LEGISLATIVE COUNCIL

Tuesday, March 11, 1975

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

QUESTIONS

MEDIBANK SCHEME

The Hon, R, C. DeGARIS: I have a series of questions to ask the Minister of Health: first, if medical practitioners in country areas elect not to join the Medibank scheme, will subsidies, both maintenance and capital, to these hospitals be withdrawn or reduced by the Government? Has the Minister or any of his departmental officers threatened this course of action? If subsidised community, religious or charitable hospitals do not wish to have any of their beds as standard beds, what would be the Government's attitude regarding maintenance and capital subsidies? If any of these hospitals offer all their beds as standard beds, what would be the Government's attitude?

The Hon. D. H. L. BANFIELD: We have not reached that stage yet, nor has it been necessary to do so. Negotiations are taking place, and tomorrow the Director-General and representatives of country and subsidised hospitals will hold a meeting. I do not think that we will ever reach such a stage. As these matters are now being negotiated, I am unable to give the Leader a reply in detail.

The Hon. R. C. DeGaris: You don't know of any threat?

The Hon. D. H. L. BANFIELD: I assure the Leader that no threats have been issued. We do not achieve our aims by way of threat. I would not consider issuing any threat to any hospital.

The Hon. V. G. SPRINGETT: I seek leave to make a statement before asking the Minister of Health a question.

Leave granted.

The Hon. V. G. SPRINGETT: My question concerns some of the more expensive and large mechanical engineering equipment needed in hospitals nowadays. I refer particularly to the equipment used by radio-therapists who have, over the years, worked in the Royal Adelaide Hospital and other large hospitals and been able to use anti-cancer facilities such as linear reactors and similar items. These are extremely expensive pieces of equipment, and it would be impracticable for them to be put in doctors' private rooms. Will the Minister say what the trend is likely to be regarding doctors using these hospital machines for treating their private patients?

The Hon. D. H. L. BANFIELD: Until now, the whole matter has been negotiated with those concerned, and 1 do not know what the final agreement will be. However, I do not expect that there will be any difference in future from the situation that obtains now regarding the use of this equipment. I cannot see why these people should be refused the use of this equipment in future. It would not be wise to have this valuable equipment set up at different points when this is unnecessary and, indeed, when there is sufficient equipment in a certain place that people can use. I assure the honourable member that everyone in the medical field is as interested in this matter as are members of Parliament, and that these are the sorts of matter at present being discussed in my office. However, no final decisions have been made.

The Hon. R. C. DeGARIS: I seek leave to make a brief explanation before directing a question to the Minister of Health.

Leave granted.

The Hon. R. C. DeGARIS: I hope that, in reply to this question, the Minister does not say that no decision has been made, because already he has spoken in this Chamber and given the Council some information on the matter; therefore, I would say that a decision had been made. Can the Minister inform me, first, in relation to the referral of a patient by a general practitioner to a specialist, that specialist being in private practice, whether the specialist's fee will be covered by Medibank if the consultation is in the private rooms of the specialist; secondly, if a surgeon operates in a private hospital and the patient occupies a private ward, will Medibank meet the cost of the surgeon's fee or a portion of his fee?

The Hon. D. H. L. BANFLELD: The position with medical fees will be the same as that existing at present. Medibank will meet a portion of the fees and the cost will not exceed $5, as is the position now when an operation is performed. If the patient is in a private ward in a private hospital, the benefit that the patient will get from the Government will be $16 a day.

The Hon. R. C. DeGaris: It will be $18 a day.

The Hon. D. H. L. BANFIELD: It will be $16 more than at present. It will be $18 a day; patients already receive $2 a day anyway.

OFFSHORE RESOURCES

The Hon. C. R. STORY: Has the Minister of Agriculture, representing the Minister of Environment and Conservation, a reply to my question of February 18 regarding offshore resources?

The Hon. T. M. CASEY: The honourable member asked four questions based on an article published in the *Bulletin* of February 8 on "Our Fabulous Ocean Wealth" and my colleague has furnished the following replies according to the order in which the questions were raised:

(I) Deposits of cellulose occur in both St. Vincent and Spencer Gulfs as remnants of sea grasses. A report on this matter is contained in the Winterbottom report of 1917, bulletin No. 4 of the Department of Chemistry. That report also gives maps showing the areas where such deposits can be found.

(2) At this stage, it is not possible to give a clear indication of areas that would be exploited if this project should go ahead.

(3) Because of the lack of technical and environmental data, no decision has been reached or agreement entered into to allow the exploitation of this material.

(4) Whether or not the project to harvest such sea grasses will be allowed to proceed will depend on an assessment of the environmental effects, including any effects on the prawn and allied fishing industries.

LOCAL GOVERNMENT INQUIRIES

The Hon. C. M. HILL: Has the Minister of Health, representing the Minister of Local Government, a reply to my recent question regarding the cost of the Royal Commission into Local Government Areas, and the cost of the Select Committee on the Local Government Act Amendment Bill?

The Hon. D. H. L. BANFIELD: My colleague reports that the cost, to date, of the Royal Commission into Local Government Areas is $49 249, and that the cost of the Select Committee was $2 376.

RELIGIOUS EDUCATION

The Hon. C. W. CREEDON: On behalf of the Hon. Mr. Chatterton, I ask the Minister of Agriculture whether he has a reply to the honourable member's recent question on religious education?

The Hon. T. M. CASEY: My colleague reports that all available copies of the course guides prepared for teachers of religious education in State schools have been issued to teachers. Additional copies are expected to be available in about a week or so, when he will certainly see that the material is made available to the Parliamentary Library.

COUNCILS' LEGAL COSTS

The Hon. C. M. HILL: Has the Minister of Health, representing the Minister of Local Government, a reply to the question I asked recently regarding the possibility of legal aid being made available to councils, particularly small councils, to meet their ever-increasing burden of legal costs?

The Hon. D. H. L. BANFIELD: My colleague reports that legal costs incurred by councils are only part of the financial problem facing many councils. Councils will always find a need to seek legal representation in many of their functions, and in fact in many instances councils may do themselves a disservice if they do not seek legal representation. Regarding council boundary changes, councils were not, of course, required to be represented by counsel or seek such advice. In fact, of the 135 councils that gave evidence to the Royal Commission, only about 35 were represented by counsel, and some of those had joined together for the purpose. My colleague does not believe that it is necessary to extend assistance of the type referred to by the honourable member. However, he does realise the overall financial problem, of which legal costs are just one part, and, because of this appreciation, a working party has been established within the Government to look at the whole question of local government finances.

CROWN LANDS ACT AMENDMENT BILL

Read a third time and passed.

MANUFACTURERS WARRANTIES BILL

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

The Hon. A. F. KNEEBONE (Chief Secretary): I move:

That this Bill be now read a second time.

It has often been remarked that in. the modern marketing milieu it is the manufacturer who plays the dominant role. It is he who is responsible for putting the goods into the stream of commerce and, in most cases, for creating the consumer demand for them by continuous advertising. Frequently the retailer plays only a very subsidiary role. It is the manufacturer who endows the goods with their characteristics and it is he who determines the types of material and component that shall be used and who establishes the quality control mechanism. It is also he who determines what express guarantees shall be given to the consumer and who is responsible for the availability of spare parts and the adequacy of servicing facilities. Almost all the consumer's knowledge about the goods is derived from the labels or markings attached to the goods on the sales literature that accompanies them, and these, too, originate from the manufacturer.

These are not the only factors that strongly militate in favour of holding the manufacturer responsible for breach of any express warranties and the sorts of warranty implied under the Consumer Transactions Act. The present law involves circuity of actions and an unnecessary multiplication of costs and proceedings. Typically the buyer sues the retailer, who then joins the wholesale distributor or importer, and they will in turn bring in the manufacturer. If the retailer is. insolvent or has otherwise closed his business for any reason, the consumer may not even be able to initiate an action. If the retailer has no assets or place of business in this State, the consumer confronts difficulties. If the cause of the breakdown of the goods is disputed, the buyer will not have the right to obtain discovery of documents from the manufacturer or to examine his officers, although the manufacturer rather than the retailer is likely to be in possession of all the pertinent facts.

Despite these weighty considerations, Anglo-Australian law has made little progress in permitting the consumer to proceed directly against the manufacturer. This Bill is intended to rectify the deficiencies in the present law by providing a clearly stated statutory rule holding a. manufacturer liable for breach of any express representations, and also deeming him to have given the implied warranties as to the quality of the goods and, where appropriate, the availability of spare parts.

Clauses 1 and 2 are formal. Clause 3 contains a number of definitions necessary for the purposes of the new Act. A "consumer" is defined as any. person (including a body corporate) who purchases manufactured goods by retail, including any person who derives title to manufactured goods through or under any such person. An "express warranty" is defined as any assertion in relation to manufactured goods made by the manufacturer, or a person acting on his behalf, the natural tendency of which is to induce a reasonable purchaser to purchase the goods. "Manufactured goods" are defined as goods manufactured for sale by retail, but the expression does not include goods that are normally offered for sale by retail at a genuine retail price above $10 000. A "manufacturer" includes, in addition to the ordinary meaning of the word, any person who holds himself out as the manufacturer of the goods and, where the goods are imported into Australia and the manufacturer does not have a place of business in Australia, the importer of the goods. Subclause (2) provides that the new Act will not apply to goods manufactured before its commencement.

Clause 4 provides that, where manufactured goods are sold by retail in this State or are delivered to a purchaser in this State upon being sold by retail, the manufacturer warrants that the goods are of merchantable quality and, in the case of goods that are likely to require repair or maintenance, spare parts will be available for a reasonable period after the date of manufacture. A suitable defence is provided in relation to the latter warranty if the manufacturer's failure to supply spare parts arises from factors that he could not reasonably be expected to foresee.

Clause 5 creates a right for the consumer to recover damages for breach of an express warranty or a warranty implied by the new Act. Clause 6 limits the right of a manufacturer to exclude his liability for breach of an express or implied warranty. However, where the manufacturer takes reasonable steps to ensure that the consumer will receive notice of the fact that he does not undertake that spare parts will be available for the repair of the goods, then no liability attaches to the manufacturer for breach of that warranty.

Clause 7 provides that, where a vendor incurs liability to a consumer by reason of some defect in the quality of the goods arising from an implied warranty, and the consumer could have recovered similar damages against the manufacturer, the vendor can recover from the manufacturer an indemnity for his liability. Clause 8 is an evidentiary provision, It provides that an advertisement or

other publication appearing to be issued under the authority of a manufacturer shall be deemed to be so issued in the absence of proof to the contrary. Where any question arises as to whether the goods were manufactured before or after the commencement of the new Act, a court is required to presume that they were manufactured after the commencement of the new Act in the absence of proof to the contrary. Goods apparently manufactured by a certain manufacturer will be presumed to have been so manufactured in the absence of contrary proof. Clause 9 enables the Governor to regulate written warranties of the kind that commonly accompany goods at the time of sale. The Ontario Law Reform Commission found that these warranties were frequently used to mislead consumers rather than for conferring any substantive rights upon them. For this reason a provision is inserted enabling the Governor to prescribe undesirable practices in the use of such written warranties.

The Hon. J. C. BURDETT secured the adjournment of the debate.

WHEAT INDUSTRY STABILISATION ACT AMENDMENT BILL (BOARD)

Adjourned debate on second reading.

(Continued from March 6. Page 2713.)

The Hon. C. R. STORY (Midland): This short Bill is a mistakes rectification Bill. It is in good company, because we have several similar rectification Bills on the Notice Paper or coming on to the Notice Paper in the next few days. The original legislation was considered by Parliament in 1968, and without it, it would be extremely difficult for the grower organisation to be paid its dues. Therefore, I do not have much objection to it. This Bill highlights the fact that we are moving quickly in Parliament today. It appears that we are pushing through Parliament legislation of an inconsequential nature, in many cases, to the detriment of the real bones of the economy of this State. It seems that the rats and mice on the Notice Paper are getting far more consideration in drafting than are such things as wheat stabilisation, which is absolutely vital to the economy of this State.

I cannot blame the Parliamentary Counsel for this state of affairs because, after all, he and his officers have been grossly overloaded for a considerable period. All the gimmicky legislation of the Government takes up their time. Furthermore we have had an all-time record of intricate legislation that has resulted from the imposition of additional taxation resulting from Government mismanagement. In view of all those considerations, we cannot criticise too hard the drafting of Bills. However, the situation points up that much of this legislation has passed through the Minister's office, has been considered by Cabinet, has been dealt with in another place, has been considered in this Council and, until the Australian Wheat Board drew attention to the situation, the mistakes in it had not been picked up. This points to only one thing: that we do not seem to have the time to do our work. Any idea that Council business should be pushed along a little more quickly is completely wrong.

As for saying that we should set up a time table, if there is ever any suggestion in this Council about how much time should be allocated to pieces of legislation, I say that that would be an extremely retrograde step. I believe that we should take as much time as we need to study the legislation properly and that, if we were to get rid of many of the rats and mice and concentrate on what makes the State tick, it would be to our advantage. Regarding the substance of the Bill, I support it.

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

STATUTE LAW REVISION BILL (VARIOUS)

Adjourned debate on second reading.

(Continued from March 6. Page 2716.)

The Hon. F. J. POTTER (Central No. 2): The Hon. Mr. Story described the Bill that has just been passed as being a mistakes rectification Bill. I hardly think that I could describe the Bill now before us in the same way, but it is clear from its title that it is an Act to make certain consequential and minor amendments to, and to correct certain errors and remove certain anomalies in, the statute law and to repeal certain obsolete enactments. The Bill is another link in the chain of Bills we have considered during the past two or three sessions, allied with the consolidation of our Statutes.

The Hon. C. R. Story: Are you sure about that?

The Hon. F. J. POTTER: Yes.

The Hon. C. R. Story: Have you checked the Bill to see that that is what it really does?

The Hon. F. J. POTTER: Yes, and Mr. Ludovici is the author of the Bill. I notice that even at this late stage the Government has found another Act which it wants to include in the net, and I see that the Bill, if the Chief Secretary's amendment is carried, will also amend the Kindergarten Union Act. I was interested to hear the lengthy second reading explanation the Chief Secretary gave about the progress that has been made on the consolidation of our Statutes. As honourable members are aware, I have from time to time asked questions about the progress being made on this matter and have become increasingly anxious as years go by to ascertain when we shall see the first of the consolidated Statutes on our shelves.

However, the Chief Secretary gave us the first inkling when he said that he had hoped that the cut-off date would be the end of December, 1974, but that he now hoped that it would be the end of December, 1975. I, too, sincerely hope that the end of next December will be firmly declared to be the cut-off date. That seems to me to be an appropriate date, being the end of another complete Parliament, and any extension beyond December 31, 1975, would be a retrograde step because, frankly, we should now be looking to see the end of the 40 or so volumes we have had since the Statutes were consolidated in 1936.

It is becoming increasingly difficult to trace amendments to Acts back 40 years and I, and no doubt other honourable members, will be pleased to see the first consolidated Acts on our shelves, I hope, next year. The actual amendments in this Bill are not of any great consequence. As I have checked them and see nothing in them that could cause any trouble to honourable members, I support the Bill.

The Hon. C. R. STORY (Midland): I join with the Hon. Mr. Potter in hoping that we will have a complete consolidation of the Statutes by the due date and I draw attention to something that honourable members may not know, namely, that we are passing legislation which, in itself, is hardly significant, but if they study the schedules attached to the Bill and peruse the multiplicity of Acts being amended, they will realise what the legislation sets out to achieve. The object of the Bill is to make certain consequential and minor amendments to, and to correct certain errors and remove certain anomalies in, the statute law and to repeal certain obsolete enactments. That sounds innocuous, but the amendments will become part of the Statutes.

There is no way I know, until the official print is made, of letting people know that a certain Act has been amended. If the so-called insignificant amendment happens to be the

deletion or insertion of "no", it could make a considerable difference to the reading of the Act. I draw particular attention to the legislation that was before the Council earlier in 1973, when a substantial amendment was made to an Act which no-one in the industry concerned knew had happened, because it did not appear in the Act under that name. I refer to the Statute Law Revision Act.

It is difficult for an industry (and we have another rectification Bill before us now) to try to correct this anomaly that slipped through in the legislation. I believe that what was done in that case was not inconsequential or a small matter; it was an important matter. We must examine the schedules to the legislation carefully and compare them with the Acts in order to see whether it proves to be an inconsequential matter. It could cause considerable difficulty and it could be difficult to get an anomaly of that kind struck out of the Act if the Government did not want it deleted. Honourable members should give careful attention to the amendments referred to in the statute law revision Bills that come before the Council.

Bill read a second time.

In Committee.

Clauses 1 to 3 and first schedule passed.

Second schedule.

The Hon. A. F. KNEEBONE (Chief Secretary): I move:

After "Holidays Act Amendment Act, 1958" to insert:

"Kindergarten Union Act, 1974-1975.

Section 7 (3)—Strike out 'South Australian Pre-School Education Committee' from paragraph (a) and insert 'Childhood Services Council'.

Section 11 (2)—After 'appointed' insert 'or elected'.

Section 13—Strike out 'or appointment' and insert ', appointment or election'."

Several amendments were made in another place to the Kindergarten Union Bill. When that Bill was introduced in its amended form into the Legislative Council, the Council dealt with it with such alacrity that the draftsman was not able to get a copy of the reprinted Bill from the Government Printer in time to check it for internal consistency before it was finally passed by the Council. These amendments are purely consequential drafting amendments to the Kindergarten Union Act. For those reasons, I ask the Committee to support the amendment.

Amendment carried; second schedule as amended passed.

Title passed.

Bill read a third time and passed.

CORONERS BILL

Adjourned debate on second reading.

(Continued from March 6. Page 2717.)

The Hon. J. C. BURDETT (Southern): I support the second reading of this Bill, which, as the Minister has explained in his second reading explanation, re-enacts and codifies the law relating to coroners in this State. In some respects, it amends the existing law. I certainly support the concept of repeal and re-enactment where practicable rather than amendment. As this Bill provides a complete code relating to coroners in this State, it is perhaps worth my relating the origins of the office of coroner. The term derives from the Latin *custos placitorum coronae,* a guardian of the pleas of the Crown. Halsbury's *Laws of England* states:

The office of coroner is of great antiquity and no satisfactory account of its origin can be given. It is said to have existed in the time of the Anglo-Saxon kings, but the authority for this statement is doubtful. The right to elect a coroner for London appears to have been granted to the citizens by Henry I. In 1194, the justices of Eyre were directed to see that in every county three knights and a clerk as custodians of the pleas of the Crown should be chosen. The office may, therefore, be safely assumed to have existed at least as early as the beginning of the thirteenth century, and there is other evidence to show that officers having powers similar to those of coroners were in existence before that date.

Little of a general nature needs to be said about this Bill. Its clauses are self-explanatory, and reasons for them are given in the Minister's second explanation. I refer to clause 12 (*e*), an important provision, as follows:

Subject to this Act, an inquest may be held in order to ascertain the cause or circumstances of the following events ...

(*e*) the disappearance from, or within, the State of any person.

This is an important extension to the existing law, as previously a coroner could hold an inquest only if there was a body. In effect, this clause will enable him in future to hold an inquest even if there is no body: that is, if a person has disappeared from or within the State. This is an important extension of his powers. I am not particularly pleased with the draftsmanship of clause 16 (1) (*d*) and (*e*), which provide:

A coroner holding an inquest may for the purposes of the inquest ...

(*d*) require any person appearing before him to make an oath or affirmation to answer truly any relevant questions put to the person by him or any person appearing before him; and

(*e*) require any person appearing before him—

and they are the operative words—

(whether he has been summoned to appear or not) to answer any relevant questions put to the person by him or any person appearing before him.

"Person appearing before" the coroner could include a solicitor appearing for a certain party. After all, a solicitor starts off by saying, "I appear for", and then names the party. It would be inappropriate for the solicitor to be required to take an oath to be subject to examination or cross-examination. Literally, however, that is what the clause means. As this is most unlikely to happen, however, I suppose it would be carping or petty to go through the procedures of amending the Bill in this regard. I have misgivings about clause 22, which provides;

A coroner holding an inquest shall act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms and he shall not be bound by the rules of evidence but may inform himself on any matter in such manner as he thinks fit.

In this respect, the Minister has said in his explanation . that the coroner may inform himself by reference to the best evidence available. However, that is not what the clause states: it says "in such manner as he thinks fit". Consistently with the clause, the coroner could certainly inform himself by reference to other than the best evidence available. It seems to me that this clause is unnecessary and that it could, at some stage, encourage coroners to undue independence, setting up their own empires and their own procedures, and this might not always be in the public interest. In his explanation the Minister said:

As honourable members are no doubt aware, early last year Mr. K. B. Ahern, a practitioner of the Supreme Court, was appointed City Coroner, and much of this measure arises from Mr. Ahern's suggestions together with an examination by the Government's advisers of some modern trends in the law relating to coroners.

From my inquiries, clause 22 was not a part of the measure that arose from Mr. Ahern's suggestions. I will now go through the clause in detail. It provides:

A coroner holding an inquest shall act according to equity, good conscience and the substantial merits of the case—

In common with every other judicial officer, a coroner normally has this duty, so I think it is unnecessary and undesirable to spell it out. It has the appearance of putting a coroner in some special category above and removed from the ordinary law. The clause continues:

—without regard to technicalities and legal forms—

Clause 25 sets out what the coroner is to find, namely, the cause and circumstances of the event in question. Clause 16 relates to proceedings upon inquests. There is no possibility of the coroner's having regard to technicalities and legal forms anyway. The clause then provides that the coroner shall not be bound by the rules of evidence. As this Bill, if passed, will be a complete code, I believe this portion of the clause is necessary, but it is the only portion of the clause with which I really agree. The clause then provides that the coroner may inform himself in such manner as he thinks fit. I consider this to be unnecessary, and it gives a dangerous invitation to a coroner to use quite unsatisfactory ways of informing himself, and perhaps building up an empire and a set of rules of his own.

I have the greatest respect for the present coroner, but for some future coroner there is an invitation in clause 22 to launch into outlandish means of informing himself and to build up his own practices, which may turn out to be as hidebound as the technicalities and legal forms referred to in the clause. We speak of a coroner's court, and in fact the Coroner's Court is listed as such in the telephone book. Strictly speaking, however, I do not think a coroner conducting an inquest is conducting a court; he is simply holding an inquiry. The Bill is a complete code in regard to proceedings before coroners, and it nowhere uses the term "court". The procedures for holding the inquiry are admirably set out in the rest of the Bill. I do not think that this dragnet provision to widen the powers of the coroner is necessary. I do not think the clause cures any present abuse, but on the other hand it is itself open to abuse.

In considering this clause I have had regard to the fact that, in its present form, the Bill does not require a coroner to be a legal practitioner. I think the dangers of clause 22 would be much less if the coroner were a legal practitioner. The present State Coroner is and the previous City Coroner was a legal practitioner, but the Bill does not require it. As we are being asked to pass a Bill for an Act of Parliament that will stand until it is amended, we must consider the possibility of something happening not provided for by the Bill. Providing that the coroner was a legal practitioner, I do not think the dangers of his unduly departing from the procedures set out in the Bill and from the sensible rules (not necessarily the legal rules) of evidence and relevance would be very great. If he had not had that training, I think the dangers I have mentioned regarding the clause could be considerable in future. 1 foreshadow that, in Committee, I will move an amendment to provide that the State Coroner and the Deputy Coroner shall be legal practitioners. I think this would overcome most of my fears about the wide provisions of clause. 22. With those minor reservations, I support the second reading.

The Hon. F. J. POTTER secured the adjournment of the debate.

REAL PROPERTY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 6. Page 2718.)

The Hon. C. M. HILL (Central No. 2): I support this Bill, which, generally speaking, up-dates and improves the Real Property Act. As a result of the measure, those people who deal with the Lands Titles Office, such as solicitors, licensed land brokers, and the public generally, will be helped by the changes proposed. I believe, too, that within the department itself the improvements will mean that more economies can be effected and that a more acceptable procedure and practice will evolve.

The main changes proposed are that the Registrar-General will be empowered to delegate his authority, which at the moment is delegated only to his deputies, to other officers of the department. Also, it is intended that the seal of the Registrar-General will be used in future in lieu of the former practice of the Registrar-General or the Deputy Registrar-General having to sign on certificates of title to acknowledge endorsements of the actual situation.

A further change is that moneys received by the Lands Titles Office in certain circumstances are to be passed over to the Treasurer, and the procedures involved are laid down in the Bill. In future, minor errors on real properly documents can be corrected, if the department believes it is in order to do that, without those documents having to be returned to the parties who have lodged them. The documents (whether transfers, mortgages, and so on) can proceed therefore in a shorter time and the delays occasioned from returning documents for correction will be overcome.

A major change in the Bill is that, when certificates of title are lost, in lieu of provisional certificates of title issuing, the title that issues will be known as a substituted title. I compliment the Registrar-General and. the officers of the Lands Titles Office on their efficiency and courtesy, and indeed on their expedition over the years in the course of their work. I have been associated with the department in business for nearly 30 years, although I have not had much to do with it in the past eight years to 10 years. Nevertheless, I have some knowledge of its workings, and I have always been extremely impressed by the manner in which public servants in that office have carried out their work. In recent times there have been occasions when one has heard criticism about delays in the department. By the same token, one must bear in mind that the introduction of the metric system has caused officers in the department to carry out a far greater volume of work than was the case in the past.

Not only will the changes in the department as a result of this Bill help the public and the officers whom I have mentioned but also there should be an improvement in the general economy of the department. Many alterations and endorsements are made on certificates of title by responsible draftsmen in the department. Under the present procedure, that work must be checked by a senior draftsman and it must then go to a Deputy Registrar-General for further checking and signature.

Under the new procedure it will be possible for the Registrar-General to delegate authority to that senior draftsman, who will check the work as he does now and then place the seal of the Registrar-General on the documents. That will mean a considerable saving in time in the department, and it should mean a reduction in the general cost of running it.

I see some danger in clause 9, dealing with the ability of officers of the department to alter minor errors on documents and to register those documents without reference back to the party who lodged them. This could mean that there might be a lowering of the standard of work generally, because those who prepare and certify documents might be influenced somewhat by the fact that, if a minor error was involved, the document might not be returned to them, and the department might well correct the mistake.

So, the standards might deteriorate somewhat. I certainly hope that that does not happen, but it is a point that will need to be carefully watched by the Registrar-General as he introduces the new system. In practice, if that happened the Minister and the Registrar-General might have to look at the matter very carefully. In broad terms, the changes to be made under the Bill will result in a considerable improvement, and I am pleased to support the Bill.

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

INDUSTRIAL ORGANISATION (BUILDING LOANS) BILL

Adjourned debate on second reading.

(Continued from March 6. Page 2720.)

The Hon. M. B. CAMERON (Southern): I do not support this Bill. It is fairly clear that it is the result of a bad business decision by the Trades and Labor Council. The Bill amounts to a gift of $200 000 to the Trades and Labor Council. While there are those who say that the Bill provides for repayment dates, one would have to be less than cynical to believe that the first instalment date in 1985 and the last instalment date in 2025 are in any way realistic.

The Hon. R. C. DeGaris: It is more than a gift of $200 000.

The Hon. M. B. CAMERON: I agree. By the year 2025, when the final instalment is due, with a continuation of the present rate of inflation under the Commonwealth Government one can imagine what the value of the final payment of $5 000 will be.

The Hon. C. R. Story: Are you suggesting that there will still be a Commonwealth Labor Government then?

The Hon. M. B. CAMERON: By that date it will probably represent only a peppercorn rental. It is quite unrealistic, and it would have been much more straightforward of the Government to keep to the original plan of making a donation of $200 000. I would have thought more of the Government if it had done that, but I would not have supported that plan, either. I would be willing to support the Bill if the Government was willing to assist on similar terms every person who had been similarly affected by the bad economic management of the present Commonwealth Government. Why should preferential treatment be given in connection with ' what amounts to a bad business venture by the Trades and Labor Council? Does the Government believe that only the Trades and Labor Council is in trouble in this community? Of course, the Trades and Labor Council is not the only body in trouble. The whole community is weighted down by the huge interest bill and other problems brought about by the bad economic management of the Australian Government. I do not believe that bricks and mortar are the key to a good trade union movement. Sensible leadership is far more important and, if there is not sufficient support for the Trades and Labor Council to meet its commitments, I believe it is a reflection on its standing amongst trade unionists. It has obviously lost the support and confidence of the rank and file, and financial difficulties may be one factor that should force it to set about regaining that confidence from its members by a saner and sounder approach to industrial problems.

If the Government believes that this move has the support of the general public, I suggest that the Government should put it to a referendum. If it did, the Government would get a shock, because the community as a whole does not support this move, and it is not a proper move for a Government to make. If the Government wishes to assist the Trades and Labor Council, that assistance should be on a proper, businesslike basis, with a proper loan and with interest rates like those that every one else in the community faces at present. If the Trades and Labor Council finds that the repayments are at present beyond it, the only way to go about solving the problem is within its own movement, not within the community as a whole. I am sure many people would support the Trades and Labor Council on a voluntary basis, but not on a compulsory basis, which this Bill provides for.

The Hon. M. B. DAWKINS (Midland): This is a Bill for "An Act to authorise the Treasurer to make a loan to the Trades Hall Adelaide Incorporated" and, “to make a loan or loans to any organisation or organisations representing employers and for other purposes.” The latter portion of the title can only be window dressing, and the first part of the title is misleading. I am opposed to the Bill, because I believe that the title itself attempts to dress up a gift as a loan. The situation is that, far from being a gift of $200 000, under this Bill the Trades Hall Managing Committee is presented with a gift of more than $500 000. I have heard the sum of $579 000 mentioned, and that might well be the correct figure. Whether it is or not, that is a large gift to one organisation.

I am not in favour of this Bill, but I certainly do not want to be provocative in any way. Certainly, I am not unsympathetic to the problems faced by the Trades Hall Managing Committee. The committee is in its present situation because it has over-reached itself and it must now pay an interest rate of 10½ per cent instead of the 6½ per cent which was foreseen when the committee undertook this project. In common with other honourable members, I have seen many people over-reach themselves. I have seen them virtually killed economically by the increase in interest rates. These people have received no special consideration, and the Trades Hall Managing Committee is no orphan in this situation. Many enterprises today suffer problems similar to those being experienced by the Trades Hall. Some of these enterprises will go to the wall (some of them have probably already gone to the wall). The Government is not able to do for those people what it wants to do for the managing committee of its own organisation. Therefore, I cannot see the reason or justification for a Bill such as this.

1 refer to work of the Parliamentary Committee on Land Settlement, or, more properly, the lack of work undertaken by that committee, particularly in relation to the Rural Advances Guarantee Act. In Western Australia in recent years about 404 700 ha of land has been developed each year. True, there might not be much more than that available in total in South Australia still capable of development, but unfortunately we have not been able to get this Government to move in this matter, not even in 1973-74, when the primary producer situation was favourable for further advancement. The Rural Advances Guarantee Act came into being during the regime of the Playford Government, I think in 1963. Its purpose was to enable people to go on to the land and to get a stake in the country with the aid of a Treasurer’s guarantee. This applied to people who otherwise would not have the opportunity or the finance to go on the land.

Borderline cases were examined, and they have continued to be examined over the years in the final instance by the Land Settlement Committee. Many of the people who were assisted in this way have succeeded, although initially they were borderline cases (otherwise they would not have come before the Treasurer or the committee for review).

They succeeded in the past under a moderate rate of interest, but how will these people manage under present interest rates? Banks, even on long-term loans, unfortunately have not kept their rates down, and many people assisted under the Rural Advances Guarantee Act are in trouble. I ask, without any sense of provocation, whether the Government is able to extend a 50-year interest-free loan to these people. If the Government is going to be consistent with the terms of this Bill, it should do so.

I have said that the Bill has been introduced largely because the Trades Hall Managing Committee has apparently over-reached itself by building a structure which appears to be beyond its ability to finance and which, had it taken notice of the fact that interest rates could increase, it might not have proceeded with. Interest rates have increased from 6½ per cent to 10½ per cent, and even then I understand that a 1 per cent concession has been provided to the committee from the appropriate ruling rate. The Bill seeks to provide a loan that is really a gift. It provides $200 000 interest free, and it then provides for a 40-year period of repayment of the loan in 40 instalments of $5 000, also interest-free. Instead of being merely a gift of $200 000, the gift is, as I have said, of more than $500 000 of interest which is "written off". Such a situation cannot be countenanced unless the Government is in a position to cover the problems of many people and many businesses in the private sector in a similar manner.

Although I believe that the Trades Hall Managing Committee made a mistake in this case, I am not altogether unsympathetic with its position, because I have seen similar circumstances in many other instances. What can be done to assist the committee? Perhaps the Government could have come forward with a normal interest-bearing loan for the total amount owing, which I think is about $950 000. The Government could have provided a loan taking over the whole amount at a possible interest rate of about 7 per cent. At that rate a big concession would have been provided, because it represents only two-thirds of the present interest rate. If that situation had arisen the Government would still have been treating the Trades Hall Managing Committee as a special case, and for that reason that suggestion does not really commend itself.

Nevertheless, if that suggestion had been made, it should have been considered, but I believe that a better solution would be for legislation to be introduced (and I think this was alluded to by the Hon. Mr. DeGaris) to enable the Trades Hall Managing Committee to impose a small levy on all of its members. I understand that if $8 were levied on each person affiliated to the Trades Hall the whole problem would be resolved. I cannot in any circumstances support a Bill providing a 10-year interest-free period without requiring any repayment and then providing another 40 years for the repayment of capital.

I can easily foresee a time in the future when a Bill will be introduced to wipe out the whole of the debt. I cannot support a Bill such as this, but I would seriously consider a suggestion such as that to which I have referred, which would provide the Trades Hall Managing Committee with the necessary power to levy its members.

The Hon. C. M. HILL (Central No. 2): I do not intend to repeat the details of the Bill as they apply to the $200 000 loan proposed by this Bill. These facts have been mentioned by the Hon. Mr. Dawkins and other speakers. It is of interest to note that the Bill also includes a clause providing that an organisation, "directly or indirectly representing employers" may be granted an advance at some time in the future by the Treasurer. I think one could accept that that clause is something of a sugar coating on the overall pill.

It would appear to me that the serious predicament in which the managing committee finds itself is due, first, to the somewhat ambitious plan to build the present centre; secondly, to a larger than usual bank loan for a project of this kind; thirdly, the increasing interest rates and, therefore, increased payments because of inflation; and lastly, the inability to raise more financial support from the resources within the trade union movement. The overall predicament, as honourable members have already pointed out, is similar to the situation in which so many individuals and enterprises find themselves today.

However, I do not agree with the Hon. Mr. Cameron, who spoke earlier today. If I understood him correctly, I believe he said that he would think differently about the Bill if everyone else who was in such a predicament could turn to the Government for comparable aid. It would be an unfortunate situation if everyone who lost his will to survive could simply turn to a Government for help. I do not agree with the principle that people should turn immediately to the Government when in this predicament or that Governments should help everyone who comes to them for aid in these circumstances.

However, the Trades Hall is in some respects a unique institution and centre. The trade union movement, in my view, should have a focal point for its general operations and, indeed, for the social activities associated with it. The establishing of such a central complex should, however, be the responsibility of the trade union movement itself and, from my observations, the managing committee would agree with this basic principle. However, all unions affiliated to the Trades and Labor Council are not centred at the Trades Hall; therefore, understandably their interest is not as close as that of the unions which are tenants of the building.

Apparently, power does not exist for compulsory levies to be made on all members of affiliated unions so that the managing committee could extricate itself from its present difficulties. It is a pity that union members cannot subscribe the required finance by voluntary offering, because a greater pride would develop in the movement and a greater dignity within the institution if that could be achieved. Similarly, in my view, it is unfortunate that the unions, which are wealthy in their own right, have insufficient kinship to lend money to the managing committee under agreements which, I believe, could be entered into to ease the Trades Hall through its financial crisis.

If the Bill is not passed, I hope that the fears of the managing committee will not come to fruition. Certainly, the mortgagee would have little hope of satisfying its debt, in my view, if the bank or banks took drastic action, bearing in mind the present state of the real estate market. The best solution might be for the Government of the day to guarantee further borrowing, as apparently has been the case in New South Wales and Western Australia. Although this would mean a longer and harder road for the borrower, it might be the only way for the managing committee to retain the Trades Hall. I therefore cannot support the Bill or see how any member of Parliament could justify such support, and I am convinced that the electorate at large, including many trade unionists, is opposed to the measure. 1 hope, however, that the managing committee will find some way out of its serious predicament.

The Hon. C. W. CREEDON secured the adjournment of the debate.

FRIENDLY SOCIETIES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 6. Page 2718.)

The Hon. G. J. GILFILLAN (Northern): I support what is indeed a brief Bill, which merely adds one line to

section 7 of the principal Act, which states the objects for which the societies may raise funds. The Bill enables the friendly societies to raise funds for the establishment and maintenance of child care centres. It has been introduced at the request of one society, although the widened powers will apply to all friendly societies should they wish to exercise them. I see nothing wrong with the principles of the Bill, which sets out exactly what the Minister of Health said in his second reading explanation.

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

AGED AND INFIRM PERSONS' PROPERTY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 6. Page 2718.)

The Hon. J. C. BURDETT (Southern): I support the Bill. It frequently occurs that, by reason of age, disease, illness or physical or mental infirmity, a person becomes unable wholly or partially to manage his own affairs. I find that the circumstances in which this most frequently occurs is when a person becomes unable to manage his affairs because of advancing years, although this is by no means the only example. Apart from the provisions of the principal Act, the foregoing situation was often difficult for the relatives of the afflicted person, who could not make business decisions or who could not sometimes sign documents for himself. On the other hand, he was not certifiable, or at any rate his relatives did not want to certify him.

The Act provides a simple solution, namely, that, where the possibilities mentioned are established to the satisfaction of the court, the court may appoint a manager, who has various powers described in the Act, principally to take possession of the estate of the afflicted person and manage it and, if ordered by the court, to sell it. All that the Bill does is to replace the existing section 25 of the principal Act, which provides:

> When a power is vested in any protected person in the character of trustee or guardian, or the consent of any protected person to the exercise of a power is necessary in the like character or as a check upon the undue exercise of the power, and it appears to the court to be expedient that the power should be exercised or the consent given, the manager may, in the name and on behalf of the protected person, and with the sanction of an order of the court made on the application of any person interested, exercise the power or give the consent in such manner as the order directs.

As the Minister said in his second reading explanation, the totality of powers given to the manager has proved to be inadequate. The example given was that, where it was alleged that the protected person had been unduly influenced into entering into a transaction, the manager had no status to apply to the court to set aside the transaction, although the protected person himself, if capable of doing so, could have taken this step.

Because the Act simply sets out to provide various powers in detail of management of property and affairs, it does not extend to every legal act that the protected person himself could have taken had he been capable of so doing. In the words of the explanation, the manager is not entitled, as it were, to stand in law completely in the place of the protected person. Clause 25 provides, in addition to the specific powers, the necessary general power to stand in law in the place of the protected person. The new section will provide as follows:

> Where any right or power is or would be exercisable by a protected person if that person were *sui juris,* whether for his own benefit or in the character of a trustee, guardian or in any other fiduciary character, and it appears to the court to be expedient that that right or power should be exercised, the manager may in the name or on behalf of the protected person and with the sanction of the order of the court made on his own application or on the application of any person interested exercise that right or power in such manner as the order directs.

A person who is *sui juris* is defined in Yorkton's commercial dictionary as "a person who is not subject to any general disability". Therefore, infants, lunatics, convicts and a few other persons are not *sui juris* because they cannot enter into contracts or dispose of their property with the same freedom as ordinary persons. Thus, the purpose of the Bill is to enable the manager to carry out every legal power which the protected person has, and I can think of no case where the extended power, if properly exercised, could be other than for the benefit of the protected person.

One must remember that the extended power can be exercised only if the court considers that it is appropriate and in the interests of the protected person. Also, it is worth bearing in mind that these days the courts rarely appoint any manager other than the Public Trustee, as they argue that the cost of providing the necessary bond for a private manager is an undue burden on the estate. Exercise of these added powers by the Public Trustee would be certain to be conservative. I support the Bill.

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

STATUTES AMENDMENT (PUBLIC SALARIES) BILL

Adjourned debate on second reading.

(Continued from March 6. Page 2720.)

The Hon. G. J. GILFILLAN (Northern): I rise with some reluctance to speak to this Bill, which completely alters the method of salary fixation for the Auditor-General, the Commissioner of Police, the Chairman of the Public Service Board, and the Public Service Arbitrator. It has been traditional for many years for the salaries of these officers to be fixed by Parliament. However, the Bill takes these powers out of the hands of Parliament and places them in the Government's hands.

There is here a principle that I think we must consider. For instance, the Auditor-General is directly responsible to Parliament, and it is his duty to present annually a report on each Government department and instrumentality. I therefore believe that he should be completely free from any type of control from the Executive level and, as he is responsible to Parliament, it should have the duty of fixing his salary. This applies also to the other officers referred to in the Bill.

The only reason for the Bill that I can find in the Minister's second reading explanation or in the debate that ensued in another place is that of convenience: as Parliament is not continuously sitting, the salaries cannot be reviewed while Parliament is out of session. I point out, however, that it has been the practice in the past to fix salaries by legislation, and these salary rates can be made retrospective. I cannot see, therefore, where any hardship should be involved. Having looked through the Statutes, I have seen that the drafting required to vary the salaries of these officers is of a fairly standard type and, from my experience in the past, such Bills have passed through Parliament quickly. Indeed, there has been no undue delay that would have inconvenienced anyone.

I agree with one point that has been made in the past: it seems to be unfair that Parliament should fix the salaries of persons who, in turn, fix the salaries of members of Parliament. I would not quarrel with that point of view. The answer to this problem is not to take out of the hands

of Parliament the fixation of the salaries of the public officers who hold these responsible positions but rather to ensure that any tribunal which considers Parliamentary salaries should not comprise officers of this description. At present, the tribunal considering Parliamentary salaries and allowances does not include any judges. It does, however, include the Chairman of the Public Service Board. This is something that should be avoided where possible when only one authority is fixing Parliamentary salaries, and vice versa. I am concerned by this move to take away from Parliament the important function it has performed in the past in fixing these salaries. I should like to see the existing system maintained so that the Auditor-General and other senior public officers should be answerable to Parliament and free from any influence whatever by the Executive. I oppose the Bill as it now stands.

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

JUSTICES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 6. Page 2721.)

The Hon. J. C. BURDETT (Southern): I support the second reading. The Bill was, with one exception which I shall mention later, correctly and fully explained, and little remains to be said. The first part of the Bill simply provides for the cancellation of obsolete warrants, while the second part relates to the procedure established in 1959 of enabling the defendant, if he so wishes, to plead guilty by completing an endorsement on the back of the summons. Although it does not matter, I think the Minister's explanation was incorrect when he described this procedure as "pleading guilty by letter" (they were the terms used in the explanation).

The form of endorsement is not, either in form or in substance, a letter. It is headed "Form to be completed by defendant who wishes to plead guilty in writing without attending the court", and it is not addressed to anyone. It is required to be witnessed by a person who has stated qualifications; it is not a letter. Never mind; the Bill seeks to enable this form to be used in a wider category of cases than at present. I cannot see how this procedure can be subject to abuse, and I support the second reading.

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

ROAD TRAFFIC ACT AMENDMENT BILL (SIGNS)

Adjourned debate on second reading.

(Continued from March 6. Page 2721.)

The Hon. C. R. STORY (Midland): The Bill before us corrects a fairly important omission and sets the penalty under section 63 of the principal Act. This is a serious matter. The amendment makes the penalty under this provision $100. The penalty for such an offence must be fairly stiff, because this is a new provision and one which is fairly critical; that is, giving way to the right and the left at a "stop" sign and giving way to the right at a roundabout.

When another measure was before the Council just before Christmas, one of the major components in what then was Bill No. 71 concerned this amendment to the legislation. We have seen this provision in operation in the past few weeks, and I have watched with great interest. On my way to town I travel along High Street between Kensington Road and Norwood Parade, and all the side streets have "stop" signs on them. I have always moved through with some trepidation, because I have been frightened that people reaching "stop" signs will move off automatically without really taking very much notice of whether people on their right have to deviate to get around them.

Nothing seemed to happen for the first two weeks of the operation of this new arrangement, but in the past week I have noticed that people are obeying the new law compelling them to give way to the right and to the left. Although it does hold up traffic much longer at some intersections, in the main the person who has the right of way on the main road certainly experiences a speeding up in the traffic flow. I do not see how some areas can be controlled by "give way" and "stop" signs. We must have more traffic lights so that traffic will have to go to crossover points in certain suburbs. However, the new rule has certainly made things much easier with the main flow.

The date of operation normally would have been the date of operation of the Road Traffic Act Amendment Bill (No. 71). As the penalty clause was not included in that Bill, this Bill provides that the penalty will come into operation on March 1, 1975—a retrospective date. It is a matter of opinion as to whether this is proper. I do not quite see that the penalty provision should be retrospective to March 1. The Road Traffic Act Amendment Bill (No. 71) provided that that Bill should come into operation on a day to be fixed by proclamation, and I cannot see why this Bill, too, should not come into operation on a day to be fixed by proclamation. Because the Government did not have any power to fine people between March 1 and now, that power should not be exercised retrospectively. I will listen to arguments from other members on this point.

The Hon. C. M. HILL (Central No. 2): As the Hon. Mr. Story has explained so well, this Bill simply provides for a penalty, which unfortunately was omitted in error from the Bill that we debated last November. The honourable member said that he would approach the Bill with considerable seriousness. If he will permit me to indulge in an attitude that is not quite as serious as was his attitude, I will be facetious and say that I believe the Minister, faced with the situation that this Bill endeavours to correct, first made himself unavailable to any calls from Mr. Howie; secondly, dialled the penalty clause; and thirdly, made a bee-line for Parliament for approval. I support the Bill.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Commencement."

The Hon. C. R. STORY: As we are debating this clause on March 11, 1975, the date of coming into operation of this Bill (March 1, 1975) is retrospective. I presume that it coincides with the commencing date of the legislation that we are correcting. We should not make the operation of this Bill retrospective. Rather, this Bill should provide that the penalty will come into operation on a day to be fixed by proclamation, and that day should be after the passing of this Bill. It is not good for penalties to be made retrospective. If this is done in connection with a fine of $100 for an offence under the Road Traffic Act, it will not be long before some people, if they have a majority in Parliament, will treat this measure as a precedent and will provide for retrospective dates in other legislation. I therefore believe that the penalty should come into operation after the passing of this Bill. Any action taken by the police before the passing of this Bill should be cautionary. I should like to know the date of proclamation of the legislation that this Bill corrects.

The Hon. C. M. HILL: Can the Minister say when the Road Traffic Act Amendment Bill (No. 71) was proclaimed? If we know that date of proclamation, the situation will be clearer.

The Hon. D. H. L. BANFIELD (Minister of Health): The legislation that this Bill corrects was proclaimed to come into operation from March 1, 1975. The penalty provided under this Bill has been widely publicised. People knew that from March 1 it would be necessary for them, on stopping at a "stop" sign, to give way to all traffic on their left and right and, if they did not do that, they would incur a penalty. It is unfortunate that the penalty was omitted from the Road Traffic Act Amendment Bill (No. 71). This would not be the first time that penalties have been back-dated. It has been done on numerous occasions. The Hon. Mr. Story said that the penalty was $100, but I point out that that is the maximum penalty. I understand that the police have been very lenient during the breaking-in period, but from now on they may start prosecuting.

The Hon. R. C. DeGARIS (Leader of the Opposition): Under the new legislation a motorist on a main road often cannot tell whether a motorist, who is stationary on a less important road at an intersection with the main road, is at a "stop" sign. He therefore does not know whether he has to give way to the motorist on the less important road. This is a flaw in the new situation.

The Hon. D. H. L. BANFIELD: That case has nothing to do with this matter. I agree with the honourable Leader that the present situation is not a good arrangement. Experiments are now under way with lines being painted in front of the streets that have "stop" signs on them. If a driver is proceeding down a road and wonders whether there is a "stop" sign at an intersection, he will be able to see the line on the road. True, such lines are not there now, but experiments with this procedure are under way at Walkerville and, if they prove satisfactory, that system will be adopted. I agree that the current situation is most unsatisfactory for a driver believing he has a free go at certain intersections, and something must be done so that motorists feel safe to continue at intersections protected by "stop" signs.

The Hon. C. R. STORY: That is interesting, but the Minister has still not answered my question about what will happen between March 1 and March 11 regarding any police action that may be taken. Will an amnesty covering this period be provided? Will the Government be realistic and put up a date in advance of March 11 in order to clear up this matter or will people have to engage lawyers to argue the matter?

The Hon. F. I. POTTER: If there have been breaches of this section between March 1 and now it is unlikely that the police will be prosecuting those people, because no penalty exists for the offence. However, there may be in the Road Traffic Act (and this can be easily checked) a general provision providing a penalty for an offence that is not otherwise stipulated. If there is such a general penalty provision, I believe the position would be covered and penalties could be imposed up to the amount so prescribed. The Hon. Mr. Story also suggested that we should not provide for a penalty to be retrospective to March 1, because it would not be fair to people who had committed an offence and were not aware that no penalty existed. I am not sympathetic with this view. True, retrospectivity does arise as a result of an error, but at least public notice must be presumed to have been given when the Bill was introduced to Parliament. This Bill was introduced on March 5, so the retrospectivity referred to covers only four days. This is not a matter of great moment, considering the importance of this section in respect of road discipline. It is unfortunate that the penalty was omitted originally. However, such errors and omissions do arise. I cannot see how four days retrospectivity is a matter of great consequence.

The Hon. D. H. L. BANFIELD: I thank the Hon. Mr. Potter for his explanation, which is exactly what I had in mind. He was able to express it more clearly than I could.

The Hon. C. R. STORY: The Hon. Mr. Potter's explanation is interesting, too, but the Minister has still not told me what I want to know, and I believe it is important. What action will be taken between the date of proclamation and March 11?- If the original date of proclamation was March 1, this provision has been in operation for 11 days. Surely the Minister can tell me what was the date of the proclamation and whether people will be prosecuted for offences committed during the period when no penalty was provided.

The Hon. C. M. HILL: Like the Hon. Mr. DeGaris, I have observed elsewhere, where the priority road system applies, that the method of indicating the priority road has been to have an unbroken broad white line painted immediately opposite the "stop" sign across half the minor road, and at the same time a broken white line has been painted on the priority road in line with the kerbing of that priority road across the whole width of the minor road. Those lines could be easily observed by motorists travelling on the priority road. Such a system also provides additional safety to pedestrians, seeking to cross the minor road, while walking along the footpath of the priority road. That point was raised—

The Hon. F. J. Potter: It will take some time for that to be done.

The Hon. C. M. HILL: True, and it will be a continuing process for a long time as many new "stop" signs may be erected as a result of this change in the law. The present problem of some motorists being unable to see the "stop" sign will be considerably overcome when the road is painted in the manner I have described.

The Hon. D. H. L. BANFIELD: If this legislation is back-dated to March 1 the offence will be a lesser offence than it would otherwise be. Although I do not know the date of proclamation, the important fact is that the legislation was proclaimed to come into effect from March 1. This means that it is an offence not to stop at a "stop" sign and give way to motorists on both sides. Therefore, it is an indictable offence, which is much more serious, and the penalty could be much higher than that proposed in the Bill. I am sure that none of us believes that the offence is serious enough to be indictable, which would be the case for someone who had committed the offence since March 1 this year. By back-dating it, we will be making it a less serious offence than it will be if we do not.

Clause passed.

Clause 3 and title passed.

Bill read a third time and passed.

PLANNING AND DEVELOPMENT ACT AMENDMENT BILL (CITY PLAN)

(Second reading debate adjourned on March 6. Page 2724.)

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Expiry of this Part."

The Hon. R. C. DeGARIS (Leader of the Opposition): I had on the Notice Paper a contingent notice of motion on this Bill, but in the second reading debate I said I had been told that the matter I wished to include had already

been introduced by the Government. Therefore, I do not wish to proceed with my motion. However, I directed several questions to the Chief Secretary in the second reading debate, namely, the question of appeals when no appeals exist under the pending interim control, which makes the matter of some concern. Also, I said that hold-ups were occurring and complaints were coming to honourable members with regard to the minor alterations to buildings, such as the removal of partitions, where there was no change in use. Has the Chief Secretary the information for which I asked?

The Hon. A. F. KNEEBONE (Chief Secretary): Today, I gave the Hon. Mr. Gilfillan, as Opposition Whip, a copy of the new Planning and Development Bill that has been introduced in another place, together with a copy of the Minister's second reading explanation. In order that the Leader may study them, I am willing to report progress.

The Hon. R. C. DeGARlS: I thank the Chief Secretary for his consideration, but I point out that my question related also to the removal of partitions in buildings. That matter is not included in the other Bill.

The Hon. C. M. HILL: I, too, am disappointed that the Minister did not reply at the end of the second reading debate to questions asked in this Chamber, the most important of which was whether the Government would consider including the right of appeal to the Planning Appeal Board during the period of the proposed extension of 12 months to the life of the City of Adelaide Development Committee.

I know that, as this is interim control, the powers must be strong, but the existing powers of the committee are not short of being immense. Because of public criticism, the Leader has made the point that now the Government has sought an extension of time for the life of the committee, would the Government, as a compromise (if it expects Parliament to grant the extended 12-month period), consider the proposition that at least the committee's decisions ought to be subject to appeal, and the party to which the appeal should be made would be the Planning Appeal Board? That question has been raised in various quarters in Adelaide by people who have been adversely affected by the legislation and by the committee.

I do not think it too much to ask or expect that, if Parliament grants a 12-month extension to the committee, at least during that period of extension, contrary to the policy existing up to June 30, 1975, people affected should have their cases heard by an appeal authority. I join with the Hon. Mr. DeGaris in asking for a reply to my plea before the Bill is passed.

Progress reported; Committee to sit again.

ABORIGINAL LANDS TRUST ACT

Consideration of the following resolution received from the House of Assembly:

That this House resolves that pursuant to section 16 (1) of the Aboriginal Lands Trust Act, 1966-1973, a recommendation be made to the Governor that those pieces of land being sections 553 and 565, hundred of Adelaide, be vested in the Aboriginal Lands Trust.

(Continued from March 5. Page 2691.)

The Hon. A. F. KNEEBONE (Chief Secretary): I move:

That the resolution of the House of Assembly be agreed to:

This motion is moved by reason of section 16 (1) of the Aboriginal Lands Trust Act, which provides:

Notwithstanding anything in the Aboriginal Affairs Act, 1962, or any other Act contained, the Governor may by proclamation transfer any Crown lands or any lands for the time being reserved for Aborigines to the trust for an estate in fee simple or for such lesser estate or interest as is vested in the Crown: Provided that no such proclamation shall be made in respect of any lands reserved for Aborigines within the meaning of the said Aboriginal Affairs Act and in respect of which *a* reserve council pursuant to regulations under that Act has been constituted without the consent of such council: Provided further that no such proclamation shall be made in respect of the North-West Reserve (referred to in subsection (6) of this section) until such a reserve council for that reserve has been constituted and such council has consented to the making of such a proclamation: Provided further that no such proclamation shall be made in respect of any Crown lands (not being lands at the time of the passing of this Act reserved for Aborigines) except on the recommendation of the Minister of Lands or the Minister of Irrigation, as the case may require, and the recommendation of both Houses of Parliament by resolution passed during the same or different sessions of the same Parliament.

Sections 553 and 565, hundred of Adelaide, contain about 6.5 hectares and the whole of the land remaining in the property previously known as Colebrook Home. The property was repurchased by the Government in 1909 as a site for an institution for inebriates. It contained at the time 20.94 hectares, being portion of part section 1042, hundred of Adelaide. The transfer to His Majesty King Edward VII was registered on certificate of title volume 492, folio 73 on February 8, 1910.

During 1910 and 1911, the building known as "Karinya" was erected, and part section 1042 was subsequently reserved for the purposes of an institution for inebriates. Although the inebriates' retreat was closed in 1930, it was not until 1945 that the reserve was resumed. Prior to 1945, the building was occupied for short periods for housing unemployed women and Chinese refugees and as a holiday home for Aboriginal people from Colebrook Home which had been opened at Oodnadatta in 1924. Later, premises were obtained at Quorn, and Colebrook Home was in operation there until 1944.

An application was made by the United Aborigines Mission in 1944 for the use of Karinya as a home for Aboriginal children to be used in conjunction with the Colebrook Home at Quorn. The mission also intimated that, because of an acute shortage of water at the Quorn home, it was anxious to secure the use of the Karinya property as a permanent home. To enable the land to be leased under the Crown Lands Act, the reservation for the purposes of an institution for inebriates was resumed and certificate of title volume 492, folio 73, was cancelled as regards an area of 4.047 ha. This area was renumbered section 553 and allotted to the United Aborigines Mission (S.A.) Incorporated under miscellaneous lease 11026 for grazing and cultivation purposes for a term of 10 years from May 1, 1945.

Miscellaneous lease 11026 was transferred to the United Aborigines Mission Incorporated in 1947. The same year, an adjustment was made to the lease. The area of section 553 was reduced by .7082 ha. In 1948, new section 565 was added, and the area of the lease then became 6.576 ha. The miscellaneous lease expired on April 30, 1955. The issue of a further lease was deferred pending the carrying out of certain necessary works and maintenance to the building. These were effected with the assistance of community organisations, and sections 553 and 565 were reallotted to the mission under miscellaneous lease 12809 for a term of 10 years from November 1, 1959. No fees were charged for occupation of the land for the period May 1, 1955 to October 31, 1959. A small area, .0835 ha, was surrendered from miscellaneous lease 12809 for road purposes, and the lease expired on October 31, 1969.

A long-standing problem regarding Colebrook was the age and condition of the building. Prior to expiry of miscellaneous lease 12809, the Minister of Aboriginal Affairs notified the mission that he would not recommend a

renewal, but that the mission could continue in occupation until a decision had been made on the future use of the property. The mission vacated Colebrook Home on June 27, 1973, and moved to a new home at Blackwood provided by the Community Welfare Department. A joint steering committee comprising representatives of the Aboriginal Affairs Board, the Aboriginal Affairs Department, the Aboriginal Unity Committee, the Education Department and the Department of Labour and National Service was set up in November, 1969, to report on the future use of Colebrook Home. The committee recommended that sections 553 and 565 should be retained and used for Aboriginal purposes.

As the buildings were so old and in such a state of disrepair that the cost of renovations and alterations would have been uneconomic, tenders were invited for their demolition, and this has now been effected. Pending transfer of the property to the Aboriginal Lands Trust, licence 1442 has been issued by the Lands Department to the Director-General of Community Welfare for occupation and use of the sections for the purpose of advancing the interests of Aborigines in South Australia. This licence has now been cancelled in order that the land may be transferred to the Aboriginal Lands Trust. A plan of the sections is exhibited for the information of honourable members.

The property has been used on behalf of Aboriginal people for about 30 years. The vesting of section 553 and 565 in the Aboriginal Lands Trust will ensure future development of the property in ways determined by the Aboriginal people of South Australia themselves and to their greatest benefit. In accordance with section 16 of the Aboriginal Lands Trust Act, I have recommended that sections 553 and 565, hundred of Adelaide, be vested in the trust, and I ask honourable members to support the motion.

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

LISTENING DEVICES ACT AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendment:

No. 1. Page 1, line 9 (clause 2)—Leave out the clause.

The Hon. A. F. KNEEBONE (Chief Secretary): I move:

That the House of Assembly's amendment be agreed to.

When the Bill was debated in the Council, it was seen fit to include an additional provision, namely, clause 2. Having considered the matter, another place has sent a message to the Council expressing its disagreement to the clause. When the Council debated this clause, I said that it would be dangerous to include it in the Bill, for which I gave certain reasons. I still believe, as I did when the Bill was debated in Committee in this place, that it would be dangerous to prohibit the use of listening devices where the person using such a device was a party to a conversation that was in the public interest or involved protecting the lawful interests of that person. I think honourable members will recall my remarks at that time. I believe it is impossible to exclude the possibility that there may be occasions in the public interest when the use of a listening device is absolutely necessary to record a conversation without the knowledge of the other party. It is possible that a person may need to use (and should be able to use) such a device in protecting his legitimate interests. The obvious case would be one where a person, during the course of or immediately before a conversation, suspected that in that conversation he would be offered a bribe. He may be a public official who has some reason to believe that a conversation and the way matters are developing are getting around to that situation. It is obvious that, in the public interest, he should be able to record that conversation without the knowledge of the other party.

I think it would be dangerous to make that action a criminal offence. Similarly, a person may need to record a conversation to protect his legitimate interests. There are obvious examples that come to mind. For instance, a person who suspects he is about to be blackmailed should be able to use a device of this kind. Perhaps the only way he could satisfactorily protect himself would be to make a surreptitious recording of the conversation. As a general practice, I am strongly of the opinion that the law should stamp out the use of listening devices used without the knowledge of the person whose voice is being recorded. However, we have to make exceptions in order to protect the legitimate occasions on which listening devices may be used.

I believe the other place has done the right thing in suggesting that we should not continue to insist on this amendment. It would be absurd if a person who was privy to a conversation that indicated espionage by a hostile power could not, by reason of the criminal law, make a recording of the relevant conversation. There are paramount public interests that must override that sort of provision. In addition, I believe a person is entitled to protect his legitimate private interests by using a recording device. The position was protected in the original Bill, and it was a decision made consciously in the drafting of the Bill.

The Hon. R. C. DeGARIS (Leader of the Opposition): This new clause was originally moved by the Hon. Mrs. Cooper and supported by the Committee. Whilst the Chief Secretary has made out a case against its retention, I should like to point out another side to the question. I appreciate the point the Chief Secretary is making, but if a listening device can be used why could not a written conversation be taken down?

The Hon. A. F. Kneebone: Some threats or bribes would not be made if that was obvious. It is a criminal offence.

The Hon. R. C. DeGARIS: Certainly. On the question of offering bribes, I believe the Act contains a provision whereby the police and other people can, with certain qualifications, use listening devices. We are dealing with an interesting point about when a person may use a listening device without warning the other person. Simply to say, "I thought he was going to blackmail me" is hardly justification for taking a tape recording without the other person's knowledge. Also, it is difficult to authenticate a tape recording. How does one know that it is genuine and not a cooked-up version of someone mimicking or imitating someone else's voice? The whole question needs close examination.

I supported the Hon. Mrs. Cooper when she moved the insertion of this clause, although I fully appreciate, as the Chief Secretary has said, that there are cases where, for national security or other reasons, there is a need to use listening devices. On the other hand, I do not like the broad exclusion presently contained in the Bill. The Hon. Mrs. Cooper has firm views on this and she may like to express them in relation to the views of the other place. Perhaps the Chief Secretary could report progress until the Hon. Mrs. Cooper is back and can deal with her views.

The Hon. A. F. KNEEBONE: As the Leader has requested it, I ask that progress be reported.

Progress reported; Committee to sit again.

INDUSTRIAL AND PROVIDENT SOCIETIES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 6. Page 2721.)

The Hon. C. R. STORY (Midland): The principal Act is extremely old, going back to 1864, and is the .absolute keystone of the co-operative movements in South Australia. It can be said without fear of contradiction that the co-operative movements in South Australia are the envy of those in the rest of the Commonwealth, and this all comes about from the framework of the principal Act, and also the Loans to Producers Act. There is a fine balance in the. operation of both Acts to allow the co-operatives, which have been most successful over the years, to continue to function successfully.

Any amendments that substantially interfere with the structure of any of the co-operative societies could throw the co-operatives throughout the State into complete and utter chaos; therefore, any substantial amendments should not be made without full thought and without consultation with the experts in the field. Among those experts are not members of Parliament and not Governments. This is a highly specialised branch of company law, and certain advantages can be taken under Commonwealth income tax laws as long as people conform to the relevant sections of the law. Nothing is specifically laid down for co-operatives; it is simply a matter of the way they operate. There is nothing to stop any organisation taking full advantage of the tax laws if it wishes, as long as it is willing to make some sacrifice in the same way as members of co-operative societies do and have done over the past 100 years.

There is abroad and has been for many years an idea that anything called co-operative is socialistic. That is a complete and utter fallacy and does not really resemble the truth; if co-operatives are run under the provisions of the principal Act and the Loans to Producers Act, under which borrowings can be made, they cannot be called socialistic, because every shareholder is paid according to the results of his endeavour. There is no levelling out in such a way that everyone shares equally; that was never intended. The whole purpose is to enable individuals to do collectively what they would not otherwise be able to do financially.

Under the set-up there has been real success in primary industries, particularly the fishing industry, the wine industry at Clare, the southern districts, and the Murray districts, the canning industry, and the dairying industry. I wish to refer particularly to the Hills co-operatives for apples and pears and to the merchandising and the servicing of those co-operatives through the 43 or 44 member-companies of Murray River Wholesale Co-operative Limited. Those societies are registered under the principal Act, which differentiates between them and individual shareholders within a society set up under the Act.

The Attorney-General in the Walsh Government was the Hon. Mr. Dunstan; at that time approaches were made to that Government to have the permissible shareholding under the principal Act increased from $4 000 to $10 000. That was agreed to by all the co-operatives in South Australia, and an approach was made in May, 1965, for an amendment to the Act to enable that to be done. The matter went on and on, but nothing happened. At that time Kaiser-Stuhl, in the Barossa Valley, was bursting at the seams. It had the money in the society, but it could not allocate it to the shareholders. The object was not to return the money to the shareholders, because the shareholders wished to contribute more money for the expansion of the company. However, under the rules, they were precluded from reinvesting their money in the company. So, it was agreed that the share capital for each member should be raised, for all the set-up under the principal Act, to $10 000.

The time taken to consider and introduce the legislation should be noted. The first approach to the Government was made in May, 1965. The Bill was finally introduced into Parliament on September 29, 1966—a considerable lapse of time. September 29, 1966, is a significant date, because it is near the end of the financial year for many co-operative societies. I had quite a hand in trying to press the Government to introduce the measure. In his second reading explanation (at page 1958 of *Hansard* for 1966) the Hon. D. A. Dunstan said:

> It is considered desirable, in order to prevent members with large shareholdings from exercising control of a society to the detriment of members with small holdings, that general voting rights should be limited in the case of future societies to provide for the principle of one member one vote unless, the Minister in the case of any particular society approves of a different scale of voting. Accordingly, clause 4 of the Bill makes such a provision in relation to future societies.

That is fairly significant. The Hon. Mr. Dunstan also said:

> I. was then asked by a member of another place to introduce the measure quickly, although no specific deadline was given me at that time. I pointed out to him that, the sooner facilities were given to the Government to proceed with its legislative programme in this House, the sooner this Bill could be introduced.

That was absolute and utter blackmail. What the now Premier said was that the legislation to amend the principal Act would not be introduced into the House of Assembly until the Legislative Council came to heel on another measure and until the House of Assembly smartened up and dealt with certain legislation on its Notice Paper. It was just fortunate for the situation at that time that the Chaffey District was in the hands of the then Government, and the incumbent was Mr. Curren. It was pointed out to the Hon. Mr. Dunstan that it would not look very good if this blackmail was made apparent to co-operatives in the Murray River districts and in other parts of the State.

On the very eve of the co-operatives having their annual disbursement of funds, a Bill was introduced into the Lower House with the threat that, if it was not passed that night, it would not be put through. The debate that took place is very interesting. Only a few hours was given for that Bill to pass through the Lower House. It was then introduced into this Council, and it was out of this Council within 24 hours of the time it was introduced. People who wonder why I criticise hasty legislation should ponder this matter and see what happens when legislation is forced through two Houses in 24 hours. I do not know whether we can always correct what follows that sort of thing. It indicates that one cannot hastily force legislation through two Houses of Parliament without facing the consequences, even though it may be 10 years before one has to face those consequences. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

ADJOURNMENT

At 5 p.m. the Council adjourned until Wednesday, March 12, at 2.15 p.m.