 rood 39 perches or less the property is excluded from that book.

One-fifth of a hectare is fractionally more than 1 rood 39 perches and fractionally less than two roods. Hence the same properties which within the context and meaning of section 78(1) are less than a half-acre are less than one-fifth of a hectare. Therefore, the amendment will not affect either the liability of present landholders/occupiers for inclusion in the rate assessment book or the trust's revenue.

SOUTHERN HOSPITAL

The Hon. C. M. HILL: Following the announcement of plans for the south-western districts hospital at Bedford Park, is the Minister of Health in a position to disclose any long-term planning within the Hospitals Department aimed at the provision of further hospital facilities for the southern suburbs in the rapidly growing areas of Morphett Vale, Christies Beach and thereabouts? My question is prompted by some recent correspondence in the press.

The Hon. A. J. SHARD: Since I have been in office on this occasion I have not been approached by the people from that area. My last recollection of it is that, when I was Minister on a previous occasion, I received a deputation from (if I remember correctly) the Noarlunga council. The members of the deputation discussed the matter and at that time I gave them certain advice. I said they should make up their minds whether they wanted a subsidized hospital or a community hospital, and where it should be. I told them to give the matter further consideration, giving them an idea of what such a hospital would cost. I said they should take into account the developing nature of the district, and fix firmly in their minds where they wanted the hospital located and whether they wanted to reserve a site for a future building. They have had no further discussions with me, but I do not know whether any discussions took place with the Hon. Mr. DeGaris during the time I was not in office. There are no plans for a hospital to be built in the foreseeable future: nor has a request been made for one since I have been back in office.

SCHOOL BUSES

The Hon. E. K. RUSSACK: I seek leave to make a statement before asking a question of the Minister of Agriculture, representing the Minister of Education.

Leave granted.

The Hon. E. K. RUSSACK: I understand it is the Education Department's policy regarding ratios on school passenger buses that there should be one and a half students to each adult. For example, a bus carrying, say, 40 adult passengers is expected to carry 60 students. In recent years, students have been staying at school longer and, particularly at schools with Matriculation classes, many of the students are 18 years of age and are, indeed, adults. Physically, many of these students are as big as adults. I know of a system where junior and senior students are expected to distribute themselves in the bus so as to make maximum use of the room available. Despite this, there is still evidence of overcrowding. Will the Minister of Agriculture ascertain from his colleague how long the present system has been in existence, and will he have the system investigated with a view to eliminating the overcrowding that occurs?

The Hon. T. M. CASEY: I will refer the honourable member's question to my colleague and, if possible, bring him back a reply before the Council adjourns. If that is not possible, I will inform him by letter.

COUNCIL ACCOUNTS

The Hon. C. M. HILL: I recently asked the Minister of Lands to ascertain from the Minister of Local Government whether local government authorities which had not completed their accounts for the purposes of the Auditor-General's Report for the financial year ended June 30, 1971, had now in fact put their financial affairs in order. Has he a reply?

The Hon. A. F. KNEEBONE: The Minister of Local Government reports that three of the four outstanding accounts mentioned in the Auditor-General's Report for the year ended June 30, 1971, have now been received. The Corporation of Wallaroo has not yet completed its statements. However, the local government office of his department is assisting the council to expedite this matter.

MILK AUTHORITY

The Hon. C. R. STORY: I seek leave to make a short statement prior to asking a question of the Minister of Agriculture.

Leave granted.

The Hon. C. R. STORY: I notice that there is a move afoot to have a single statutory milk authority throughout Australia. In South Australia the Metropolitan Milk Board handles most of the work in relation to this State's milk supply. I understand that a deputation of the United Farmers and Graziers, led by its Sectional Chairman, Mr. Adam, recently called on the Minister. Will the Minister say whether at present United Farmers and Graziers, the South Australian Dairymen's Association and the South-Eastern Dairymen's Association are unanimous that South Australia should have one statutory authority to deal with the whole of this State's milk production, and whether he has given any undertaking that he will at the Agricultural Council support any move for an Australia-wide milk authority?

The Hon. T. M. CASEY: I do not think the honourable member was correct in the true sense of the word when he said there would be an Australia-wide milk authority. Each State will set up its own dairying authority. That is the crux of the matter, and the scheme will operate in a similar way to the wheat quota system, where there is an overall Commonwealth authority that fixes quotas for the States. The administration will be carried out by a dairying authority in each State.

The Hon. C. R. Story: But it will be uniform legislation?

The Hon. T. M. CASEY: That is so. In reply to the honourable member's question, I received a deputation from the South Australian Dairymen's Association and the South-Eastern Dairymen's Association, whose representatives told me that they could see that, in the interests of the Australian dairying industry, the two-price scheme initiated by the Commonwealth Government had to be examined carefully. We think that that scheme can be incorporated in South Australia without much difficulty. I assured these gentlemen that I would fully support the scheme when it came before the Agricultural Council in February.

WOOL BAN

The Hon. R. C. DeGARIS: I seek leave to make a statement before asking a question of the Minister of Lands.

Leave granted.

The Hon. R. C. DeGARIS: Some of the farmers on Kangaroo Island whose farms have been placed under a black ban by the Trades and Labor Council are, I am sure, financially committed to the Lands Department. Has the Minister received any requests from such people

to assist in having the black ban removed and, if he has received such requests, what action has he taken?

The Hon. A. F. KNEEBONE: I received a letter from one settler on the island giving information regarding what had happened. However, I have received no requests for assistance.

BOTANIC GARDEN

The Hon. C. M. HILL: I seek leave to make a short statement prior to directing a question to the Minister of Lands.

Leave granted.

The Hon. C. M. HILL: My question concerns the Botanic Garden, which comes under the administration of the Minister of Lands, and it is prompted by a short comment by a correspondent in the press yesterday . The idea was put forward that patients convalescing at the Royal Adelaide Hospital might be able to use at least a portion of the Botanic Garden and enjoy that pleasant environment whilst convalescing. The two institutions, of course, adjoin each other, and it would mean that some means of access would have to be made from the hospital to the Botanic Garden grounds. Will the Minister kindly look into this proposition and have some discussions with the board in charge of the garden; and, if the board is receptive of the idea, can some contact be made with the Hospitals Department in an endeavour to bring about such an arrangement?

The Hon. A. F. KNEEBONE: I am sure that at present patients at the Royal Adelaide Hospital who are at all ambulatory are able to enjoy the benefits of the garden. In fact, I remember that, when I was in that hospital many years ago with a broken leg, getting about on crutches, I hopped down to the Botanic Garden at one stage and limped through it. I am sure that happens at present. Whether the board of directors of the Botanic Garden would agree to a gate being installed and whether that is practicable I do not know, but anyway I will look into the matter. However, I am sure that at present people awaiting operations and still able to get about, even though they are patients, do use the Botanic Garden, which is not far from the hospital.

PERPETUAL LEASES

The Hon. R. C. DeGARIS (on notice):

1. In relation to war service perpetual leases numbered 416, 481, 541, 303, 355, 354, 664, 304, 289, 507, 245, 358, 342, 296, 657, 298, has the price at which the lessees may purchase the fee simple of the respective properties been fixed in accordance with clause 9 of each lease?

2. If so, what was—

(a) the price fixed for each lease?

(b) the date on which it was fixed?

(c) the manner in which the decision was communicated to the lessees?

The Hon. A. F. KNEEBONE: The replies are as follows:

1. Yes.

2. *(a)* and *(b)*:

War service perpetual lease	Freehold option price $	Date fixed
245	19,204	30/8/1967
289	26,588	11/10/1968
296	29,546	11/10/1968
298	29,058	11/10/1968
303	32,926	11/10/1968
304	28,058	11/10/1968
342	22,994	2/4/1969
354	24,174	30/8/1967
355	40,053	11/10/1968
358	36,060	11/10/1968
416	29,306	17/5/1963
481	37,903	11/10/1968
507	35,195	11/10/1968
541	33,444	11/10/1968
657	20,305	11/10/1968
664	34,458	11/10/1968

(c) By letter.

FILM CLASSIFICATION BILL

The House of Assembly intimated that it did not insist on its amendment to the Legislative Council's amendment No. 8.

SOUTH-EASTERN DRAINAGE ACT AMENDMENT BILL

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

The Hon. A. F. KNEEBONE (Minister of Lands): I move:

That this Bill be now read a second time.

It substantially modifies the financial provisions of the South-Eastern Drainage Act. It is an important measure and I shall deal with its history in some detail. In July, 1968, the South-Eastern Drainage Board advised the Minister of Irrigation that, because of rising costs of administration and maintenance of the drainage system, in addition to the need to meet the annual charge for depreciation of structures, an increase in the drainage rate from 3.75 per cent to 6.5 per cent would be required. This rate of 6.5 per cent was based on the "straight line" method of depreciating structures.

In acknowledgment that such a rate would impose considerable financial hardship upon

the contributing ratepayers, the board, in August, 1968, reported that, by reverting to the "sinking fund" method of depreciation, the drainage rate could be reduced 5 per cent. The board further suggested that the rate of 5 per cent be fixed for an interim period of two years, and that action be taken to amend the financial provisions of the principal Act with a view to providing a more equitable system of rating for the future. Cabinet considered these problems in August, 1968, and agreed that a drainage rate of 5 per cent for the year 1968-69 was in the circumstances of the case unavoidable. Cabinet agreed that an inquiry should be made into the operation of the rating provisions of the principal Act. A committee was subsequently established comprising officers of the Treasury, Audit Department, and Drainage Board, with the Director of Lands as Chairman. Following a full examination of the circumstances of the case, the Chairman of the committee submitted an interim report to the Government on August 20, 1969. Briefly, the report stated that the amount that would be required for depreciation, management and maintenance would reach $300,000 by 1973. This amount would be beyond the financial capacity of the present ratepayers to meet. Moreover, it was regarded as more equitable that the land tax assessment of unimproved values should be used as the basis of rating within the South-East.

At a conference held in July, 1970, attended by the Minister of Works, the Minister of Irrigation, the Minister of Agriculture, members of the committee of inquiry, and representatives from the South-Eastern Drainage Board, it was agreed that steps should be taken to give effect to the alteration of the rating system in accordance with the recommendation of the committee of inquiry. This action would spread the imposition of rates more equitably over the lands benefited by the drainage operations. This proposal was subsequently submitted to Cabinet, which requested the South-Eastern Drainage Board to submit a detailed recommendation for its consideration. The board's recommendation was submitted in November, 1970, and the following were the major recommendations:

(1) that betterment rating should be discontinued;

(2) that capital contributions for scheme drains and capital repayment upon petition drains should be discontinued;

(3) that depreciation upon drainage structures should be borne out of general revenue rather than out of rate revenue;

(4) that the amount to be raised by rates should be fixed as the amount required to cover estimated management and maintenance expenses for the following year;

(5) that the present method of assessment for rates should be abolished and that in its place the land tax assessment of unimproved land value should be accepted as the basis of rating;

(6) that the landholder should be given a simple and inexpensive means of appeal against an assessment.

As honourable members are no doubt aware, these proposals have received wide publicity in the South-East and have been subjected to consideration and debate at a number of meetings held at various centres. No workable alternative has been suggested to the proposals.

The provisions of the Bill are as follows, and it is believed that they provide the most equitable solution available in the present circumstances. Clause 1 is formal. Clause 2 provides for the Bill to come into operation on a day to be fixed by proclamation. Clause 3 removes an outmoded provision relating to the Compulsory Acquisition of Land Act and substitutes a reference to the present Land Acquisition Act, 1969. Clause 4 makes a formal amendment to the principal Act. Clause 5 inserts a number of definitions necessary for the purposes of the new Act. It should be noticed that the definition of "land" excludes land within the boundaries of a municipality, town or township. This means, in effect, that rates will not be levied upon land within a municipality, town or township.

Clause 6 inserts new section 7a in the principal Act. This section is most important. It extinguishes, as from July 1, 1971, any liability in respect of petition drains under Division I of Part III of the principal Act, in respect of scheme drains under Part IV of the principal Act, or in respect of drains constructed for the drainage of the eastern and western divisions of the South-East under Part IVA of the principal Act. Clause 7 repeals section 10 of the principal Act and inserts new sections 10 and 10a in the principal Act. These new sections provide for the reconstitution of the board. The board is to consist of two landholders in respect of land in the South-East, and two Government appointees. Under new section 10a the landholder members are to be appointed after an election at

which all ratepayers in respect of land in the South-East are entitled to record their votes.

Clause 8 amends section 13 of the principal Act. This amendment is largely consequential upon the reconstitution of the board. Clause 9 makes a drafting amendment to section 16 of the principal Act, Clause 10 amends section 17 of the principal Act. This amendment makes it clear that the board has no duties in relation to municipal drainage. Clause 11 makes an amendment to section 22 of the principal Act which is consequential upon the enactment of the new Land Acquisition Act.

Clause 12 enacts new section 48 of the principal Act. The existing provision has caused difficulty because, as the Crown Solicitor has ruled, the depreciation of structures must be met out of funds derived from the drainage rate. The amended section overcomes this problem. It also provides that the maximum rate that may be declared shall be a rate of three-tenths of 1c for every dollar of the total ratable value of all land subject to the rate. It is hoped to realize about $100,000 a year from the rate. Because of the provisions in the Bill for appeal and because of the recent reduction in unimproved values, $100,000 a year would not be raised in the South-East even if the maximum rate was charged. The reference to realizing $100,000 should not have been made, because actually all that is required to be raised is a sum to cover maintenance and administrative charges, and that would not reach $100,000 in a year. The provision for appeals should reduce the amount even further.

Clause 13 repeals sections 49 to 56 (inclusive) of the principal Act and inserts new sections in their place. New section 49 provides that the rate shall be payable in proportion to the unimproved value of the land as assessed from time to time for the determination of land tax. Land is "ratable land" for the purposes of the new provision if it has, in the opinion of the board, been benefited by the construction of drains and drainage works. The board is to prepare a plan of all such land and the plan will be available for public inspection in the Central Plan Office of the Lands Department. There is a map on the board in this Chamber. New section 50 provides that the board shall as soon as practicable after it has determined that land should be ratable land for the purposes of the Act serve the landholder with notice in writing of that determination.

New section 51 constitutes an appeal board. There are to be five members of the appeal board: one, who is to be chairman, is to be a person nominated by the Minister; two are to be landholders in respect of land situated in the Eastern Division of the South-East; and two are to be landholders in respect of land situated in the Western Division of the South-East. For the purpose of hearing any particular appeal, the board shall be constituted of three of those members nominated for the purpose of that appeal by the Minister. New section 52 deals with the matter of quorum and other procedural matters. New section 53 sets out the procedure by which an appeal is instituted and the powers of the appeal board upon the hearing of the appeal. New section 54 provides for the payment of remuneration allowances and expenses to members of the appeal board. New section 55 deals with the practice and procedure that is to be adopted by the appeal board in hearing an appeal. New section 56 invests the board with certain necessary powers that it will require for the effective hearing and disposal of proceedings under the new provisions.

Clause 14 repeals and re-enacts section 57 of the principal Act. The section gives some protection to the small landholder. It provides that, if the total amount of rates payable by any person for any year would be less than $5, no rate shall be payable by that person for that year. Clause 15 makes certain consequential amendments to section 58 of the principal Act. This section deals with the time as from which rates become due and payable. Clause 16 repeals and re-enacts section 59 of the principal Act. The new section provides that, if rates are in arrears for three months, interest at the rate of 10 per cent per annum is to be added to the amount of the rates. The board is empowered, however, to remit the whole or any portion of the interest payable under the new section. Clause 17 repeals sections 60 and 61 of the principal Act, which will now become redundant.

Clause 18 makes a consequential amendment to section 63 of the principal Act and the heading immediately preceding that section. Clauses 19 and 20 make amendments consequential upon the enactment of the new Land Acquisition Act. Clause 21 repeals Part IV of the principal Act. This Part fixed the instalments payable in respect of scheme drains. In view of the fact that the Bill extinguishes liability for payment in respect of scheme drains, these provisions are no

longer required. Clause 22 amends the definitions in section 103 of the principal Act.

Clause 23 repeals sections 103c to 103j (inclusive) of the principal Act. These provisions imposed liability in respect of drains constructed under Part IVA in the eastern or western divisions of the South-East as previously defined in the principal Act. In view of the fact that the Bill extinguishes this liability as from July 1, these provisions are no longer required. A new section 103c is inserted to provide for the removal of charges that have been registered on the title to land in pursuance of the repealed provisions. Clause 24 repeals and re-enacts section 107 of the principal Act. The amendments to this section are consequential upon the preceding provisions of the Bill. Clause 25 amends section 109 of the principal Act by providing that notice may be effectively served by sending it by post to an address nominated by the person upon whom service is required under the provisions of the principal Act. Clause 26 makes a drafting amendment to the principal Act.

I again wish to draw attention to the reference to $100,000 in connection with clause 12; that is completely wrong. Subsequent to his reading the second reading explanation in the House of Assembly, the Minister of Works, who spoke on my behalf there, drew attention to this matter. The explanation says, "It is hoped to realize about $100,000 a year from the rate", but that is completely wrong. When speaking about clause 12 I automatically read the sentence, but I should not have done so.

The Hon. R. C. DeGARIS (Leader of the Opposition): As we are approaching the time when the Council adjourns for this year, I think I should make some opening remarks on the Bill at this stage, and perhaps the Minister will not mind my having the right to conclude my remarks at a later date. The question of drainage in the South-East has a very long history and has caused a tremendous amount of argument over very many years. It is a problem peculiar to the South-East, beginning with geographical and geological features. Originally the whole of the South-East was virtually a series of swamps with water held back from the sea by a series of parallel dune structures, the water finding its way very slowly from the lower South-East to the Coorong.

The first drain constructed in the South-East was the draining of Cootel Swamp through what is known as the Narrow Neck to Lake Frome. It is rather interesting that the drain was not constructed for the purpose of reclaiming land for agriculture, but to lower the water level in Cootel Swamp to allow the overland telegraph to be serviced satisfactorily. When Cootel Swamp was drained to Lake Frome it was realized that there was agricultural potential in this area, and other drainage boards were formed. I think if I remember correctly the three drainage boards were Mayurra, Mount Muirhead and Kennion.

In the original drainage schemes in the lower South-East the land drained was held as pastoral lease; the Government owned the land it was about to drain. The first drainage schemes were constructed in the areas of these drainage boards and land was allotted to the settlers at an upset price to recoup to the Government the actual capital cost of the construction of the drains. Then came the question of maintenance of the drains, and the method of determining a rate was based upon a betterment assessment; in other words, an assessment was done of the land before drainage, a further assessment after drainage, and the amount of betterment an acre was the amount upon which the rate was based.

One very interesting point in the original drainage scheme and a point always held regarding drainage is that, in assessing betterment, the assessment must be done in relation to the direct benefit to the land concerned. There was no way of assessing land for an indirect benefit. If land did not carry water or did not carry enough water during any period of the year it was deemed to receive no benefit, and there was no rate on that land. As an example, the township of Millicent stands on one of these dune structures; it was not under water before drainage, and no drainage rate is payable to the Millicent District Council from most of that township because it does not receive any direct benefit from the drains.

From the original schemes the drainage boards developed into district councils. Both the Tantanoola and Millicent councils virtually own, in law, the freehold title to the drains in their districts. They are responsible for the maintenance and care of the drains, and I believe this is the only large-scale drainage system in Australia completely controlled by local government. It was the first drainage scheme which dealt with Millicent, Tantanoola, and part of the Beachport and Millicent flat. Since then the South-Eastern Drainage Board has constructed and administered many other schemes for drainage in the rest of the South-East. There were also private drains,

the old station drains, petition drains and scheme drains, each with its own variations and types. After the conclusion of the Second World War there was considerable pressure for a comprehensive scheme of drainage covering both the western and eastern divisions, excluding the original areas of Millicent and Tantanoola. This new comprehensive scheme, of course, overtook all the other schemes undertaken over almost 100 years in the western and eastern divisions—the scheme drains, petition drains, private drains and so on.

Right through the whole concept the basis of repayment of capital cost and of a rate for maintaining and caring for the drainage system has been a betterment assessment, related to the direct benefit. A number of cases have related to this question of just what is direct benefit. For most of my life I have heard arguments in my own district on this matter. "Direct benefit" could be looked at as being the actual increase in the capital value of the land by the effect of drainage on the actual land. (Any land not inundated does not receive a direct benefit.) It is my opinion that there is only one satisfactory way in which a drainage rate can be levied, and that is a rate based upon assessed betterment. The concept of this Bill is to move away from that system and to use the unimproved land value as a basis for a drainage assessment; in other words, people who receive a tremendous capital benefit because of the construction of drains will pay much less under this system and people who have not received any direct benefit (indeed, it can be argued in some cases that they have received, as some call it in my district, a "worserment") will be called upon to pay a drainage rate. That is my main objection to the change to be made.

We are moving from a betterment system to a system of using the unimproved land value as a basis for levying the rate which will be used to maintain the drainage system. Obviously, it is the intention of the Government, as I have heard the Minister say, to return to the State Treasury a sum of money approximating $100,000. That will depend entirely upon the unimproved land value in the new assessments. If my figures are correct (and I have had certain arguments before with Ministers on figures), if the old assessment was maintained the Government would have received about $110,000 from this, or $3 for every $1,000 of unimproved value. It depends entirely upon the reduction in the new land tax assessment. If there is a 20 per cent reduction, the actual collection will be about $90,000.

The Hon. A. F. Kneebone: Between $80,000 and $90,000.

The Hon. R. C. DeGARIS: That would be fairly correct.

The Hon. A. F. Kneebone: That is, if the top rate were raised.

The Hon. R. C. DeGARIS: Yes. I apologize to the Minister, as I have not yet examined the Bill.

The Hon. A. F. Kneebone: That would be the maximum.

The Hon. R. C. DeGARIS: I thank the Minister for that information. The main purpose of the Bill is to change the basis of the assessment from a betterment to an unimproved land value assessment. For honourable members' benefit, the Minister has placed on the board a diagram showing the area to be rated. I am concerned to know how a line anywhere in the South-East can be drawn in this way, those inside the line being rated on unimproved value for maintenance of drains in that area. To dispute the assessment, one must prove that one received no direct or indirect benefit from the drains. This is, I submit, an impossibility, because no-one can convince me that there are not areas outside of the defined areas that received an indirect benefit from the drains and, indeed, that there are many areas inside of the defined area that received no direct benefit from them.

The Bill adopts a completely new principle in this respect, a principle which cannot be justified in any way. There is no logical basis upon which such a scheme can rest. On what grounds can one assume that unimproved land value is a basis upon which a rate for drainage can be based? As an amenity (although some might not call it that), drainage has no relationship whatsoever to unimproved values. I ask on what logical basis can indirect benefit be assessed, and on what basis can a line be drawn across the South-East, all those inside being considered to receive either direct or indirect benefits and all those outside no direct or indirect benefit? On the same argument, on what ground can certain areas inside the defined area be excluded if one is moved to accepting the question of indirect benefit?

I submit that the concept is faulty in practically every respect. By the same token, I understand the Government's predicament in the situation. I should like briefly to refer to certain other aspects of this matter. In the

Bill, the Government is making certain concessions regarding capital repayments and depreciation, and this is appreciated.

The Hon. A. F. Kneebone: And they are fairly substantial.

The Hon. R. C. DeGARIS: I agree with the Minister that they are substantial. Although I appreciate that the Government is making these concessions, I think one would agree that, irrespective of which Government was in power, these concessions would have been made in any case, although probably on a different basis.

The Hon. M. B. Cameron: A better basis.

The Hon. R. C. DeGARIS: I do not know whether I will even enter into that argument. Although I appreciate what the Government has done in relation to depreciation and capital repayments, I am not satisfied that the correct procedure has been adopted in relation to assessments for maintenance. I have received many telegrams about this matter concerning which the Minister may be able to assist me when he replies to the debate. The senders of the telegrams are concerned about ratings north of the proposed new boundary.

The Hon. A. F. Kneebone: That has nothing to do with this Bill.

The Hon. R. C. DeGARIS: It is interesting to hear the Minister say that. Perhaps he might inform me later to what the gentlemen who are sending me these telegrams are referring. One of these telegrams states:

We, the undersigned, strongly oppose any form of drainage rating north of the proposed new boundary.

The Hon. A. F. Kneebone: The sender of that telegram might have been listening to you when you said that many people outside of the defined area received indirect benefits.

The Hon. R. C. DeGARIS: I do not think that is the answer. There are people outside the defined area who receive indirect benefits and there are also people inside the area who receive no direct benefit. Despite this, one is going to pay and one is not going to pay. Another problem regarding assessment on a betterment basis is that the whole of the South-East, except the Millicent and Tantanoola schemes, has proceeded on a piecemeal basis. After the war, a comprehensive scheme was developed, and many of the people in the older schemes in the Western Division and the Eastern Division have received betterment assessments at 1930 values. Since the Second World War, the new schemes have had betterment assessments carried out with a different set of values, and this has created a difficult problem in relation to rating, as one is dealing with a series of betterment assessments that are not comparable. In other words, one is dealing with different money values. However, this does not apply in Millicent and Tantanoola, as the whole drainage scheme was constructed as one scheme.

I therefore see this problem as one relating to making a betterment assessment. On the other hand, many people in the South-East have had drains constructed for them and over a period of 40 or 50 years these people have completely repaid all the capital and are paying a minimal rate on their property. However, under the Bill they will have to pay more. Their rate will be increased because of the change in the system, after they have completely repaid all the capital expended on their operation. Another person who has received a large capital increase because of drainage is going to be considerably relieved by the new system. It can be seen, therefore, that certain anomalies exist. Although I have advanced certain thoughts regarding the Bill, I have not dealt at length with it, as I realize that we are drawing near to the adjournment of Parliament for the Christmas period. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

Later:

The Hon. R. C. DeGARIS: Before I sought leave to conclude my remarks, I had dealt briefly with drainage in the South-East and with the position in relation to rating for maintenance. Until now, rating has been carried out on a system of betterment. The Bill changes the basis of the assessment to that of unimproved values. I said I thought this was an unsatisfactory way in which to assess a rate for drainage. In other words, using the unimproved value means that it becomes not a rate but a tax on all landholders. There is a subtle difference between a tax and a rate; in other words, certain people are to be taxed to provide an amenity that other people in the area enjoy.

I also deal with the map that is exhibited in the Chamber for the guidance of honourable members. I should like to comment on several matters regarding that map. Certain areas have, correctly, been excluded. However, other areas appear unjustly to have been excluded. I refer particularly to Coonawarra, which receives a direct benefit from drainage. True, it is slightly higher, but many parts of Coonawarra receive a direct benefit from drainage, yet that area has been excluded. I do not understand

why this should be so, particularly when parts of that area are not only subject to drainage at present but also are paying a drainage rate as a result of receiving a direct benefit. Despite this, they are suddenly to be excluded.

The Hon. L. R. Hart: The drain runs right through there.

The Hon. R. C. DeGARIS: That is so. If one returns to the 1906 scheme, one will see areas in Coonawarra which have not only received a benefit from drainage but which have also made capital repayments over many years, those payments having just been completed. Yet in the new scheme this area has been excluded from the area to be rated. If one looks at the map, one will see that the boundary of the ratable area dodges around the boundaries of certain blocks which are, therefore, excluded from the unimproved rating. I should like the Government to say why these areas have been excluded, particularly when, until now, many landholders in that area have been paying drainage rates, receiving as they do a direct benefit from drainage.

There seems to be some pressure on the Parliament to pass this Bill quickly. As I understand it, the rates fall due for payment on December 31 each year. I believe that rate notices have been issued for this year. Indeed, the South-Eastern Drainage Board has already collected much money for this year's drainage rates. This means, therefore, that there can be no change in the system until accounts fall due in December, 1972. I believe that this whole matter has not until now been given sufficient consideration, there being far too many anomalies in it for me to be satisfied. There is the problem of the change from a betterment rating system to an unimproved land value rating system, for which there is no justification. Also, a line has been drawn around a certain area, an aspect about which many questions need answering.

I am pleased that the Government has acted to reduce the burden of drainage costs on many South-Eastern properties. The Government appreciates that many properties receive a heavy betterment assessment, are repaying both capital and maintenance costs, and are suffering undue financial hardships because of the costs of drainage. I am sure that with mature consideration we can find a system which will remain a just system and which will satisfy the people who are at present under financial pressures.

I should like briefly to refer to certain clauses of the Bill, the first of which is clause 13, which repeals sections 49 to 56 of the principal Act and inserts new provisions, first, that the drainage rate shall be payable upon all ratable land in the South-East in proportion to the unimproved value of that land as assessed from time to time for the determination of land tax. "Ratable land" means all land that has in the opinion of the board benefited (not directly benefited) by the construction of drains and drainage work. That area is delineated on the plan exhibited in this Chamber.

The board may also from time to time alter and revise the plan. I assume this means that the board can alter the plan without reference to Parliament or by regulation. However, I am not sure about that point. Nevertheless, we see that "ratable land" will be defined as all land "that has, in the opinion of the board, been benefited by the construction of drains and drainage works"—and I would say there "either directly or indirectly". The Bill having accepted this new principle, we then have to set up an appeal board and determine the grounds upon which a person may appeal. Those grounds are as follows, in new section 53:

(1) A person may, within one month after the day on which notice is served on him of a determination by the board that land should be ratable land for the purposes of this Act, appeal to the appeal board against the determination.

(2) An appeal may be instituted on any of the following grounds:

(*a*) that the appellant is not the landholder in respect of the land referred to in the notice, or is the landholder in respect of only part of that land;

or

(*b*) that the construction of the drains or drainage works has not resulted in any direct or indirect benefit to any portion of the land.

I submit it means that, with those grounds in subsection (2) (that is, when an appellant must prove that the construction of the drain has not resulted in any direct or indirect benefit), it would be impossible for any appellant ever to have an appeal upheld, because no-one can show that the drains in the South-East have not added some indirect benefit to property. People in the townships or on housing blocks at Millicent, Penola or Naracoorte, could not show that they had not received some indirect benefit from drainage in the South-East. I have had some experience in this matter.

As I see it, once we accept as ratable land, land that has, in the opinion of the board, benefited by the construction of drains, and once we accept the unimproved value of land

for rating, there is no possibility of a person successfully launching an appeal using the grounds for appeal specified in new section 53.

If this new scheme is adopted, there will be great pressure on the Government for more drains in the South-East. That must happen because one of the deterrents to a demand for more drainage at present is that a person seeking further drainage faces a betterment charge: in other words, he is responsible for some of the capital repayment and a maintenance charge on that benefit. Under this Bill, we are now to rate a person on the unimproved land value basis and there will be increasing pressure for uneconomic drainage schemes to be installed to drain certain areas, which will, in fact, be improved by the drainage, but in themselves will be totally uneconomic.

My last point is that if the provisions of this Bill are adopted, we shall have in the South-East three drainage schemes: the Tantanoola drainage scheme, which covers some 150 sq. miles; the Millicent drainage scheme, covering some 170 sq. miles; and the wider, comprehensive Eastern and Western Divisions of the South-East Drainage Scheme. I realize only too well the difficulties that the Government faces in this problem. I am not underestimating them in any way but I submit in all sincerity that, although the Government has done much work on this scheme, it is not a just scheme; that, given more thought and consideration, we could come up with a system that would relieve those people suffering extreme financial difficulties, a scheme which was just for them and just for the other landholders in the South-East.

I appreciate the action the Government has taken in reducing the capital burden. I do not know what the total write-off of capital will be. The Minister may be able to tell me that. Possibly it will be about $3,000,000. That may be wrong; I am only guessing. However, a scheme based on unimproved land values for rating is unjust. At this stage, I am prepared to support the second reading.

The Hon. M. B. CAMERON (Southern): Drainage has been with us for a long time. In the area with which I am most familiar, the Western Division of the South-East Drainage Scheme, it dates back to a period just after the Second World War when there was considerable agitation for a fresh look at drainage there. I do not think anyone in the area concerned would argue that maintenance should not be carried out thoroughly, because clearly when we collect water from point A and point B and deliver it into a channel at point C we cannot leave it there; its journey must continue.

That was one of the reasons why agitation occurred for extra drainage, because during the war maintenance fell away and there was a collection of water at certain points where the drains had not been properly maintained and had filled up with rubbish. This caused some flooding in certain areas. The impression created was that more drainage was needed. At that stage in that area there was an influx of a farming community from the northern part of the State. In many instances, those people did not understand the area they were coming to, and water was treated as some sort of curse. I am not reflecting on those people, but they probably had not lived in the area long enough to understand that it was not a complete curse, that in fact it was the reason for the South-East being the best part of the State.

At that time there was some opposition to drainage, but it was not listened to. In fact, we got the impression that, if a person wanted a drain, he had only to whistle softly and he received more than he wanted in the first place. But, if he opposed it, even if he shouted he was not listened to. I recall, in representations, our family company receiving a positive assurance from a member of the drainage board, Mr. Johnson, that no drains would be installed without a full study of the effects of drainage in that area. That assurance was also given by Mr. Thomas Playford (as he was then) at a public meeting in the area when he made a similar statement that there should be no guesswork with drainage. At the final meeting, when drainage was completed in the Western Division, I asked a member of the board what experimental work had been done to ascertain what benefit would result, and he said that no such work had been done and that there was no reply to my question.

The drainage ended up as an engineer's dream: it was an engineering project from start to finish, but not sufficient thought was given to the effect on higher land, which perhaps suffered more damage because of drainage. Many people have had to deepen bores, generally, because the water level has been reduced. We are now spending much money in this area doing research on underground water, but this money would have been better spent earlier in research as to whether or not we should develop a proportion of the land in the South-East without drainage. I believe

that we have conducted the business in the wrong way. More development should have been done, and we should have then ascertained what drainage was needed. This Bill provides for a basis to be used for rating for maintenance.

I realize that maintenance must be undertaken, but the Bill provides that unimproved land values should be used to assess the maintenance rate. It seems that many injustices operate under the old system. Obviously, people have been charged for betterment on a basis that, in many cases, has been completely wrong, and the stage has been reached where people cannot afford the rates that they have been paying. However, in order to get rid of injustices we are creating bigger and wider injustices, and this does not seem to be the proper way of going about it. I agree with the remarks of the Hon. Mr. DeGaris that not sufficient time has been allowed in which to study this problem. I am not saying that not sufficient time has elapsed since the first drain was put in or the last drain completed, but I believe there is not the haste that has been indicated to have this Bill passed.

Perhaps we could have a better system that would not widen the injustices but would provide sufficient funds to the board to maintain drains. Betterment is a difficult tax. I recall that, on a property that I know of very well, the assessment indicated that the owner had increased the capacity of a section of 120 acres by five sheep to the acre. However, the owner had records dating back eight years before drainage to show the area had carried five sheep to the acre. He suggested that it must be an outstanding part of the property. This was a ludicrous situation, because the property had not been improved, but there had been a tendency to take a certain level and consider that anything below that level must have received benefit. This is not always the case, and in many instances water lying on the ground gives a benefit rather than being detrimental. The Minister would be well advised to delay this Bill until a further sitting of the Council, because I believe it will create much bad feeling so that the board will find itself faced with a difficult situation in this area. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

REGISTRATION OF DOGS ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

HEALTH ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 18. Page 3188.)

The Hon. V. G. SPRINGETT (Southern): This Bill has two main purposes. First, it deals with matters relating to clean air and pollution in general. Its second purpose is to distinguish between rest homes and nursing homes, and to clarify that distinction. It is a fact that in a startling manner the world has awakened to the matter of pollution. That word not only is now understood and recognized but also has almost become a social cliche: pollution by land, by sea and by air. All nations have been guilty of and responsible for varying degrees of pollution but, since the Industrial Revolution and more especially the rapid increase in population following that period, pollution has leapt ahead and become a fantastic problem.

As history goes, it was not so many decades ago (only in the last century) that man learned of bacteria, and bacteria as causes of diseases. Prior to that, effluvia were blamed and certain humours of the body (as they were called) were held responsible for diseases that afflicted man. Louis Pasteur proved that bacteria existed as living organisms and could grow and transmit conditions. Lord Lister proved that Louis Pasteur's work was the first step towards the evidence that was required to link bacteriology with pathology. Lord Lister took the next step and introduced sterility; he showed what we now take for granted, which is that sterility can stop the spread of certain bacteria. Prior to Lord Lister's days, measures of sterility did not exist at all. Surgeons at that time, for instance, carried their instruments in their top hats or in their coat pockets. Instruments were carried from the post mortem room to the operating theatre in that way. When surgeons operated, they pulled back the cuffs of their jackets and proceeded to operate. Then they washed their hands afterwards, before going home.

Sterility has progressed a long way since then and hygiene has improved immensely, but, strangely enough, it is only just recently that we have given any consistent thought to the uncared for environment. Worldwide recognition is now given to the fact that we can destroy our environment quite effectively and without the co-operation of germs, and without concentrating on germs. There are industrial emissions, which destroy the chemical constitution of the atmosphere and disturb the balance of chemistry. This can destroy the environment of the air. Poisoning of the sea can take place to such an extent that some people now

fear there is danger of a sea as big as the Mediterranean becoming so dead that it would sustain no marine life. Then we have the problem of the disposal of rubbish and garbage, and the destruction of our open spaces, which leaves little room for man. There is all this, with this disturbance of our ecology by the flora and fauna being unable to compete and survive. All these things are the effects and results of modern thoughtless man, a very self-centred man, so that now at the eleventh hour he has had to turn and become aware of the urgent need to conserve or perish.

He now accepts and recognizes that environmental pollution has to be considered within the total wellbeing and existence of mankind. This Bill recognizes the part played by control of industry under the Noxious Trades Act. It recognizes that industries controlled under that Act are not necessarily controlled when we consider the term "pollution". It is important that we remember that whilst these industries, controlled under and recognized under the Noxious Trades Act, cannot necessarily be eliminated, because they are part of our economic life, it is vital that the control of such industries that disturb the environment be the responsibility of an Act of Parliament. Certainly, they must comply with the law in densely populated areas such as the metropolitan area of Adelaide and the large industrial areas in provincial cities. It is equally right that, if they are to be controlled, there should be an air pollution appeal board; and this it is planned to establish. It has much to commend it.

Turning from pollution (and there is much I could say on that matter but time protects honourable members from that), one is faced with the clarification of the distinction between "rest homes" and "nursing homes". This clarification is essential. It is essential if there is to be resolved what is at present a conflict between the State and Commonwealth definitions because, until this conflict is resolved and the definitions are made clear, the levels of benefit to which the State is entitled cannot be fully enjoyed. I support the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

Clause 6—"Air Pollution Appeal Board."

The Hon. R. C. DeGARIS (Leader of the Opposition): Why has the Government increased the penalty for contravention of a clean air regulation to a sum not exceeding $2,000? In my second reading speech I suggested that there should be a lower fine for a first offence, with increased fines for subsequent offences.

The Hon. A. J. SHARD (Chief Secretary): New section 94c (1) (r) has been inserted to force companies to comply with the regulations. A suggestion came from some employers themselves. Provision for a fine of $2,000, with further fines of $200 for each day that non-compliance continues, will ensure that industry meets the requirements of the legislation.

Clause passed.

Remaining clauses (7 to 12) and title passed.

Bill read a third time and passed.

SECONDHAND MOTOR VEHICLES BILL

Adjourned debate on second reading.

(Continued from November 18. Page 3183.)

The Hon. R. C. DeGARIS (Leader of the Opposition): In his second reading explanation the Chief Secretary said that this Bill was another in a series of measures in what could be called the general area of consumer protection. It places in legislative form some parts of the Rogerson report, which deals with the law relating to consumer credit and moneylending. I am pleased to see in the second reading explanation (which, I think, is somewhat different from some of the original statements made about the Bill) that there is recognition that many used car dealers enjoy a very good reputation in our community for fair and honest dealing. At the same time, there is recognition (and I think every honourable member would agree with this contention) that a minority of dealers adopts practices that cause concern.

In tackling this problem we, as a Legislature, must ensure that we do not adopt measures that will have a serious economic effect on our State, which relies to some extent on the car manufacturing industry. I support the Bill without reservation in so far as licensing is concerned. I believe that in this type of legislation, instead of going to the nth degree, we should recognize that among a minority of traders a problem exists that can possibly be contained with much simpler legislation.

If the legislation now on the Statute Book relating to unfair advertising, door-to-door selling, etc., was fully used, the present undesirable practices would largely disappear from our community. If that were done and if the licensing system were implemented, the problem would probably be solved without our needing to go much further. If the licensing system does

not solve the problem, we could take the second step in six or 12 months' time, if some undesirable practices were still evident. It is foolish to go to the lengths that this Bill goes at the present stage, because it will have serious economic implications for the industry. The licensing system itself will control most of the malpractices that concern us all.

I was also surprised to read in the Chief Secretary's second reading explanation that extensive consultations had preceded the preparation of the Bill. The Chief Secretary said that the Government had sought and received the helpful and informed advice and assistance of interested parties. I would say, from reading the Bill, that people in the industry were not consulted. I do not think it would be possible to adopt a measure such as this after consultation with interested parties in the car business. I would like to know with whom the Minister consulted regarding this legislation.

If the totality of the Rogerson report is adopted in legislative form over the whole range of consumer protection, we will produce a situation adding tremendously to our costs, with little benefit. If the current crusade for consumer protection goes beyond what is reasonably required, or produces unworkable or impracticable situations, the cumulative effect will be serious economic repercussions, business failure and unemployment. I make it quite clear that I am not opposing the concept of consumer protection, but I want it to be rational and reasonable. If one examines the Rogerson report one can see the far-reaching implications which would, if the report were fully adopted, create serious problems for most people in the commercial field. Many people have made similar comments, and I refer honourable members to an article by Mr. W. M. Edmonds, Managing Director of Industrial Acceptance Corporation Limited, on this question. I shall not quote from it, but any honourable member who cares to read it will find it quite an interesting document.

I shall deal at this stage only with the clauses that I find unworkable and impracticable. Clauses 24, 25, 26 and 27, and possibly 28, deal with the obligations of the dealer, the question of affixing to a vehicle a notice setting out the defects of that vehicle, resolution of disputes, the hearing of a dispute by a commissioner, and reference of a dispute to the court. Clause 24 is probably the nub of the matter and is the core of the clauses to which I rather strongly object.

It means that a dealer is responsible for any defect which occurs in a vehicle, whether or not it existed at the time of sale. I believe that some warranty system may be justified, but we are dealing here with secondhand cars down to a value of $500. What guarantee could any responsible dealer give for, say, a Dodge Phoenix being sold for $600? It may well be that $500 could apply to a small vehicle, such as a Mini Minor, where $500 is about one-quarter or one-third of its original purchase price, but to have a blanket $500 or over, with some warranty such as this for large and expensive motor cars, appears to me to be quite ridiculous.

One may think that the opposition to this clause coming from one section of the community is because that section of the community is trying to hold the position where no warranty at all need be given. I assure the Council that is not the case. The problem the clause attempts to heal will in turn become another burden for the South Australian consumer to bear. The operation of this clause will force up the price of used cars, probably by $200, and that means every vehicle over the value of $500. The dealer will have to cover this situation, and the only way in which he can do that is by increasing his price for secondhand vehicles or by reducing the trade-in values offered on secondhand vehicles coming in. Once again, we are taking a very large hammer to attempt to cure some malpractices in the industry.

In the *Advertiser* this morning I read that some 320 complaints in total had been made in relation to the used car field. This represents .4 per cent of the total used car sales in South Australia. To catch this small percentage, the Government is going to affect 99.6 per cent of used car buyers to the tune of probably $200 a vehicle. There is no doubt that this will increase costs to the consumer. Any dealer should have the right to sell a vehicle without warranty. Many people like to buy a vehicle, take it to their own workshop, pull it down, and do their own repairs. I know this happens in the city, but to my knowledge it happens in many country areas where a person requires a farm vehicle. He buys a vehicle for probably $500, takes it to the farm workshop, pulls it down, does his own repairs, and uses it for a farm vehicle.

The Hon. A. F. Kneebone: This would not stop him from doing that.

The Hon. R. C. DeGARIS: Yes, it would.

The Hon. A. F. Kneebone: They only have to notify the defects; it does not say they have to correct them.

The Hon. R. C. DeGARIS: Clause 25 relates to excluded defects. A person who discloses the defect is not affected by clause 24. The Minister is really saying that, if every secondhand dealer in Adelaide decided to disclose defects on all his cars, there would be no reason for the legislation.

The Hon. A. F. Kneebone: They can disclose the defects on their vehicles. That does not stop the person of whom you are speaking from proceeding.

The Hon. R. C. DeGARIS: That is true, but suppose there is a defect in a car that has not been noticed.

The Hon. A. F. Kneebone: That is covered by the Bill.

The Hon. R. C. DeGARIS: I submit that the dealer concerned must go back to the Bill, and this is an impossible situation.

The Hon. A. F. Kneebone: Only in relation to a defect that was not disclosed.

The Hon. R. C. DeGARIS: But how can a dealer who has a vehicle coming into his yard and who wants to sell the vehicle without warranty disclose all the defects without pulling the vehicle down himself? The Minister can say that there are still many defects against which dealers can cover themselves either by reducing the price of a trade-in vehicle or adding to the cost of a secondhand vehicle that is being sold. Clause 24 gives the buyer almost complete and absolute power. It puts the buyer right in the driver's seat with the pedal flat to the floor. Although most of the public and the used car dealers are honest, a certain percentage of the public is dishonest and would take advantage of any loophole it could find in the legislation.

What would happen if, for example, a person buys a secondhand vehicle which is under warranty and which has an excluded defect? After three months the purchaser could return to the dealer and say that the differential on that vehicle had broken down. That person could have a friend with a similar type of car in which there was a bad differential, and they could merely swap them over. What recourse would the dealer have in that case? He could not prove anything. Also, what would happen if a person bought for $1,000 a secondhand vehicle that was capable of giving fairly good service if treated correctly and, unknown to the dealer, the purchaser pulled a caravan behind that car from Adelaide to Darwin and return, a feat of which the vehicle was not really capable? What recourse would the dealer have?

This legislation opens the door too far for unscrupulous purchasers, of whom there are many. Its clauses go too far in the whole matter of consumer protection in the motor trade. I agree that a licensing board will overcome most of the problems. If one examines the matter, one will find that we are dealing with only .4 per cent of the population who have complained to the Prices Commissioner, anyway. If we accept the fact that the licensing system will have a tremendous impact in this field, surely the legislation can be examined and a clause drafted that will not have the tremendous effect that the present clause will have.

The legislation will have the effect of people not trading in their cars as quickly as they do now because, as a result of these provisions, trade-in values will decline. This will affect the sales of used cars and also sales of new cars. Also, the sum of $500 is far too low a figure to set in relation to warranties or guarantees on large secondhand cars such as the Dodge Phoenix or the Mercedes Benz. Unfortunately, statements have been made which indicate that the Government is not interested in accepting any amendments whatsoever. I am merely trying to make the Bill a practical one that will operate in our community, not some heavy-handed piece of legislation that is unworkable and impractical. Considering the Government's attitude to money, at this stage all I can do is vote against these clauses in the hope that the Government will agree to a conference so that honourable members can discuss these matters and arrive at a practical result.

The Hon. M. B. DAWKINS (Midland): I, too, support the second reading of this Bill, which is a very good Bill in many ways. That opinion has been endorsed by responsible members of the trade, who want to see some control and, indeed, to see the shonky dealers properly disciplined. I do not believe there is any opposition (of any consequence, anyway) to the setting up of a secondhand vehicle dealers' licensing board, as is done by clause 6. The fact that the board will be able to delicense an irresponsible dealer who is found guilty of dishonest practices is a great deterrent and, indeed, probably a much greater deterrent than some of the more impractical aspects of the Bill to which the Leader of the Opposition has referred.

I believe that the board's delicensing powers will to a large extent eliminate the dishonest traders, or make them mend their ways. Those

powers will also deal with most of the problems of the .4 per cent of the motor purchasing population that has referred its complaints to the Prices Commissioner. Although I support the second reading, in common with the Hon. Mr. DeGaris I believe that the Government has gone too far in this legislation and that it is, as the Hon. Mr. DeGaris said, using a sledgehammer to crack a peanut. When one examines clauses 24 and 25, to which the Leader referred, and also the consequential clauses (clauses 26 to 28), one finds that the costs of running a secondhand dealer's establishment will be considerably increased. Clause 24 (1) provides as follows:

Except as provided in this section, where any secondhand vehicle is, on or after the commencement of this Act, sold by a dealer to any person who does not by reason of that sale become a trade-owner of that vehicle and—

(*a*) before that vehicle has been driven for five thousand kilometres after the sale;

or

(*b*) before the expiration of the period of three months next following the day of the sale,

whichever event first occurs, a defect appears in that vehicle, whether or not that defect existed at the time of the sale, the dealer who sold that vehicle shall repair or make good, or cause to be repaired or made good, that defect so as to place that vehicle in a reasonable condition having regard to its age.

If that clause provided for a warranty of 2 000 km and one month instead of 5 000 km and three months it would be more practicable from the dealers' point of view in giving warranties of this type. Dealers should be able to give a warranty if they consider the vehicle is worth it, or to sell the vehicle as it is. The Minister indicated that this latter condition was possible under the provisions of clause 25, but when we consider this clause we find that, if the dealer advertises a vehicle as having certain defects, he must insure his position in relation to each such defect and give his estimate of the fair cost of making good those defects. If he does that with a vehicle that has travelled many miles, he must virtually dismantle the engine and the vehicle to find the defects, and this will be at great cost to the dealer and to the public. Clause 24 (2) (*e*) provides:

occurring in any vehicle the cash price of which at the time of the sale referred to in that subsection did not exceed five hundred dollars or such other amount as is from time to time prescribed.

Again, I endorse what the Leader said in that a Mercedes (costing $10,000 when new) that was advertised at $500 would be a wreck, whereas a small car costing $1,800 or $2,000 when new would still be a useful car. Instead of an amount of $500, there should be included something in the nature of a proportion of the price of a new car of the same type. The Leader said that if this legislation were passed in its present form, because dealers would have to protect themselves for the extra work, they would have to add $200 to the price of each secondhand car or pay $200 less for a trade-in. In each case the public would be the loser. In support of this contention I have received a letter from the Managing Director of a motor company in a country area. In addition, I have had several telephone calls on the same subject. Addressed to me, the letter states:

I am greatly disturbed at the receipt of recent information relating to the Secondhand Motor Vehicles Act, which I believe is at present before the House. To me, it appears certain to create tremendous hardship first, for the genuine motor car dealer but, secondly, for the public in general, when the dealer finds that to legally cover himself for the tremendous obligations which the new Act has thrust upon the dealer, he will have to pass on to the customer the cost of this obligation. In this area, there are approximately three hundred persons employed by and dependent solely upon the motor industry for a living.

During the past six years I personally have had to reduce my staff to less than half of the number employed by me because of the tight rural situation and the lack of decentralization in this State, and I do not relish the thought of any further retrenchments. Unfavourable customer reaction is already mounting to this new legislation in its present form, and (I believe) new and used vehicle sales will fall dramatically. Of course this will mean drastic unemployment because not only will we as motor car dealers be forced to retrench, but I believe the motor vehicle manufactures will also be affected.

As the Leader said, we depend to a considerable extent on the motor industry in this State. The letter continues:

I consider the position to be serious to the point that I would be prepared to make a special trip to Adelaide if necessary to discuss this matter with you in person. I hope that you will see fit to make sure that this legislation does not become law in its present form.

That letter was signed by the Managing Director of Maitland Motors Pty. Ltd. which has affiliates at Orroroo, Victor Harbour and Peterborough, and it outlines the effect of clauses 24 to 28, as seen by the trade. These clauses either need to be drastically amended or deleted. I believe that the wiser course would be to delete these clauses, because their removal would not affect the operation of the Bill, except in a beneficial manner. We would

get rid of the practical obligation of the trade to pass on to the average person buying or selling a motor vehicle the cost of the requirements of these clauses. Irresponsible dealers would be controlled by the good move of the Government is setting up the board, which has delicensing powers, as previously stated. I believe that, other than the clauses to which I have referred, the Bill is commendable, but I suggest to the Government that it should consider seriously the implications of these clauses, particularly clauses 24 and 25, and the removal of the other consequential clauses. Otherwise, I support the second reading.

The Hon. C. M. HILL (Central No. 2): I support the comments made by the two previous speakers and, like them, I consider that the Bill can be improved considerably if the Government is willing to listen to further submissions, have further discussions, and make compromises in regard to this measure. I repeat the point made by the Hon. Mr. DeGaris concerning his efforts to ascertain who advised the Government in regard to this Bill. In his second reading explanation the Minister stated:

> Extensive consultations have preceded the preparation of this Bill and I have sought and received the helpful and informed advice and assistance of interested parties.

He said that he had not submitted a draft Bill to the interested parties, but thought that that was the best procedure to adopt. That action is the prerogative of the Government, but I do not agree with it. To submit a draft Bill to interested parties is a means of improving the ultimate measure. However, I am interested in knowing who were the experts to whom the Government referred this matter and who advised the Government.

If the Government can indicate that it referred the matter initially to people who have an intimate knowledge of the second-hand car business, it is on that much firmer ground in introducing this Bill in its present form than it would be if it could not indicate the experts to whom it claimed it turned for assistance. I support my Leader's asking whether the Government could provide further information on that part of the Minister's speech.

I stress the point that I believe the principle behind the Bill of protecting some people who cannot look after their own business affairs is a proper one. It is proper for a Government to endeavour to protect this small number of people who have difficulty in looking after their own private and business affairs.

I do not want to expand on that any further but, if the Bill can be fashioned so that this group of people can be protected and, in the main, the rest of the trade and the rest of the purchasers of used cars are not unduly restricted by it, I shall be perfectly satisfied with it. However, there is within the community a small group of people who need protection; there is also a small group of unscrupulous business people who take advantage of this small number of buyers or consumers. In this used car trade, I believe the number of dealers in that category is small; they are a minority but they have caused trouble in the past and it is because of their actions, generally speaking, that measures of this kind are necessary.

It is a great pity that, instead of going to the detail, the length and the approach that the Government has in this matter, a far simpler form of registration for used car dealers could not have been evolved. I am reminded of the legislation for the licensing of builders: there, too, a far simpler system could have been evolved if the Government had been prepared to adopt a simple procedure.

A simple method of registering used car dealers, involving a bond system so that those buyers who suffered a heavy financial loss would receive back money from a common fund to help make good the loss they had suffered, seems to be a simple approach to the whole problem. The point that a simple system could be a means of policing the dealers can be stressed, in that, if a dealer did not toe the line, he would lose his registration. When a person has a threat like that hanging over him, it is in his interest to trade in a proper and just manner.

Those honourable members who have stressed the problems associated with clauses 24 and 25 have already highlighted the unreasonable line they take. It seems ridiculous to me that a used car buyer can within three months take the car back to the dealer and say to him, "Here is a defect. It didn't exist when you sold me the car and I have not been negligent in the use of the car." The dealer has then to make good the defect. That is taking things too far. One immediate result will be that the dealer must protect himself against repercussions of that kind and he will endeavour to protect himself financially by charging more for secondhand cars, and on trade-ins for new vehicles he will in future offer lower prices.

A great source of concern and trouble in this area is the financial arrangements that purchasers, in many cases, enter into when buying these cars. If the Government really

wants to get down to an area where investigation is warranted, let it examine the matter of finance in regard to used cars. Most complaints begin when the purchaser of a vehicle finds out that the repayments are amounts he cannot meet. When he realizes that, he then finds it relatively easy to find fault with a car. Then the whole process that the Minister says happens (with some people taking cars back and not having them repaired) flows on from there. But the real problem is finance.

I have at times been disturbed by reports I have heard (I am not in a position to know whether or not they are true) about excessive interest rates being charged to some buyers of used cars; but the matter goes further than that. I hear reports of some financiers who pay back to the dealers, in the form of commission, an amount of money commensurate with the percentage of the interest rate charged to the purchaser of the car. If that happens, it is a secret commission and should be looked at closely by the Government. It means that some dealers would be charging unreasonably high interest rates to their buyers and, in return for that, they would obtain back some reward from the financier.

If that sort of thing happens, it should be investigated fully by the Government. It means, in effect, that the purchaser is the one who really suffers. It is the problem of the financial repayments on vehicles that started much of the trouble that led to the introduction of this Bill.

My last point concerns the fear that is apparent in the motor industry generally that, if this Bill is passed in its present form, prospective purchasers of new cars will discover that the offers that the trade will make for the used cars they wish to trade in will be far lower than they have been in the past. In other words, the used car market will have to take trade-in vehicles at much lower prices.

What will be the effect of that? It will mean that in many cases purchasers will not be able to proceed with buying a new car: they will have to be satisfied with their old vehicle for a longer period of time. This, in turn, will cause a drop in the demand for new vehicles, which will be a serious matter for South Australia, because it will flow on to affect the manufacturers of new vehicles. When we start interfering with that market in South Australia, where upwards of 20,000 people are employed in the motor car industry, the problem of possible unemployment in that industry will arise.

The Hon. R. C. DeGaris: It would involve 40,000 people throughout the industry.

The Hon. C. M. HILL: Yes; I can imagine that. It will have repercussions in the complementary field of distribution as well, as the Hon. Mr. DeGaris implies. Employment in the motor car manufacturing industry is the barometer of the whole State's economy. We have enough worries and fears in that industry already. So, if through legislation there is a drop in new car sales, resulting in people being stood down from work at Lonsdale and at Elizabeth, that will be a serious matter for this Government. All that could follow as a result of a Bill of this kind.

I therefore join with the previous speakers in saying that, whereas in principle the Bill has merit in regard to some people who cannot manage their own affairs, its repercussions must be looked at in fine detail. A more just Bill is needed so that a fair deal is given to all concerned and so that, in the long run, the possibility of further unemployment is avoided.

The Hon. G. J. GILFILLAN (Northern): I support the principle of this Bill, which is to give protection to some consumers. However, I am concerned to find that the restrictions in it are such that the object of providing protection will be defeated, because the consumer will get less value for money. Many people who have motor cars are becoming increasingly concerned at the cost of owning and maintaining them. That applies to new car buyers as well as to those who are forced, for financial reasons, to buy secondhand cars. In many cases a person's first car is a secondhand car, and he then upgrades the type of car each time he trades one in, until he can afford to buy a new car.

The restrictive clauses will create numerous problems for secondhand car purchasers, particularly when they trade in a car for a better type of vehicle. There will not only be questions about the reliability of the vehicle they intend to buy but also questions about the vehicle they are trying to sell. I wish to raise several points that have not been raised by other honourable members. The Secondhand Vehicle Dealers Licensing Board is to have five members; three categories of member are named, but the other two members are not named. Those two members should have been spelt out in the Bill.

The qualifications of a licensee and the information he has to provide are very much parallel to the objectionable parts of the builders licensing regulations. Clause 17 (1)

(*c*) provides that an applicant for a secondhand vehicle dealer's licence must satisfy the board that he has sufficient material and financial resources available to him to enable him to comply with the requirements of the Bill. I am reminded of the detail required under the builders licensing regulations. I question whether that type of detail is necessary to determine whether a person has sufficient financial resources to be granted a secondhand vehicle dealer's licence.

A wide field is being covered, because clause 17 applies to bodies corporate, too. Provision is also made for a person's licence to be cancelled. Although an appeal may be made to a local court of full jurisdiction, I ask the Minister to state what the position is of a body corporate dealing in secondhand cars if its licence is taken away and a yard full of cars is left; those cars would be worth a large sum and would depreciate every day. What will happen to all those cars? What provision is made in respect of the period following the cancellation of the licence?

The most objectionable provisions are contained in clauses 24 and 25. I believe that the other provisions in the Bill would be sufficient to give very real protection to the consumer, while still allowing the dealer to conduct his business properly without being involved in the tremendous expense associated with clauses 24 and 25. Clause 23 deals with the particulars that the dealer must make available to purchasers of motor vehicles. That clause alone provides very real protection to the buying public. I know that there are ways around this type of provision, in that a third person could be involved, but that could apply to nearly every clause in the Bill.

I question whether clauses 24 and 25 really help the consumer to obtain a reasonable vehicle for a reasonable sum. If clauses 24 and 25 are deleted (and I believe they should be deleted) some consequential amendments will be needed to other clauses. Clause 30, which is equally as important as clauses 24 and 25, provides:

> (1) A person shall not, in relation to the business of buying or selling secondhand vehicles carry out or give effect to any undesirable practice.
>
> Penalty: Five hundred dollars.
>
> (2) In this section an undesirable practice means an undesirable practice prescribed by regulation under this Act.

In clause 42 we see that the regulations may be very severe indeed. Clause 42 (2) provides:

> Without limiting the generality of the provisions of subsection (1) of this section, the regulations may—
>
> (*a*) prescribe any practice relating to the business of buying or selling used vehicles that in the opinion of the Governor is an undesirable practice.

That provision, in conjunction with clause 30, means that very restrictive controls can be written into the Bill by means of regulations. Striking out clauses 24 and 25 would improve the Bill but, even if they were struck out, their objects could be achieved through making appropriate provisions in the regulations. I view with much concern the very wide field covered in the regulation-making clause. With those reservations, I support the second reading.

The Hon. L. R. HART (Midland): I wish to speak very briefly to this Bill. These days Parliament seems to spend most of its time discussing legislation aimed at protecting people against themselves. I contend that much of this legislation is not necessary. The legislation before us may be right in principle, but many aspects of it are unnecessary.

Facilities are available to the car purchaser by which he may ascertain defects in vehicles available to be purchased. He can go to the Royal Automobile Association to get the vehicle assessed, or he can go to a qualified mechanic and obtain his services to assess the vehicle. If the vehicle has any apparent defects, he is able to obtain this information before making the purchase, but unfortunately purchasers today do not avail themselves of these services, hence the legislation before us.

The secondhand car dealer today will virtually have to give a new car warranty on every secondhand car he sells at a price of more than $500. Assuming that the cost of examining most cars to assess any defects would be about $20 to $25, this, added to the price of a $500 car, would bring the total to $520 or $525. Rather than have the defects assessed, dealers will sell many cars in the $500 range for $499 or less, together with all the defects they may have. One can visualize the attacks that would be made by the Opposition if the present Government were in Opposition, and the present Opposition, as the Government of the day, brought in this legislation, much of which is so far-reaching. We would be criticized, and justly, on many aspects of the measure before us. As I have said, facilities are available to potential buyers without the necessity for this dragnet legislation.

Three clauses in the Bill concern me. One is clause 17, which relates to the provisions covering an application for a licence. The conditions imposed by that clause will mean

that in the future the small operator will not be able to obtain a licence because he will not be able to satisfy the board that he has available to him sufficient material and financial resources. This could mean that in due course the secondhand car business could become a closed shop, a monopoly available only to those with considerable material and financial resources. Most of the large operators today have these resources and operate in a very big way, but some small operators purchase and sell a car in good faith without putting it through the costly process of ascertaining what possible defects it may have.

Clause 24, the other clause to which I object, has been referred to by other honourable members. The clause provides that where any secondhand vehicle is sold by a dealer and a defect appears in the vehicle, whether or not that defect existed at the time of sale, the dealer who sold the vehicle shall repair or make good, or cause to be repaired or made good, that defect in order to place the vehicle in a reasonable condition having regard to its age. This is a vicious clause, one which no dealer, reputable or otherwise, would be able to carry out to the letter. A defect could exist, and it need not be apparent at the time of sale. Do Government members really believe that this is a reasonable provision? If they were dealers in this trade would they be happy with it?

The Hon. T. M. Casey: We are not dealers in the trade.

The Hon. A. J. Shard: From some of the advertisements, I think they have no worries. They give a 12 months' warranty and no worry about that. The cars are perfect! What are you worrying about?

The Hon. L. R. HART: A 12 months' warranty is given on certain cars.

The Hon. A. J. Shard: On all of them, from some of the advertisements. You read some of them!

The Hon. L. R. HART: Not all of them. Clause 25 has been referred to by other honourable members. It provides that a dealer may affix to any secondhand vehicle offered for sale a notice, in the prescribed form, setting out with reasonable particularity any defect he believes to exist in the vehicle, together with, in relation to any such defect, his estimate of the fair cost of repairing or making good that defect. The clause provides further that, if in any notice referred to the amount estimated by the dealer as the fair cost of repairing or making good any defect is less than the amount of the fair cost of repairing or making good that defect, the purchaser may sue for and recover the difference between those fair costs as a debt due to the purchaser from the dealer. If ever a piece of legislation would tend to make people dishonest, I claim this clause would have that effect. How does the purchaser know what would be the cost of making good the defect? He would be billed by the dealer, the person making good the defect. With the possibility of being sued for the difference between the cost of making good and the cost stipulated beforehand, naturally the dealer will bring his costs up to the figure stipulated in the first place. I claim that the effect of this clause will be to make people dishonest.

Returning to the case of the small operator who purchases and sells in good faith, he will not be able to carry on because he will not be able to convince the board that he has the necessary material and financial resources to obtain a licence. He will therefore go out of business. I submit that the Government should set up some form of inspection service that could be used by any operator in the secondhand car trade, be he a small or large operator. Dealers should be able to take their vehicles to have them assessed, and any defects discovered by the testing authority could be advertised in the way set out in the Bill. I ask the Government seriously to consider this suggestion of providing an inspection service or testing authority, which could test vehicles for a fee, the same as the Royal Automobile Association does. It could possibly be set up as a department within the Government Motor Garage. However, that is merely a machinery matter. An authority of this nature should be set up if the Government wants this Bill to operate successfully. I support the second reading.

The Hon. A. J. SHARD (Chief Secretary): I should like to reply briefly. It has been suggested that the Government has not consulted the various people in the industry. The Solicitor-General (Mr. B. R. Cox, Q.C.), the Senior Assistant Parliamentary Counsel (Mr. R. J. Daugherty) and the Prices Commissioner (Mr. R. J. Baker) have been working as a drafting committee to formulate used car legislation in accordance with Government policy, and this committee has produced a legislative scheme. In its report, the committee said that it had a number of meetings and that it had formal discussions with representatives of the Royal Automobile Association, the South Australian Automobile Chamber of

Commerce and the Australian Finance Conference, which meetings were held at various stages during its deliberations. It is therefore incorrect to say that people in the motor vehicle industry have not been consulted.

It has also been stated that the Government is using a sledge hammer to crack a little nut. Be that as it may, I think some honourable members have greatly exaggerated in what they have said the Bill might permit to happen. One honourable member referred to the case of a person who, having bought a car for $1,000, attached a caravan to it and towed that caravan to Darwin and back, a feat of which the car was not really capable. How could such a person possibly claim damages? Perhaps an isolated person may change one part of a car for another. I am not mechanically minded and I do not know how that would be done, but surely in this day and age someone would pick that up. All these hypothetical cases are exaggerations. I did not know that we had as many saints in our business community as I have heard of this afternoon.

I should like now to refer to the latest suggestion that has been put to me. A person who within the last four months bought a car for $600 had to pay $180 within a week (which price included the cost of new tyres) to make that vehicle roadworthy. Thereafter, he received back from the dealer the magnificent sum of $35 for that vehicle.

The Hon. A. F. Kneebone: Someone in my family had the same experience.

The Hon. A. J. SHARD: These instances are not isolated. If that is the treatment that some dealers give the public, something must be done about the matter. Although I am not legally minded, I have examined clauses 24 and 25, which appear to be the kernel of the disagreement. If a reputable businessman, of whom there are many, wanted to comply with both those clauses, nothing in the world would prevent him from doing so.

The Hon. T. M. Casey: As a matter of fact, that would show that he was clean.

The Hon. A. J. SHARD: If he attempted genuinely to comply with those clauses, he would never have any trouble.

The Hon. T. M. Casey: That is correct.

The Hon. A. J. SHARD: I have listened to many debates in this Council, and I have listened attentively to the debate on this Bill today. In relation to the Hon. Mr. Hart's statement, when the Labor Party was in Opposition I think I asked that something be done about this matter in accordance with the Rogerson report. My request would be recorded in *Hansard,* if honourable members cared to check. If honourable members say that Labor members did nothing about this matter when they were in Opposition, they are off the track, because I asked that something be done about it.

The Hon. D. H. L. Banfield: And what was done?

The Hon. A. J. SHARD: Nothing. Other matters were raised, and I hope I will be able to reply to those in Committee. I could talk until tomorrow without influencing the outcome of this matter. If honourable members will do their best to deal with the legislation, a conference on it may be held, perhaps tomorrow night. I thank honourable members for their co-operation in dealing with this matter so expeditiously.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Definitions."

The Hon. L. R. HART: I am concerned about the definition of "dealer". What is the position if a person who buys a secondhand car sells it privately a few months later? He may then buy another secondhand car and, after running up a considerable mileage, sell it privately a few months later. Does he come under this definition? At what stage does a person become a dealer as defined?

The Hon. A. J. SHARD (Chief Secretary): A dealer is a person who is dealing, and all of his income and his livelihood is obtained by this means.

The Hon. F. J. POTTER: This kind of definition appears in many Acts and is not out of line.

Clause passed.

Clauses 5 and 6 passed.

Clause 7—"Composition of the Board."

The Hon. A. J. SHARD: In reply to a query by the Hon. Mr. Gilfillan, these provisions enable flexibility and ensure that we will have the best board possible.

Clause passed.

Clauses 8 to 19 passed.

Clause 20—"Disqualification."

The Hon. R. C. DeGARIS (Leader of the Opposition): I intended to delete "section 24 of" in subclause (1) (*d*), but it may be better if discussion on this clause is deferred until after clause 24 has been dealt with.

Consideration of clause 20 deferred.

Clauses 21 to 23 passed.

Clause 24—"Obligations of dealer."

The Hon. R. C. DeGARIS: I am sure that we are all anxious that this Bill should pass with reasonable conditions to be provided concerning the obligations of a dealer with regard to defects and warranty, but this and the following clauses are not workable or reasonable. In its present form this clause will have a serious effect on the economy of the motor car industry. Obviously, a dealer will be able to overcome the provisions of this legislation by farming vehicles out to a private individual to sell, and this would apply because of the present definition of dealer.

The Hon. C. M. Hill: That means that new car distributors will be excluded, because their income comes from new cars.

The Hon. R. C. DeGARIS: Probably, but the provisions can be overcome by unscrupulous dealers who adopt the farming-out practice. Also, they could sell cars by auction.

The Hon. T. M. Casey: Unless we are confronted with these situations we do not know what type of legislation to introduce.

The Hon. R. C. DeGARIS: We could have reasonable clauses to replace clauses 24 to 28 inclusive. It is my strong impression that it would be difficult for us to amend the Bill to make the clauses workable. Possibly, the Chief Secretary will agree that the only way to do it is to strike out these clauses and invite a conference with another place so that this matter can be thrashed out correctly.

In moving for their deletion, I want it clearly understood that I am not attempting to render the Bill useless. The Bill is worthwhile, the licensing system is worthwhile (I compliment the Government on it) but some alternative to these clauses dealing with warranty is needed. I shall vote against this clause.

The Hon. D. H. L. BANFIELD: I am surprised that the Hon. Mr. DeGaris, who consulted people from the industry yesterday, says that clause 24 is not workable and is not reasonable. One of the dealers who consulted with him yesterday was John H. Ellers, who had an advertisement in yesterday's newspaper to this effect:

> Nobody else dares offer you this much! . . . 100 per cent written guarantee, including motor, gearbox, differential, battery, tyres, lights, in fact everything at no cost to you (and you won't match that anywhere).

If that advertisement is correct (and I assume it is; otherwise, the agent would not have put it in the paper) there is nothing to fear from this clause. There is nothing unworkable in clause 24 because, if a person can give this 100 per cent written guarantee to anyone who is about to buy a car, he can observe the provisions of this clause.

This dealer goes beyond what we are asking in clause 24, where we exempt such things as "tyres, battery or any prescribed accessory to the vehicle". John H. Ellers in that advertisement says that he is prepared to give a 100 per cent written guarantee even on those things that the Government is prepared to exempt. So, how can the Hon. Mr. DeGaris try to convince us that the clause is unworkable and unreasonable when the trade itself is prepared to give this guarantee? Either John H. Ellers stands out as a rogue, or he can operate within the provisions of clause 24. Because the Hon. Mr. DeGaris had representations yesterday from the trade, including John H. Ellers, I ask him to get up and say whether or not this is possible or whether he condemns John H. Ellers as a rogue. If the honourable member is prepared to give an assurance on that, I am prepared to go along with his suggestion that this clause is unworkable and unreasonable.

The Hon. R. C. DeGARIS: I think the Hon. Mr. Banfield is getting the legislation a little out of perspective.

The Hon. D. H. L. Banfield: No, I am not.

The Hon. R. C. DeGARIS: I have already made the point in the second reading debate that, if the Government wants to control the used car industry, it can do so by using the powers it already has in legislation that has been passed. Let me read part of the clause to the honourable member because perhaps he has not read it.

The Hon. D. H. L. Banfield: I have read it several times.

The Hon. R. C. DeGARIS: Part of subclause (1) reads:

> whether or not that defect existed at the time of the sale . . .

The Hon. Mr. Banfield refers to the advertisement including 100 per cent written guarantee. If the Government objects to that advertisement, it can take action under present legislation. We are dealing in this Bill not with unfair advertising but with a warranty that must be given by the dealer who sells any vehicle for $500 or over. That warranty means that the dealer is responsible for that vehicle for a period of three months or a distance of 5 000 km. It may well be that a dealer has in his yard a Valiant car that has done 800 miles. On that vehicle, as a second-hand vehicle, he could probably give a 100 per cent guarantee.

The Hon. Mr. Banfield has not convinced anyone (at least, not me) that the case he gives is a reasonable excuse for having clause 24, which is so far-reaching that it will allow a person who is quite dishonest to take down a person from whom he buys a motor vehicle. I favour the idea that some controls are necessary in the used car field, but do not let us have legislation that will add considerably to the cost to the consumer when the object can be achieved in a much simpler fashion, by maintaining a service to the consumer at the cheapest possible cost. That is what we are all aiming at; it can be achieved with a reasonable approach but will not be achieved if we take the extreme case of the .4 per cent of the people who have made complaints and then add a tremendous cost on to the other 99.6 per cent from whom there have been no complaints.

The Hon. D. H. L. BANFIELD: The Hon. Mr. DeGaris has not attempted to answer my question. Here is a firm that says not only that it can but that it will do these things set out in its advertisement. As regards being a cost to the consumer, it is surely better for the consumer to know before he approaches the dealer just what he is paying for. He goes to a car firm to buy a car which he is told is in very good condition and will cost him only $600. He buys it, only to discover that he has then to find an extra $200 or $300 to make it roadworthy. The cost to the consumer is still there if the car is defective, whether it is the purchase price only or the purchase price plus the cost of repairs.

In those circumstances, the consumer knows exactly what he is up for and can decide for himself whether he will spend $850 or, if he has only $600 to spend, whether he will spend that. If he has only $600 to spend and gets a defective car from the car sales people and then finds he has to spend another $250 before it is roadworthy, it will have to remain in the garage until he can find the other $250 to pay for the repairs; or, he must go again to the finance company and obtain an extra $250. Had he known in the first place that the vehicle was defective, he might not have committed himself to the purchase. The consumer should not have to make an outlay without knowing whether he will be involved in extra expense before the car can be classified as roadworthy. If a 100 per cent warranty was given, the consumer would know the exact cost before he purchased the car. He should know that cost so that he can gauge whether he can afford the car.

The Hon. A. M. WHYTE: The people who will suffer the greatest loss are the purchasers and the people who trade in secondhand cars. We must remember that a person will get $200 or $300 less for his trade-in and the purchaser will pay an extra $200 or $300 because the car has to be reconditioned to the standard demanded by this Bill. I doubt whether the dealer will lose, but the public will lose, and so will the motor vehicle industry. If a person finds that he will get $300 less for his trade-in he will drive his car for several thousand extra miles before he trades it in. So, there will be a considerable loss to the industry.

The Hon. G. J. GILFILLAN: The Hon. Mr. Banfield made what could be regarded as almost an attack on John H. Ellers, but I do not know any more about the operations of one firm than about the operations of another. However, I do know that many secondhand car dealers are also agents for new vehicles. Other secondhand car dealers have an arrangement with agents for new vehicles to handle their trade-ins. In many cases there is a close association between the selling and servicing of new vehicles and a secondhand car enterprise. So, a percentage of cars will flow through that the dealer can confidently guarantee, because he has an accurate history of the cars. However, that situation is very different from applying a set of standards in a warranty to every vehicle worth more than $500.

The Hon. E. K. RUSSACK: I have had considerable experience in a business (not the car industry) where warranties are involved. I have always believed that a warranty covers any defect in materials or workmanship that exists and becomes evident after the product has been sold. All reputable firms will cover such defects. However, clause 24 (1) relates to a defect "whether or not that defect existed at the time of the sale". If the defect did not exist at the time of the sale, it is most unfair to require the dealer to rectify it.

The Hon. D. H. L. BANFIELD: The Hon. Mr. Gilfillan said that I had attacked John H. Ellers, but I made no such attack. I asked whether the Hon. Mr. DeGaris could assure us that John H. Ellers would stand by his advertisement. I said that, if the Hon. Mr. DeGaris could not give that assurance, John H. Ellers would appear to be a rogue. I stand by what I said. If John H. Ellers is willing to stand by his advertisement, what I said cannot be interpreted as an attack on him.

The Hon. A. J. SHARD: Because clauses 24 and 25 are the kernel of the Bill, I ask the Committee not to oppose them.

The Committee divided on the clause:

Ayes (4)—The Hons. D. H. L. Banfield, T. M. Casey, A. F. Kneebone, and A. J. Shard (teller).

Noes (14)—The Hons. M. B. Cameron, M. B. Dawkins, R. C. DeGaris (teller), R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill, H. K. Kemp, F. J. Potter, E. K. Russack, Sir Arthur Rymill, V. G. Springett, C. R. Story, and A. M. Whyte.

Majority of 10 for the Noes.

Clause thus negatived.

Clause 20—"Disqualification"—reconsidered.

The Hon R. C. DeGARIS: I move:

In subclause (1) (*d*) to strike out "section 24 of".

These words are now redundant.

Amendment carried; clause as amended passed.

Clause 25—"Excluded defects."

The Hon. R. C. DeGARIS: For the reason previously given, I will be voting against this clause.

Clause negatived.

Clause 26—"Disputes."

The Hon. R. C. DeGARIS: Once again, I intend to vote against this clause.

Clause negatived.

Clause 27—"Hearing of dispute by Commissioner."

The Hon. R. C. DeGARIS: I intend to vote against this clause.

Clause negatived.

Clause 28—"Reference of a dispute to the court."

The Hon. R. C. DeGARIS: Once again, I will be voting against this clause.

Clause negatived.

Clause 29 passed.

Clause 30—"Undesirable practices."

The Hon. G. J. GILFILLAN: I object to clause 30, which refers to undesirable practices, whatever they may be, and the main power of this clause is by regulation. All members are becoming increasingly concerned about the practice of legislation being given its real teeth by regulation. The operative clause in relation to regulations is clause 42 which, when taken in conjunction with clause 30, gives very wide, almost unlimited, power to the Government in dealing with the sale and purchase of secondhand cars. It is undesirable that such sweeping powers should be given by regulation. If this Bill is found to be lacking in any respect, it should come back to Parliament and the powers should be debated. I know that regulations can be disallowed, but we all know how impracticable that is in many situations.

The Hon. A. J. SHARD: I do not say this unkindly, but I think the honourable member missed what was said in the second reading explanation regarding clause 30. I said:

While at first sight the legislative proposals here suggested may seem a little unusual, there does seem to be a need for such a provision. A responsible organization of dealers in secondhand vehicles has devised a code of ethics in the hope that all reputable dealers will subscribe to it. Since the Government is anxious to reinforce any such code it has in mind that practices prohibited by the code will, in appropriate circumstances, be enacted as regulations, which will of course be subject to scrutiny by this Council.

The only reason for the insertion of this provision was to reinforce the industry's own code of ethics, and without a provision for regulations it could not be done. If the Council believes the regulations go too far, there is a right to disallow them, but the intent of the Bill, to which I do not think there could be any serious objection, is to incorporate the code of ethics the businessmen and dealers themselves have provided.

The Hon. G. J. GILFILLAN: I thank the Chief Secretary for the explanation. The second reading explanation was not available to me.

The Hon. A. J. Shard: I did not say it unkindly. I drew your attention to it.

The Hon. G. J. GILFILLAN: I realize that. My concern is that Parliament has no power to amend regulations; it must simply accept or reject them. Clause 30, taken in conjunction with the regulations, could create a very difficult situation. If the regulations governing this legislation could be taken in isolation that would be an entirely different matter, but to deal with regulations all combined in the one provision is most difficult.

The Hon. F. J. Potter: Not if they are separate regulations.

The Hon. G. J. GILFILLAN: I agree. However, the fact that Parliament has no power to amendment causes me much concern. This has been our main problem with the builders licensing regulations. The problem is within the Act itself.

The Committee divided on the clause:

Ayes (10)—The Hons. D. H. L. Banfield, T. M. Casey, M. B. Cameron, L. R. Hart, C. M. Hill, A. F. Kneebone, F. J. Potter, E. K. Russack, A. J. Shard (teller), and A. M. Whyte.

Noes (8)—The Hons. M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan (teller), H. K. Kemp, Sir Arthur Rymill, V. G. Springett, and C. R. Story.

Majority of 2 for the Ayes.

Clause thus passed.

Clauses 31 to 41 passed.

Clause 42—"Regulations."

The Hon. Sir ARTHUR RYMILL: This clause really contains the teeth of clause 30, which was passed by ten votes to eight votes. It could well be that under clause 42 (1) the Government could make the prescription referred to in clause 30 and be able to exercise that power. The clause provides that a number of things may be prescribed in the regulations. I do not know whether subclause (2) is necessary, except possibly the penalty part of it. Perhaps in due course the Chief Secretary will say something about this matter.

The Hon. G. J. GILFILLAN: I believe that paragraph (*a*) of clause 42 (2) has an even wider application than is implied in clause 30.

The Hon. A. J. Shard: I agree with that.

The Hon. G. J. GILFILLAN: As honourable members have received a copy of this Bill only today, and as they have had to deal with this and other legislation quickly, I ask the Chief Secretary to move that progress be reported.

The Hon. A. J. SHARD: As it is necessary for this Bill to be returned to another place this evening, I should appreciate honourable members giving it their further attention over the dinner adjournment. It must be remembered that, whichever Party is in office, legislation must contain regulation-making provisions. Honourable members seem to forget that the Council has the final say on all regulations. I sometimes wonder why honourable members worry about these matters as much as they do.

The Hon. R. C. DeGaris: It is sometimes difficult to deal with regulations.

The Hon. A. J. SHARD: At any time honourable members want to disallow regulations, they can do so. If they are bad, honourable members will disallow them without any misgivings, just as I would do if I were in their position. I ask that progress be reported.

Progress reported; Committee to sit again.

[*Sitting suspended from* 5.56 *to* 7.45 *p.m.*]

Later:

The Hon. G. J. GILFILLAN: Subclause (2) provides:

Without limiting the generality of the provisions of subsection (1) of this section, the regulations may—

(*a*) prescribe any practice relating to the business of buying and selling used vehicles that in the opinion of the Governor is an undesirable practice.

This provision has wide implications. It is more difficult to deal with regulations in Parliament than to deal with a Bill, because Parliament does not have the power to amend regulations: it can only accept or reject them. If the Government would undertake that any regulations dealing with undesirable practices would be brought down separately from other regulations, so that Parliament could consider them separately, I would withdraw my objection.

The Hon. A. J. SHARD: The Hon. Mr. Gilfillan has spoken to me about this clause. I was not in a position to give an undertaking previously, but I have contacted my colleague, the Attorney-General, and I can now give honourable members, and the Hon. Mr. Gilfillan in particular, an undertaking that any regulation prescribing any practice in buying or selling that, in the opinion of the Government, is an undesirable practice, will be brought down in isolation from any other regulation.

Clause passed.

Title passed.

Bill read a third time and passed.

SOUTH AUSTRALIAN RAILWAYS COMMISSIONER'S ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 18. Page 3184.)

The Hon. C. M. HILL (Central No. 2): This Bill is the third of a series of Bills that have been introduced with the purpose, we are told, of bringing the transport instrumentalities of the State under Ministerial control with the aim of implementing a transportation service to the people of this State that is more satisfactory than exists at present.

When introducing the Bill, the Minister referred to the other measures to give Ministerial control over the Municipal Tramways Trust and to control the Transport Control Board. The Minister referred to the Transport Policy Implementation Committee. I should like to know who are the members of that committee, what have been its terms of reference, and what have been its findings in regard to transportation matters. I believe that I have heard something about the committee and its work: it is a departmental committee, but its inquiries, of a departmental

nature, have been somewhat secret, as have been its findings.

I asked a question concerning the committee that considered matters relating to the Port Pirie to Broken Hill standard gauge railway line and was told that the committee's findings could not be made public or tabled, because it was a departmental or Government committee. I should like to know more about the transport policy implementation committee, because it would help one to understand how deeply and expertly the question of transport has been probed, and one would have more faith in the Minister's recommendations if one had intimate knowledge of the previous investigations that have taken place.

This Bill endeavours to place the control of the South Australian Railways Department directly in the hands of the Minister of Roads and Transport, and deletes a provision that was implemented during the term of the previous Labor Government that was not as drastic or radical as that contained in this Bill. Giving all Ministerial control to a department such as the Railways Department is not new in the history of both railways department and governmental growth throughout Australia. Indeed, section 4 (5) of the New South Wales Transport (Division of Functions) Act, 1932-1956, provides:

> In the exercise and performance of the powers, authorities, duties and functions conferred and imposed upon the Commissioner for Railways by or under this or any other Act, such Commissioner shall be subject to the control and direction of the Minister.

Therefore, in the large State of New South Wales we have a control comparable to that which the Minister is seeking in this Bill.

The Hon. A. F. Kneebone: A similar provision is in the Housing Trust Act.

The Hon. C. M. HILL: I thank the Minister for that comment. I can recall that a similar reorganization of administration was previously made in this State under the provisions of the Waterworks Act and the Sewerage Act, both of which were previously administered by a statutory Commissioner but which are now under the direct control of the Minister. Similarly, the administration of various Acts relating to harbours and marine matters has, in recent years, been divested from the Harbors Board and placed under the control of the Minister of Marine by changes incorporated in the Harbors Act in 1966, when the Harbors Board was abolished and the Marine and Harbors Department was set up with the Minister of Marine having direct responsibility for the running of that department.

When a measure like this is introduced, I cannot help but recall my experience when I was in charge of the Railways Department from 1968 to 1970, because I had some experience about whether or not there is a need for a drastic control such as this to be introduced, or whether it is better not to proceed this far at present.

When the rehabilitation of the railway lines was announced in 1968, I said publicly that further investigation into the organization of the Railways Department would be undertaken, and I carried out some investigations at that time. The Railways Commissioner assisted me and provided to me details of the railway control organizations that existed in the United Kingdom, in New Zealand, in the States of Queensland, New South Wales, Western Australia, Victoria, and in the Commonwealth Railways. At that time the Commissioner pointed out to me in some detail the relative advantages and disadvantages and the histories of each system, and I appreciated the co-operation he gave me during that inquiry. My findings at that time brought me to the point that there was not an absolute need to go as far as this Bill has gone.

Indeed, at that stage I believed (as a result of the study) that there was a need for further change, mostly involved, in my view, in the need for senior appointments, at least, within the Railways Department to be ratified by the Government of the day and, secondly, I believed that there was a need for the appointment of a permanent Deputy Commissioner in the South Australian Railways Department. However, because of circumstances it was not possible for either of those changes to be introduced. I decided that the responsibility that rested on the shoulders of the Railways Commissioner in this State were so great, the policies concerning the Railways Department were in such a stage of change, the financial results were so worrying, and the weight of publicity and other public criticism ever-increasing, that to some extent it was unfair and unjust to expect all of the responsibilities of that department to rest on the shoulders of one man, namely, the Railways Commissioner.

My experience in that period also indicated to me that there was a developing philosophy overseas (and it was apparent that it must come here) that the commuter services of the railways, namely, suburban railway services, had at that time to be set apart from the

general railway operations as a separate operation in their own right. These commuter services have become, in my view, a direct cost to the community. They had to be modernized and subsidized.

I notice from the Auditor-General's Report that the suburban coaching deficit for 1970-71, including debt charges, was $5,248,000. The comparable figure for the previous year, 1969-70, was $4,576,000. In South Australia the Municipal Tramways Trust and the suburban railway passenger system must at some stage join under one authority and be an integrated service to provide public transport for metropolitan commuters.

These services are a socially necessary adjunct to the whole economic life in metropolitan Adelaide, and they will never be viable. They will always have to be subsidized, just as they are all subsidized in other parts of the world. Indeed, the deficits will increase even further when a modern rapid-rail transportation system is ultimately introduced into metropolitan Adelaide.

Other railway operations should be directed to finding a viable transport system and they should aim at solvency. If and when this can be achieved, the true business undertakings of the Railways Department can be shown in their proper perspective. This kind of planning and the implementation of plans of this kind are too great a responsibility for one man to accept, and under the present system, with the South Australian Railways a separate statutory body under the control of one Railways Commissioner, that is the present position. If the big change I have envisaged ever takes place, it will be too much to expect one man to accept responsibility for it.

The Government's involvement and interest in the South Australian Railways is wedded to the financial problems of the Railways Department, and the Government cannot dissociate itself from this financial aspect. The man in the street can well appreciate the Minister's desire to become more closely involved with the railways, and it seems to the general public ludicrous that the Minister of Roads and Transport has not already the control over the railways that he now seeks.

As evidence of this severe financial involvement that the Government must face up to (and it is facing up to it now without Ministerial control of the department) is the fact that over the years these financial losses in the Railways Department have been ever-increasing. In the year 1967-68 the working loss on the railways was $6,574,349; in 1968-69, the loss was $5,870,885; in 1969-70, the loss was $5,721,346, and in the year just completed, 1970-71, the working loss jumped to $8,367,082. To these working losses must be added the debt charges with which the Railways Department must contend. The total figure for the year just completed to June 30, 1971, including debt charges, shows a loss of $16,124,101. These are very large figures when we consider that this is merely one transport instrumentality serving this State.

The Hon. D. H. L. Banfield: Most States have these losses, too.

The Hon. C. M. HILL: Yes, heavy losses. Whereas, in proportion, subsidies and losses on the suburban railways are high, some of the country services in the other States show better figures than in South Australia. The effect on the Treasury can be seen by the amount of contributions that the Treasury has had to make in recent years to make up for the losses to which I have referred. Four years ago the Treasury put $10,000,000 into the railways; three years ago it put in $11,000,000; two years ago the Treasury's contribution was $14,674,000, and in the year just completed, the Treasury contribution was $14,500,000. In addition to this state of affairs of the revenue and expenditure accounts of the Railways Department, the State has a vast capital investment in the railways.

Indeed, the sum of money provided up until June 30 of this year by the State Treasury for capital purposes to the railways has been (this is, the aggregate amount over the years) $135,276,776. The total funds employed by the railways amount to about $187,000,000. So we do involve ourselves with vast sums of money. I think it appears to the average layman that, when these losses must be suffered and grappled with and when this huge sum of the people's money is invested in this instrumentality, it is not unreasonable to expect that the Minister in charge of the transport department should have direct control as a Minister.

The size of the operation can further be emphasized by the fact that there were in the railways at June 30 of this year 8,995 employees. Having said that, I want to say in defence of the Railways Commissioner (if there is any need to defend him in this situation) that, in my experience, he and the whole railways administration have always been conscious of the burden that the South Australian Railways places on the State Treasury, and all concerned in that department have been keen to avoid at all costs any

decisions or actions that may lead to further escalation of the financial burden.

I have always found that the Railways Commissioner, his officers and, indeed, all employees of the Railways Department have approached their work in the best traditions of those who work for the State. The Commissioner and his officers have always been dedicated and sincere in their work and their efforts to do their best for the Government of the day and for the State generally. I always took the view that the Commissioner had his job to do and I did not make much contact with him or interfere with him very much. I was always aware of the difficulties that confronted him, not difficulties associated only with the general financial position or only with passenger services in metropolitan Adelaide. In this State we have many branch lines that have only light traffic, and we have the problem of relatively short freight hauls within the State. Further, problems are created by the multiplicity of gauges and the isolation of the Eyre Peninsula system.

The Bill gives the Minister power to control not only the Railways Commissioner but also all officers and employees of the Railways Department. At present some officers have powers in respect of suspensions, fines, and other disciplinary functions. The Bill clears the way for direct communication not only between the Minister and the Commissioner but also between the Minister and other officers and employees of the Railways Department. Unlike other departmental heads, the Railways Commissioner handles his own industrial matters, most of the awards being interstate awards. Indeed, the Commissioner is a respondent to the appropriate awards. The Bill makes it possible for a Minister, if he so desires (and I certainly hope he will not), to intrude into that sphere.

I am willing to vote for the Bill. I said in another debate that we ought not to oppose the Minister's seeking control over the Municipal Tramways Trust, although I strongly opposed the Minister's endeavours to control the Transport Control Board. I cannot see the metropolitan commuter service being satisfactorily improved without much co-operation and liaison between the Government, the M.T.T. and the Railways Department. In that liaison the Minister must play his proper role. I hope the change will not have any adverse effects within the Railways Department.

The Minister, whoever he may be in the future, must be fully aware of the true role and responsibilities of the Railways Commissioner and he must maintain a proper understanding and relationship between the Commissioner and himself and between the department and himself. If this Bill is passed the Minister will accept far greater responsibility than he has at present. I trust that the Minister and his successors will display the understanding that I have referred to.

Officers of the Railways Department can be very proud of the traditions of service that have been built up over the years. The department will not be part of the Public Service; it will remain a statutory authority and will have to report periodically to the Minister and to this Parliament. I hope that the railways fraternity can maintain its traditions and that the services it provides can be improved and modernized as the years pass, so that ultimately history will show that in this present era the railways made a very worthwhile contribution to the economic progress and social welfare of South Australia.

The Hon. G. J. GILFILLAN (Northern): I support the second reading of this Bill. In the main, although it has 17 clauses, most of them deal with bringing the Act up to date. The Act has not been amended in detail to conform with the various changes that have taken place in the titles, and so on, of other Acts. It makes one rather radical departure, in clause 4, from the existing control of the railways. This is a similar clause to one contained in another Bill before us, the Road and Railways Transport Act Amendment Bill, and of course also in an earlier Bill the Tramways Trust was brought under the control of the Minister, although possibly not to such an absolute degree as is proposed in this Bill.

This subject was last raised in 1965, when the Commissioner was brought under the control of the Minister in matters regarding policy. From my experience in dealing with the railways and its administration at that time, I supported the Bill, because I believed that some control was necessary. However, the Bill before us takes this control too far. If it is read in conjunction with the controls imposed in the other two measures I have mentioned, it will be seen that it goes further than just a co-ordination of the three methods of transport—the Tramways Trust, road transport, and railway transport. An overall policy regarding these three forms of transport is amply covered by the powers already in existence in section 95a of the Act, inserted in 1965.

Clause 4 inserts new section 6a, which means in effect that the Minister could direct any

employee of the South Australian Railways on any facet of the operation of the railways. This goes much further than is necessary for the oversight of the operation of our transport system within the State. I would much prefer that the overriding control of policy already in existence should remain as it now stands. The powers contained in clause 4 are so wide-ranging that I believe there is a risk of the provision being used against the best interests of our transport system. That is in no way a reflection upon the Government, which is most concerned about the financial position and, to some extent, the efficiency of this State's transport system. As powers like these can in the future be misused I am not in favour of clause 4. If that clause is deleted, clause 15 would also have to be deleted so that section 95a of the Act can remain in force. I do not intend to say any more, as this is the key clause in the Bill that could cause any dissension. As I can see nothing in the remaining 16 clauses that would cause honourable members any concern, I support the second reading.

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

ADELAIDE FESTIVAL CENTRE TRUST BILL

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

The Hon. A. J. SHARD (Chief Secretary): I move:

That this Bill be now read a second time.

Honourable members will recall that the Festival Hall (City of Adelaide Act) Amendment Act, 1970, which was passed by this Parliament last year, amongst other things, provided for the vesting of two sections of land in the Crown, these being section 655 and section 656 within the hundred of Adelaide which were then vested in the South Australian Railways Commissioner. Although the geographical location of these sections will be clear from the plan in the schedule to that Act, honourable members will be aware that they lie to the west of the site of the festival theatre. At the time the stated purpose of this vesting was twofold: (*a*) to ensure that the land to the west of the Festival Theatre is developed in such a manner as to do justice to the site and generally to enhance its setting; and (*b*) to facilitate the provision of a performing arts centre in the vicinity of section 655 should such a project be undertaken in the future.

In broad terms this Bill represents a further legislative step in giving effect to these purposes The Bill provides for the establishment of a trust to which will be ultimately committed the management and control of the whole of this performing arts complex. For reasons that will emerge during the consideration of the measure it will be clear that all the appropriate legislative steps necessary to achieve this broad aim cannot be taken at this time. However, should this measure receive the approbation of members the ultimate steps to be taken will be clear. In addition, the trust is given the responsibility of completing the works comprised in the centre.

To consider the Bill in some detail, clauses 1 to 3 are formal. Clause 4 sets out the definitions necessary for the purposes of the measure. I would draw honourable members' attention to the definition of "drama facilities" which has been used as a "shorthand" description of the facilities being a drama theatre, an amphitheatre and an experimental theatre which will be built on section 655 and to some extent on portion of section 656 by the trust. The term "centre" has been adopted to describe the whole complex of facilities covered by the measure, including the festival hall. The section references in subclause (2) of clause 4 will perhaps be more meaningful to honourable members if they peruse a site plan which will be available to them in the House.

Clause 5 formally establishes the Adelaide Festival Centre Trust and clause 6 provides for its membership, and here I would mention that two trustees or a third of the whole number will be appointed on the recommendation of the Adelaide City Council, thus evidencing the part that this organization has played in the establishment of portion at least of the whole complex. Clauses 7 to 11 set out the usual formal arrangements for the establishment of the trust and are quite self-explanatory. Clause 12 provides for a delegation by the trust to two or more trustees and should facilitate the day-to-day administration of the trust. Clause 13 makes the usual provisions for the chairman's casting vote and also provides for an acting chairman where necessary. Clause 14 is again a usual validating provision to ensure that the trust is not embarrassed by some vacancy in an office of trustee or some formal defect in the appointment of a trustee.

Clause 15 provides for the appointment of a secretary to the trust and should be read in conjunction with clause 21 which deals generally with officers and servants of the

trust. Clause 16 is again a formal and usual provision in measures of this nature. Clause 17 is intended to ensure that a trustee does not act in matters where there may be a conflict of interest. Clause 18 formally vests the real and personal property comprised in the centre in the trust, the exception being the festival hall, which is, pursuant to the Adelaide Festival Theatre Act, 1964-1970, vested in the council of the Corporation of the City of Adelaide. There are sound legal, commercial and financial reasons for preserving the *status quo* in this area at this time. However, at an appropriate time on the completion of the festival hall project it is the intention of the Government that legislation will be introduced to vest the festival hall in the trust.

Clause 19 makes it clear that the trust is "subject to the general control and direction of the Minister", except of course where it makes or is required to make a recommendation to the Minister. Clause 20 sets out in broad terms the objects and powers of the trust. Clause 21 deals generally with the terms and conditions of the appointment of officers and servants of the trust and clause 22 makes appropriate provision for the use by the trust of officers in the Public Service of the State. Clause 23 is a fairly significant provision in that it provides that, by arrangement with the Adelaide City Council, the trust may assume the management functions of the council with respect to the festival hall, and the arrangements proposed here presage the ultimate vesting of the festival theatre in the trust.

Clause 24 empowers the trust to construct the drama facilities, that is, a drama theatre, an experimental theatre and an amphitheatre. I would draw honourable members' attention to subclause (3) of this clause, the effect of which will be that these works will not be referred to the Public Works Standing Committee. However, in accordance with the practice established in relation to the festival theatre, this Bill was referred to a Select Committee in another place. Clause 25 is a formal accounting provision and also provides for audit of the accounts of the trust by the Auditor-General. Clause 26 gives the trust power to borrow, and subclause (2) provides a Government guarantee to be given with respect to those borrowings.

Clause 27 sets out generally the sources of funds for the trust and by inference provides that the trust may receive Government grants out of moneys to be provided by Parliament. At least some of the revenues of the trust will, of course, be derived from its own activities. Clause 28 provides for the budgetary control of the trust's activities and limits expenditure by the trust to expenditure under an approved budget. Clause 29 provides for the vesting in the trust of a triangular shaped piece of land to the north-west of section 655. This area is delineated on the plan in the schedule to this Bill. The area proposed to be vested in the trust comprises a small portion of the area generally known as Elder Park and, to balance for this minor encroachment, the bulk of section 656 as shown on the ground will for practical purposes become *de facto* park lands. Thus, the actual recreation area of land available to the public as a result of this measure will in fact be considerably increased. Clause 30 formally empowers the Registrar-General to give effect to the vesting provided by clause 29.

Clause 31 gives an assumed "assessed annual value" for rating purposes of $50,000 for the centre other than the portion comprised in the festival theatre. The purpose of this provision is to ensure that the trust is not unduly impacted with rates. This follows closely a similar provision enacted in relation to the festival theatre. Clause 32 provides for annual reports by the trust and for the laying on the table of this Council of those reports. Clause 33 provides for the exemption from stamp, succession and gift duties of gifts made to the trust and generally exempts the trust from the necessity of paying stamp duty on its transactions. Clause 34 provides for the summary disposition of offences under the measure. Clause 35 provides appropriate regulation-making powers.

The substance of this measure has been considered by representatives of the Adelaide City Council, which, subject to a clear indication by the Government of its intentions as to the future of the festival theatre, has indicated agreement with its principles. Accordingly, I draw honourable members' attention to the indications of the Government's intentions as regards the festival hall as set out in my comments on clauses 18 and 23 of the measure. Finally, in the view of the Government it is essential that this measure pass all stages of its passage through this Parliament before the Christmas recess. Unless the trust can be established and begin its administrative operations as quickly as possible, difficulties may arise in fixing bookings for the use of the centre and in ensuring that adequate technical assistance is available

to oversee the commissioning of the festival theatre.

The Hon. E. K. RUSSACK secured the adjournment of the debate.

STAMP DUTIES ACT AMENDMENT ACT, 1971, AMENDING BILL

Adjourned debate on second reading.

(Continued from November 18. Page 3181.)

The Hon. R. C. DeGARIS (Leader of the Opposition): I am pleased to be able to support this short Bill, because the Government has obviously taken to heart and acted upon the argument advanced rather forcibly by this Council on a previous amending Bill. The Government does not often follow the advice of this Chamber, but on this occasion it has done so.

The Hon. A. J. Shard: It acts on good advice.

The Hon. R. C. DeGARIS: I agree, and on this occasion it has done so. During the debate on the previous Bill the Council pointed out that in some important areas of stamp duties the State was inflicting duties in excess of the rates imposed in our neighbouring States. We argued that such duties would have an effect upon South Australia's competitive position, particularly with Victoria. If one reads again the speeches made at that time, one will see that amendments were sought in relation to stamp duties on motor vehicles, particularly commercial vehicles, and on conveyances. The increased duty on bills of exchange and promissory notes was said to be higher than that in Victoria. However, the Council decided not to amend in this area, as the sum involved (I think about $16,000) did not seem to be sufficiently great to affect this State's competitive position. In his second reading explanation of this Bill, the Chief Secretary said that the increase was made originally on the understanding that Victoria would effect a similar increase. He continued:

> However, it now transpires that Victoria has not altered the rate of duty payable on such bills of exchange, with the unfortunate result that the market for commercial bills on a short-term basis that has recently developed in South Australia may possibly be diverted to Victoria with its lower rate of duty.

Having searched through the speeches that Sir Henry Bolte has made, I can find no reference to any proposed increase in this area in Victoria. Indeed, during the second reading debate on the previous Bill honourable members in this Chamber said that Victoria had changed its mind on many matters in relation to stamp duties and that the Government would be wise to be sure of proposals to be introduced in Victoria. I am more than pleased (and I congratulate the Government in this respect) that the Government has found a further area of stamp duties to which it can introduce amendments so as to prevent loss of business to Victoria.

Every honourable member would commend the Government for acting so quickly to correct this unfortunate position. I am only sorry that we did not previously amend this part of the Bill. Bearing in mind the constant criticism it attracts in these matters, the Council decided that it was not then the appropriate time to introduce such an amendment, particularly in view of the relatively small sum of money involved. On behalf of all honourable members, I commend the Government for introducing this amending Bill, to make South Australia's rate the same as that of Victoria so as to prevent this type of business from moving over the border to that State. I support the Bill.

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

IRRIGATION ACT AMENDMENT BILL

The Hon. A. F. KNEEBONE (Minister of Irrigation) obtained leave and introduced a Bill for an Act to amend the Irrigation Act, 1930-1967. Read a first time.

The Hon. A. F. KNEEBONE: I move:

That this Bill be now read a second time.

Its prime object is to facilitate the disposition of town allotments in areas the subject of the Irrigation Act. This is provided for in clause 4, and an account of how this object is to be achieved will be given in the comments on that clause. In addition, opportunity has been taken to effect some formal conversions to metric measurements in the principal Act. Clauses 1 and 2 are formal. Clause 3 repeals sections 25 and 26 which placed limitations on the amount of ratable land that may be held by any person or combination of persons, ratable land being defined as land that is supplied with water under the Act and in respect of which rates are payable.

Clause 4 provides for the disposition of town allotments and, while the provision is generally self-explanatory, I offer the following comments. The principal Act at present provides for town allotments in irrigation towns to be offered at auction or allotted by the Land Board under perpetual lease tenure, and a private individual can obtain a fee simple title only if he holds a licence or a perpetual lease

and has erected permanent improvements, or satisfies the Minister that he will do so. The Crown Lands Act provides for disposal of town allotments in several ways, and it seems desirable that the disposal of allotments in irrigation towns should have the same flexibility. The methods provided under the Crown Lands Act that it is desired to apply to irrigation town allotments are briefly, (*a*) sale by auction for cash; (*b*) sale by auction with the option to purchase under an agreement with covenant to purchase over a specified period; (*c*) sale by private contract if unsold at an auction; and (*d*) an estate in fee simple allotted by the Land Board.

Provision is made under each of these methods in the Crown Lands Act to prevent speculation by providing for buildings to be erected, and restricting dealings without the consent of the Minister for a specified period with an appropriate power of cancellation for breach of conditions. These provisions are also provided in this clause. The power of cancellation for non-compliance with a building condition can sometimes be harsh in its application, when a substantial sum has been paid for the land and the purchaser then finds himself unable to comply with the conditions. Provision has therefore been made in the proposed new section for the Minister, in his discretion and on the recommendation of the Land Board, to refund an amount considered to be equitable in any particular case.

Clause 5 effects what is, for practical purposes, an exact conversion to metric measurements in section 40 of the principal Act, which deals with grants of land for public or charitable purposes. Clause 6 again effects a metric conversion that makes no difference to the operation or effect of section 74 of the principal Act. However, in paragraph (*b*) of this clause provision is made for the future rating to be based on actual amounts of water supplied rather than on the area of land supplied with water. Clause 7 effects formal metric conversions, and provides an amendment to section 75 of the principal Act consequential on the amendment effected by clause 6 (*b*).

Clause 8 amends section 80f of the principal Act, and increases in respect of drainage outlets, constructed after the commencement of the Act proposed by this Bill, the maximum contribution payable toward the cost of construction of the outlets. I emphasize that this increase will apply only with respect to outlets constructed in the future. The old maximum charge was at the rate of about $25 a hectare, and the new maximum charge will be $50 a hectare.

Clauses 9 and 10 effect formal metric conversion amendments to sections 80g and 80i respectively of the principal Act. Clause 11 again effects formal metric conversions to section 80j of the principal Act. Clause 12 slightly increases the maximum amount that may be expended on a block by the Minister under section 89 of the principal Act, and clause 13 is consequential on this clause. Clause 14 effects a formal metric conversion to the second schedule to the principal Act.

Later:

The Hon. C. R. STORY (Midland): I have studied the Minister's second reading explanation and have taken some time to read the effects of the Bill on the irrigation areas of South Australia, which are unique as there are not many parts of the State that are affected by the Lands Department as much as those comprising the irrigation areas in the riverland area. I have studied this carefully and believe that what is happening in this Bill is what various Ministers and Directors of Irrigation have been trying to do for about the last 10 years. I compliment the Minister of Irrigation on giving me a chance to say that I have no objection to the passage of this Bill, which is perfectly proper.

Renmark is a free area that does not have to worry about Government control. Over the years, Renmark and Loxton (which, too, is not a Government scheme) have been successful in managing their own affairs. I see no objection to the Bill. I think the Government has done what various other Governments would have liked to do, and I compliment the Minister on the fact that, with his Director and other advisers, he has worked out a suitable system for dealing with a most difficult situation. On many occasions I have known people take up an area of land, particularly in Barmera or Loxton, and perhaps they have found difficulty in building upon it by a certain date. That problem has occurred. As we are all well aware, people sometimes think they are going along very well and suddenly something happens, but I do not think they should be deprived of having their piece of land. That is precisely what this Bill provides for.

The Hon. C. M. Hill: Has the Bill been submitted to local government up the river?

The Hon. C. R. STORY: Yes.

The Hon. D. H. L. Banfield: What was its reaction?

The Hon. C. R. STORY: I ascertained that from the Minister; otherwise, I would not be standing here supporting the Bill. As the Hon. Mr. Banfield knows, I am not one to stand up and talk nonsense. The Bill has been submitted to local government and is supported by the Lands Department; also, various bodies throughout the river area are quite clear on what is good for them.

Berri, Barmera, Loxton and Waikerie, which are the districts tremendously affected by this Bill, are in favour of it. Renmark has had the privilege, because of its private enterprise, of being able to do what the Government is now asking these areas to do. It is not quite as good, because the Government retains that terrible little bit of control; the Minister must still have some control. However, it is a very much better situation than that prevailing hitherto. Therefore, I support the measure and hope the Council will accept it.

The Hon. C. M. HILL (Central No. 2): While this Bill is before the Council, I take the opportunity to pursue the point implied by the last speaker, namely, that the Minister still retains that little bit of control. That is what he indicated. I have mentioned this matter previously in this place, and I stress it again: the time has come when the Lands Department and the Minister of Lands should make a concerted effort to get out of the river areas and to freehold as much land as possible, because I firmly believe that the development of the townships of Berri, Barmera, Waikerie and Loxton is restricted by the method of governmental control over leases in that region of the State.

In saying that, I am not criticizing the Minister's department or his officers, or indeed the Minister himself. The laws of the State lay down the degree of Government control that exists there, and each officer involved, of course, carries out his duty as he should; but the time must come for a vast change in leasehold in the Upper Murray region of the State; the time must come, too, when the township blocks of the Upper Murray towns can be freeholded and transferred and sold without any restriction or need for consent from some central control in Adelaide. I hope we shall see that day when there is a full inquiry into this whole matter. It may mean that irrigation will have to be placed solely under some control other than that under which it is placed at the moment.

It will mean, of course, a great change from the traditional role that the Lands Department has always played but I am satisfied that, if we go on as we are, leasehold control in this State is a form of Socialism and, if we at some stage have a considerable inquiry so that the whole matter can be looked at in depth and all interested parties can examine it and give evidence about it, then the river towns and districts will be released from the huge amount of Government red tape that hampers their life and expansion at present. Every effort should be made to have that change as a goal. I hope that in the years to come we shall see some kind of concerted effort to bring about that change.

The Hon. H. K. KEMP (Southern): It is impossible for a normal person to find his way through the verbiage of this Bill. The many things that are said in this Bill only mean that the disposition of town allotments will be facilitated in irrigation areas. Why must so many words be used to convey that simple idea?

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Offer of town allotments."

The Hon. C. R. STORY: Clause 3 repeals sections 25 and 26 of the principal Act, which place limitations upon the amount of ratable land that may be held by any person or combination of persons. Although I have a mass of documents in front of me, I have not had the opportunity of checking on this matter. I am sure that the Minister, being very fair, does not intend to push me in connection with this matter. I should like to check overnight what clause 3 really repeals. The Minister is fortunate in that he has most efficient officers, whom I know very well. I was unable to get a consolidated copy of the Act from the Government Printer after 5 p.m., because the wretched man goes home at that time.

The Hon. A. J. Shard: The fortunate man!

The Hon. C. R. STORY: Yes. Can the Minister tell me what the effect of clause 3 will be? I think that we should look at this matter tomorrow morning.

The CHAIRMAN: I gather that the honourable member has gone back to clause 3, but I have already put clauses 1 to 3, which have been passed.

The Hon. C. R. STORY: I am terribly sorry, Sir, but I did rise at the appropriate time.

The CHAIRMAN: The honourable member rose when I put clause 4. I have put clauses

1 to 3 and they have been passed. That can be altered only by recommittal of the Bill.

The Hon. C. R. STORY: I hate to disagree with you, Sir, but I was on my feet when clause 3 was called.

The CHAIRMAN: I have already given my decision: the honourable member was too late.

The Hon. C. R. STORY: In that case I may have to ask for a recommittal of the Bill.

The Hon. A. F. KNEEBONE (Minister of Lands): I realize the honourable member's difficulty in regard to a clause that has already been passed, but I assure him that, if he wants me to ask that progress be reported, I will do so, because we have already made fair progress.

The CHAIRMAN: I point out that recommittal may be necessary.

The Hon. A. F. KNEEBONE: I think I can allay the honourable member's fears tomorrow in regard to a clause that has already been passed. I am sure the honourable member will not want to recommit the Bill after I have spoken to him tomorrow.

The CHAIRMAN: I point out again to the Minister that, even tomorrow, he may have to recommit the Bill.

The Hon. A. F. KNEEBONE: Yes, but I am sure I can convince the honourable member that we will not need to recommit it. I ask that progress be reported.

Progress reported; Committee to sit again.

VALUATION OF LAND BILL

Adjourned debate on second reading.

(Continued from November 18. Page 3187.)

The Hon. M. B. CAMERON (Southern): Valuation of land is a problem that has raised its ugly head recently. Not long ago it was decided to revalue rural land in connection with land tax. I can understand the reasons for this Bill. I know the difficulties faced by valuers when attempting to value land, particularly farming land. When anyone is faced with this matter there are three types of valuation: one type applies when a person is buying land, one type applies when a person is selling land, and a third type applies when an authority is taxing land—in the third case some people over the centuries have taken the attitude that when the Government comes along and taxes the land it has no value at all. However, a value has to be established. It is the third type of valuation that always poses the biggest problem; other problems can be solved by the people themselves, but the third type is outside the control of the owner of the property, wherever it may be.

The problem of valuing rural lands has been accentuated greatly because of the downturn in the rural industry. One of these days someone will come up with an appropriate suggestion for a valuation which can be changed from year to year, based on the productive value of the land. Sale value has so many problems. It is supposedly based on an unencumbered sale, but the difficulty nowadays is to find an unencumbered sale when so many properties are on the market under instructions from the mortgagees.

Regarding the unimproved value, in his second reading explanation the Chief Secretary said, at page 2944 of *Hansard,* that the continued use of unimproved values as a taxing base in the country has received criticism and unfavourable comment from the rural community, and this Bill recognizes that, if a change is desired to some other type of value, it can easily be effected. As a base, unimproved value is becoming somewhat out of date, and certainly some alternative system must be introduced sooner or later, because unimproved value takes into account the items mentioned in the Bill, namely, houses and buildings, fixtures and other building improvements of any kind whatsoever, fences, bridges, roads, tanks, wells, dams, fruit trees, bushes, shrubs and other plants planted or sown, whether for trade or other purposes, draining of land, ringbarking, clearing of timber or scrub, and any other actual improvements.

In many cases it would be almost impossible to decide what sort of cover the land had had in its original state. Very often it must be just a guess as to what was on the land and the cost of clearing. Many similar problems will be found under site values when speaking of the removal of rocks and stones. Who could tell what was on the land before the rocks and stones were cleared, and what it cost to clear? Quite clearly some other system will have to be introduced, and the sooner the better. I would like to see it take into account, particularly in rural land, the cost of production and the return from the land, at least in some small portion.

Section 30 of the Land Tax Act, under which so many valuations have been made, has been omitted from the Bill. The section provides that the Commissioner shall, in the case of all disputed assessments, render to the taxpayer a full and particular account of his claim. I give notice that it is my intention to move an amendment to allow that, where

an objection is made, the Valuer-General shall supply the objector with details of the basis upon which the valuation was made. Many objections will be saved if the objector knows the full details and the reasons behind the assessment, which improvements have been deducted for the purposes of valuation, and on what cost they are based. This is necessary for the sake of the person objecting. If he wants to find out the reasons for the Valuer-General's valuation he must almost go to the point of taking the matter to court, involving an unnecessary cost and a course of action which could be rendered unnecessary in many cases if he could be supplied with the details.

Clause 23 provides that the Valuer-General shall give to the owner of the land valued under the Act notice of the valuation, that the notice shall be in writing and in the prescribed form, shall contain the prescribed particulars and shall be served upon the owner of the land. I would be interested to know what is meant by "shall be served upon the owner of the land". At the time of the last assessment, to which many objections were raised, some people received their valuations immediately, but in other cases, through postal difficulties or for some other reason, people did not receive their assessments. Does the 60-day period in which a person can lodge an objection start from the time of posting of the form or from the time of its receipt? Is it necessary for a person to take the matter to court to prove that he has not received his assessment? By what method can he prove that he has not received it? There may be some method used through the post office whereby a person collects an article and the Valuer-General knows that the document has been received.

The clause also provides that a valuation shall not be invalid, nor shall its operation be affected, by reason only of a failure to give notice in accordance with the section. If a person has not received the assessment he should have a further 60 days in which to lodge an objection. Occasionally we hear of cases of a person receiving an incorrect assessment, found at a later date to be due to a mistake in the operation of the computer. Quite clearly computers should not make mistakes; the mistake must be on the part of the operator. Many people have accepted such assessments, only to find subsequently that their tax was much higher than they had expected. They have not had time to lodge an objection because they have had improper notice. Will this problem be covered either by regulation or by some other change? It is necessary for a person, after finding the true and proper assessment, to have a further 60 days in which to lodge an objection.

The Hon. Mr. Hill has placed on file a suggested amendment to clause 24, leaving out the words "shall be in the prescribed form". This is worthy of support. Many people have found that, when they have attempted to lodge an objection, the prescribed form has not been available. At one stage it was almost out of print and people were concerned that they could not secure copies of it. I do not think the use of that form is necessary. If a person clearly lays out the grounds of his objection that should be sufficient for the Valuer-General. If possible, in the case of an objection, the valuer concerned should be required to discuss the valuation with the landowner before the matter reaches the point of being rejected or going to court.

Clause 26 is one about which I have very strong views. Too many of our Acts provide for open entry to property without the necessity to give notice. This is particularly a problem for the man on the land. A person may have very sound reasons why he does not want anyone in certain parts of his property. He personally may be keeping out of those sections because of ewes lambing, cows calving, or other similar circumstances. A valuer from Adelaide may not understand these problems and could come into an area without giving notice. If he would give some indication of his intention the farmer could inform him that it would be unwise to enter certain parts of the property.

The Hon. A. J. Shard: Doesn't he have to notify the farmer in writing?

The Hon. M. B. CAMERON: I do not think it matters whether he is notified in writing, by telephone or by personal representation. The main thing is that he is notified in some way.

The Hon. A. J. Shard: The Bill provides that it may be done by writing.

The Hon. M. B. CAMERON: It does not say that. It merely says one shall "serve notice".

The Hon. A. J. Shard: Clause 26 provides that the Valuer-General or a person authorized in writing by him may enter any land, and so on.

The Hon. M. B. CAMERON: That is correct. The clause refers to the Valuer-General or a person authorized in writing by

him. It does not provide that the Valuer-General must indicate to the landowner his intentions in this respect. This problem reared its ugly head in relation to Commonwealth Acts, and strong objection was taken to the unlimited right of entry of persons under the hand of the Government. A person from, say, the Police Department who wishes to enter a certain property must first obtain a search warrant. I am asking not for that but merely for a notice to be issued, as a result of which an owner can say that such a person should not go to a certain section of the property. This applies not only to the country but also to the metropolitan and city areas. Women at home on their own do not want people wandering around without knowing what they are there for. The public should at least be given some indication that certain people will be on their properties.

The penalty for a breach of clause 29 is in my opinion too high, and I indicate that in Committee I will move an amendment to reduce the penalty to $25. With the few changes to which I have referred, the Bill has my support. The point I have raised regarding rating of land will be discussed later in relation to another Bill, which will affect unimproved land values under the South-Eastern Drainage Act. However, I will raise that matter later. I support the Bill, and I indicate that in Committee I will move the amendments that I have placed on file.

The Hon. A. J. SHARD (Chief Secretary): I do not want to delay the passage of this Bill. As answers to certain queries raised by honourable members have not yet been supplied to me, I ask that progress be reported. I will supply those replies to honourable members at the first opportunity in Committee.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—"Interpretation."

The Hon. C. M. HILL: Certain queries were raised on this clause during the second reading debate. I realize that the Minister has not yet got those replies available, so to help him particularly I ask that progress be reported.

Progress reported; Committee to sit again.

ROAD AND RAILWAY TRANSPORT ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 18. Page 3190.)

The Hon. L. R. HART (Midland): On reading this short Bill, one can be excused for believing it to be an innocuous piece of legislation. The Minister's second reading explanation, although brief, bares some of the teeth of the Bill. After a short opening preamble, the Minister said:

> I have previously stated to honourable members the reasons for having overall Ministerial control of all bodies that form part of the transport service in this State. The Transport Control Board is an essential part of this service, in that it deals with the co-ordination of transport by both railways and vehicles on roads. The Government believes that this body must be subject to general direction by the Minister so that any possibility of conflict in the provision of a cohesive transport service plan is avoided.

In other words, there must not be any conflict with Labor Party policy. I believe the operative word is "co-ordination". There seems no doubt whatever that the Government is determined to introduce its policy of co-ordination of road and rail services. Instead of forcing more traffic on to a line that is losing money, it may be far better to close down an unprofitable service, as has been done in several cases, and allow a road service to take over.

If the Government closes down a rail service, one is happy for it to be replaced with a road service, even if that road service is run by the railways, provided it is run profitably and efficiently. However, one becomes concerned if it is replaced by a co-ordinated road and rail service that is not in the best interest of the community being served. Where rail services have been closed and replaced by a road service, in most cases by private enterprise, the people concerned have expressed complete satisfaction with the changeover. They have received not only a speedier service but also in many cases a cheaper one.

The Chief Secretary is on record as saying that he would support the railways to the hilt. By that, I assume he would be willing to force people to patronize the railways, no matter what effect it had on the individual or on the economic viability of an industry. The Minister of Agriculture has also said that the ton-mile tax should apply to vehicles over 4-ton gross weight rather than to vehicles in excess of eight tons, as the Act now provides. However, the Bill does not set out what the Government has in mind. Knowing the Labor Party's policy on transport in general, one becomes concerned that this Bill, if passed, will enable the Government to implement that Party's policy by administrative action rather than by the sanction of Parliament.

If one looks closely at the effects of co-ordination of road and rail services, one

finds that, although such a move may benefit the railways, it can have the opposite effect on the producer. To support that statement, I will give the Council at least one example based on the carriage of grain and, as grain constitutes a large proportion of railway revenue, one assumes that efforts will be made to divert grain on to the railways. The example I am about to give concerns the carriage of barley from a place called Wild Horse Plains. At present, the freight rate from the paddock to Port Adelaide is 8c a bushel. If road and rail co-ordination is enforced, that grain will have to be delivered to Long Plains, the nearest railway terminal, a distance of five miles away; the cost will then be 4c a bushel. Handling charges are a decisive content when transport costs are being considered. The movement of grain from the Long Plains terminal to Port Adelaide (what is known as the differential) will be an additional 6.5c a bushel, making a total cost of 10.5c a bushel, as against 8c a bushel if transported direct from the paddock to Port Adelaide.

I give that as at least one example of how additional costs will be inflicted upon the producer if co-ordination of road and rail transport is enforced. If one looks at the report of the Railways Commissioner that was tabled in this Chamber today (and these figures are also available to honourable members in the Auditor-General's Report), one finds that the total loss to the railways in 1971 was $16,124,000. It was made up of suburban passenger services, where the loss was $5,248,000 (one-third of the total loss); country passenger services, $3,875,000 (one-fifth of the total loss); interstate passenger services, $1,527,000; and freight and livestock, $6,534,000.

The two areas where the greatest loss occurs are suburban passenger services and freight and livestock. If we look further, we find that passenger journeys, country and interstate, have increased, as also have freight tonnages; but, on the other hand, suburban passenger journeys have decreased. The Railways Commissioner makes an interesting statement in his report when, referring to deficits on passenger services, he states:

> These losses are met by the Government and tend to obscure the fact that it is not the railways but the community that is being subsidized.

If these losses are to be contained, then, as the Commissioner states, the community must pay for the services it uses. On the freight side, although losses are increasing, an examination of figures shows that freight tonnages are increasing—not, however, in keeping with the increases in costs. A study of the chart on freight and livestock shows—and I read from the Commissioner's report:

> The quantity of freight and livestock carried, namely, 6,024,521 tons, exceeded the previous year's record by 102,941 tons, or 1.7 per cent. Since 1968-69, tonnages have increased by 19.6 per cent.

That is a sizeable tonnage increase, and it indicates that the people are using the railways to an increasing extent. It is not the fact that the people are not using the railways that is the problem facing the Railways Department; it is the fact that the increased costs within the railways are eating up the benefits gained by increased use of rail services.

It is interesting to note comparisons of the variations where the increases occur. Under "Products of Agriculture", we find that the increased tonnage carried was 72,789 tons, an increase of 5.5 per cent. Under "General Miscellaneous", the increase in tonnage was 271,944 tons, an increase of 15.1 per cent. Under "Road Motor Traffic", the increased tonnage was 1,538 tons, an increase of 4.6 per cent.

On the side where decreases occurred, we find that under "Products of Mines" (which is a commodity that would normally be better carried by the railways than by the roads) the decrease in tonnage was 88,826 tons, a decrease of 5.2 per cent. Under "Products of Forests" (another commodity that normally should be carried by the railways) the decrease in tonnage was 11,876 tons, a decrease of 14.2 per cent. Under "Manufactures" (another commodity that probably could well be carried by the railways) there was a decrease of 128,999 tons (or 16.4 per cent). Under "Livestock", the decrease was 13,629 tons (or 7.9 per cent). Perhaps there is a reason for the decrease in the carriage of livestock. If less livestock was railed than in the previous year, certain factors may be involved—possibly a decrease in the value of wool has an effect on the movement of livestock. Under "Manufactures", the railways could not compete with road transport, and there was a decrease of 16.4 per cent, as I have just said.

One is concerned about the extent of the power that one is giving to the Minister by this Bill. It may well be that the Government will say, "The other States have transport controls; they have a 4-ton minimum in road maintenance contributions and, as we are under

the Grants Commission, it is necessary that we come into line with the other States."

The Hon. C. M. Hill: We have heard the "being under the Grants Commission" excuses before.

The Hon. L. R. HART: Those excuses are often heard and I expect they will be used again. The Government may impose further restrictions on road transport in an endeavour to force more traffic on to the railway system. The Government's attitude seems to be that the interests of the railways are paramount and must be protected at all costs, no matter what the effect on primary or secondary industries may be. In these circumstances, I reserve my judgment on the Bill.

The Hon. G. J. GILFILLAN secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 18. Page 3191.)

The Hon. Sir ARTHUR RYMILL (Central No. 2): I thank the Chief Secretary for giving me the opportunity to consider this amending Bill, an opportunity that I think I have taken full advantage of, because I have done much work on it. On the face of it, it was not altogether clear to me what the Bill meant. There are three operative clauses: the first is apparently to ensure that commutal of the death sentence by the Governor-in-Council is valid in all respects. Apparently, some legal doubts have been cast on this matter, but I do not see that there could possibly be any objection to clause 2. It is interesting to note its wording: I wonder why the words "acting with the advice and consent of Executive Council" are included, because section 23 of the Acts Interpretation Act provides:

> When in any Act passed after the first day of January, eighteen hundred and seventy-three—

and I think that is an area that we are living in now—

> the Governor is authorized or required to do any act, matter, or thing—

I am taking great care to read all the words in case the Chief Secretary takes an objection—

> it shall be taken to mean that such act, matter, or thing may or shall be done by the Governor with the advice and consent of the Executive Council.

It seems that these words may be redundant. I pass on, because this merely regularizes a procedure that has been used for a long time. Clause 3 worried me. It provides, in effect, that a different method of pronouncing the sentence of death will be used. Instead of pronouncing the sentence of death, the judge may order the sentence of death to be entered of record. Except by implication, there is nothing in the Act that I can find that prescribes the form in which the death penalty shall be pronounced. We all know the solemn words that are used, but I had much trouble in finding where these words originated or what the legal justification for them is, because I considered it was of some importance in trying to construe exactly what the pronouncement of the sentence of death of record meant. Finally, with the assistance of the Parliamentary Librarian, I ran something to earth in the report of the Royal Commission on Capital Punishment in September, 1963, which states:

> The traditional formula is well known. Its essential elements are of great antiquity.

The words seem to be some part of the English law that was adopted in this colony or province on our proclamation, but, according to the Royal Commission's report, the actual words of the death sentence seem to be words that can be changed by the Judiciary itself. I am not objecting to the clause, but I am wondering whether this could not be done by other than legislation, because, on my reading, it has been done in England, and these solemn words have been varied by the judges of their own volition. Another thing that troubled me is that, if sentence of death is entered of record without the solemn and rather terrible words that have been used from time immemorial, does that mean the same and does it have the same effect as the use of the actual words? In other words, if the judge states, "I pronounce sentence of death be entered of record" does that include the method of carrying out the execution and the time and place of the execution? I considered that if we were passing a Bill like this we should be assured that we were covering everything. Section 303 of the Criminal Law Consolidation Act provides:

> Upon every conviction for murder the Court shall pronounce sentence of death, but it shall not be necessary to express the time for the execution thereof. If no time for the execution is expressed in the sentence, it shall take place on the twenty-eighth day after the day on which the sentence was pronounced.

That means that the time is covered by the Statute. Section 304 covers the place where the sentence shall be carried out. I think it is the policy of both major Parties not to carry out a sentence of death, but some of us believe that, whilst it remains on the Statute Book, it must have some deterrent effect. That

only leaves the question of the manner of execution. Except for the words that have been traditionally pronounced, it seems that there is no manner of execution prescribed, except by implication. Section 304 (4) provides:

Each of the persons aforesaid who attend at any such execution shall remain within the walls or enclosed yard of the prison until the sentence has been carried into execution according to law, and until the said medical officer has signed a certificate in the form set out in schedule 8;

Schedule 8 of the Act provides:

I, being the Medical Officer in attendance on the execution of , at the prison at , do hereby certify and declare that the said was, in pursuance of the sentence of the Court, hanged by the neck until his body was dead.

So, that by implication deals with the manner in which the execution shall take place. Section 305 of the principal Act provides:

Any person who—

(*a*) subscribes any certificate or declaration mentioned in the last preceding section, knowing the same to be false, or to contain any false statement:

(*b*) buries or removes from the prison the body of a person executed until after the said inquest has been duly held,

shall be guilty of felony, and liable to be imprisoned for any term not exceeding four years.

So, if a sentence of death is pronounced but the person is not hanged, everyone in the prison must remain there until the certificate that the prisoner was hanged is signed by the medical officer; if the medical officer does not sign that certificate, apparently they must all stay there forever until they starve! The matter is fairly complicated. The other clause of the Bill repeals section 307 of the principal Act which, of course, is completely outmoded. It has remained on the Statute Book only because no-one has bothered to repeal it. Section 307 provides:

The Governor may, by writing under his hand, order that any sentence of death lawfully passed on any Aboriginal native of the State, be publicly carried into execution at the place at which the crime was committed, or as near thereto as may be convenient.

Obviously, that section catered for the early days in an effort to instill into Aborigines that they should not murder white people any more than white people should murder them. The first execution in this State was carried out on May 2, 1838, when a man was executed for shooting at the sheriff at North Adelaide. The reason for the sentence of death and execution for attempted murder was that, if an example was not made of the man, the law of the new colony would be completely undermined. The next sentence of death was carried out a year later, when two Aborigines were executed for murdering a white woman and a white man.

The fourth execution took place when two alleged criminals from New South Wales were executed for stealing £5; they were executed to deter other criminals from coming from New South Wales to this new colony. If they had not been executed, people in other States might have thought that the laws of this State were not rigidly implemented. The ninth execution took place on March 29, 1847. In dealing with this execution I have in mind particularly people who make statements about Aborigines and white people without always knowing what they are talking about. The ninth execution took place when a European was hanged for murdering an Aboriginal. There is certainly no need for section 307 to remain on the Statute Book any longer. Having had a pretty good look at this Bill I think it is satisfactory and I support it *in toto.*

The Hon. C. M. HILL (Central No. 2): I have some misgivings in regard to clause 2, which deals with the question of the Governor-in-Council making an order that shall be deemed to be an order of the court; this order is that of a pardon in relation to the death sentence. I have no objection to the Governor's issuing an order in which he uses his prerogative of mercy but, when we have what appears to be an executive decision being made an order of the Judiciary, I think we should remember that we are touching on very dangerous constitutional ground. Embodied in this change is a principle that must be looked at very carefully.

Traditionally, our whole democratic system is based on the doctrine of separation of the powers of the Legislature, the Judiciary and the Executive. This doctrine is not new; it developed in the seventeenth century, and it has withstood great challenges ever since. Further, it withstood great challenges during the reform Acts of the nineteenth century, and it came under close scrutiny when the great defenders of liberty wrote of the need for the exercise of Government power to be subject to some form of control.

Under this Bill, Parliament is being asked to approve the idea that a decision of the Executive will be regarded as a decision of the Judiciary. We are seeing not a separation of the fundamental powers in our democratic system but we are seeing, in effect, the Executive usurping the powers of the Judiciary. In

principle, this is wrong and it must be watched very carefully.

I do not know of any precedent whereby a decision of the Executive (in other words, the Ministry or the Government of the day) is by law taken as a decision of the Judiciary. Every decision of the Government of the day should, of course, come under the scrutiny of Parliament and be subject to Parliament's final approval. The Judiciary must always remain separate. I feel so strongly about the principle involved in this Bill that I will vote against clause 2.

I have no objection to permitting judges to record the death penalty instead of following the present practice; the new provision will bring more humane understanding and dignity into the administration of the law. The law should change to reflect changes in attitudes and social values. I do not object at all to that part of the Bill, but I do object to what is involved in clause 2.

The Hon. A. J. SHARD (Chief Secretary): I thank honourable members for giving attention to this Bill. I thank particularly the Hon. Sir Arthur Rymill for his contribution, which brought out some enlightening facts. I assure the Hon. Mr. Hill that most people might agree with the principles he has expounded. To refresh his memory, I shall read from the second reading explanation regarding clause 2. I assure Mr. Hill and others that there is a very good reason for doing this. It is only to put beyond doubt a practice that has been in operation for many years. There is no intention of Executive Council or the Government taking over the rights of the court. I think these remarks from the second reading explanation will make it clear:

Secondly, doubts have been cast on the validity of pardons granted by Governors in the past and on the power of the Governor to "commute" sentences of death to life imprisonment. Without going into details of the legal arguments involved, it is possibly open to argument that a person convicted of murder and sentenced to death might successfully insist on the original death sentence being carried out. The Government considers that the whole question ought to be put beyond doubt, so that all argument on the acts of the Governor is avoided. The Bill provides that, when the Governor grants a pardon or commutes a death sentence, any order made by him as to the serving of a sentence of imprisonment shall be deemed to be an order of the court.

That is as far as it goes. I will not go into further detail. All that is being done is to endorse and to make legally foolproof a practice that has been carried out over a number of years by all Governments. That is the only intention. There is no ulterior motive. I hope that explanation satisfies the honourable member.

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

MINING BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos. 1 to 3, 5 to 10, 12, 14 to 21, 23, 25 to 29, 31, and 33 to 37; it had agreed to the Legislative Council's amendments Nos. 11, 13, 22, 24, and 30, with amendments; and had disagreed to the Legislative Council's amendments Nos. 4 and 32.

Schedule of the amendments made by the House of Assembly to the amendments of the Legislative Council.

Legislative Council's amendment:

No. 11. Page 9, line 8 (clause 19)—After "Minister" insert "within five years after the commencement of this Act".

House of Assembly's amendment thereto:

Leave out "five" and insert "two".

Legislative Council's amendment:

No. 13. Page 9, line 12 (clause 19)—After "shall" insert "subject to subsection (la) of this section".

House of Assembly's amendment thereto:

Leave out "subsection (la) of".

Legislative Council's amendment:

No. 22. Page 9 (clause 19)—After line 41 insert new subclause as follows:

(6a) An application for the declaration of a private mine may be made under subsection (1) of this section by the person divested of his property in the minerals in respect of which the declaration is sought, a person who pursuant to the repealed Act held an authority to enter land for the purpose of mining for those minerals, or a person who, immediately before the commencement of this Act, held any interest in those minerals in pursuance of any contract, agreement, assignment, mortgage, charge or other instrument.

House of Assembly's amendment thereto:

Leave out the passage "a person who pursuant to the repealed Act held an authority to enter land for the purpose of mining for those minerals".

Legislative Council's amendment:

No. 24. Page 10 (clause 19)—After line 21 insert new subclauses as follows:

"(11) Where the property in the minerals in any land was, immediately before the commencement of this Act, vested in a person who was then the proprietor of an estate in fee simple in the land, the person who is, for the time being, the successor in title to that person shall, subject to subsection (12) of this section, be the sole legitimate claimant to royalty under subsection (7) of this section.

(12) A person may by instrument in writing lodged with the Registrar-General divest himself of any actual or potential right to claim royalty under subsection

(7) of this section, in favour of any other person named in the instrument and thereupon that person or a person claiming under him shall be the sole legitimate claimant to royalty under subsection (7) of this section.

(13) A right to claim royalty under subsection (7) of this section shall not be transferred otherwise than in accordance with this section.

(14) The Registrar-General shall maintain a register of the instruments lodged with him under subsection (12) of this section.

(15) The register and any such instrument shall, upon payment of the prescribed fee, be available for inspection by any member of the public.

House of Assembly's amendments thereto:

After "fee simple in the land" insert the passage "that person if he remains the proprietor of an estate in fee simple in the land, or if not,"

Leave out "Registrar-General" wherever occurring and insert "Director of Mines".

After subclause (15) add the following subclauses as follows:

(16) Where a person, upon application to the Land and Valuation Court, proves to the satisfaction of the court that he was, immediately before the commencement of this Act, in adverse possession of minerals, and that, on the balance of probabilities, he would, if this Act had not been enacted, have acquired an indefeasible title to the minerals, the court may order that the provisions of this section shall apply to that person in all respects as if he had been divested of property in those minerals by this Act, and thereupon the provisions of this section shall apply accordingly.

(17) The court may, in the course of proceedings under subsection (16) of this section make such orders as it thinks just to ensure, as far as reasonably practicable, that adequate notice of the application is received by persons who may have had, immediately before the commencement of this Act, a better enforceable right to the minerals than the applicant, and to ensure that the interests of any such persons are adequately protected.

Legislative Council's amendment:

No. 30. Page 23, line 28 (clause 58)—Leave out "severe or unjustified".

House of Assembly's amendment thereto:

Add at the end the words "and insert 'substantial' ".

Schedule of the amendments made by the Legislative Council to which the House of Assembly has disagreed.

No. 4. Page 6, line 4 (clause 9)—Leave out "one hundred and fifty" and insert "four hundred".

No. 32. Page 25 (clause 60)—After proposed new subclause (5) insert new subclause (6) as follows:

"(6) The powers conferred upon an inspector under this section are not, for a period of twelve months from the commencement of this Act, exercisable in respect of mining operations in a precious stones field."

Consideration in Committee.

The Hon. A. F. KNEEBONE (Minister of Lands): I understand that the Leader of the Opposition has alternative amendments to the House of Assembly's amendments.

Amendment No. 11:

The Hon. R. C. DeGARIS (Leader of the Opposition): I move:

That the Legislative Council agree to the House of Assembly's amendment to the Legislative Council's amendment No. 11 with the following amendment: strike out "two" and insert "three".

This will mean that the period of time that one has the right to a proclamation for a private mine moves from two years to three years.

The Hon. A. F. KNEEBONE: I would prefer two years, but, as I consider that the Bill will pass with this further amendment, I am willing to accept the amendment to the amendment.

The Hon. A. M. WHYTE: Although I am reluctant to see the period of five years altered, I realize that other provisions have been included so that the Bill has been improved and necessary safeguards have been introduced. I believe that the compromise is reasonable.

Motion carried.

Amendment No. 13:

The Hon. A. F. KNEEBONE moved:

That the House of Assembly's amendment to amendment No. 13 be agreed to.

Motion carried.

Amendment No. 22:

The Hon. A. F. KNEEBONE moved:

That the House of Assembly's amendment to amendment No. 22 be agreed to.

The Hon. R. C. DeGARIS: I am willing to accept the House of Assembly's amendment to our amendment, but I point out that the House of Assembly has included in its amendment to amendment No. 24 new subclauses (16) and (17) that take the place of this amendment and do so in a much better fashion than was done in the original amendment of this place. I congratulate the House of Assembly on improving our amendment; the position is now perfectly clear in relation to what this place was trying to do. I accept the House of Assembly's amendment.

Motion carried.

Amendment No. 24:

The Hon. A. F. KNEEBONE moved:

That the House of Assembly's amendment to amendment No. 24 be agreed to.

The Hon. R. C. DeGARIS: I accept the House of Assembly's amendment with some

reluctance. In this case the Council's amendment was justified. It deals with the question of who is to keep the register of those having rights to royalties. The original Bill provided that the Director of Mines should keep the register, but this place provided that the Registrar-General should keep the register, and I still believe that our decision is preferable. However, to assist the passage of the Bill I am willing to accept the House of Assembly's amendment.

Motion carried.

Amendment No. 30:

The Hon. A. F. KNEEBONE: I move:

That the House of Assembly's amendment to amendment No. 30 be agreed to.

I think the House of Assembly's amendment is reasonable.

The Hon. R. C. DeGARIS: I agree with the Minister and I accept the amendment, too.

The Hon. Sir ARTHUR RYMILL: The words involved in the amendment worried me, too. I believe that the House of Assembly's amendment is reasonable.

The Hon. A. M. WHYTE: I support the amendment because I believe that it covers the requirements adequately.

Motion carried.

Amendment No. 4:

The Hon. A. F. KNEEBONE moved:

That the Council do not insist on its amendment.

The Hon. R. C. DeGARIS: I move:

That the Legislative Council do not insist upon amendment No. 4 to which the House of Assembly has disagreed but make in lieu thereof the following amendment to the Bill:

Clause 9, page 6, lines 3 to 8—Leave out paragraph (*d*) and insert paragraph as follows:

(*d*) land that is situate—

(i) within four hundred metres of any dwellinghouse,

or

(ii) within one hundred and fifty metres of any factory, building, spring, well, reservoir or dam,

(not being, in either case, an improvement effected for the purpose of mining operations pursuant to this Act) the value of which is not less than two hundred dollars.

This place had amended the clause so that a person had a right to compensation where a mining operation took place within 400yds. of a homestead, factory, etc. The original Bill provided for a distance of 150 m. The important thing that worried honourable members was that a mining operation could take place near a house and a person might not have a right to claim compensation. We thought that 400 m was an appropriate distance. However, I think my motion represents a satisfactory compromise.

The Hon. A. F. KNEEBONE: I seek leave to withdraw my motion.

Leave granted; motion withdrawn.

The Hon. R. C. DeGaris's motion carried.

Amendment No. 32:

The Hon. A. F. KNEEBONE: I move:

That the Legislative Council do not insist on its amendment.

When the proposed new subclause was being dealt with here previously, I said that I would seek an assurance from the Mines Department that the provisions would be handled generously and discreetly. I have now got that assurance for honourable members.

The Hon. A. M. WHYTE: Although I am very happy at the Minister's undertaking that the utmost discretion will be used and time will be given to the people involved with the back-filling of open cuts in the precious stones field, I believe that the Council's amendment is the correct one, because it gives a period of time for bulldozer operators to phase out, if necessary. Had I been the Minister in charge of this Bill, I would have grasped this opportunity with both hands. I believe this made things much easier for the Minister, who could say, at the end of 12 months, "That is the run of your time". As it is, he will probably waffle on, not knowing for two or three years who he is going to prosecute. However, that is his business, not mine.

I believe that, if this amendment is not accepted, the machine operators will be left very much to the mercy of people, perhaps from overseas, who are in a position to purchase heavy equipment very cheaply. The miners themselves maintain that back-filling will create such a problem that many of them will be forced out of business. For that reason, I ask the Council to insist on its amendment.

Motion carried.

HIRE-PURCHASE AGREEMENTS ACT AMENDMENT BILL

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

CONSTITUTION ACT AMENDMENT BILL (MEMBERS)

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

ADJOURNMENT

At 10.41 p.m. the Council adjourned until Wednesday, November 24, at 2.15 p.m.