

LEGISLATIVE COUNCIL

Wednesday, October 10, 1973

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

QUESTIONS**GOVERNMENT ADVERTISEMENT**

The Hon. R. C. DeGARIS: I seek leave to make a brief statement before directing a question to the Chief Secretary.

Leave granted.

The Hon. R. C. DeGARIS: In today's *Advertiser* there is a full-page advertisement setting out the Government's view of its own legislation presently before the Parliament. Can the Chief Secretary tell the Council whether this advertisement is paid for by the Government with taxpayers' money? If so, will the Government make available similar funds to allow the viewpoint of the Opposition in another place to be fully advertised and so that the viewpoint of the Legislative Council may be fully publicized, because of the fair amount of misinformation that has been given to the public on this matter?

The Hon. A. F. KNEEBONE: The answer to the first question is "Yes". The matter of the availability of funds for the Opposition to put its point of view would have to be a Cabinet decision. Therefore, I would have to refer that to Cabinet. As regards misstatements in the advertisement, as far as I know and as far as my interpretation of the Bill is concerned, I see no misstatement, in the matter referred to in the advertisement, of the Government's intentions in regard to this Bill and the reasons for its introduction. So I do not agree with the Leader that there is a misstatement. The Government was quite within its rights in putting forward to the people this matter in the press as it appears to be the only way in which a factual description of the intentions of the Bill can be put before them.

The Hon. C. M. HILL: Can the Chief Secretary tell the Council the total estimated cost of this planned publicity promotion dealing with the Government's intention to control the prices of houses and land in this State?

The Hon. A. F. KNEEBONE: I have not the figures for that but, as far as the Hon. Mr. Hill is concerned, here is another point that has been put that is not factual in regard to this legislation. The honourable member has got up and said, "The Government is intending to control the prices of land and houses in this State." The situation is, as the people well know, that it is not this Bill by which the price of houses is controlled; it is by another Bill that is not at the moment before this Council. This Bill that we are talking about here does not control the prices of houses. The other Bill, which has not yet reached this Council, controls the prices of new houses that have not been lived in for more than 12 months. This is one of the points that has been made in regard to the legislation that the Government is introducing. We Have statements—

The PRESIDENT: I think the Minister has answered the question, and we are now getting into a debate.

The Hon. A. F. KNEEBONE: I do not want to go further than I am allowed to, but I am indicating mis-statements and the reasons why advertisements of this nature have to be published, so that the public gets the correct view.

The Hon. R. C. DeGARIS (Leader of the Opposition): I seek leave to make a personal explanation.

Leave granted.

The Hon. R. C. DeGARIS: In connection with my question to the Chief Secretary, I should like to explain that, whilst the advertisement does contain information that is not the absolute truth, nevertheless I referred also to other information that has been given to the public, not necessarily in the advertisement, which has been completely misleading to the public of South Australia.

The Hon. C. M. HILL: Will the Chief Secretary bring down for the Council's benefit the total estimated cost of this publicity in the press, and also the cost of publicity on radio and television (if the matter is to be publicized through those media)?

The Hon. A. F. KNEEBONE: Yes.

RAILWAY FENCING

The Hon. M. B. DAWKINS: Acting on information from the Chairman of the District Council of Mallala, I asked a question on August 30 about the defective fencing along the railway line between Mallala and Salisbury. Has the Minister of Health a reply from the Minister of Transport?

The Hon. D. H. L. BANFIELD: To the north of Adelaide there are 200 km of roads alongside the railway, and the fencing is really all in bad repair due largely to past burning-off operations. To renew the fencing would cost \$100 000. The South Australian Railways fencing resources have been devoted to the boundaries adjoining private land because records indicate there is a far greater danger of stock entering from private land than from public roads. The railways have no knowledge of any evidence which supports the suggestion that the condition of fencing between public roads and railways represents a hazard. The District Council of Mallala will be contacted to see whether it has any specific complaints.

YORKETOWN HIGH SCHOOL

The Hon. M. B. DAWKINS: Has the Minister of Agriculture a reply from the Minister of Education to my question of August 23 about a new high school at Yorketown?

The Hon. T. M. CASEY: The tenders received for a solid construction high school at Yorketown were considerably higher than departmental estimates of costs. Because of this, a decision to build the school in Samcon, incorporating the best features of the new Gladstone High School and the new school planned for Burra, has been made. It has also been decided that the Yorketown High School be replanned as an area school to be built in two stages. Present planning provides for the commencement of stage 1 (the high school section) in mid-1974 and that it be completed by the end of the year. The need for new accommodation for the primary schoolchildren in Yorketown has also been recognized and stage 2, which will provide eight teacher spaces, is planned for commencement early in 1975 with completion by the middle of the year.

SHACKS

The Hon. A. M. WHYTE: Yesterday the Chief Secretary, in reply to a question by the Hon. Mr. Dawkins about shacks, said that the Government had set up a committee to investigate shacks. I do not quibble with his explanation, but why has the Government taken action to restrict and prohibit beach shacks?

The Hon. A. F. KNEEBONE: I thought I clarified that when I first made a statement on it. The Government

maintains that the beach area, the coastal reserve, and the reserves around the Murray River and the lakes, which are the 150 links area around the coast are for the general public and not for private use, to the exclusion of the public. I was interested last night to hear people who owned shack sites on the Murray River say that they knew the area was for the use of the public and they believed they could not keep anyone out, but in the television segment referring to this subject I saw plenty of signs put up by these people with such notifications as "Private property, keep out". That is the main reason why the Government is looking at the matter—not for today, but for the future; the area should be retained. I need only remind the honourable member of what happened in other years when areas of public interest were let on perpetual lease or a freehold system, costing this Government and the previous Government enormous sums of money to buy back leasehold and freehold land for reserve purposes. These areas should be retained for the use of the public of South Australia, and should not be used privately. That is behind the Government's move; we do not want to reach the situation prevailing in other countries in the world where areas that should be for the use of the public are held by private interests and the public is kept out.

The Hon. A. M. WHYTE: I seek leave to make a statement prior to directing a further question to the Chief Secretary.

Leave granted.

The Hon. A. M. WHYTE: I am in accord with what the Chief Secretary has said his Government wishes to do in reserving areas for the public. Will the committee that has been formed take evidence from interested parties? In many areas the facilities that make the beach or lakeside such an attraction have been enhanced as the result of people establishing shacks and services at their own expense. I should appreciate the opportunity to give evidence before this committee.

The Hon. A. F. KNEEBONE: The committee, which is a departmental one, is studying the feasibility of phasing out shack sites. I think I have said this before in the Council and in other places, namely, that the present procedure is that we are studying undesirable shacks. No doubt the honourable member will have seen them; I know that I have seen them. They are places which are substandard, anyway. The present procedure is to cease to issue any further site licences and, where people have not built, the licence will be either cancelled or phased out at the end of the term. I modify that by saying that those people who, prior to the announcement being made, had gone to some expense to provide a building should write to me or my department, and consideration will be given to them. As I said yesterday, we will be reasonable in this matter. When we have made a decision (and no decision has been made as yet on when we will phase out even the undesirable buildings) I will report to the Council regarding our policy. Anyone who wishes to write to me or my department in support of the retention of a shack site is at liberty to do so, and I assure him that the committee will examine all the evidence put forward. I hope that will satisfy the honourable member.

COLONEL LIGHT GARDENS INTERSECTION

The Hon. G. J. GILFILLAN: I seek leave to make a short statement prior to asking a question of the Minister of Health, representing the Minister of Transport.

Leave granted.

The Hon. G. J. GILFILLAN: An intersection in Colonel Light Gardens between Piccadilly Circus and

Doncaster Avenue is the scene of frequent motor accidents. On Sunday last, two cars collided at the intersection and one went through the front fence of a nearby house, narrowly missing the occupants, who were in the garden. Some time previously a car crashed through a brick wall and into a room of a house on another corner of the intersection. Will the Minister take up this matter, perhaps with the Road Traffic Board, with a view to installing either "stop" signs or some other safety provisions to make this a safer intersection?

The Hon. D. H. L. BANFIELD: I am glad the honourable member is taking an interest in the better side of the city. I assure him I shall be pleased to refer the question to my colleague and bring down a reply.

DIAL-A-BUS

The Hon. C. M. HILL: Has the Minister of Health, representing the Minister of Transport, a reply to a question I asked in the Appropriation Bill debate about the possibility of obtaining a split-up of some of the costs relative to the dial-a-bus fiasco?

The Hon. D. H. L. BANFIELD: I went to considerable trouble to obtain the necessary information for the honourable member. The sum of \$2 352.44 was paid to Infoplan Proprietary Limited, public relations and advertising consultants, which is a branch of Hansen Rubenohn McCann Erickson Proprietary Limited. Had the dial-a-bus service been extended to revenue service on July 30, as planned, it would have been accompanied by a considerable information programme. As the honourable member will be aware, such programmes need to be properly planned, and advertising copy prepared some weeks in advance. Most of this preparatory work had been carried out by the time the decision was made not to continue with the project.

PREVENTION OF CRUELTY TO ANIMALS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 3. Page 1006.)

The Hon. C. M. HILL (Central No. 2): I support the Bill and commend its architect for her interest in this important matter. I should like briefly to refer to three main points that particularly interest me. First, I am in some slight doubt regarding the future position of bird or pet shop proprietors who at present have their animals in cages of a size that has been acceptable for some time. I seek an assurance that, if this Bill passes, changes will not flow on immediately and affect these people in such a way that they will have immediately to re-equip their bird or pet shops with larger cages.

As I understand the situation, most birds are not kept in the shops for very long. It is proper that the Act should be fair and reasonable regarding these proprietors, many of whom are reputable business people and some of whom are people whose fathers and their fathers before them have conducted the same kind of business. I would not like to see these people treated too harshly, although I agree that they must be treated in such a way that the birds in their care will be caged reasonably.

I notice that clause 4 contains specific exclusions from the restrictions relating to the caging of animals or birds. In this respect, I ask the honourable member who introduced the Bill in the Council to explain under what sub-clause this point is covered. Secondly, I am pleased to see that clause 6 inserts new section 5d in the Act, which provides that people who abandon animals such

as dogs will in future be liable to a fine or imprisonment. One can call on one's own personal experiences when reviewing a clause of that type.

Only last week I called into a roadhouse on a northern country highway for a cup of tea. The proprietress pointed out to me a dog that was just outside the roadhouse, explaining that it had been left there by its owner a day or two before. She also explained that, as they had two dogs of their own, they were unable to care for this animal. It was indeed a sad sight to see this dog in such a forlorn state, looking hopefully at each car which came by or which drove in for petrol and service in the vain hope that its owner might return. Obviously the dog had been abandoned, and if people act in such a cruel fashion I believe it is proper that they should be charged with committing an offence. This measure ensures that it will be an offence and allows appropriate action to be taken against such people.

The third point (and this comes under the general heading of cruelty to animals) is a topical matter that may be reviewed when we consider the legislation before us. My point relates to the question I asked about two weeks ago when, in reply, I was told that some protected animals and birds had been permitted to be destroyed by the department concerned. I am much interested in the question of rosella parrots and was told that permits had been granted to destroy 20 crimson rosella and 265 Adelaide rosella parrots during 1972-73.

I associate with many aviculturists in this State and know these people are very kind because they take a particular interest in their birds. In fact, they are bird lovers. These people always make the strong point to me that despite the methods of control to protect rare species of birds in this State there is still room for further improvement, but they do say the overall control has improved the general situation. What they say is that, rather than these birds being destroyed in the Adelaide Hills, the Mount Lofty Range or the South-East (all places where the crimson rosella exists), they ought to be under strict supervision and trapped and taken by aviculturists to be kept in aviaries where they would breed and then be spread generally among the community who would then obtain happiness and pleasure from keeping the birds.

Tn this Bill I see the need for proper regulations to control such things as the size of cages; however, much of that detail will be covered by regulation. If these birds were caught and kept by aviculturists and exchanged or sold, provided the aviculturists had permits to sell them, that would be a means by which many of these rare species could be conserved. At present it seems to these people and to me, too, exceedingly cruel that these birds should be destroyed in the numbers in which they were destroyed; numbers that were indicated by the answer to the question I asked.

Many aviculturists would be happy and would be prepared to trap these birds to save them from being killed, as this would enable these birds to be spread among the people that are interested in keeping birds in this State. Surely that is a far better solution to the problem than the present practice of killing the birds. When we consider this question of prevention of cruelty, surely this is an area that ought to be investigated.

I make a plea to the Government to examine this matter carefully and, whilst exercising the necessary controls, to widen the scope of its planning for the aviary-bred birds, which are scarce, so that it is difficult for them to be bought and sold on the market. In all these circumstances, it would be a better approach to permit the trapping of such birds in lieu of their being destroyed.

I make that point and ask that the Government give this matter some consideration.

In fact, the more one looks into this Bill and investigates other surrounding aspects of the whole matter, such as the one I have just canvassed, the more one cannot help but wonder whether the whole matter of cruelty to animals should not be looked at in a much broader light and not so specifically as in this Bill. It seems to me that the best way to examine the whole matter in a broader light would be for a committee of some kind to look into all aspects that are in need of inquiry. If we take our thinking a little further, I cannot help but suggest that at some stage a Select Committee could examine this whole matter.

That is taking the matter a little further than I expected. I return to the Bill, and support it. I should like to be assured that the matter of cages in bird shops will be looked at as soon as this legislation is proclaimed. I commend the Bill for the new offence of abandoning animals and hope the Government will at some stage seriously consider the position of protected birds such as the rosella parrot.

The Hon. C. W. CREEDON (Midland): To answer a query raised by the Hon. Mr. Hill in regard to pet shops, I know for a fact, after speaking to representatives of the Royal Society for the Prevention of Cruelty to Animals about this matter, that before anything is done there will be a conference of pet shop proprietors to arrive at some suitable arrangement. The R.S.P.C.A. thinks that is necessary. In any case, the matter will be covered by regulation and later Parliament will have a chance to consider that regulation.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Caging of animals."

The Hon. SIR ARTHUR RYMILL: How does the honourable member who introduced this Bill align this clause with section 16 of the principal Act? Is it not contradictory in its terms? Perhaps it would help if I took my questions a little further while the honourable member is looking at this clause, which provides:

Any person who keeps or confines any animal ... in a cage or receptacle that is not sufficient in height, length or breadth to permit that animal reasonable opportunity for exercise ... shall be guilty of an offence ...

Section 16 of the Act refers to saleyards and provides:

Any constable, or any inspector appointed by the Governor for the purpose, may enter at any time into any saleyard or place where animals are usually sold or kept for the purposes of sale, and may inspect any animal found therein, and the accommodation for such animals. As I read this section, it means that in a saleyard, if we pass this clause as presented to us, or in a woolshed at shearing time, a person can keep one animal in each pen. Can the honourable member tell me whether or not I am correct? Of course, it would completely frustrate the operation of saleyards and woolsheds where, as the Minister of Agriculture and other members well know, sheep have to be held crowded overnight to keep them dry for the next day's shearing. I cannot quite align the sentiments of this clause with section 16.

The Hon. C. W. CREEDON: In the cases instanced by the honourable member, the animals are not held permanently in a state of confinement. The Bill basically deals with birds and animals that are confined for great lengths of time. Clause 4 specifically gives permission for birds and animals exhibited at displays and shows to be confined for a limited time.

The Hon. Sir ARTHUR RYMILL: If that is the best answer the honourable member can give, I suggest he

ask that progress be reported so that he can have this matter examined.

The Hon. C. W. CREEDON: I ask that progress be reported.

Progress reported; Committee to sit again.

LICENSING ACT AMENDMENT BILL

Second reading.

The Hon. C. W. CREEDON (Midland): I move:

That this Bill be now read a second time.

It is to give the same right and privileges to the Bavarian International Festival Committee at Mount Gambier for the supply of liquor as amendments made in 1972 to the Licensing Act gave to the Cornish Festival Committee and as are enjoyed by the Hahndorf Schutzenfest Committee. The object of this festival is to serve as a tourist attraction, all profits going to local nominated charities. I seek the support of this Council in having this desired amendment to the Act considered favourably.

The Hon. R. C. DeGARIS secured the adjournment of the debate.

CRIMINAL LAW (SEXUAL OFFENCES) AMENDMENT BILL

Second reading.

The Hon. B. A. CHATTERTON (Midland): I move:

That this Bill be now read a second time.

It provides for various amendments to the criminal law to remove specific reference to homosexual acts and to provide for a code of sexual behaviour in society regardless of the sex or sexual orientation of the person committing the prescribed behaviour. The introduction of the Bill is a further step towards legal reform in an area where in the past there has been much emotion and much questioning in the community. The effect of the present position is that a minority of otherwise law-abiding citizens are declared criminals and are unable to make to society the useful contributions that they would otherwise be able to offer. The state of the law at present is iniquitous and entirely unsatisfactory.

As I said before, the Bill provides a code of sexual behaviour that rationalizes the law in this area as between males and females and removes several anomalies that exist at present. The Bill provides for a penalty of life imprisonment for sexual offences against children under 12 years of age, regardless of the sex of the child or of the offender. It also provides for the imprisonment of sexual offenders who are schoolteachers, guardians or other persons of special responsibility who commit sexual offences against their wards. An offence of homosexual rape is created, and the Bill ensures that other offences such as indecent interference, abduction, defilement and so on apply regardless of sex or sexual orientation. Further, the Bill provides that any premises found to be used for homosexual practices where males prostitute themselves would constitute a brothel, attracting the same penalties as would premises now used for heterosexual practices.

The Bill in no way seeks to assist or approve homosexual practices or to condone any acts of indecency against young persons or any public display of homosexual conduct. No-one suggests that this Parliament approves of fornication, adultery or Lesbianism because we do not catalogue them in a list of crimes, nor would any such approval be given by this Bill to homosexual activities. The Bill will mean that the burden of criminality will no longer be attached to acts committed in private between consenting adults.

I think it is important, in explaining this Bill, to make a clear distinction between homosexual offences and homo-

sexuality. The former one is at present proscribed by the criminal law, whereas the latter is a state or condition and cannot come within the purview of the criminal law. I would like to emphasize the point that homosexuality exists in the community although attempts have been made to treat and "cure" it, as one would a disease. I feel that such treatment is open to moral questioning if it is the imposition of one set of values on a masculine minority in the community. We must realize that homosexuality is here to stay, and no amount of legislation will change that fact.

Further, homosexuality is not an "all or nothing" situation; the propensity to commit homosexual acts varies according to the degree of homosexuality or heterosexuality in a person. The law does not recognize either of these points. We are faced with a situation in which the law provides an absolute proscription and punishment for a situation that stems very much from a flexible basis.

If one accepts the view that some people are fundamentally and unalterably homosexual, the present position is the equivalent of declaring black skin or blue eyes illegal. Even if one does not accept this but rather accepts that homosexuality is "curable" or suppressable, the present position is still incredibly intolerant. We have in Australia achieved a high degree of religious and political tolerance. The bounds of this tolerance are not strictly defined, but in general the limits are imposed if others in the community are likely to suffer. Why should not the same apply to sexual freedom? My toleration of different forms of sexual expression does not mean my agreement with them any more than does my toleration of differing political or religious viewpoints.

Let me discuss briefly the claim that the present legal penalties act as a deterrent. Not only is it very dubious whether the penalties act as a deterrent but if they do it is as a deterrent against homosexual acts. Yet these acts are a result of homosexual attraction and affection, which cannot be legislated against. I suggest that those people who seek to eradicate homosexuality, something which I consider impossible, should look more deeply at the prime causes rather than the obvious symptoms. I hope the Bill will receive favourable consideration by honourable members so that these people in the community will not be treated in such a shameful manner as they are now.

Clauses 1, 2 and 3 are formal. Clause 4 amends section 5 of the Criminal Law Consolidation Act by adding definitions of "common prostitute" and "rape", thus ensuring that the policy of the Bill, that the criminal sanctions for sexual behaviour shall apply to males as well as females in connection with offences involving prostitution and rape, is applied. Clauses 5 and 6 are formal, merely correcting a drafting problem.

Clauses 7 and 8 expand sections 50 and 51 of the Criminal Law Consolidation Act to provide offences of carnally knowing and attempting to know carnally a person under 12 years of age, regardless of sex. These sections at present apply only to female children, and the Bill introduces new offences where male children are involved. Clause 9 has the same effect on section 52, widening its ambit to include male as well as female children of 12 years of age, and providing for a new offence where the victim is a male. Clause 10 broadens the ambit of section 53 of the Act to make it an offence for any person, regardless of sex, being a guardian, teacher, schoolmaster or mistress of any child under 18 years of age, regardless of sex, to know carnally any such child. This introduces new offences where schoolmistresses are involved and where male persons

are involved as victims. Clause 11 is consequential on the amendments to sections 51, 52 and 53 of the Act.

Clause 12 seeks to amend section 55 to apply the provisions of that section to male victims of 13 years to 17 years and of unsound mind, and clause 13 seeks to amend section 56 to provide an offence of indecent assault regardless of the sex of the perpetrator or of the victim. Clause 14 amends section 57 to provide that, within the ambit of the section, male victims of under 18 years of age will be unable to consent to indecent assaults upon them in certain cases. Clause 15 seeks a consequential amendment to section 57 (a) to apply its provisions regardless of sex.

Clause 16 provides for the amendment of section 57 (b) to introduce two new offences concerning indecent interference with males under the age of 17 years and males over that age without their consent. Clause 17 seeks to expand section 58 of the Act to provide for an offence of committing acts of gross indecency with or in the presence of any male person under the age of 16 years and to provide that it is an offence for females to commit such offences. Clause 18 broadens the ambit of section 59 to include male victims of abductions.

Clause 19 broadens the ambit of section 60 of the Criminal Law Consolidation Act to include male victims of forcible abductions, and clause 20 broadens section 61 to include unmarried males under the age of 16 years within the ambit of that section. Clause 21 extends the ambit of the offence created in section 62 of the Criminal Law Consolidation Act to include male victims under the age of 18 years, while clause 22 seeks to amend section 63 to provide for the procuring of males to become common prostitutes to be included in the section.

Clause 23 extends the ambit of section 64 to create an offence of procuring the defilement of males by threats or fraud, and clause 24 amends section 65 to include males under 17 years as subjects of the offence created by that section. Clause 25 amends section 66 to apply the provisions of that section to all persons being unmarried and under the age of 18 years.

Clause 26 provides for the amendment of section 67 consequential on the amendments to section 65 and section 66 of the Act. Clause 27 seeks to apply the offence of permitting youths to resort to brothels contained in section 68 to all persons under the age of 17 years. Clause 28 provides for the repeal of section 68A and for the enactment of a new section 68A providing for the consolidation of unnatural offences, and clause 29 repeals section 69 and enacts a new section proscribing behaviour between humans and animals.

Clause 30 makes amendments to section 74 to provide consequential amendments to court procedures regarding the exclusion of the public, while clause 31 seeks a consequential amendment to section 75. Clause 32 amends section 76 to correct an error in drafting resulting from earlier amendments.

Clauses 33 and 34 amend sections 77 and 77a of the Criminal Law Consolidation Act respectively to correct errors in drafting resulting from earlier amendments of the Act. Clause 35 has a formal amendment to the Police Offences Act. Clause 36 amends section 25 of the Police Offences Act to include the soliciting of male persons for prostitution. Clause 37 amends section 26 of the Police Offences Act to repeal the offence of soliciting in the section, as it is now covered in section 25 of the Police Offences Act.

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

LAND COMMISSION BILL

Adjourned debate on second reading.

(Continued from October 9. Page 1095.)

The Hon. F. J. POTTER (Central No. 2): This Bill is central in one way or another to the Government's policy of price control and it is an attempt, as the Minister said in his brief second reading explanation to the Council, to set up a Land Commission in South Australia to try to halt the spiralling land prices and to have some orderly and efficient development and expansion of the existing land resources close to the present metropolitan area. The object of the Bill is most laudable. I think every member in this Council is anxious to see something done to stop the spiralling of land prices, which, as other members have pointed out, arises directly from the present shortage of supply. It is a task that needs much courage; indeed, I think it needs the courage of a Daniel to tackle it, because it has associated with it some most difficult political problems. However, the Government has turned its hand to this task, and when I heard the Minister give the second reading explanation I thought that this Bill could receive wholehearted support from this side of the Council, because he spoke not once but several times about acquiring and releasing land on a large scale; indeed, I looked again at the speech yesterday and I noticed that he spoke not only of that but also of developing land for urban expansion and of the provision of community services, facilities and amenities for that expansion and development. He also spoke about the commission's being set up to hold and manage large parcels of land.

Farther on, he spoke of making available to the public serviced home sites on a leasehold basis, which is a new concept, of course, and still farther on he returned to the need to acquire broad acres. Having heard all that, I was inclined to say, "Hear, hear" to this move, because I thought it was one way in which the problem of the shortage of land and the spiralling of land prices could be attacked. I agree with other speakers that the Government had power to do this already had it seen fit to do so, because, as the Hon. Mr. Burdett pointed out yesterday, the power to do this has existed and still exists in the Planning and Development Act. We also know that the South Australian Housing Trust has possessed such powers for a considerable period.

I suppose we are entitled to ask why it was thought necessary for this land commission to be set up. We can think of reasons why this should be so, and one of them is apparent in the Bill itself, namely, the need to obtain a new source of finance that previously had not been open to the Government. However, I was most, disappointed, when I turned to the provisions of the Bill, to find that it did not fully align itself with the remarks of the Minister. I invite honourable members to look at these outstanding facts: the Bill does not deal only with the acquisition of broad acres and the redevelopment of broad acres, but goes much farther. Although the object of the Bill is said to be for the commission to acquire land, when we look at the first vital word in clause 4, which is the definitions clause, and ask what is meant by acquiring land, we find that the term is defined in the widest possible way (wide enough to include any private house occupied by its owner, any factory or commercial site, either developed or partly developed by industry). Indeed, it is fair to say that the definition could not be wider, because it refers to the inclusion of any estate or interest in land and any easement, right, power, or privilege in, under, over, affecting

or in connection with land. What wider definition could one possibly have?

The Hon. R. C. DeGaris: Does the honourable member think this should be advertised in the *Advertiser* so that the public can understand it?

The Hon. F. J. POTTER: That point was not taken in the advertisement. I understood from what I read that the Bill was confined to the objects the Minister had mentioned in his speech, namely, that there was to be acquisition of large tracts of land and redevelopment for resale at reasonable prices, but there is nothing else in the advertisement, and sometimes what is not said is equally as important as what is said.

The Hon. R. C. DeGaris: More important, sometimes.

The Hon. F. J. POTTER: Sometimes it is more important. The first major clause in the Bill contains a definition of "land" that is extremely wide, as I have already said.

I now turn to the real function of the commission (and this is the second point I make). I have already said that it will be empowered to acquire any land whatsoever. If one studies the important clause 12 one sees that the power of the commission to acquire land is not only for a specific purpose, namely, redevelopment for future urban expansion (as the Minister would have us believe is the object of the Bill), but it will be empowered to acquire land compulsorily for any public purposes, but "public purposes" is in no way defined in the Bill.

The Hon. M. B. Cameron: What do you think it means?

The Hon. F. J. POTTER: It could be widely interpreted.

The Hon. A. F. Kneebone: Hospitals and schools, for instance.

The Hon. F. J. POTTER: Yes, but because "public purposes" is not defined, Parliament will have little control over the matter once the legislation has been passed; that is an important point for honourable members to understand. Indeed, it is only by definition in the courts that one can determine precisely what is meant by "public purposes". If one looks further into clause 12 one will see that the commission will also be empowered to carry out such other functions as the Minister may decide. Again, I make the point that Parliament is being asked to give a blank cheque to the commission that will be set up under the Bill. If the commission is to have any powers which the Minister sees fit to give it, they can be assigned to it under the provisions of the Bill. Again, there will be no reference to Parliament and no control by Parliament if this is done.

The Hon. R. C. DeGaris: Do you think that will be advertised, too?

The Hon. F. J. POTTER: That is another point which is conspicuous by its absence in the advertisement I read today. Again, in furtherance of what I was saying about "public purposes", the commission will be empowered, under the provisions of clause 12, to acquire such land as it considers necessary or expedient in the effective performance of its functions. When one considers that, coupled with the reference I have just given, namely, that the commission may have as part of its functions any function assigned to it by the Minister, one can see that the Bill goes so far as to empower the commission to acquire compulsorily any land for any purpose the Government thinks desirable; that is not an exaggeration, but it is far-removed from the suggestion and the whole keynote of the Minister's second reading explanation. I have not often seen a Bill that does not line up with the second reading explanation, but this is one such Bill. These points are extremely important. I think it is fair to say that most

of what could be said about the Bill and the great changes it will make has already been said by other honourable members.

In conclusion, I point out again that the commission will be empowered to acquire land with no regard to the provisions of the Planning and Development Act, the Metropolitan Development Plan, or any planning regulations. In other words, there will be nothing to stop the commission, once it has acquired land of any kind, from exercising its functions in such a way as would be diametrically opposed to the administration of the Planning and Development Act. Honourable members should carefully consider this important question.

A good case could be made out for compelling the commission to exercise its functions subject to the provisions of the Planning and Development Act, which is so important and which has to be obeyed by everyone engaged in the development of land in this State. I think that the three points I have made, namely, the wide definition of "land", the unfettered control (except in a minor way by the Minister of the day) the commission will have, and the fact that the Planning and Development Act and regulations will not apply to the commission's activities, are three important areas honourable members should study carefully in Committee before agreeing to them.

I commend the Government for what it is trying to do. I agree with the opinions of the Hon. Mr. Hill because I, too, have grave doubts about the final results of the operations of the commission, if it is set up and if it can engage in the business of buying and subdividing large tracts of land. I, too, have grave doubts whether cheaper land will be made available, but I do not think that I should hold that against the Bill now. Whatever my ultimate opinion on this aspect, that should not be a ground for rejecting the legislation, because I think that, in tackling this problem, the Government is entitled to go about it in the way it sees fit, provided that it confines itself (which the Bill does not do) to the task of acquiring these large tracts of land on the fringes of the existing urban areas for the purpose of subdividing and redeveloping them. If it does that, I think that we shall have to wait and see whether, economically, it has achieved what it intended to do.

I doubt whether the provisions of the Bill as it stands are really the Government's present object. In Committee I will raise one or two matters of procedure, about which I have placed amendments on file. I hope those amendments will be supported when I move them. I support the second reading, but only to get the Bill into Committee so that honourable members may then examine the various amendments that have been placed on their files.

The Hon. JESSIE COOPER (Central No. 2): I oppose this Bill as presented. Although I believe in helping young people to own their own land and home, I also believe that the Bill will make land more difficult (not easier, and certainly not cheaper) to obtain. I do not see, as a result of the passing of this Bill, a vision of happy young people owning their own homes: I see only a huge governmental socialistic monopoly project.

We are constantly being told that young people cannot afford to buy land. However, this statement does not appear to accord with the facts; land has for the last two years been changing hands at an ever-increasing rate at higher and higher prices, simply because people have the money to buy land and because the market demand for that land exists at the prices being obtained.

Prices for property are still fixed by the old-fashioned economic principle of supply and demand—unpopular as that statement may be to those who like to think that there is a wicked exploiters' conspiracy in this matter. I cannot remember the time when blocks of land were comparatively cheap or easily bought by young people. It seems to me that household land was always hard to come by and that people always had to pay a high proportion of one year's income for a block of land on which to build their home.

Before I can be convinced that land prices have gone higher disproportionately to current wages and salaries, I should like to see the present costs of standard blocks in the outer suburbs compared with those of 25 years ago. I should also like to see the present annual average income (as contained in the Taxation Commissioner's annual reports) compared to that of 25 years ago. I believe this bleating about land prices is largely being prompted by those who want more power to control and restrict commercial activity in this field and to socialize trading in land under yet another Government department.

The Bill has many faults, two of the greatest of which, in my opinion, are: first, being by its nature a type of price control over land sales, the Bill will cause land availability to be reduced, not increased. Control of a price-fixing nature over any goods invariably causes a shortage of those goods and, indeed, ultimately causes them to disappear; secondly, it visualizes a restriction on the release for development purposes of land that would presumably be used in support of the contention of so many of our planners that people should be crowded more closely into limited areas in order to make the supply of various services easier—nothing more than that. This should not be necessary in a country like Australia, which has so much land available.

We in this country need spread-out, airy cities similar in design to Canberra, which is a modern concept of a city and in which it is delightful to live. The Bill has many other faults. I refer, for example, to Part II, Division I, clause 6, to which several honourable members have already referred. It provides:

The commission shall consist of three members appointed by the Governor of whom—

- (a) two (one of whom shall be appointed by the Governor to be Chairman of the commission) shall be persons nominated by the Premier after consultation with the Prime Minister;
- (b) one shall be a person nominated by the Prime Minister after consultation with the Premier.

The Hon. R. C. DeGaris: That's the circular waltz clause.

The Hon. JESSIE COOPER: That is so, or rather it's a sort of Roger de Coverley. It is quite improper that a person outside the State, be he the Prime Minister or not, should have the right to nominate an official member of such a commission. Under what Commonwealth law is the Prime Minister given power to interfere in this type of State appointment? Carried further, where would this type of interference end? Perhaps it would end outside of Australia. It is worth thinking about.

South Australia is a sovereign State, and this proposal is something that the State Parliament, for the sake of its dignity, should not accept, namely, giving an outsider (a non-South Australian) the right to appoint members of boards. Whereas there are certain joint instrumentalities, this is not one of them, because there is no complementary Commonwealth legislation.

The Hon. T. M. Casey: What about the General Manager of Chryslers?

The Hon. JESSIE COOPER: This is a Government concern. I refer now to clause 12, which is contained in

Part II, Division II of the Bill. Subclause (1) (b) provides:

The functions of the commission are as follows:

- (b) to manage and develop or redevelop the land so acquired.

This brings to my mind the image of an enormous Government department, slow-moving, full of deadly anti-pathology towards the expansion of the metropolitan area, and owning, controlling and leasing large tracts of suburban and industrial development space—all done with high costs and inefficient performance. Paragraph (f) provides:

to perform such other functions—

- (1) as may be necessary or incidental to the foregoing; or
- (2) as may be assigned to the commission by the Minister.

What are these unspecified functions? In other words, we have carefully prescribed the functions of the commission in paragraphs (a) to (e), and we then find in paragraph (f) that the commission can do anything the Minister tells it to do, such as, for instance, growing wheat on its property. No Minister should have the power to add to or alter the functions of this commission as laid down by Parliament.

We are being asked in paragraph (f) to give powers that are wider and wider and more and more ill-defined into the hands of people as dictatorial rights over larger and larger sections of our community's activities. Parliament should guard against the introduction of dictatorship by stealth. I hope that this provision will be amended in Committee. Any suitable amendment will get my support. We then have clause 13, which is the clause about which members have so often complained. Subclause (1) provides:

The commission may delegate to any member, officer or employee of the commission any of its powers or functions under this Act.

It gives the commission the right to delegate its powers and authority to an employee. It involves not simply the right to represent or carry out its executive requirements but its actual powers. How, then, can a private individual stand up for what he believes are his rights in a matter against the impassive blankness of a man at a front counter or, indeed, a man with a paper in his hand at one's front door? I deplore this type of legislation and, for the reasons I have enumerated, I will vote against the Bill.

The Hon. A. J. SHARD secured the adjournment of the debate.

MONARTO DEVELOPMENT COMMISSION BILL

Adjourned debate on second reading.

(Continued from October 9. Page 1089.)

The Hon. R. C. DeGARIS (Leader of the Opposition): I will not be long in debating this Bill because the Hon. Murray Hill has already made a lengthy and comprehensive speech on matters dealing with the history of Monarto. However, I do wish to discuss one or two important provisions that I believe exist in the legislation before us. Of the important matters raised by previous speakers I discuss first those made by the Hon. John Burdett when he dealt with the need to examine closely the position of the Mobilong District Council. He mentioned the question of rate revenue. The position here is that the appointed day is unknown to the council, and there is no doubt it could cause much concern to that local government body. Many budgetary problems and a series of other problems will arise from this provision from a local government viewpoint. I believe this is a matter that should be examined thoroughly by this Chamber as the legislation passes through it.

There is then the question of compensation to the Mobilong District Council for its own land, land that it bought for the normal expansion of a rural town and for specific purposes. The Hon. Mr. Burdett also drew attention to other matters that have been occurring in the development of this area. I believe this area will be used as a dormitory for the city of Adelaide, because I do not look on the development of Monarto as decentralization. This development is, if you like, a sponge to absorb the excess population that will be forced to go from Adelaide to Monarto.

Applications for subdivision have already been made, that have been refused, in this new concept in the Murray Bridge and Mannum areas. These refusals are somewhat disturbing and appear to me in some cases to be purely bureaucratic decisions that do not take the rights of an individual into account. When one hears of a pensioner who owns a house and about three-quarters of an acre (0.3 ha) of land and who wishes to subdivide it into two blocks but is refused permission on the ground that the subdivision may affect the future of Monarto, one can see the ridiculous ends to which these bureaucratic decisions are reaching in protecting the development of Monarto. One can also see the importance of this legislation to a pensioner who wishes to subdivide his block for the purpose of selling a portion of it for maintaining his house or to allow his family to build near him.

The general purpose of this Bill is to form a commission. The duty of the commission will be the development and management of the proposed new city of Monarto. As I said, that concept was dealt with by the Hon. Murray Hill and I do not intend to reiterate that material. However, there are some parts of this legislation for which I need a better explanation and to which I am strongly opposed. I draw the attention of the Council to the matter raised by the Hon. Mr. Hill: that we shall be dealing in Monarto with a commission that will be backed by statutory power and the power of a Minister, and there is no way in which the residents of the area will be able to express their views adequately. Where a council is doing something that is against the general wishes of the people that administration can be changed by vote. Pressure can be brought to bear on that administration to improve, because it will have to face a future election. In this development there will be no way in which a resident can lodge an appeal, so to speak, to his representative. I believe there should be some machinery for appeal by residents against decisions of the commission in the growth of the new city of Monarto.

We have seen recently much legislation being brought before this Chamber where the rights of an individual in lodging an appeal against decisions of the bureaucracy, whether it be local government, a commission or the Government itself, are being removed or not being provided. I believe that in this legislation there should be some way in which future residents of Monarto can appeal to the Minister against a decision by the commission. The same applies to the existing Mobilong council, which should

also be able to appeal against any decision made by the commission that could adversely affect the local government area.

The question of Mobilong is contained in clause 32. Clauses 38 and 39, to which I shall refer briefly, need close examination by this Chamber because I believe they are bad legislation. At this stage I have in mind that I will vote against both those clauses. Clause 38 deals with the question of works that shall not be public works by definition, and reads as follows:

Notwithstanding anything in the Public Works Standing Committee Act, 1927-1970, any work provided or arranged to be provided by the commission in the exercise or performance of its powers and functions under this or any other Act shall not be a public work for the purposes of that Act.

I cannot see why that clause is necessary, or what good it can do. Indeed, I can see much good coming from any investigation made by the Public Works Committee relating to public works in the Monarto area, as there may be new concepts and many worthwhile things that should be referred to that committee. The reverse advantage of that, of course, is that the experience and knowledge of the Public Works Committee has saved the taxpayers of this State millions of dollars in development costs because of its investigations. Referring public works to the committee places a restraint on those people responsible for the projects and ensures that they justify what they are doing. I cannot see any reason why a public work in the Monarto area should not be classified under legislation as a public work. As I said, it is a two-way trade between the Public Works Committee and those people who build schools and many other utilities. The Public Works Committee is a check on them and also it may be of benefit to Monarto for the Public Works Committee to understand new developments in the new city.

Clause 39 deals with the power of the Governor to dispense with the compliance with Acts or by-laws. As I look at this clause, I think it means that any existing Act or by-law can be dispensed with. The Building Act does not apply to the Monarto area and a number of other Acts that apply elsewhere will not apply to this area. I cannot see why that should be so. Why should we set up a commission to do a job that is outside the scope of the Building Act, to mention but one Act? If the Building Act applies to other parts of the State, it should also apply to Monarto. I do not see why this clause should be included in the Bill.

I have touched on what I believe to be the main points of the Bill, as I see it. I have not dealt with it at great length, for that has been done by previous speakers. I support the second reading but have indicated the various parts of it where this Council should examine the details carefully.

The Hon. M. B. CAMERON secured the adjournment of the debate.

ADJOURNMENT

At 3.48 p.m. the Council adjourned until Thursday, October 11, at 2.15 p.m.