LEGISLATIVE COUNCIL

Thursday, November 2, 1972

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

JUSTICES ACT AMENDMENT BILL

His Excellency the Governor, by message, intimated his assent to the Bill.

QUESTIONS

SITTINGS AND BUSINESS

The Hon. R. C. DeGARIS: Can the Chief Secretary inform the Council of the possible sittings in this session, or when Parliament is likely to adjourn?

The Hon. A. J. SHARD: No firm date has been fixed. I did hear, but I do not want this taken as a firm date, that the Government was hoping to adjourn in the third week in November (if I remember rightly, November 23). However, I would not like that to be accepted as a firm date; it was simply what the Government was aiming to do. Much depends on the progress of the business before Parliament.

BRUCELLOSIS

The Hon. H. K. KEMP: Has the Minister of Agriculture a reply to the question I asked on October 10 regarding brucellosis?

The Hon. T. M. CASEY: Tn explaining his question, the honourable member stated that he believed the contract payment made to veterinary practitioners by the Agriculture Department for tuberculosis testing and brucellosis vaccination was 30c a head. This is not the case, and it is necessary to set out the correct position before commenting on his contention that these fees are inadequate. The Director has informed me that the fee approved for vaccination is 75c a head, except in the sparsely cattle-populated districts, where considerable travelling is involved for relatively small numbers of heifers to be vaccinated, in which case it is $1.

The fee paid for testing for tuberculosis ranges from 30c a head in the dense dairy cattle areas such as Mount Barker up to 50c a head in the Loxton area, where the herds are usually smaller and more scattered. The fees for tuberculosis testing were last reviewed in about 1965, when the whole of the State south of Port Augusta was organized into contract areas. The Director agrees that there are now anomalies and that a further review is necessary.

This review of work to be done and fees that should be paid in each contract area will be one of the first tasks of the officer to be appointed to the position of Senior Veterinary Officer (Brucellosis and Tuberculosis Eradication). He will visit each contract area and make recommendations on fees after consideration of all relevant factors, including those raised by the honourable member.

WEST BEACH AREA

The Hon. C. M. HILL: On October 19, I asked the Acting Minister of Lands a question, which I asked him to refer to the Minister of Local Government, concerning the desire of a group of persons known as the West Beach Progress Association to have their area annexed to the Corporation of the City of West Torrens. Has he a reply to that question?

The Hon. T. M. CASEY: My colleague reports that, as the honourable member will be aware, officers of the Local Government Branch of the Department of the Minister of Roads and Transport and Minister of Local Government are currently visiting every council in South Australia with a view to ascertaining their feelings in relation to a boundary inquiry being held.

If a majority of councils are in favour of such a proposal, working details of the type of inquiry will be determined. It has been decided to hold any further action on the petition seeking the severance of West Beach Ward from the City of Henley and Grange and its annexation to West Torrens until a determination has been made whether such an inquiry is to be held. The petitioners, counter-petitioners and Town Clerks of both councils have been so informed.

MODBURY HOSPITAL

The Hon. L. R. HART: I seek leave to make a short statement prior to asking a question of the Chief Secretary.

Leave granted.

The Hon. L. R. HART: There is much conjecture in part of my district regarding when the Modbury Hospital will be opened by the Government. Some people suggest that it will not be opened before the election, for obvious reasons.

The Hon. A. J. Shard: What are the "obvious reasons"?

The Hon. L. R. HART: Other informed people believe that—

The Hon. D. H. L. Banfield: Question!

The Hon. L. R. HART: —there is no possibility of its being opened before then.

The PRESIDENT: "Question" having been called, the Hon. Mr. Hart must ask his question.

The Hon. L. R. HART: Will the Minister tell the Council when it is likely that the Modbury Hospital will be opened?

The Hon. A. J. SHARD: I do not know of anyone who has a more politically-based, wrongly-informed mind than the honourable member has. Let me say quite candidly that the opening date has been tentatively fixed for about two months, and is expected to be according to schedule. I hope the hospital will be opened in the second or third week of February, irrespective of when the election is held.

TOURISM

The Hon. H. K. KEMP: I believe the Minister of Agriculture has a reply to my recent question about the availability of postcards in the Naracoorte district.

The Hon. T. M. CASEY: The Director of the Tourist Bureau states that the tourist value of the South-East is fully recognized by the bureau. He points out that each year the South-East is advertised as much as possible in the newspapers in Adelaide, Melbourne and Sydney. In addition, the Tourist Bureau issues annually about 30,000 copies of selling brochures and guide books on the South-East. It also distributes tourist brochures for Mount Gambier and Kingston. These brochures have been designed by the Tourist Bureau and paid for by the local people. Coloured postcards have always been a matter for private enterprise. There are commercial printers willing and anxious to produce them if they can get adequate orders from local shopkeepers.

WOOL

The Hon. R. A. GEDDES: On behalf of the Hon. Mr. Whyte, I ask whether the Chief Secretary has a reply to his recent question about wool.

The Hon. A. J. SHARD: A report has not been received from the Government Group Laundry concerning an investigation into the relative merits of the use of cotton or woollen blankets in hospitals. The committee set up to examine this matter met on April 6, 1972. It decided to procure a supply of woollen blankets for testing and sought the advice of the Australian Wool Board regarding the manufacturers whose product was known to meet requirements in respect of colour fastness, shrink-resistance, etc. The committee agreed that, when appropriate quantities of blankets had been received for testing, the test should extend over a period of three months and in that period the four makes of woollen blankets under test would undergo 50 washings. Testing commenced on July 12, 1972, and was completed last week. The committee will meet on November 6, 1972, to receive reports from the Manager of the Group Laundry where the test has been carried out and will decide whether additional tests should be carried out and also what other investigations should be instituted in order that this matter may be examined to the fullest extent necessary.

ABATTOIR

The Hon. R. C. DeGARIS: Has the Minister of Agriculture a reply to my question of October 31 regarding the Gepps Cross abattoir?

The Hon. T. M. CASEY: I am assured by the General Manager of the Government Produce Department, who is Chairman of the Operational Committee, that no lambs whatsoever from any interstate source have been or are being slaughtered at Gepps Cross during the current lamb export season, and I am at a loss to know from what source the Leader would have received his information. The present situation at the works is that, on the recommendation of the Operational Committee, the Metropolitan and Export Abattoirs Board has made the following arrangements for the week commencing Tuesday next, November 7:

1. The number of lambs allowed into the Gepps Cross market for Tuesday, November 7, will be restricted to a total of 30,000. All lambs purchased at this market for export will be accepted for treatment at Gepps Cross.

2. No lambs from any other source will be accepted for export treatment, but lambs from any source will be accepted by the board for local treatment, including lambs for transport interstate as chilled carcasses.

3. The number of lambs accepted for treatment and transport interstate will be restricted to a combined total of 4,500 for all operators.

4. The number of lambs accepted for treatment and storage as frozen carcasses at Gepps Cross will be restricted to a combined total of 1,500 for all operators.

5. No restrictions will be imposed on the number of sheep to be allowed into this same market, but no sheep whatsoever from this or any other source will be accepted for export treatment.

6. The number of sheep to be accepted by the M.E.A.B. for treatment for local consumption will be restricted to a combined total of

16,000 for all operators. This restriction controls the slaughter of sheep for stock-piling as boneless mutton, thus taking up valuable slaughtering capacity required more urgently for lamb treatment. It makes adequate provision for current trade requirements.

Arrangements are reviewed week by week by the Operational Committee and adjusted according to prevailing conditions in collaboration with the Gepps Cross board of management.

WOOL PRICES

The Hon. R. A. GEDDES: Has the Chief Secretary a reply to my question of October 11 regarding the cost of woollen goods al this time compared to the cost of woollen goods at this time last year?

The Hon. A. J. SHARD: The Commissioner for Prices and Consumer Affairs has reported as follows:

The branch does not maintain records of movements in the prices of woollen goods, very few of which are subject to price control. However, a check carried out on a representative range of items, including blankets and woollen suits, has revealed that in the past 12 months a number of items have not been varied but others have increased by up to 14 per cent. Men's suits, for example, range from no increase up to 6 per cent. Those price increases which have taken place do not reflect the latest increase in wool prices but increases earlier in the year, together with wage and other cost increases incurred by mills, knitters, clothing manufacturers and retailers. Generally, there appears to be adequate competition at manufacturing, wholesale and retail levels to ensure that price increases do little more than cover cost increases incurred. In the past two years, wage and related cost increases have been substantial, as evidenced by the rise in the average male earnings for all States of 22.7 per cent for the two years ending June, 1972. If present prices for wool are maintained and higher costs are incurred by Australian manufacturers, further increases in prices may occur during the early part of 1973.

UNEMPLOYMENT RELIEF

The Hon. R. C. DeGARIS: Has the Chief Secretary a reply to my recent question about unemployment relief?

The Hon. A. J. SHARD: Funds under the scheme have been made available to local government authorities, including those in the Mallee, on the basis of the proportionate unemployment in each district as related to the State as a whole. During the present grant period (July, 1972, to December, 1972) about $250,000 has been made available to councils in the Mallee and Murray Plains by way of grant under the scheme. This is the maximum entitlement of the district based on figures of unemployment supplied by the Commonwealth Department of Labour and National Service. No further funds are available for general allocation in the current period.

MINISTERIAL STATEMENT: CEREAL ESTIMATES

The Hon. T. M. CASEY (Minister of Agriculture): I ask leave to make a statement.

Leave granted.

The Hon. T. M. CASEY: Owing to the unseasonable conditions that have been prevailing in South Australia and in most of the Eastern States, I thought the Council would be interested in cereal harvest estimates for this year that have been compiled by the department. Departmental estimates of the State cereal harvest for the 1972-73 season indicate a production of 44,000,000 bushels—the lowest for five years. It appears that growers' incomes could be reduced by at least $50,000,000 and the expected loss of production, if realized, would of course seriously affect exports at a time when oversea demand was strong. Because of the late June opening to the season, only two-thirds of the intended wheat acreage has been sown, and many of these late crops have failed with the hot dry conditions experienced in September and October.

An average wheat yield of only 11 bushels an acre is expected this year, compared with the normal average of 17 bushels to the acre. This would produce a total wheat harvest this season of only 22,000,000 bushels—one of the lowest wheat yields in the past 30 years. An estimated 19,000,000 bushels of barley will be harvested from 1,500,000 acres—an average yield of 12.5 bushels an acre. The oat crop is expected to be 3,400,000 bushels from 286,000 acres, or an average yield of 12 bushels. In the light of these unfavourable seasonal prospects for cereals, it seems inevitable that farmers will be forced to retain on farms increased quantities of grain for stock feed this year and for seeding increased acreages next year. Deliveries to grain boards are, therefore, expected to be as low as 17,000,000 bushels of wheat and 11,000,000 bushels of barley. I have a table showing anticipated yields in each cereal-growing district, and I seek permission to have the details incorporated in *Hansard* without my reading them.

Leave granted.

CEREAL CROP ESTIMATES FOR 1972-73

Division	Wheat Area harvested	Wheat Yield/ acre	Wheat Total yield	Barley Area harvested	Barley Yield/ acre	Barley Total yield	Oats Area harvested	Oats Yield/ acre	Oats Total yield
	(acres)	(bush.)	(bush.)	(acres)	(bush.)	(bush.)	(acres)	(bush.)	(bush.)
Central	257,000	10	2,570,000	449,000	12	5,388,000	43,000	13	559,000
Lower North	380,000	14	5,320,000	334,000	13	4,342,000	56,000	11	616,000
Upper North	149,000	14	2,086,000	27,000	12	324,000	20,000	10	200,000
South-East	65,000	18	1,170,000	47,000	18	846,000	53,000	22	1,166,000
Western	1,004,000	10	10,004,000	454,000	14	6,356,000	93,000	8	744,000
Murray Mallee	120,000	6	720,000	214,000	8	1,712,000	21,000	5	105,000
State	2,000,000	11	22,000,000	1,525,000	12.5	19,000,000	286,000	12	3,400,000

ADVANCES TO SETTLERS ACT AMENDMENT BILL

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

METROPOLITAN AND EXPORT ABATTOIRS ACT AMENDMENT BILL

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

LOWER RIVER BROUGHTON IRRIGATION TRUST ACT AMENDMENT BILL

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

INDUSTRIAL CONCILIATION AND ARBITRATION BILL

In Committee.

(Continued from November 1. Page 2595.)

Clause 78—"Equal pay for males and females in certain circumstances."

The Hon. F. J. POTTER: I move to strike out this clause and insert the following new clause:

78. (1) The Full Commission shall upon an appropriate application made therefor insert, by way of variation or otherwise, in any award or industrial agreement (which has been referred to the commission pursuant to section 111 of this Act), which fixes rates of wages for male and female employees, performing work of the same or a like nature and of equal value, provisions for equal pay as between the sexes based upon the principles set out in this section.

(2) Where the Full Commission is satisfied that male and female employees are performing work of the same or a like nature and of equal value the same rates of wages shall be fixed irrespective of the sex of the employees. For the purpose of determining whether female employees are performing work of the same or a like nature and of equal value as male employees, the Full Commission shall, in addition to any other relevant matters, take into consideration whether the female employees are performing the same work or work of a like nature as male employees and doing the same range and volume of work as male employees and under the same conditions.

(3) —

(*a*) Nothing contained in this section shall limit or in any way affect the powers, authorities, duties and functions conferred or imposed on the Full Commission by or under this Act in respect of rates of wages for adult females: But in the exercise or performance of such powers, authorities, duties or functions the Full Commission shall not in any award or industrial agreement, which fixes rates of wages for male and female employees performing work of the same or a like nature and of equal value, insert any provisions relating to rates of wages for adult females less favourable to the female employees than the provisions prescribed by this section:

(b) Subsection (2) of this section shall not be construed as requiring the same rates for male and female employees to be fixed only where such male and female employees are performing work of the same or a like nature and of equal value within the meaning of that subsection.

(4) The Registrar may, upon application made as prescribed, vary the terms of any award or industrial agreement affecting rates of wages to the extent necessary to give effect to subsection (2) of this section, The Registrar may refer any such application or any matter arising out of any such application or arising under this subsection to the President or to a Deputy President for direction.

(5) —

(*a*) This section shall apply to and in respect of awards and industrial agreements whether made before or after the commencement of this Act:

(*b*) This section shall not apply to or in respect of those provisions of any awards and industrial agreements which are applicable to persons engaged in work essentially or usually performed by females but upon which male employees may also be employed.

The new clause follows fairly substantially the wording in the existing Code. The subject matter of the clause is very important, and the existing provisions in the Code, which I am seeking to have included in this Bill, in their present form represent the Australian standard in connection with the law on this rather vexed question. I can see no reason why at this time this State should depart in any way from that standard. There has been no change anywhere since this provision was first inserted in our Code in 1967, and many successful applications have been made for awards under the provisions of the section. A case is currently being put to the Commonwealth Arbitration Commission about equal pay for certain adult males and females, and it is being spoken of as some sort of test case regarding the present law. It seems quite foolish and quite unfair to people generally in this State, no matter how much the Government may wish to advance the concept of equal pay, to be blazing new trails in this respect. Those new trails may not seem significant at first glance, but they are very significant indeed.

First, the Government wishes, under the terms of this clause, to hand this most important and difficult matter to a single commissioner. As I said in 1967 when I spoke in the debate on the Industrial Code, this is not so much an industrial question as a social question which must be unravelled and is being slowly unravelled in this country and elsewhere in the world. The Government seeks to make a decision on this matter the province of a single commissioner, whereas this Council insisted in 1967 that, if equal pay were to be introduced, the decision should be left entirely to the Full Commission. With that concept I wholeheartedly agree. I see nothing that has happened between 1967 and the present date to justify this most important change, which would have a tremendous impact on our economy and on our society, being left to the decision of a single commissioner, whereas in other jurisdictions it is a matter for serious determination by the highest possible bench. At the moment the Commonwealth Arbitration Full Commission is battling with this problem.

The other main departure is the attempt by the Government to remove from the provisions of the section in the existing Code the stipulation that existing awards and agreements may be varied in respect of work essentially or usually performed by females, but upon which male employees may also be employed. The existing section says that equal pay shall not apply to or in respect of those provisions of any awards or industrial agreements which are applicable to persons engaged in work essentially or usually performed by females, but upon which male employees may also be employed. Those words are to be removed from the existing Code, and of course they are tremendously important provisions.

The other change is the requirement that the Full Commission is to take into account other relevant matters, such as whether the female employees are performing the same work or work of a like nature as male employees, and doing the same range and volume of work as male employees. These are comparatively few words, but they are significant indeed. I gave an example back in 1967 of the impact this would have on, for instance, shop assistants. I have hurriedly looked up the present situation regarding shop assistants in South Australia, and I find that, as was mentioned in the debate on the question of shopping hours, employers recently negotiated a new agreement with shop assistants in the wholesale and retail trade. I have not seen all the terms of the agreement, but employees have been given very generous increases commencing from September 1 last. The agreement provided that the wage of a standard shop assistant should be $62.20 for a male and $50.10 for a female. There is a differential there of $12.10.

The Hon. D. H. L. Banfield: And you reckon that is fair, doing the same job?

The Hon. F. J. POTTER: I am not talking about fairness.

The Hon. D. H. L. Banfield: I am asking if you think it is fair.

The Hon. F. J. POTTER: Well, it was negotiated between the union and the employers.

The Hon. D. H. L. Banfield: Only because the union couldn't get anything better.

The Hon. F. J. POTTER: Those are the terms of an industrial agreement, and it is not for me to comment at this stage whether it is fair or not. It was certainly accepted, as I understand it, with open arms by the shop assistants.

The Hon. D. H. L. Banfield: You could have expressed an opinion.

The Hon. F. J. POTTER: I want to develop an argument along the lines I mentioned in 1967. There is a difference between the male and female rate of pay for shop assistants of $629 a year. Unfortunately, I have not yet received from the library the present figures of employment in wholesale and retail trades in South Australia. However, in 1967 the figures showed approximately 20,000

adult female shop assistants employed in the retail industry. Probably the figure is higher today. However, 20,000 employees will do for the purposes of my argument. If we multiply $629 a year, the difference between the male and female rate, by 20,000 employees, we get the staggering figure of $12,580,000, which would be added at one stroke to the cost structure in retail and whol:sale industry in this State, if that sort of provision came into effect, and it could very easily come into effect under the proposed altered wording of the Code.

The Hon. D. H. L. Banfield: It would not come into effect all at once, would it? It would not have to.

The Hon. F. J. POTTER: It would not have to. It does not matter whether it is done over one year or five. It still comes to the total in the end.

The Hon. D. H. L. Banfield: And you are against equal pay.

The Hon. F. J. POTTER: I am not against equal pay. I am simply saying there is this cost factor to be met. Anyone who runs away from that is not facing the situation. Who is going to pay? Will it not be the housewife who pays for an extra $12,580,000 to be added to the cost structure? Four out of five women in our community are not in the work force but are at home. These are difficult questions indeed, and this is only one small facet of the whole social problem regarding this matter.

On checking, I found I made a fairly lengthy speech on this matter in 1967. I would hate to weary honourable members by repeating everything I said then. However, I point out that this provision, which I am seeking to put back into the Act, has worked reasonably well. Since the provision was introduced in this State in 1967 there have been many sections of industry to which the State court has applied equal pay provisions.

It cannot be said that we are static on this matter: steady progress is being made. It is unfortunate that we cannot depart from what is an accepted standard for Australia: we cannot suddenly instruct the court in this State that it must take an entirely different line from that taken by commissions in other States and the Commonwealth. To do that would be fraught with danger and, indeed, it could sow the seeds of social unrest in our whole community.

A line of thought that one often hears put forward by many groups in the community, particularly by women, is that we need merely tell the courts to do the right thing and get rid of some of the difficulties and hurdles that are apparently in the way, and everything will be all right. I do not think it is as simple as that. These are not hurdles that have been erected to discriminate against women, and the provisions that have been carefully laid down and examined by the court over the years are not unreasonable.

It is not unreasonable to ask the court to consider whether the work performed by female employees is work of a like nature and of the same range and volume as that performed by male employees. Nor is it unreasonable to examine the general character and structure of an industry to see what class of person is predominantly employed. Living wages are based on the concept that there is in a family a wage earner who is still considered to be responsible for looking after his wife and children. I do not see how we can change that situation without having a profound effect on our society.

I am not in any way opposed to this change taking place; I believe it is taking place. However, one cannot suddenly transform society overnight. Certainly, I do not think one problem can be solved by creating another huge problem in its place, which is what will happen. I urge honourable members to restore to this Bill the provision in the Industrial Code that this matter shall be dealt with by the Full Commission under the standard terms laid down in other jurisdictions.

The Hon. A. I. SHARD (Chief Secretary): In opposing the amendment, the Government considers it to be appropriate that the present restrictions on the commission in granting equal pay to females should now be removed. When the present provision was inserted in the Industrial Code in 1967 it was a major step forward, and the Hon. Mr. Potter's amendment seeks simply to continue that section in operation. In the Government's opinion, now that the principle of equal pay for the sexes has been accepted it should be introduced fully, and the Industrial Commission should have the unfettered power, to determine rates of pay for the work to be done without regard to the sex of the person who undertakes it. The amendment would mean that large numbers of women, including nurses and typists, to give just two examples, could not qualify for equal pay, because their occupation is one that is usually performed by females.

There is no need for the Full Commission, which comprises three persons, to have to hear every application for equal pay. This

clutters up unnecessarily the programme of the commission. Clause 102 provides for important matters to be referred to the Full Commission and, if any party to an equal pay application considers there are grounds for making an application for such a reference, this can be done in the manner provided in that clause. The principles on which equal pay can be prescribed are now well established, and there is no reason to justify the continuance of the present position of the Full Commission having to hear every case. I urge the Committee to reject the amendment.

The Hon. JESSIE COOPER: I support the Government in this matter. It is amazing that, when one hears anything about the millions of dollars that are to be spent, it is always because of women. The housewives referred to will be happy to see their working sisters getting their true value, and I am terribly sorry that the Hon. Mr. Potter has such a non-progressive attitude.

The Hon. D. H. L. BANFIELD: I am delighted to know that the Hon. Mrs. Cooper does not support the amendment.

The Hon. F. J. Potter: She didn't support me in 1967.

The Hon. D. H. L. BANFIELD: At least she is consistent in this matter, which is appreciated. It is obvious from the way the Hon. Mr. Potter speaks that it is necessary for the Women's Liberation Movement to exist. The Hon. Mr. Potter says we should not do something that is fair and just for females because it will cost money. He is really saying we should not mind about the housewives having to pay extra, as long as the people in the shops are—

The Hon. F. J. Potter: That is only one example.

The Hon. D. H. L. BANFIELD: Of course it is, but that is the main example to which the honourable member referred. The honourable member is really saying that the female shop assistants should pay themselves so that housewives do not have to pay increased costs. I know that this refers not only to shop assistants but also to women in hotels, motels, clubs, cafeterias, and so on. It refers also to women employed as casuals and domestics in hospitals, all of whom may be able to obtain an increase if the Industrial Commission is willing to grant it. Why should they not receive an increase? Does the honourable member begrudge female lawyers the right to receive exactly the same as he does for performing the same work? Does he tell his sister lawyers that they should be doing that work for less? Of course he does not.

The Hon. F. J. Potter: Do you think they work for wages under an award?

The Hon. D. H. L. BANFIELD: Never mind that: they get exactly the same pay as the Hon. Mr. Potter does, but he does not object to that. Does he think that people should be able to go to female lawyers to get their papers drawn up more cheaply than the Hon. Mr. Potter would draw them up? Of course not. What is the difference between a female solicitor and a male solicitor in those circumstances? What is the difference between a male shop assistant selling a bedspread to a housewife and a female assistant selling a similar article? Why should the female shop assistant be paid $13 a week less than the male shop assistant for doing exactly the same job? The honourable member's argument cannot be sustained.

The Hon. Sir Arthur Rymill: Would you think a female lawyer might be worth more than a male lawyer?

The Hon. D. H. L. BANFIELD: Obviously she is worth more but, if we adopt the Hon. Mr. Potter's attitude, we say that she should get only 75 per cent of the remuneration that the Hon. Mr. Potter is getting. The Hon. Mr. Springett agrees that a female doctor's fees should not be less than those of a male doctor for performing the same services. Why should her fees be less? After all, she does a magnificent job. Do female land brokers charge less for preparing documents because they are females? We do have female land brokers. Should they get only 75 per cent of the remuneration that male land brokers get? To maintain, as the Hon. Mr. Potter does, that a female should not be paid at the same rate as a male is paid is too ridiculous for words. If a female goes to a theatre, does the theatre manager say, "You earn only 75 per cent of what a male earns so the price of admission for you will be only 75 per cent of the normal price"? Of course not.

The Hon. Mr. Potter referred to the man who has to look after his wife and family. The honourable member knows better than most of us that many females have to look after their aged fathers and their own children, but still he would deny them the right of equal pay with the bachelor. By his argument, the Hon. Mr. Potter implies that females are second-rate citizens and should not be paid the same as males even though they do exactly the same job. I cannot countenance that argument.

The Hon. R. C. DeGARIS: Although the Hon. Mr. Banfield's logic may not be of the highest order, he is at least entertaining. We have to consider the two points of view put forward—one by the Hon. Mr. Potter and one by the Hon. Mr. Banfield. The Hon. Mr. Banfield has got slightly away from the core of the argument. No-one is denying the principle of equal pay for equal work.

The Hon. F. J. Potter: You mean work of equal value.

The Hon. R. C. DeGARIS: Yes; that is a better way of putting it. We must approach this matter with a sense of balance. The Hon. Mr. Potter requires the Full Commission to have power to determine the matter of equal pay. What he says is true, in that the guide lines laid down in South Australia when the last Industrial Code amending Bill was passed are accepted throughout Australia in relation to the Commonwealth Conciliation and Arbitration Act. We must consider whether we should take the step of again going beyond what obtains in the rest of Australia. I think that the Full Commission should be the body to determine exactly where this should apply. Some industries are predominantly, if not entirely, staffed by females. How one can, in those cases, enforce equal pay is difficult to comprehend. Under the Licensing Act, barmaids and barmen receive equal pay, irrespective of the work they do. It is impossible for barmaids to carry out all the work that barmen do: for instance, they cannot lift and roll barrels, yet they get exactly the same pay as barmen do. Is that strictly fair?

The Hon. T. M. Casey: I think a barmaid can do what a barman does.

The Hon. R. C. DeGARIS: I do not think she can. Look at the award and see what a barmaid is allowed to lift. In many occupations it is not possible for a female to do work of equal value with that of the male—and that must be accepted. That is the point that the Hon. Mr. Potter is making. We should at least get away from the emotionalism that the Hon. Mr. Banfield has displayed to this Committee. He was at pains to rubbish the argument of the Hon. Mr. Potter. I do not know whether or not the Committee accepted the Hon. Mr. Potter's argument, but I think it has much to commend it. It should not be treated with that scant respect and emotionalism with which the Hon. Mr. Banfield treated it.

The Hon. T. M. CASEY (Minister of Agriculture): I have had much experience in the hotel industry and I know people who are engaged in the trade and I do not doubt that barmaids are capable of doing the same work as barmen. The amendment is not to be taken as a blanket cover.

The Hon. R. C. DeGaris: That's what you're doing.

The Hon. R. A. Geddes: You're taking an isolated case.

The Hon. T. M. CASEY: I could give many examples.

The Hon. F. J. Potter: The barmaids' case is not a very good one.

The Hon. T. M. CASEY: Barmaids are doing exactly the same work as barmen in many hotels today.

The Hon. D. H. L. Banfield: The Council set the barmaids' rates.

The Hon. T. M. CASEY: Yes. The boning of mutton has increased considerably over the years. A female boner can bone much more quickly and better than a male boner can. That is why they are sought after, particularly in other States, yet they are paid lower rates than the male boners.

The Hon. L. R. Hart: How would they go as slaughtermen?

The Hon. T. M. CASEY: They could do the job if called on to do it. Why is there no discrimination in the professions? Because the women pass the same examinations and spend the same time learning the profession.

The Hon. F. J. Potter: About 90 per cent of them are self-employed.

The Hon. T. M. CASEY: That makes no difference. The women are recognized because they are professionals. The same applies in many other fields. There are many female woolclassers, some of whom have topped the State in examinations. They class wool on farm properties.

The Hon. R. C. DeGaris: The amendment does not affect them.

The Hon. T. M. CASEY: No, but the principle is there. If they are doing the same work they should get the same rates.

The Hon. F. J. Potter: How do you know that they don't?

The Hon. T. M. CASEY: A person must pass an examination to become a woolclasser.

The Hon. A. M. Whyte: Where are some of these women woolclassers employed?

The Hon. T. M. CASEY: No doubt the Leader would back me up on this matter.

The Hon. A. M. Whyte: I don't believe the Minister.

The Hon. T. M. CASEY: Women are gainfully employed in agriculture.

The Hon. F. J. Potter: In most cases, they receive equal pay, but my amendment will not affect them.

The Hon. T. M. CASEY: Equal pay will come sooner than we expect, so why not do it here and now to show people that we recognize that women are entitled to equal pay?

The Hon. R. C. DeGaris: How many women are employed in butcher shops, or does the award specifically exclude them from such work? Shouldn't women be allowed equal opportunity in that industry?

The Hon. A. J. SHARD: If the Leader is prepared to accept the "Full Commission" in this clause wherever "commission" appears, it would be favourably considered by the Government.

The Hon. D. H. L. BANFIELD: If the Hon. Mr. Potter agrees with the principle of equal pay, does it matter whether it is paid to 1,000 or 10,000 women? The principle is the same.

The Hon. G. J. GILFILLAN: The substitution of the "Full Commission" in place of the "commission" is the main issue.

The Hon. F. J. Potter: By no means!

The Hon. G. J. GILFILLAN: But it is one of the main issues.

The Hon. D. H. L. Banfield: The Hon. Mr. Potter thinks that some women might get equal pay, and that worries him more than anything else.

The Hon. G. J. GILFILLAN: Most women's services are at least of equal value to most men's services.

The Hon. A. J. Shard: Many women say that they are worth more.

The Hon. G. J. GILFILLAN: Perhaps. I am not opposing the Government on this issue. Before long, most wives will be forced to work to maintain a good standard of living, because it will be difficult for a family to exist on the husband's wages only. There will have to be some compensating factor not only in the State sphere but also in the Commonwealth sphere; concessions will have to be given to people who are maintaining a family but are receiving only the same wage as that received by single people. If we are to have absolute equality of pay under all conditions, we shall have to reconsider the question of widows' pensions and maintenance.

The Hon. A. M. WHYTE: The Hon. Mr. Gilfillan's point is valid. In many instances women can compete very well with men. However, we should recognize that a home must be established and maintained, and we should consider what will happen if women vie with men for full-time employment on equal wages. I believe that home life and the children will suffer.

The Hon. R. C. DeGARIS: I wanted to ensure that the Committee understood the matter on which it will be voting; I think I have done that. I believe that the Hon. Mr. Banfield completely misinterpreted the intention of the amendment. There is nothing in the amendment to prevent equal pay for work of equal value.

The Hon. D. H. L. Banfield: There is—particularly where women predominate in an industry.

The Hon. R. C. DeGARIS: Yes, but the Hon. Mr. Potter referred to industries where almost 100 per cent of the employees were women. Irrespective of what happens to this amendment, I believe that it is the Full Commission that should make the decision in regard to these matters. I intend to move for the recommittal of the Bill at a later stage.

The Hon. D. H. L. BANFIELD: The Hon. Mr. DeGaris said that the Hon. Mr. Potter was referring to industries in which almost 100 per cent of the employees were women, but the amendment does not say that. If 55 per cent of the employees in an industry are women and 45 per cent are men, because women predominate they will be excluded from getting equal pay.

The Hon. F. J. Potter: No.

The Hon. D. H. L. BANFIELD: The Hon. Mr. DeGaris is probably on the same wave length as I am.

The Hon. F. J. POTTER: The amendment does not mention anything at all about percentages.

The Hon. D. H. L. Banfield: It refers to a predominance.

The Hon. F. J. POTTER: It does not. It refers to persons engaged in work essentially or usually performed by females. I am unhappy about the suggestion that I am not progressive, because I think I can claim that I am as progressive as anyone else in this place. I am, as all members of any Legislature ought to be, in favour of orderly progress.

The Hon. R. C. DeGaris: We should be conservative sometimes.

The Hon. F. J. POTTER: In everything we do we should be concerned that we are making orderly progress, not plunging into a jungle where we do not know where we are going or how we will find our way out. That is exactly what we would be doing if we followed the existing clause in this Bill. We

are not playing now with comparatively small sums of money; there are more than 100,000 females employed in this State. If we are talking in the same terms as have been used in connection with shop assistants (I realize that in some cases the margins would be a little less) we are talking about adding $63,000,000 a year to our wages bill. In my speech on the Industrial Code Bill in 1967 I said:

This Bill provides that the court must be told by the Legislature what it must do. This means it is to be told by the Government of the day that equal pay must be given, irrespective of certain consequences that society must shoulder in the best way it can. I have been talking about the concept of equal pay for equal work, but it seems to me that we now have a refinement of this concept that is being advanced publicly: that what is sought is equal pay for work of equal value, which is not exactly the same thing as was originally contended for. The courts can award equal pay for work of equal value or, if you like, equal pay for equal work. The Bill will compel that this be done in certain circumstances.

And my amendment compels it to be done in certain circumstances. My speech continued:

I contend that the main reason why the courts have not awarded equal pay for work of equal value is that this is basically a social problem, not an industrial one. It is a problem that is very hard to solve, and it is harder still because what is now being contended for is not equal pay for work of equal value but equal pay for men and women in all ranks of employment.

I am hearing the same thing advanced here this afternoon. I continued:

In this way, and because of this factor, it seems to me that this has become a kind of fight between the sexes. This is probably one of the worst possible developments that could have arisen, because in order to look at this problem and solve it we must eliminate the sex factor. One might ask why I have concluded that what is being sought is not equal pay for work of equal value but equal pay for men and women. I suppose that all honourable members have had sent to them a circular . . .

I went on to analyse that circular. This is what we are having put to us today. If this is what we want to introduce, then heaven knows I am not opposed to it, but for goodness sake let us face up to realities. Society as a whole must shoulder all the burdens and all the difficulties it will cause. I am not against the principle of equal pay for work of equal value, but sometimes I find difficulty in deciding exactly what this principle is, because some people talk about it in different ways at different times, advancing different reasons.

The Hon. R. C. DeGaris: Can you give some illustration of the point about the barmaids mentioned by the Minister of Agriculture?

The Hon. F. J. POTTER: Some years ago when this Council was considering the Licensing Bill, under threat at the time that if we did not agree the whole Bill would go out—

The Hon. D. H. L. Banfield: It was not the first time you had let a Bill go out.

The Hon. F. J. POTTER: —we did agree that there would be equal pay for barmaids. I agree with the Hon. Mr. DeGaris that, generally, barmaids do not and cannot carry out exactly the same work as barmen, but the award rates paid to barmaids have practically no effect on the budgets of the housewives of this State.

The Hon. E. K. RUSSACK: It would be remiss if I did not say something about the country areas. Although the majority of the people reside in the metropolitan area, consideration must be given to the difficult situations which could occur in country areas. I agree with the Hon. Mr. Potter and also with the Hon. Mr. Banfield that, where it is possible, for work of equal value there should be equal pay, but a different set of circumstances exists in country areas. Earlier in this session I spoke of the difficulties that country businesses are finding in carrying on. If we take the case of shop assistants, because business is limited and turnover is restricted, and because of other conditions existing in country areas, quite often the country shop assistant must carry out work not appropriate to a shop assistant in the city. Certain tasks would be laid down for a shop assistant in the metropolitan area, and those people would perform the tasks, but in country areas it is necessary for a shop assistant to go further. If that were not the case, many country people would be unemployed.

I understand that in a country city such as Whyalla many females find it difficult to find employment and if equal pay were to apply in these areas the difficulty would be greater. I understand the amendment of the Hon. Mr. Potter would not preclude anyone from seeking an award for equal pay in an area or a sphere of industry where it was appropriate. The amendment does not hinder that. However, if it were right across the board, with equal pay for men and women, many country businesses would be in great difficulty. If the amendment was carried it

would not hinder application being made in appropriate areas for equal pay.

The Committee divided on the clause:

Ayes (10)—The Hons. D. H. L. Banfield, T. M. Casey, Jessie Cooper, R. A. Geddes, G. J. Gilfillan, H. K. Kemp, Sir Arthur Rymill, A. J. Shard (teller), V. G. Springett, and C. R. Story.

Noes (6)—The Hons. R. C. DeGaris, L. R. Hart, C. M. Hill, F. J. Potter (teller), E. K. Russack, and A. M. Whyte.

Pair—Aye—The Hon. A. F. Kneebone. No—The Hon. M. B. Cameron.

Majority of 4 for the Ayes.

Clause thus passed.

Clause 79 passed.

Clause 80—"Sick leave—employees under awards."

The Hon. F. J. POTTER: I move:

To strike out clause 80.

I cannot really explain this amendment without referring to clause 81, which I want also to strike out. I wish to substitute for these two clauses one clause that will handle the matter of sick leave similarly to the handling of annual leave in clause 82. I wish in new clause 81 to allow the Full Commission to determine what is the general standard regarding sick leave to be granted to people not covered by awards. If this matter is left to be determined by the Full Commission, as in the case of annual leave, the court will over a period of time establish a general standard, which will probably follow what has been laid down in awards of the court. If it is ahead of awards from the point of view of granting increased benefits, the awards will be made to conform to the general standards as determined from time to time by the Full Commission.

This is the only sensible way to deal with the vexed problem of what sick leave should be granted to employees. As the provision in the Bill is a new departure, there is nothing we can use as a precedent. Under the existing clause, two weeks sick leave a year will be granted, with indefinite accumulation. This conflicts with the types of benefit given in even the best Commonwealth award, to which I referred in the second reading debate.

The Hon. D. H. L. BANFIELD: The Hon. Mr. Potter considers that Parliament should not legislate for a period of sick leave entitlement. The deletion of this clause and the amendment to clause 81 deal with the same matter. Their combined effect is to enable the Industrial Commission to determine a general standard of sick leave that will apply to persons not subject to awards, but leave the industrial tribunal concerned to fix the period of sick leave and conditions applying thereto. The Government sees no reason why Parliament should not determine what it considers to be the appropriate minimum period of sick leave that should be granted to any employee. Therefore, the clause should not be deleted.

Apparently, the Hon. Mr. Potter does not believe in indefinite accumulation. I, and most reasonable employers, believe that a person who accumulates sick leave for, say, eight or 10 years must be an honest and conscientious employee, who is willing to serve his master whenever possible. If an employee knows that when he is genuinely sick he will receive payment, he is given an incentive to attend work. However, if sick leave accumulates for a limited period, an employee will think at the end of, say, the three-year period that he should take his sick leave, even though he is not entitled to it, because it will not accumulate. Why should not employers be thankful that they have received good service from their employees for many years? Of course, some employees will take sick leave whether or not they are sick, and the employers realize this. However, if the conscientious employee is looked after, the employers will find that the sick leave entitlement will not be abused.

The Hon. T. M. Casey: It is an incentive.

The Hon. D. H. L. BANFIELD: Of course it is.

The Hon. V. G. SPRINGETT: I could not follow what the Hon. Mr. Banfield said. He said that if a person could accumulate his sick leave he would be honest and that, if he could not accumulate sick leave, he would take sick leave whether or not he needed it. Can the honourable member say which of the two would be the honest man?

The Hon. D. H. L. BANFIELD: No employee is honest if he takes sick leave when he is not sick. Under the Hon. Mr. Potter's amendment, a limit will be placed on the amount of sick leave one can accumulate. Employees are therefore being told that they had better take their sick leave because when they are sick for a lengthy period they will not be paid. We should encourage employees to be honest. However, the amendment will not have that effect. If an employee is permitted to accumulate his sick leave, he will be honest.

The Hon. R. C. DeGARIS: I support the amendment. Clauses 80 and 81 appear not to do justice to the situation. Clause 80 provides that sick leave shall be cumulative as long as

it needs to be accumulated and that it shall be at the rate of 10 days a year. Clause 81, however, provides that there shall be no accumulation of sick leave for any person who does not work under an award. It is totally unfair that one group of people should work under one set of conditions and another group under a totally different set of conditions. In South Australia 37 per cent of the people work under State awards, 12 per cent are not covered at all, and 50 per cent work under Commonwealth awards. For that reason, it is better to allow the Full Commission to handle this matter. The 10 days sick leave goes far beyond the provisions of any award that I know of in Australia, except possibly the Nurses Award, which may provide for 10 days sick leave each year.

The Hon. A. J. Shard: Some sections of it go further than that.

The Hon. R. C. DeGARIS: Yes; fair enough. There are some occupations in which sick leave is far more important than in others. In the Metal Industries Award it is five days for the first year and eight days after that, cumulative for eight years. There are many different situations but nowhere that I know of is it laid down that there shall be 10 days sick leave cumulative for as long as a person may wish to accumulate it. It should be left to the Full Commission, and not to Parliament, to decide. The State standard at present is five days, and the most generous provision is in the Metal Industries Award, where a consent agreement has been made. Clause 81, as I have said, deals with sick leave provisions for employees not covered by awards. Again, the quantum of sick leave is the same as is provided for by clause 80, but in this case the sick leave will not accumulate.

Subclause (5) of clause 80 is also of interest. There is a large industrial concern operating in South Australia, and in at least one of its industrial agreements there are no conditions for sick leave for employees covered by that agreement. There is, however, a sickness and accident scheme that covers those employees as well as building into the pay structure a provision for sickness and accident pay. The effect of clause 80 (5) would be that those employers would have to continue with their sickness and accident payments in relation to the industrial agreement and at the same time provide paid sick leave. Together, clauses 80 and 81 are not in the best interests of the legislation; the Hon. Mr. Potter's amendment is a better way of doing it. I ask that the amendment be supported.

The Committee divided on the clause:

Ayes (9)—The Hons. D. H. L. Banfield, T. M. Casey, Jessie Cooper, R. A. Geddes, G. J. Gilfillan, H. K. Kemp, Sir Arthur Rymill, A. J. Shard (teller), and A. M. Whyte.

Noes (7)—The Hons. R. C. DeGaris, L. R. Hart, C. M. Hill, F. J. Potter (teller), E. K. Russack, V. G. Springett, and C. R. Story.

Pair—Aye—The Hon. A. F. Kneebone. No—The Hon. M. B. Cameron.

Majority of 2 for the Ayes.

Clause thus passed.

Clause 81—"Sick leave—employees not under awards."

The Hon. F. J. POTTER: I had a new clause 81 that I proposed to move in place of the existing one, but it depended on the acceptance or rejection by the Committee of clause 80. That clause has been accepted. As the Hon. Mr. DeGaris has said that he will move for the Bill to be recommitted, it may be better at this stage to allow me further time to consider this clause; so I will not move an amendment at this stage.

Clause passed.

Clause 82—"Granting of and payment for annual leave."

The Hon. F. J. POTTER: I move:

In subclause (1) after "employer" first occurring to insert

I trust that this amendment will not meet with the opposition of the Government. It is an obvious amendment, which the Chief Secretary may be prepared to accept.

The Hon. A. J. SHARD: I have no objection to it.

Amendment carried.

The Hon. F. J. POTTER: I move:

In subclause (1) after "shall" to insert "unless he receives an allowance or loading in lieu of annual leave".

This amendment is self-explanatory. As some people do receive these allowances in lieu of annual leave, it is appropriate that this proviso be inserted.

The Hon. A. J. SHARD: This amendment is acceptable, because it is not the intention of the clause that a person who receives a loading in lieu of annual leave should also be granted annual leave.

Amendment carried; clause as amended passed.

Clause 83—"Provisions relating to automation."

The Hon. F. J. POTTER: I move:

In paragraph *(a)* after "proposed introduction" to insert "by that employer".

This matter has been referred to in the debate. It is probably not the Government's intention that this should apply to technological changes in industry generally.

The Hon. A. J. SHARD: I accept the amendment.

The Hon. JESSIE COOPER: Mr. Chairman, may I move for the deletion of this clause?

The CHAIRMAN: After we deal with the amendments.

The Hon. JESSIE COOPER: Mr. Chairman, I wish to speak against this clause, whether or not it is amended.

The CHAIRMAN: That would apply after the clause has been amended. If the honourable member wishes to have the clause deleted, she can speak against it.

Amendment carried.

The Hon. JESSIE COOPER: This clause emanates from a misconceived idea of what mechanization is. The word used in the clause is not "automation" but "mechanization", which does not come suddenly to industry but which is introduced step by step. As the clause is absurd in its concept, I will vote against it.

The Hon. Sir ARTHUR RYMILL: I have had difficulty with this clause. The marginal note, which is intended to show what the clause deals with, says "Provisions relating to automation". However, the clause refers not to automation but to mechanization or other technological changes in industry, which have been going on ever since the industrial revolution. The definition of "automation" in the *Chambers Twentieth Century Dictionary* states:

> A high degree of mechanization in manufacture; the handling of material between processes being automatic, and the whole automatically controlled.

Automation has nothing to do with mechanization, which is merely mechanical working of any kind. It seems to me that we are being asked to give a new power, under the Bill, in the name of automation, but it refers to mechanization. I will either join the Hon. Mrs. Cooper and vote against the clause as a whole or move an amendment that "mechanization" be changed to "automation".

The Hon. A. J. Shard: As I have no instructions on this matter, I am willing to report progress to study it.

The Hon. Sir ARTHUR RYMILL: I thank the Chief Secretary. My suggestion regarding paragraph *(a)* is that "mechanization" be changed to "automation" and that before "technological" the word "kindred" be inserted.

The Hon. R. A. GEDDES: I support the Hon. Mrs. Cooper and the Hon. Sir Arthur Rymill. I am interested in a company that is now becoming automated. No-one in the company knows how many employees will be needed once automation is introduced. A company that decides to install a computer might not know three months in advance whether it must terminate the services of certain employees. Automation does not necessarily mean a decrease in the work force, although it should lead to increased output. I congratulate the Hon. Mrs. Cooper on drawing our attention to this matter.

The Hon. A. J. SHARD: I suggest that progress be reported so that we can further consider the matter.

Progress reported; Committee to sit again.

SWIMMING POOLS (SAFETY) BILL

Adjourned debate on second reading.

(Continued from November 1. Page 2608.)

The Hon. JESSIE COOPER (Central No. 2): I support the Bill. Whilst detesting in general the interference with people's private rights, I consider that there is in this sphere a limited obligation for each of us to be his brother's keeper. Where private property is surrounded by a normal type of fence enclosing the whole area, that should be a sufficient deterrent to wandering children for normal protective purposes. However, where the modern practice is adopted of having a virtually unfenced garden around a private house, it is reasonable to require some type of fencing to enclose dangerous items, whether they be fish ponds, swimming pools, incinerators or lethal electrical appliances. Honourable members will surely agree that there is at present a moral responsibility and, indeed, perhaps a legal one to bar children and, for that matter, adults from unknowingly wandering into dangerous areas.

I do not believe it is possible to make a demand for completely child-proof enclosures. In fact, I cannot imagine what a child-proof enclosure would be, apart from a set-up like the vaults of the Bank of Adelaide. However, I believe that somewhere around a property containing dangerous items there should be a reasonable type of fence that prevents public transgression. There are, of course, requirements in factories and other places where adults work that full protective measures should be applied to protect careless, thoughtless or ignorant people from dangerous or

lethal machines or areas. Therefore, how much more desirable is it that these measures should be applied where toddlers are free to wander? Nevertheless, I would wish to see this type of law so devised that it interferes as little as possible with the rights and desires of property owners.

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

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (GENERAL)

(Second reading debate adjourned on November 1. Page 2579.)

Bill read a second time.

In Committee.

Clauses 1 to 6 passed.

Clause 7—"Determination of question of law arising at criminal trial."

The Hon. A. J. SHARD (Chief Secretary): During the second reading debate I said that I would ask that this clause be struck out. The subject matter of the clause will be dealt with later in another way. I therefore ask honourable members to vote against the clause.

Clause negatived.

Title passed.

Bill read a third time and passed.

LAND AND BUSINESS AGENTS BILL

Adjourned debate on second reading.

(Continued from November 1. Page 2604.)

The Hon. L. R. HART (Midland): This Bill was introduced by the great champion of consumer protection, the Australian Labor Party. But, protection from what? The effect of this Bill will be that the consumer (the purchaser of land) and maybe the seller, too, will be involved in additional costs. I believe that this Bill represents the beginning of the total elimination of land brokers as we know them in this State. It has been pointed out by competent people that the cost of conveyancing in New South Wales, where land brokers do not operate, is five or six times as great as it is in this State. We are the envy of the other States because of the simplicity of the conveyancing system that has operated in this State for many years. This conveyancing system that is the envy of the other States is known as the Torrens system. The basic feature of the system, introduced by Robert Torrens in South Australia in 1858, is that in order to achieve certainty and simplicity in matters of title to land the State takes the responsibility for establishing title to land. This is done by setting up a register and guaranteeing that the person named in the register as owner of the land does in fact own that piece of land, subject only to encumbrances (mortgages, easements, leases, and so on) notified on the register.

All that is required of a searcher is that he examine the register kept by the Registrar-General. In short, the register is everything. The long and complex business of searching of titles to old-system land is avoided under the Torrens system. The basic attribute of the Torrens system is that searchers of titles usually require no special legal expertise, and the various documents (for example, the contract of sale and the transfer) are standard printed forms that merely require the particulars of the transaction to be inserted. The inquiries that must be made outside the register, although tedious, rarely involve the exercise of professional judgment and are carried out as a matter of routine by clerical staff in a legal office where a solicitor is employed.

I emphasize that point. It is most important. Although a person wishing to transfer land may employ a solicitor, the bulk of the work in effecting that transfer is done by someone on the clerical staff. One asks, therefore, whether there is a need for highly paid lawyers to be involved in real estate deals and whether we can continue to justify this professional privilege in view of the routine character of most of the transactions. When faced with other expenses, the home purchaser may have good reason to view with alarm the possibility of having to abandon the present system of conveyancing for the same work to be done by a solicitor at a greater cost.

It is also important that we recognize that the future trend is towards computerization, bringing even greater simplification to conveyancing transactions. If we are to confirm the professional monopoly, then it should be on the basis that the fees reflect realistic costs of handling property matters, taking into account efficient techniques, including delegation of powers, where appropriate. I emphasize this point again. One may employ a professional man, a legal man, to effect transactions, but there little legal expertise is put into the work. It is done, in many cases, by an employee. That being so, why have we this legislation before us that will eliminate people with special expertise in the conveyancing of land?

The Hon. T. M. Casey: Who said they would be eliminated?

The Hon. L. R. HART: If the Minister studies the Bill, and if he listens to me, he will have the matter explained in due course. Some of these people will not be able to carry on as brokers. One need only refer to clause 61, the effect of which will be that where a person holds a dual licence as a land agent and a land broker he must give up one of those licences. Many people hold a dual licence, and it is especially important in the country that this type of person should be available. Many people in country areas hold the dual licence. However, under the Bill, they must give up one of their licences, and it will be no use for them to retain their broker's licence, because there will not be sufficient income to make it a payable proposition.

We will see this situation particularly in country areas, where the combined operation of land agent and land broker will disappear. Indeed, the same will happen in the city. Yet, a land agent may continue to employ a broker: he can continue to operate as long as he remains in the employment of that land agent, and as long as he remains active and alive. He cannot change his employment, however. The anomalous situation is that if the land agent, the principal of the firm, is also a land broker, he will not be able to continue as a land broker if he remains a land agent. That is an anomaly, and the Bill should be amended so that the land broker who has the dual licence of land agent and land broker can continue as a land broker as long as he remains in business as a land agent and land broker.

Many aspects of this legislation require much close attention. It may be better to give the Bill more of this attention during the Committee stage. However, clause 89 concerns me. It deals with the question of instalments on contracts. We have had an age-old system of a person buying real estate by instalments. A deposit is paid and instalments may be paid over a long period, perhaps 25 years, or even longer under some contracts. In the past, the stamp duty to the Government has been paid when the final payment is made, but under the new system, as I understand clause 89, the purchaser of the land will have to pay all the stamp duty payable to the State Government when he makes the initial payment. In addition, he will need a mortgage, and there will be a registration fee and stamp duty on the mortgage.

Although the Government has introduced this legislation under the guise of protection for the person dealing in real estate, in effect I do not believe that it provides the protection the Government claims. This has been emphasized by other honourable members during this debate. Over the years we have seen little evidence, considering the volume of transactions that has occurred, of malpractice in dealings in land where land brokers have been involved. If malpractice has occurred and if land brokers have not been as careful in their transactions as they should have been, surely these aspects could be covered by tightening up the regulations governing land brokers.

The Hon. C. R. Story: This doesn't happen only in relation to land brokers. It happens everywhere.

The Hon. L. R. HART: That is correct; it happens in every walk of life, particularly where there is a huge volume of transactions, as is the case with land dealings. There is no compulsion for a person involved in land transfers to use a land broker. Indeed, he can employ a solicitor. However, this is not done often because it is so much more costly to get the work done in this way. I therefore believe we should examine the Bill closely. There is room for amendment if, indeed, there is any need for the Bill at all.

I wish to refer also to the licensing of land brokers. A land broker can be licensed provided he is over the age of 18 years. However, some of the requirements regarding the licensing of land brokers make it impossible for a person to gain such a licence at the age of 18 years. One requirement is that a person shall have worked two years as a registered land salesman and that he shall have passed the appropriate examinations. To meet these requirements, a person would have had to start work as a land salesman before he was 16 years of age. It is, therefore, anomalous to have these requirements in the Bill.

I have run up against a certain problem recently, but I do not know whether it can be rectified in this legislation. Migrants coming to Australia from Great Britain are accustomed to a certain system of real estate transactions. Incidentally, most of this work is done by solicitors in Great Britain. Some of these people come to this country under the sponsorship of a real estate development firm and, when they reach these shores, they are not sure how our laws regarding real estate transactions operate. Many of them enter into a contract to purchase a block of land, and another contract to have erected thereon a residence for their later occupation.

Most of the conveyancing work here is done by land brokers, and these migrants assume that the brokers also take care of the contract

they sign to have the building erected on their land. However, the broker is not concerned with this contract; nor is he required by law to cite it or investigate it. If a solicitor was doing the job, the same would apply: he would not be required by law to cite the contract or to investigate it, unless specifically requested by the purchaser to do so. We therefore have the situation in which some migrants are getting into trouble because of their lack of knowledge of how certain of our laws operate. I am not sure how this situation can be corrected. Clause 48, which deals with the interpretation in relation to land brokers, defines "instrument" as follows:

"instrument", in relation to any dealing affecting land, means—

(a) any conveyance, mortgage, lease or deed relating to an estate or interest in the land;

or

(b) any instrument as defined in the Real Property Act, 1886-1972.

The only suggestion I can make is that that definition should be amended by deleting paragraph (a), so that it would then read:

"instrument", in relation to any dealing affecting land, means any instrument as defined in the Real Property Act, 1886-1972.

By that means, land brokers will be required to do a number of things. Because I have not had time to research it, I am not sure exactly what they are required to do under the Real Property Act. However, when acting in the situation I am now discussing, a broker should perhaps be required to inform the purchaser of the land that he is not involved in any way in the contract the purchaser has signed for the erection of a building on the land. I suggest that the Government examine this matter closely.

Another aspect that is causing concern is the cooling-off period. Honourable members know that we have recently introduced legislation, particularly in relation to book salesmen, where this sort of provision is probably appropriate. However, the concept of a cooling-off period is completely foreign to real estate dealings and commerce generally. It is unreasonable that a vendor should not have the right to a cooling-off period if the purchaser is so entitled. Although the parties to a contract could have been under pressure from an agent or salesman, the vendor could well have been pressed to conclude the sale at a lower price or upon other conditions than those which he originally intended. This provision, which is inconsistent and, indeed, unworkable, could have disastrous effects on real estate transactions. This is another provision, the study of which I commend to honourable members, that I would like to see amended. Much in this Bill needs close scrutiny. However, this can be done to better effect in Committee. I support the second reading.

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

UNFAIR ADVERTISING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 1. Page 2606.)

The Hon. C. R. STORY (Midland): I rise to speak to this fairly short but important Bill that amends legislation passed last year. The position is best summed up by saying that the onus is pul squarely where it belongs—on the person who offers the advertisement to the publisher. In the past there has been some duckshoving about who would be responsible for unfair or misleading advertising. This Bill clarifies the position beyond doubt by laying the onus absolutely on the person offering an advertisement or publication to the publisher. We can overdo this sort of legislation, because it is obvious that the Government considered carefully the original Bill, as did its advisers; yet one year later we have two substantial amendments to make to the Act. So the position is that we are forced to legislate again for this type of misrepresentation.

I think the Government is doing the right thing in this Bill. So often we have seen in newspapers and other publications statements that obviously were meant to mislead the public, and particularly the gullible section of the public that does not give much thought to its weekly budget but is emotionally activated by various advertisements appearing in newspapers and publications. Many of these people are not capable of working out the interest rate on a particular item. Sometimes, they are asked to pay a $5 deposit on something and are told, "Pay as you can over 12 months." Some people can be paying as much as 120 per cent interest, for all they know, but it does not worry them at the time. However, as soon as they get into difficulty, they immediately flock to their member of Parliament or some other person (probably, it will soon be the ombudsman) and complain bitterly that they have been taken in. So I do not blame the Government for introducing this Bill.

The most important part of it deals with the used car business. That is a field in which some people (I say "some people") have

exploited the public seriously over the years. I do not think many people realize, when they go in and pay on a vehicle their $50 deposit, which they have probably earned over about four weekends, just what the rest of the ramifications are in getting that vehicle on the road. They do not really stop to think whether or not the tyres are bald; they do not take sufficient interest in the vehicle. However, as that section of the motor vehicle trade has been cleaned up fairly well, it is only proper that the advertising section be cleaned up equally well; and this Bill does it.

The definitions are, of course, the crux of the matter. The definition of "publish" is important from the point of view of the full impact of this Bill upon the principal Act. I need not speak at length. I agree with what is being done in this Bill. I hope, however, that this time a greater degree of near-perfection has been reached than previously and that this legislation will not be a hardy annual brought forward each year to try to plug the holes in the Act, so to speak, because it is irksome to have this sort of legislation being brought forward every year, particularly when the Government thinks its advisers have given it the proper advice, only to find that some people are still able to skirt around the provisions of the Act. I support the Bill.

The Hon. V. G. SPRINGETT secured the adjournment of the debate.

OMBUDSMAN BILL

Adjourned debate on second reading.

(Continued from November 1. Page 2607.)

The Hon. L. R. HART (Midland): I have heard it said that an ombudsman is a person who operates in the no-man's-land that exists between personal liberty and Government function. He has also been referred to as a cutter of red tape. I know there would be complete agreement in this Chamber that an appointee to this position would have to be a person not only with a wide knowledge of the law but also one whose integrity was above reproach. We live in a maze of regulations and controls, the application of which inevitably adversely affects someone. Many injustices, however, are brought about not by misuse of the law or abuse of administrative power but by the simple application of the law as approved by Parliament.

The balance between the citizen and the State is continually swinging more and more in favour of the State, so the need for protection against bureaucracy is becoming greater. Perhaps the greatest argument in support of appointing an ombudsman is that the system has worked well in other places with diverse systems of government. The oldest of these is Sweden, where the system was introduced in 1809; that was followed by Finland 110 years later, in 1919; and then by Denmark in 1955. Since then several countries have introduced the system.

New Zealand appointed one in 1962, and perhaps one can say that the need was greater in that country because it did not have the protection of a second Chamber. The private citizen under the unicameral system no doubt needs greater protection against centralization of power. The appointment of an ombudsman will no doubt lead to the development of another department, and one may ask what will be the likely cost to the State. That, of course, must be measured against the benefit to the individual.

Staff requirements will be governed by the fields in which the ombudsman works. If he operates in the field of local government as well as in the field of central government, the cost to the taxpayer will be greater than it would be if he operated only in the field of central government, as laid down in a schedule to the Bill. The suggestion here is that, before the ombudsman is given jurisdiction over local government, more careful consideration should be given to the matter. It must be remembered that in some countries (indeed in some Australian States) local government is responsible for water distribution, electricity, hospitals, education and other services. In such cases there may be a greater need for an ombudsman, particularly if central government provides some of the finance. In Northern Ireland, which has a population of just over 1,500,000, the ombudsman has jurisdiction over local government. He has a staff of 45, whereas in the United Kingdom (where I presume the ombudsman has no say over local government) he has a staff of 55. The ombudsman's staff in New Zealand appears to be about seven, with local government about 50/50 in support of the system.

In local government (particularly in rural areas) failure to administer would in many cases attract the ombudsman's attention. One facet that readily comes to my mind is the application of the Weeds Act. It is well known that many councils are somewhat lax in applying the Weeds Act, to the detriment of certain ratepayers. As the Bill stands, a council would have to be proclaimed a council to which the Act applied and councils would

have to agree whether they wished to use the ombudsman's services. Instances have been brought to the attention of this Council in recent weeks whereby people have been aggrieved by the application of certain planning regulations. The Subordinate Legislation Committee, which sits in judgment on regulations, is often hampered because it does not have sufficient power to make the necessary alterations to the regulations to relieve the aggrieved persons. I believe the ombudsman could well face a similar situation. Clause 25 (2) provides:

(d) that any law in accordance with which or on the basis of which the action was taken should be amended or repealed;

(e) that the reason for any administrative act should be given; or

(*f*) that any other steps should be taken,

the ombudsman shall report his opinion, and his reasons therefor, to the principal officer of the department, authority or proclaimed council, and the ombudsman may make such recommendations as he sees fit.

The recommendations he would make, I assume, would be to the Government. In some cases, I assume he would make a recommendation to a proclaimed council that its zoning regulations should be varied. It will be interesting to see just how the ombudsman will use his persuasive powers in this regard. It appears to me that the ombudsman will not have jurisdiction over any Commonwealth department, because no Commonwealth department is included in the schedule of the Bill. The other part of the Bill to which I draw honourable members' attention is clause 9 (1), which provides:

The ombudsman may, by instrument in writing, delegate all or any of his powers or functions (except this power of delegation) under this Act to any person and those powers or functions may be exercised or performed by that person accordingly.

That is a very wide power of delegation, which I have compared with the similar power in the New Zealand Act, which states (apparently the ombudsman is called a commissioner in New Zealand):

With the prior approval in each case of the Prime Minister, the commissioner may from time to time, by writing under his hand, delegate to any person holding any office under him any of his powers under this Act, except this power of delegation and the power to make any report under this Act.

I do not believe that our ombudsman should need the Premier's approval for the delegation of his powers. It would be inappropriate for the ombudsman to delegate his powers to a person who holds office under him. There may be occasions when there might be a small matter in a far-flung area of the State that required attention, and there might be a person in that area with the necessary qualifications to investigate. I do not think the ombudsman should be tied to the extent that he could not delegate his powers in such a case, because it would be an advantage to all concerned. I do not believe that the power to make recommendations should be delegated. I am not opposed to the ombudsman delegating his powers to another person or to his not obtaining the Premier's approval, because this would keep him remote from Government control. However, there is a case for the ombudsman to be the only person who can make recommendations. I submit that matter for honourable members' attention so that they may study that aspect of the Bill.

In concluding, a matter that comes to my mind is whether the ombudsman would be competent to inquire into the operations of the Metropolitan and Export Abattoirs Board.

The Hon. R. C. DeGaris: It would take him a long time.

The Hon. L. R. HART: Semi-government departments, of which the abattoir is one, are not named in the schedule, whereas the Agriculture Department is named. What I ask the Minister is whether it would be competent for the ombudsman to inquire into the operations of the board (or corporation as it will soon be named) and whether it would be competent for him to inquire into the Electricity Trust's operations. I shall be grateful if the Minister will supply me with replies to those questions when he replies to the second reading debate. I support the Bill.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Interpretation."

The Hon. A. J. SHARD (Chief Secretary): I intend to move one or two amendments, and I also want to reply to some questions raised during the second reading debate. I therefore ask that progress be reported.

Progress reported; Committee to sit again.

LISTENING DEVICES BILL

Adjourned debate on second reading.

(Continued from November 1. Page 2605.)

The Hon. R. C. DeGARIS (Leader of the Opposition): As modern technology has developed, most democratic Governments in the Western World have become concerned with the question of the right of privacy of the individual. Many attempts have been made by

various Parliaments to tackle the problem by legislation; some have been successful, while others have not been so successful. There have been Select Committees and commissions inquiring into this matter, and in some Parliaments legislation has been adopted to control the use of listening devices. In Australia the question has been under discussion for seven or eight years at meetings of Attorneys-General. However, to my knowledge that learned body has not been able to achieve unanimity on the legislation that is necessary to control such devices and to provide effectively for the protection of the rights of individuals to privacy. Some people contend that before the Legislature can deal with such a question it is necessary to define in the Statutes what we mean by the right to privacy.

The Hon. A. J. Shard: That would be difficult.

The Hon. R. C. DeGARIS: I am coming to that. I am not a legal expert, and I would not hope to give an opinion on this matter, but I do not agree that there is any need for long and involved legislation to define the individual's right to privacy. On this point my legal colleagues in this Council may be able to assist me. I believe that this right to privacy exists now, and it exists in the common law. What we are setting out to do in this Bill is to provide statutory penalties for some infringements of the right to privacy that exists at present. I believe that, if we attempt to legislate to define the extremely complex question of a person's right to privacy, we will not be improving the situation at all; rather, we will probably be producing so many complications that no-one will know where he is.

The development of the statutory and common law in this connection has occurred over many centuries. Perhaps the Hon. Mr. Banfield will criticize me again for even referring to the fact that our common law has developed over many centuries. It is impossible to turn one's back on the development of the common law over that period. The whole right to privacy began with the protection of the life of a person. It also goes back to the question of the law of tort, with which we dealt in connection with the Industrial Conciliation and Arbitration Bill.

Also, there was the protection available to a person's goods and land, and the right of a person in connection with trespass against his goods and land. Then, there was the right to protection of a person's reputation. The march of technological progress means that we must consider further extensions of the protection that is available in our Statute law, and we must consider what modern methods are available for the invasion of a person's right to privacy.

I believe that this Bill can be only a small beginning in this type of legislation. For example, how many members of this Council fully understand the devices that are available at present, particularly listening devices and recording devices? How many honourable members understand the impact of computers on the whole question of the invasion of privacy? Information is fed into computers, and all sorts of information can be brought out of them. I wonder how many honourable members have had their conversations taped at meetings that were not public meetings in circumstances where they did not know that the conversations were being taped. I wonder how often such honourable members have found that the recorded information was used later. The question of a tape recorder is a simple example that we ought to understand, but the sophistication of devices is such that this example is hardly relevant to the total situation we are facing today.

I regret that the Chief Secretary's second reading explanation did not provide more information about known abuses, the types of device available, and the types of device that have been used at various times. In addition, I regret that the Chief Secretary's second reading explanation did not provide more information about industrial espionage, commercial espionage, the devices that have been used to obtain such information, and what happens to the information when it is gained. The Council would have been better informed if the Government had provided much more information on those subjects. This is only a first step in legislation of this type which I believe is becoming an absolute necessity to prevent the invasion of a person's privacy by the use of these highly sophisticated devices.

I want to say little more about the general principles of the Bill except that I approve of the legislation. There may be certain questions I will ask in the Committee stage. I refer to clause 6, which deals with the lawful use of listening devices by members of the Police Force. It is a clumsy clause. I do not think I will move an amendment to it, but the first part provides that the police may use listening devices, but before doing so they must make application for approval to a judge, who will have to consider the circumstances of the matter.

It appears strange that the police must go to a judge to get permision to use a listening device in the detection of crime. What happens at night time, or at weekends? A number of things must be considered.

However, there is a let-out clause. Provided the police officer feels the judge would give permission to use the device if application were made, then he may use it. This appears quite a clumsy way to go about it. I would prefer that the order of the Police Commissioner would be sufficient for the use of this device, provided that the Minister was informed in a report of when and how the listening device was used. Possibly the Government, on reflection, may see an easier way to go about this. I am certain every member in this Chamber would have complete faith in the Police Commissioner and his ability to handle this matter.

The Hon. A. J. Shard: Would you go as far as to say it could be the Police Commissioner or his deputy? The Commissioner is not always available.

The Hon. R. C. DeGARIS: Or his deputy—as long as it is someone in authority in the Police Force.

The Hon. A. J. Shard: The responsible officer at the time—the senior officer?

The Hon. R. C. DeGARIS: Yes. I think that would be fair enough. The situation provided in the Bill is clumsy, and it is better to have the matter under one control. I would accept what the Chief Secretary suggests. In the detection of crime we must in no way affect the ability of the police to do what is required. We must have confidence in our Police Force and this clause in some way may affect it in the job it is doing.

The Hon. A. J. Shard: I will draw the attention of the Attorney-General to it.

The Hon. R. C. DeGARIS: With those few remarks, I support the second reading. I believe this is only a first step in a series of measures that will be required in the future as we know more about the sophisticated devices available to ensure the right of any individual to his privacy.

The Hon. V. G. SPRINGETT secured the adjournment of the debate.

REAL PROPERTY ACT AMENDMENT BILL (FEES)

Adjourned debate on second reading.

(Continued from November 1. Page 2578.)

The Hon. C. M. HILL (Central No. 2): This relatively short Bill amends the Real Property Act, and contains some features closely associated with another Bill before the Council concerning licensed land agents, auctioneers, and licensed land brokers. I am somewhat perturbed that this Bill should be brought forward before the other measure had passed through this Council. Licensing of land brokers has been carried out under sections 271 and 272 of the Real Property Act, but, under the other measures before the Council, it is proposed that the licensing of brokers should not be under the Real Property Act, but under the new Bill, if it becomes law.

The Bill we are now considering repeals sections 271 and 272 of the Real Property Act, making way for the expected change in the licensing of brokers under the different system. However, if the other Bill does not pass this Chamber, and if we proceed to pass the measure to which I am now speaking, licensing of land brokers will not be done at all.

The Hon. D. H. L. Banfield: You will have to be careful what you do with the other one.

The Hon. C. M. HILL: Yes, we will be careful what we do with the other one. I think the two Bills should be taken in their proper order and the Council should decide what it is to do with the other one before deciding on this Bill to amend the Real Property Act. I am somewhat confused, and I would like further time to consider the position.

The clauses in the Bill before us that simply make alterations regarding the new metric measurements are acceptable. The Bill also contains a clause deleting the need for search fees to be charged by the Lands Titles Office. That procedure has been going on for some time, so I agree with that clause.

I would like more time to look into the question of the regulations proposed under the Bill to set down the charges that licensed land brokers and solicitors will be able to make for conveyancing work. I do not know whether the Government intends to fix the same charges for solicitors as a broker will be entitled to charge.

The Hon. D. H. L. Banfield: Do you think there should be a difference?

The Hon. C. M. HILL: No, I do not think there should be a difference. I do not think the Government intends that there will be a difference, but this is within the provisions of clause 9, and I would like more time to look into the matter. For the reasons I have explained, I seek leave to conclude my remarks.

Leave granted; debate adjourned.

BUSH FIRES ACT AMENDMENT BILL

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

PRICES ACT AMENDMENT BILL

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

CIGARETTES (LABELLING) ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 5.21 p.m. the Council adjourned until Tuesday, November 7, at 2.15 p.m.