LEGISLATIVE COUNCIL

Thursday, October 13, 1977

The PRESIDENT (Hon. F. J. Potter) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS

FOOD COSTS IN INSTITUTIONS

The Hon. C. M. HILL: I ask leave to make a short statement prior to directing a question to the Minister of Health regarding reports on the control of foodstuffs in hospitals and other similar institutions.

Leave granted.

The Hon. C. M. HILL: I refer to the Auditor-General's Report for the financial year ended June 30, 1976. In the pages dealing with the Hospitals Department and under the sub-heading "Food Costs", the Auditor-General stated:

> An investigation was made into the procedures and controls over foodstuffs with particular reference to the Northfield wards. The examination disclosed that internal control was weak or non-existent, budgeting poor, reporting ineffective and the records inadequate. A reply has not been received to the report.

The Minister will acknowledge that the Auditor-General meant that he sought from the Hospitals Department a report following the investigations made by the Auditor-General's Department, as referred to in that paragraph. First, did the Hospitals Department report to the Auditor-General during the past financial year; that is, after the 1976 report was issued and, secondly, if it did, will the Minister table the Hospitals Department's report in this Council?

The Hon. D. H. L. BANFIELD: The answer to the first question is "Yes". Discussions took place with the Auditor-General. Monthly meetings were held between the department and the Auditor-General to tighten up the standards. In relation to the second question, the Auditor-General asked for the report and has received the report, but I cannot give that complete report to the Council, because much of it was given in discussions between the departmental officers during those monthly meetings. So it would be impossible to give a report. Some papers were taken from the Public Accounts Committee.

The Hon. C. M. Hill: What do you mean by this?

The Hon. D. H. L. BANFIELD: I am referring to Mr. Chapman and Mr. Nankivell, backed up by the shadow Attorney-General.

The Hon. C. M. Hill: What about Mr. Simmons? Who got there first?

The Hon. D. H. L. BANFIELD: Those papers were stolen; that is exactly what happened, and honourable members know it.

The Hon. N. K. Foster: That is a reflection on their honesty.

The Hon. D. H. L. BANFIELD: They stole papers from the Public Accounts Committee.

The Hon. M. B. Cameron: Mr. Simmons stole his entire file.

The Hon. D. H. L. BANFIELD: Contrary to what they wanted to do, Mr. Chapman and Mr. Nankivell were directed to resign from the Public Accounts Committee, because it suited tactics in the election campaign. However, it did not go over with the public too well. The answer to the first part of the Hon. Mr. Hill's question is "Yes" and the answer to the second part is "No".

Members interjecting:

The PRESIDENT: Order! The Minister is quite capable of answering the question, and he did it very well. He does not need any assistance from the Hon. Mr. Cameron and the Hon. Mr. Foster.

The Hon. N. K. Foster: Why are you getting on to me?

The PRESIDENT: The honourable member interjected.

The Hon. C. M. HILL: In his reply, the Minister said that, in fact, there was a report.

The Hon. D. H. L. Banfield: I referred to monthly discussions between officers.

The Hon. C. M. HILL: The Minister said that the report in some respects took the form of discussions. Whether there was a single report or whether there was a series of discussions and interviews which could be brought down as a report and in view of the fact that the the Minister has refused to table any report in this Council, I ask the Minister what he has to hide in this matter.

The Hon. D. H. L. BANFIELD: What I have to hide is that this matter belongs to the Auditor-General, who, if he so desired, could refer to it in his report. The subject matter was between the department and the Auditor-General, who has the right to report on the whole question. It is his prerogative to table whatever report he desires to table and, if that report is not satisfactory to the honourable member, he may wish to take it up with the Auditor-General, who is not responsible to me.

The Hon. C. M. Hill: You are covering up something.

The Hon. D. H. L. BANFIELD: I am covering up the sausages that the honourable member and his colleagues could not find during the election campaign. Is it any wonder that the shadow Attorney-General is not on the way toward becoming a millionaire if this is the sort of advice he gives his clients? It is similar to the advice that was given to those Liberal Party members who went to the police station with information. His advice is crook.

The Hon. C. M. HILL: What inquiries have been completed over the past two years by the Minister's department into food pilfering in hospitals and institutions under his control, and what are the findings of those inquiries?

The Hon. D. H. L. BANFIELD: The inquiry into pilfering from hospitals was put into the hands of the police by the department itself. One person was prosecuted and convicted as a result of the steps taken. Regarding whether there was any other evidence that the Auditor-General had before him, the police could find none. The department could find no further evidence that pilfering was going on, so it was not possible to take any further action. However, there is a continual look-out by the department, as it does not condone pilfering, whether it be of one sausage or of a truckload of bacon. Every precaution has been taken to stop the possibility of pilfering.

The Hon. N. K. Foster: That includes the ballot papers.

The PRESIDENT: Order! The Hon. Mr. Foster—

TELEPHONE DIRECTORIES

The Hon. N. K. FOSTER: Yesterday afternoon a question was directed to you, Mr. President, by the Hon. Mr. Dawkins regarding telephone directories. You said that you would have this checked and ascertain why they were not available to members on this side of Parliament House. I quote from what you said:

> On the subject of telephone directories, I can now inform the Council that a quantity of the new directories has been delivered to Parliament House. The number is insufficient to satisfy the requirements of the House of Assembly, so no new telephone directories have come to the Council or

members of it so far. The balance of the consignment, the printing and dispatch thereof, is held up by the Victorian power strike.

The telephone directories have been available to members in this Chamber since the middle of this morning. I quote further from yesterday's *Hansard*. My question to you was:

Saying that will give you some pleasure. Seriously, I ask you what was your source of information in regard to this matter. Many people blame everything on the power strike. From Fraser to the cartoons—

that reads somewhat differently in *Hansard*—

—everything is blamed on the power strike. What is the source of your information?

Then you, Mr. President, said:

If the honourable member does not accept my source of information, he can check up for himself.

I then commented "Good God", and you, Mr. President, said, "Order!". I interposed, "I asked a question", whereupon you said:

Order! I warn the honourable member that, if he wants to persist with this juvenile behaviour, I will have to deal with him.

That is the third time that you have warned me in this place when right was on my side. I want to tell you that I took you at your word on this occasion. Having checked, I found that the telephone books could have been here yesterday. The power strike is just about to end, according to today's press announcement. You, Sir, should make a retraction of your remark. It is a reflection upon Australia Post because there was no suggestion, as I understand it, that the non-availability of the telephone books had anything whatsoever to do with the power strike. I think that you, Mr. President, owe this Council an apology and that most certainly you ought to make some reference to the fact that you quite wrongfully warned me yesterday afternoon for the third successive occasion when you have been wrong.

Members interjecting:

The Hon. N. K. Foster: The books are in the President's office.

The PRESIDENT: I know that there is one book in my office.

The Hon. N. K. Foster: There are about 50 books there.

The PRESIDENT: Order! I am glad that the honourable member took my advice and has chased the rabbit into its burrow for his own satisfaction.

The Hon. N. K. Foster: It is a burrow of your making, Mr. President.

The PRESIDENT: The information which I gave yesterday to the Council came from the messengers of this Council, who are responsible for the receipt and distribution of the books. The Hon. Mr. Foster could have checked with the messengers about this matter. I am pleased that the books have arrived.

FOOD COSTS IN INSTITUTIONS

The Hon. C. M. HILL: I refer again to the matter I raised concerning foodstuffs and the need for inquires to be made, and of my endeavours to obtain reports about such inquires in my capacity as an elected member of Parliament. I quote from the Auditor-General's Report for the year ended June 30, 1977, which honourable members recieved last week. Under the heading, "Food Prices", the Auditor-General again refers to this matter, as follows:

I reported last year that an investigation was made into the procedures and controls over foodstuffs with particular reference to the Northfield wards of the Royal Adelaide Hospital. The examination disclosed that internal control was weak or non-existent, budgeting poor, reporting ineffective and records inadequate.

The Hon. M. B. Cameron: Is that this year's report again?

The Hon. C. M. HILL: Yes. In view of a reference of that kind by the Auditor-General concerning a Government department, I am sure that the Minister responsible for that department would be having inquiries conducted to see what could be done to improve the situation. I asked a moment ago a question concerning inquiries that the Minister would already have carried out and completed, and I sought unsuccessfully to obtain reports about them. I now ask the Minister whether inquiries are in train at present concerning this matter as it affects hospitals and institutions and, if inquiries are being carried out, whether the Minister is willing in due course to bring down in the Council the findings of those inquiries.

The Hon. D. H. L. BANFIELD: Yes, an inquiry is at present being conducted by the Public Accounts Committee, which must report to Parliament. That committee's report will be tabled in due course.

LOCUSTS

The Hon. F. T. BLEVINS: I seek leave to make a statement before asking the Minister of Agriculture a question regarding locusts.

Leave granted.

The Hon. F. T. BLEVINS: There seemed to be some amusement on the Opposition benches when I mentioned locusts. However, I assure honourable members opposite that this matter is not amusing to the landowners who are experiencing this problem. Certainly, the Government does not treat it lightly and is not laughing about the matter. Members opposite ought to be ashamed of themselves.

The Hon. C. M. Hill: Who's laughing?

The PRESIDENT: I suggest that the honourable member get on with his explanation.

The Hon. F. T. BLEVINS: Yes, Sir. There have been reports in the press about locusts hatching in various parts of the State. Hatchings have been noticed in the Mid-North, the Upper North at Crystal Brook, Narridy, Beetaloo Valley, Bangor, Wilmington, and the Telowie Gorge. Spraying is already taking place in the Cockatoo Valley district of the Barossa Valley. I realise that this was a real problem during the last season, particularly in the area where I live on Eyre Peninsula. Will the Minister tell the Council what is the position regarding locust hatchings in rural areas around the State? Also, will sufficient insecticide be readily available to deal with any problem that may arise and, finally, will that insecticide be available free of charge to anyone who may require it?

The Hon. B. A. CHATTERTON: My departmental officers are watching the situation closely regarding hatchings. There have been hatchings in the areas to which the honourable member has referred, as well as in the Barossa Valley and the Adelaide Hills. The size of the hatchings is not at this stage large, and spraying is proceeding in co-operation with the various councils concerned. The department is providing those councils with insecticide free of charge, as well as lending them its equipment for this type of spraying. At present, the situation seems to be well under control. However, we shall keep a close watch on any future hatchings.

HOSPITALS DEPARTMENT

The Hon. M. B. CAMERON: I seek leave to make a brief statement prior to asking a question of the Minister of Health regarding the Hospitals Department.

Leave granted.

The Hon. M. B. CAMERON: Despite the somewhat disparaging remarks made by members of the Government, who obviously are embarrassed by this subject, I intend to raise the matter again, but at present I am concerned about a statement by the Minister of Health, in reply to a question, that the police had been requested to investigate this affair and that as a result a man had been charged and a prosecution had taken place. From evidence that I have read (and that evidence comes from a file, as the Minister has pointed out, of Mr. Chapman and Mr. Nankivell)—

The Hon. D. H. L. Banfield: It wasn't one of those you pinched, was it?

The Hon. M. B. CAMERON: The Minister is on very slippery ground there, because Mr. Simmons, the former Minister for the Environment, who was the Chairman of the Public Accounts Committee, took his entire file from the committee when he left that position, so in fact he stole his, too, if you want to put it that way. I think you had better be very careful about that. When these two members resigned, they merely followed his precedent. In evidence given to that committee by a Mr. Baker of the Hospitals Department, he made clear that, when the police caught the man from Northfield, he had $13 worth of food, when food worth $80 000 a year was missing. They caught him by accident, because Mr. Baker made plain that they were after someone else from another institution. I ask the Minister whom the police were after, what institution this person whom the police were seeking came from, and why were they waiting in the grounds of Ayers House on North Terrace, Adelaide, instead of at the entrance to the hospital (either Northfield or whatever it was) for the man? Why were they not waiting there instead of in the grounds of a restaurant?

The Hon. C. M. Hill: Now we are getting close to the bone.

The Hon. D. H. L. BANFIELD: We are getting close to the bone that the people thought at election time was floating, but the bone had no ham on it when they started to get their teeth into it. When a complaint is put in the hands of the police, it is not the department's job to tell the police how to track down a thief: it is the job of the police to track the person down. The Hon. Mr. Cameron, in his snooping tactics, may be able to snoop around better than the police, but it is the duty of the police to track down anyone who may be accused, and because of that we could not give a direction to the police. We could not tell them where they were going to pick up a thief. It was for them to use their own judgment as to how they would track the offender down.

The Hon. M. B. CAMERON: I ask the Minister on what date he requested the police to investigate this affair.

The Hon. D. H. L. BANFIELD: I have not that date with me, but it is obtainable.

The PRESIDENT: You will obtain it?

The Hon. D. H. L. BANFIELD: Yes.

HANSARD PROOFS

The Hon. ANNE LEVY: I wish to direct a question to you, Sir, regarding the daily pulls of *Hansard*, which, until recently, all members have received fairly early on the morning after a day's sittings, for the proceedings in both this Council and the other House. So far in this session, the daily pulls of *Hansard* have been very late in arriving. I do not know whether they have even arrived yet today. They certainly had not when I was last in my room, which was soon before the Council met. I realise that this has nothing to do with the *Hansard* staff, who are carrying out their duties in as efficient a manner as they always have done, but I am concerned at the late arrival of the *Hansard* pulls and I wonder whether you will inquire whether it is possible for us to receive them early in the morning, as we used to do.

The PRESIDENT: As all honourable members know from a recently circularised notice, a new system is in vogue for the printing of *Hansard*. I, too, noticed that there was no daily *Hansard* in my room today, up until lunch time. I will make inquiries about whether any hitches have developed in the new system and I will let the honourable member know.

BOVINE BRUCELLOSIS

The Hon. J. R. CORNWALL: I seek leave to make a short statement prior to addressing a question to the Minister of Agriculture concerning bovine brucellosis.

Leave granted.

The Hon. J. R. CORNWALL: I have raised this matter on several occasions in the past in this Chamber, and I have been recently approached by several of my colleagues in the veterinary profession regarding the stage of the bovine brucellosis eradication campaign. Over the years, various targets have been set by the Federal Government in providing treatment but, because of the stop-go nature of Federal funding, these targets have been ineffective. Can the Minister say what is the present position in regard to this campaign?

The Hon. B. A. CHATTERTON: The campaign has not been operating at the level we would have liked it to operate in achieving eradication of bovine brucellosis. In fact, eradication has been taking place only on Kangaroo Island, where over 19 000 cattle have been tested and some hundreds of cattle have been destroyed of those which were found to be infected with the disease.

Eradication is taking place there, but we have been experiencing grave problems in obtaining an assurance from the Commonwealth Government on the funding of the programme. We have been reluctant to move into an eradication phase on the mainland until we obtain some indication that Commonwealth Government funds would be available in the future. It would be pointless for us to get involved in the eradication campaign at an increased level and then to taper off in the future because insufficient funds were available. Such a stop-go campaign would be wasteful and ineffectual.

Unfortunately, we have not been able to obtain such an assurance from the Commonwealth but, because the decisions have to be taken in the next few weeks, the Government has decided to proceed, and I will be making a full release about the areas where eradication will be started on the mainland. We intend to start in the southern Hills area and parts of the South-East. However, I shall be making a full announcement on that. It is disappointing to us that we cannot get an assurance from the Commonwealth that an increased level of campaign will continue in future years.

MAGISTRATES

The Hon. J. C. BURDETT: I direct a question to the Minister of Health, representing the Premier. When the

Premier tabled correspondence between himself and Mr. Wilson, S.S.M., why did he not table the letter directed to the Premier from the Magistrates Association, and will he table it now?

The Hon. D. H. L. BANFIELD: I will have to take up this matter with my colleague.

NEAPTR

The Hon. C. J. SUMNER: I seek leave to make a short statement prior to directing a question to the Minister of Lands, representing the Minister of Transport, in respect of the North-Eastern Areas Public Transport Review.

Leave granted.

The Hon. C. J. SUMNER: Honourable members will be aware that on Monday there was a detailed report in the *Advertiser* of consideration of the North-Eastern Areas Public Transport Review study, which was instituted by the Government about 18 months ago to obtain the feelings of the community, especially the community directly affected by public transport from the city to the north-eastern suburbs.

This report recommended that, in the long term, there were two basic options: either a bus corridor or a tram corridor to that area should be provided. First, I would like to compliment the department and the Government on this initiative, particularly on the initiative insofar as it related to the public participation and involvement in the decision-making process.

At all times in considering the options open to the Government in this area the public has been consulted. The Government has made available facilities for the explanation of various suggestions and for ready contact between members of the public and the study team. This is an important aspect of the Government's transport policy-making, and I hope it will be continued in the future.

It is true that a final decision has not been taken and the Minister again asked members of the public to come forward if they had any additional comments to make on the matter. In addition to the long-term measures, there were also suggestions relating to the Main North-East Road on a short-term basis. The suggestions involved creating a separate lane during peak periods for buses, motor cycles, cycles, and emergency vehicles. One of the great problems with transport into the city relates to the use of private motor cars, particularly where there is only one person in a car. If one carries out a brief personal survey, one finds that most cars entering the city from outlying suburbs have only one person per car.

The Hon. M. B. CAMERON: I rise on a point of order, Mr. President. I get the impression that the honourable member is making a second reading speech, rather than explaining a question.

The PRESIDENT: My impression is that the honourable member is giving a fairly lengthy explanation prior to asking a question. He is tending to express a few opinions. Any honourable member has a remedy by calling "Question", but I do not advise it.

The Hon. C. J. SUMNER: Thank you very much for that intimation, Mr. President. In reply to the Hon. Mr. Cameron's point of order, I point out that you, Sir, showed considerable indulgence toward the Hon. Mrs. Cooper the other day when she gave a very lengthy explanation. I am merely asking for a similar courtesy from this Council. In reply to the other point made on this matter, that I am expressing opinions, I point out that I am making an explanation leading up to asking a question. In asking a question one cannot express opinions.

The PRESIDENT: I think that also goes for the explanation.

The Hon. C. J. SUMNER: That is not my understanding of Standing Orders.

The PRESIDENT: It is mine.

The Hon. C. J. SUMNER: I do not think we will test it at present. Proposals have been made in other parts of the world for creating a lane for the use of buses and other special types of traffic, including also private cars, provided they have a specified number of people in them, the purpose being to encourage co-operative use of the motor car, thereby getting people to the city more quickly.

First, has this suggestion been referred to the review committee or to officers of the Transport Department? Secondly, has the suggestion been considered and, if it has, with what result?

The Hon. T. M. CASEY: I will refer the honourable member's questions to my colleague and bring down a reply.

BUILDING INDUSTRY

The Hon. J. C. BURDETT: I seek leave to make a brief explanation before asking a question of the Minister of Health, representing the Attorney-General, about Part IIIC of the Builders Licensing Act.

Leave granted.

The Hon. J. C. BURDETT: Part IIIC of the Builders Licensing Act, which was enacted in 1974, relates to the Building Indemnity Fund. Under that proposal, when a house was built, the builder was required to pay a modest sum into the fund and, where a homeowner found that he had a remedy against a builder but could not pursue it effectively because the builder had gone bankrupt or disappeared, the homeowner would have a claim against the fund. This Part of the Act gave a real remedy to people building homes. Why has that Part not been proclaimed and when is it intended to proclaim it?

The Hon. D. H. L. BANFIELD: I will take up the matter with my colleague.

PORT AUGUSTA NURSING HOME

The Hon. C. M. HILL: I seek leave to make a brief statement before asking a question of the Minister of Health about a possible or proposed nursing home at Port Augusta.

Leave granted.

The Hon. C. M. HILL: The following article, headed "Short sighted policy", appeared in the *Transcontinental* on August 10:

> The South Australian Hospitals Department was adopting an attitude of looking at today, and tomorrow can look after itself.
>
> The Mayor, Mr. W. I. C. Howard made this statement during his report to members on Monday night when he told how at the last meeting of the Hospital Board the Chairman, Mr. D. R. Green, said the Director-General of Medical Services, Dr. Shea, had advised that he knew of no plans to construct a nursing home at Port Augusta.
>
> Mr. Howard said the Hospital Board has resolved to again take the matter up with the Minister, Mr. Banfield, and also to seek some action on improvement to the general accommodation situation.
>
> He said the statement from Dr. Shea surprised him because when Mr. Banfield was here in connection with the opening of the geriatric wing he was questioned about the necessity of keeping the old ward.

> The Minister said it was not worth keeping and plans were being drawn up for a new nursing home. The latest information is not good enough and I'm afraid the department is adopting an attitude of planning for today and letting tomorrow look after itself, concluded the Mayor.

From that article it would appear that Dr. Shea, on the one hand, said that he knew of no plans to construct a nursing home at Port Augusta while, on the other hand, the Minister when questioned on the matter at Port Augusta said that plans were being drawn up for a new nursing home. Will the Minister clear up this matter, because the contradiction is obviously concerning the Mayor, the council, and the people of Port Augusta? Who was right and who was wrong in connection with the statements made by the Director-General and the Minister?

The Hon. D. H. L. BANFIELD: Of course, the honourable member has got himself into trouble by taking notice of what he reads in the papers. As shadow Minister of Health, he would know that nursing homes are the Federal Government's responsibility.

BRUCELLOSIS

The Hon. R. A. GEDDES: Reports coming from America state that the control of brucellosis in that country is not satisfactory. Will the Minister of Agriculture ask his department whether these reports are correct, in view of the programme announced earlier this afternoon to step up measures to control brucellosis in this State?

The Hon. B. A. CHATTERTON: I have heard reports also that some States in the United States of America have not been proceeding as well with their campaign as was originally planned, that some of the areas that were declared to be originally free have been subsequently found not to be so, and that the target dates that were set will probably not be reached. While this might take some of the pressure off us in Australia in terms of reaching the eradication target date by 1984, I think the important question to remember is that if the campaign is prolonged it becomes very much more expensive, and that if one does not make a certain amount of headway in these eradication campaigns it is a matter of virtually pouring money down the drain. That is the question that has concerned us very much in South Australia. We felt that it would be cheaper for the people who are contributing to this campaign, and they are very largely the producers themselves, to get the campaign going at a fairly high level of activity so that the cost overall would be considerably less.

MOUNT GAMBIER HOSPITAL

The Hon. C. M. HILL: I seek leave to make a short explanation prior to asking a question of the Minister of Health concerning a senior hospital appointment in Mount Gambier.

Leave granted.

The Hon. C. M. HILL: In the *Border Watch* newspaper in the South-East of August 30, there was a statement by a Mr. J. H. Hennessy to the effect that a resident medical superintendent would soon be appointed at the Mount Gambier Hospital. According to this article, Mr. Hennessy also said that the appointment would be followed by a resident medical officer being appointed. As some time has elapsed since August 30, I ask the Minister whether the appointment of a resident medical superintendent at Mount Gambier has been made and, if not, when does he expect to take such action.

The Hon. D. H. L. BANFIELD: I do not have the information with me, but I will obtain it for the honourable member.

LAND TAX ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 12. Page115.)

The Hon. J. C. BURDETT: I give notice that contingently on the Land Tax Act Amendment Bill being read a second time, I shall move:

> (1) That it be an instruction to the Committee of the Whole of the Bill that it have power to divide the Bill into two Bills, one comprising clauses 1 to 4 and the other comprising clauses 5 to 7.
>
> (2) That it be an instruction to the Committee of the Whole on the No. 2 Bill that it have power to insert the words of enactment.

The Hon. D. H. L. BANFIELD (Minister of Health): I seek a ruling on this matter so that there will not be any confusion when the Bill is debated. First, the Land Tax Act Amendment Bill is a money Bill, and I point out that money Bills can originate only in another place. The matter can be discussed in this Chamber and suggested amendments can be made. Secondly, if there is a splitting of the Bill it is obvious that the second part of the Bill would have to have another title and, therefore, it would be initiated in this Chamber.

The Hon. C. M. Hill: Not necessarily.

The Hon. D. H. L. BANFIELD: I am asking the President for a ruling. The honourable member could not even make it as Leader when he tried to do so, and there is no way in the world that he could ever be the President.

The PRESIDENT: Order! I suggest that the Minister directs his question to me. The matter is not helped by interjections from honourable members.

The Hon. D. H. L. BANFIELD: Obviously, it would be another Bill originating from this Council if there were two Bills. Whichever way honourable members look at it, this is a tax measure, a money Bill, and under the Constitution it can originate only from another place.

The PRESIDENT: The Hon. Mr. Burdett has given notice of his intention to move his motion today. The matter he raises in his notice and the matters referred to by the Minister are of some difficulty. A host of questions arise, and I would have to give serious consideration to them before I made a ruling on this matter. It is not necessary for me to make a ruling at this stage, because a notice of motion has been given that might or might not be proceeded with. It is up to the honourable member.

The Hon. D. H. L. BANFIELD: The debate will hinge on whether the notice of motion will or will not be in order. I request that you give this matter rather speedy consideration.

The PRESIDENT: I can answer the Minister on that matter right now. If the honourable member intends to move his notice of motion later today, he will first have to obtain the suspension of Standing Orders. Only if he moves his motion on another day will that procedure not be necessary. I cannot anticipate whether or not he will move it later today.

The Hon. R. C. DeGARIS (Leader of the Opposition): With land tax, the Parliament can only deal with the actual rate of tax. Parliament has no control over the assessment upon which the rate of tax is based. Therefore, over the years, Parliament has had before it Bills which substantially reduce the rate of tax and, because of that,

the legislation has a relatively easy passage through the Council.

In some Bills that have come before the Council, although there has been a reduction of rate because of the increased assessment, over which Parliament has no control, the actual tax payable is higher than previously. When this happens, some people have seen fit to criticise this Council for not defeating the Bill. What these critics do not understand is that, if the Bill were defeated, the increase in the tax payable would be infinitely higher.

This point is borne out in the Minister's second reading explanation as follows:

> The reduction in revenue resulting from the new scale is expected to be about $2 600 000. The receipts from land tax are expected to be about $20 500 000 during 1977-78, compared to revenue of $23 100 000 if the rates were not amended. So, in fact, the Government is not losing any revenue by the reduction in rates. The following table illustrates the growth in land tax collections over the past five years:

	$
1972-73	10 212 000
1973-74	10 796 000
1974-75	12 673 000
1975-76	19 547 000
1976-77	18 523 000

The reduction in the last financial year is no doubt due to the removal of land tax on rural property. During this period from 1972-73 to 1976-77, land tax collections have almost doubled, yet the Parliament has passed Bills almost annually to reduce the rate of land tax. Actually this Bill sanctions at least a $2 000 000 rise in land tax collections by the State Government, as estimated collections will be $20 500 000 for 1977-78, compared to $18 500 000 for 1976-77.

In my opinion, the $20 500 000 is an underestimation, and the income for the State Treasury after this Bill passes, even with the reduced rate, will be about $21 000 000. This means that under the Bill the Government will receive a 14 per cent rise in land tax collections, which is well ahead of any indexation principle if that principle were applicable. Nevertheless, it would be true to say that, without the Bill, the rise in collections of land tax would be well over 25 per cent in the next financial year. In 1976, the Government, following the lead of Queensland, Victoria, New South Wales and Western Australia, belatedly removed land tax from land used for primary production.

Although applauding the Government's decision, the Council considered when that Bill went through that an appeal should lie to the court against the determination of the Commissioner's classification of land used for primary production. In this case, that is, the exemption of rural land, the Commissioner may revoke a decision that has been taken. Once he makes that revocation, the only appeal lies to the Treasurer. That is not an appeal in the true sense: rather, it is an appeal from Caesar to Caesar. When that Bill went through, the Council moved an amendment so that, when the Commissioner made a revocation, and the taxpayer did not agree that the land was rightly removed from the rural production list, he should have the right to appeal to a court rather than to the Treasurer.

That amendment, providing for an appeal to the court, was moved last year. However, it was disagreed to by the House of Assembly and, as explained previously, because the Bill contained a benefit, the amendment was not pressed by the Council. Other honourable members will deal more fully with this aspect than I will. However, the point remains that under the Bill the Commissioner will be given wide powers to determine whether certain procedures followed by taxpayers are designed to evade the payment of land tax.

If the Commissioner decides that a certain course of action is designed to achieve that end, he can aggregate certain land for taxing purposes. I do not object to this. If a person is engaging in certain procedures with the idea of evading the payment of land tax, I have no objection to that practice being caught. However, I do object to the fact that, in granting these powers to the Commissioner, the only appeal against his decision is to the Treasurer. Although this point was made strongly last time regarding rural land, the Commissioner's powers are now being widened to enable him to make a decision that might be unfair and unjust, in which case the only appeal will lie to the Treasurer. As I said previously, that has the appearance of being an appeal from Caesar to Caesar.

In this case, a much stronger argument can be put, that in this area, where the Commissioner can make an arbitrary decision, it is his decision only, and no real appeal exists. It is, then, time that the Council expressed strongly its viewpoint on this matter.

Regarding rural land, I suppose the Commissioner may make only six or 12 revocations a year. In this case, however, the number of decisions that the Commissioner will make can run into thousands. There could be a miscarriage of justice if a right of appeal to a judge of the Supreme Court is not available to a taxpayer who believes that he has been wrongly dealt with.

Surely, it is basic to our whole idea of common justice that an individual should have a right of appeal, and that that appeal should lie to a judge of the Supreme Court. Other honourable members will be dealing with this matter probably in greater depth than I will. There is a need to ensure, where the Commissioner has power to make an arbitrary decision, not only that justice is done but also that justice is seen to be done. I support the Bill.

The Hon. C. M. HILL: I support that part of the Bill that achieves the object to which the Government has given considerable publicity: the reduction of the maximum rate. That rate is to be decreased from 27 cents to 24 cents for each $10 involved. That is something which, I am sure, people will welcome. Whether or not those same people will get the financial benefit that they expect to get from it remains to be seen.

Surely, we all know that it is the assessment that is an extremely important factor in the amount of tax that is due and payable. It is possible for the Government, as it is doing now, to reduce the rate of tax and, at the same time, increase assessments, as a result of which taxpayers are in many cases no better off. Indeed, in some cases they even pay more.

However, I have no quibble about the Government's general approach to consider people with higher assessments and to relieve them of some of the heavy burden that they have experienced in recent years. It is clause 6 that concerns me greatly. It deals with the matter of contracts and agreements entered into to avoid the payment of land tax.

The Minister said in his second reading explanation that certain taxpayers have taken extreme and unreasonable steps to evade paying their tax. I can well understand the need for some action to be taken to close up loopholes that have appeared as a result. However, I am concerned about the possibility that, in trying to close the loopholes, the Government may be obtaining power to introduce considerable changes that affect many citizens who pay land tax.

Clause 6 deletes old sections 42, 43 and 44 and, in lieu thereof, inserts new section 42, which provides:

(1) Where a contract, agreement or arrangement entered into in writing or verbally (whether before or after the commencement of the Land Tax Act Amendment Act, 1977) has or purports to have the purpose (whether as the main or a subsidiary purpose) of in any way directly or indirectly—

(a) altering the incidence of land tax;

(b) relieving any person from liability to pay land tax, or reducing any such liability; or

(c) defeating, evading or avoiding any obligation or liability imposed by this Act;

the Commissioner may, by notice in writing given personally or by post to the parties thereto, treat that contract, agreement or arrangement as void for the purposes of this Act, but without prejudice to such validity as it may have in any other respect or for any other purpose.

(2) Where the Commissioner has, in pursuance of this section, treated a contract, agreement or arrangement as void for the purposes of this Act, it shall be presumed, in any legal proceedings, in the absence of proof to the contrary, that the purpose of the contract, agreement or arrangement is such as would attract the operation of this section.

I will explain my point by giving examples. One is the case of a person who, let us say, 20 years ago owned his own suburban home and held the title for that home in his own name and who then wished to establish himself in a factory business elsewhere. Let us assume that he purchased a factory site and started in business. In most cases, such a person would have been advised that his proposed business should be established in a company name. That company, doubtless, would be a family company, a private company with limited liability. Its assets would be owned by the person and perhaps his family, but the gentleman concerned would have a controlling interest in the company.

I think it fair to say that that situation has occurred in thousands of cases in metropolitan Adelaide and throughout the remainder of the State. The land purchased by that company would be in the company's name. The gentleman concerned would be assessed for land tax on a separate assessment for the unimproved land for his home and on a separate assessment for the land in the company's name where the company was situated. The rate of tax would be based on those two separate assessments. One of the subsidiary purposes for which the gentleman would have been advised about a company name would have been to assist him financially by paying a total lower land tax. It would be by no means the main reason.

Indeed, I am sure his advisers, especially 20 years ago, would have given him many valid, proper and good reasons why it was in his best interests and in all respects within the law to establish the factory and purchase the site in the company's name. That arrangement would have applied since then and would be applying now. If this Bill passes, it seems to me that the proposed new section 42 that clause 6 inserts would make it possible for the Commissioner to aggregate the assessment on the home and the assessment on the factory site, and the tax would be at a higher rate, because the aggregated assessment would be on a higher scale.

If the Commissioner, with the consent of the Treasurer, proposes to do that, I think that this Bill and this clause ought to have more publicity among the people in the State whom it will affect. I think it would be extremely unfair for a Government to bring in a measure to give some relief (namely, a reduction from 27 cents to 24 cents for each $10 as a maximum) and to hide in the measure a provision that could aggregate land in the example I have quoted and in the thousands of similar cases in South Australia.

The Hon. J. C. Burdett: Has this had any publicity yet?

The Hon. C. M. HILL: I have been not able to find where it has. Therefore, I seek from the Minister a statement of the Government's intentions on this matter. Does the Treasurer intend to give instructions to the Commissioner? Will the Treasurer be content if the Commissioner aggregates in cases similar to the one I have quoted? I do not think it can be questioned that the example I have quoted comes within this new provision and, if the new aggregation were applied, the actual increase in land tax received by the Government in the following year would be enormous.

If the Government states that it does not intend to aggregate in the way I have mentioned, I still believe that it is wrong for this Parliament to pass a measure that provides for any future Government to aggregate in this way. The present Government can give an undertaking, but that would not bind all future Government's, yet a member of this Council is in a position where, unless some machinery can be found (as I believe has already been moved for by the Hon. Mr. Burdett), the Council can only recommend to the Government changes in this measure.

I have quoted an example, and one can think of many similar arrangements that exist. Some people have their own private dwelling in the name of the husband and they own other land for other purposes, such as holiday purposes or for the benefit of their children in the years to come, in the joint names of the husband and wife. At present, those assessments are separate, because they are in separate names, but does the Government intend to aggregate in a situation such as that?

Certainly it may be proved in those examples that an arrangement was made to avoid the optimum amount of land tax that may be payable for aggregated property of that kind, and the detail in the new section 42 ensnares those examples and many more in the net if the Government takes action to have aggregation in those instances. I hope that the Minister will make the Government's position perfectly clear.

The Hon. R. C. DeGaris: That could not be taken as any more than a Government undertaking. It could be changed the next day. It would be of no value, really.

The Hon. C. M. HILL: I have tried to make that point. Not only would it not bind future Governments, but the Government giving the undertaking might find, because of its situation and the need for further revenue, that it must change its mind. What would constituents say to their elected member of Parliament if that occurred? They would say, "Why did you pass a Bill that provided for a Government to do that?" The Government states in the second reading explanation that there are cases that have given rise to the need for this legislation.

I hasten to point out that I presume all those examples were made within the law, so that it was not a case of evading as much as it was of avoidance. There is a distinct difference between evasion and avoidance. When introducing change to try to catch up with such practices, Parliament has a responsibility to ensure that many other ratepayers are not adversely affected by the legislation.

What is the Government's view on this matter? I seek the Minister's undertaking about the Government's intentions. If honourable members have any doubt about the danger of clause 6, then the Council should take further action about it. It is the clear duty of a House of Review to take further action if there is a possibility of such a situation as I have described applying in the future. Apart from that aspect, I support the second reading.

The Hon J. C. BURDETT: I, too, support the Bill's

second reading. One of its effects, as has been published, is that it reduces the rate of tax at the higher end of the scale. It might have been more effective for most taxpayers if the scale had been reduced at the lower end, and I support that part of the Bill.

The Hon. R. C. DeGaris: It's a reduction for the bigger taxpayer.

The Hon. J. C. BURDETT: True, although members on this side are usually more concerned with the small taxpayer than the big taxpayer, and we would have preferred to see a reduction for small taxpayers. However, as the Government is willing only to provide a reduction for the big taxpayers, that is better than nothing and I support that provision. Like the Hon. Mr. Hill, I am concerned about clause 6, which inserts a much tighter section to prevent evasion. The Hon. Mr. Hill correctly drew the distinction between evasion and avoidance.

Avoidance is usually taken to mean a situation where one arranges one's affairs so that the Commissioner of Taxation's shovel takes a smaller rather than a larger portion of one's capital or income. That is proper and has been upheld by the courts. Evasion is usually taken as deceiving the Commissioner by making false statements, or something similar.

Of course, whether what one is doing is evasion or avoidance can always be changed by a change in the law, and this is what is intended in clause 6. That clause can in some ways be likened to the far-reaching provisions of section 260 of the Income Tax Assessment Act. The Hon. Mr. Hill has indicated how widely the provisions of this Bill can be interpreted. At first glance I wondered whether clause 6 was likely to destroy the effect of the new scale, whether many taxpayers would end up paying more tax and whether the purpose of the Bill was to increase rather than decrease the total amount of taxation collected.

However, on examination I did not think that that was the case. In another place the Leader of the Opposition questioned the Treasurer about the type of transactions it was contemplated this provision would catch. The fear is, as the Hon. Mr. Hill said, in the area of regulation. The Treasurer gave examples from the Crown Solicitor's docket and they need not be repeated here. The main device used was to use a series of companies to prevent aggregation.

The Leader in another place also gave examples of a similar case where aggregation should not apply. That example was similar to the example given by the Hon. Mr. Hill. The Treasurer agreed that that example should not be caught, but there is no guarantee that it will not be caught. On a close examination of clause 6 there is every reason to argue that in these terms it would be caught.

Much depends on the administration and application of the evasion section. As the Government has introduced this Bill and this provision, it must ensure that the evasion provision is reasonably administered. It would not be good enough to leave administration entirely to the department.

As much as I trust the department to administer properly everything within its ambit, the Government must see that the proposed new section is not used oppressively. If we pass this Bill we will have to trust the Government to do that. Clause 6 inserts proposed new section 42, and uses the word "purpose", as follows:

> (1) Where a contract, agreement or arrangement entered into in writing or verbally (whether before or after the commencement of the Land Tax Act Amendment Act, 1977) has or purports to have the purpose (whether as the main or a subsidiary purpose) of in any way directly or indirectly—

The word "purpose" and not "effect" is used. Purpose means that some elements of object or intention must be established. This makes the provision reasonable, provided there is adequate appeal from the Commissioner's decisions. The need for an appeal under proposed new section 42 becomes much greater than it otherwise would have been. I have always thought that there were various decisions of the Commissioner in respect of which there should be full appeal. Under such a provision, where many innocent transactions could be caught and where aggregation could be applied in cases where it ought not to be, there is a real need for a full appeal. The appeal should be first to the Treasurer and then to a single judge of the Supreme Court.

Thereby an aggrieved taxpayer could first have a simple inexpensive appeal to the Treasurer. In practice, that means an appeal to a Crown Law officer and, if the taxpayer so desires, he can take the case to the Supreme Court. That position should apply not only to proposed new section 42 but to all decisions of the Commissioner where the taxpayer disputes a decision. It should apply in regard to all decisions of the Commissioner under section 10 of the Act. How can the Government readily oppose a full appeal provision?

How can it say that there should not be an appeal, first, to the Treasurer and, secondly, to the Supreme Court? It is well known that one can win an appeal only if the appeal is just. It is a matter of plain justice that there should be an appeal to the court, especially when one considers the point raised by the Hon. Mr. Hill. Is this Government opposed to justice? If it is not opposed to justice, it will support a full appeal provision.

The Hon. R. C. DeGaris: The Government wants to administer justice.

The Hon. J. C. BURDETT: Yes, in its own way. I told the Minister that I intended to move an amendment to provide for an appeal to the Supreme Court and to widen the matters that could be appealed against. The Minister replied that the Government would not accept such an amendment. Consequently, I have no alternative but to propose that the Bill be split. I do not know why the Government is opposed to my amendment. Is it against justice? Why will it not allow people to appeal against a decision of its own Commissioner to the Supreme Court where legal matters may be involved? It is all very well for the Minister of Agriculture to smile, but I want him to say whether he believes in justice. The taxpayers ought to have the right of appeal.

The Hon. R. C. DeGaris: Especially against the Commissioner's arbitrary decision.

The Hon. J. C. BURDETT: Yes. Under new section 42 there could be difficult matters of fact and law in respect of which a person should have a right of appeal to the court. I realise that splitting the Bill poses difficult problems; for example, if the Bill is split, does the second Bill become a money Bill introduced by this Council? I submit that it would not be a new Bill at all. It is simply a procedural matter. The subject matter was introduced in one place only—the House of Assembly. By splitting the Bill we are not introducing a new Bill at all. If that argument is wrong, I suggest that no clauses in the No. 2 Bill would be money clauses. This is a difficult matter on which you, Mr. President, will have to adjudicate, and I hope you will not have to adjudicate on it hastily, and I hope no-one will try to force you to do so. With those reservations, I support the second reading of the Bill.

The Hon. M. B. DAWKINS: I rise to discuss the Bill, much of which I support, but I am concerned about some of its provisions. The Government introduced this Bill which, like several previous Bills, has reduced the rate of land tax. This has happened in the past when the result obtained by the Government through an escalation of values has been, despite a reduction in the rate, an almost

certain increase in receipts. So far as I can see, there is no exception to that rule in this Bill. Parliament has no control over the assessment upon which the tax rate is based, although it can deal with the actual rate of tax. The new rates provided in clause 4 are an improvement on the rates which previously applied. Nevertheless, this provision will bring the Government an increase in revenue. This provision, while increasing revenue, provides that the amounts gathered will be much less than they otherwise would have been had the scale remained as at present.

To instance this, I point out to honourable members that in the past five years the amount of money raised from land tax has almost doubled from $10 000 000 in 1972-73 to nearly $20 000 000 in 1975-76, and slightly less last year.

I do not oppose the first part of the Bill, which seeks to implement the new rate. I do not oppose clause 2, which introduces retrospectivity to the commencement of the present financial year. However, I express much concern about clause 6, which provides for the possibility of aggregation and to which the Hon. Mr. Hill referred. I am concerned about what the Government could do under this provision.

True, the Government might not necessarily intend to do anything drastic at present, but honourable members are aware that when legislation is enacted it can be used many years after its passage; it is not just a matter of what this Government may do or of the Minister's good intentions, which I do not doubt. I refer to the future use of such a provision, which could be of much concern to honourable members. Clause 7, provides a right of appeal to the Treasurer in new sub-section (3), as follows:

> The Treasurer may, after consideration of the grounds of an appeal under this section—
>
> *(a)* uphold the decision of the Commissioner and dismiss the appeal; or
>
> *(b)* reverse or vary the decision of the Commissioner.

That right of appeal to the Treasurer is insufficient. The amendment foreshadowed by the Hon. Mr. Burdett is necessary because, if a taxpayer is aggrieved by a decision, he should be able to take that decision to court if he considers it necessary. I find that portion of the Bill to be inadequate.

True, a right of appeal exists to the Treasurer, but that is not suitable or adequate, in my view. I appeal to the Government to accept the Hon. Mr. Burdett's amendment, which has just been circulated to honourable members and which provides that a right of appeal to a court be included in the Bill.

I suggest to the Leader of the Government that it would not in any way spoil the Bill; in fact, it would improve it and would reflect credit on the Government if it accepted such a moderate and sensible amendment. As I do not wish to discuss the matter in great detail, I will support the Bill's second reading, although I have reservations about clause 6, in line with the points raised by the Hon. Mr. Hill in relation to possible aggregation.

Also, the right of appeal to the Treasurer is insufficient, as I said previously, and should be extended to a court. I ask the Government what is the great urgency for the passage of this Bill, which is retrospective to the beginning of this financial year. Whether it is passed today or further considered and passed next Tuesday does not seem to be so vitally important, in view of its retrospectivity. I cannot understand the urgent necessity to bulldoze its passage through so quickly. In his reply, will the Minister indicate the reason for this urgency? I support the Bill at its second reading stage, and I will give favourable consideration to the Hon. Mr. Burdett's foreshadowed amendment.

The Hon. R. A. GEDDES: This Bill is designed primarily to give some relief in respect of land tax charges. Clause 7 is causing concern to some Opposition members because of their correct belief that there should be an appeal not only from Caesar to Caesar but also to the Supreme Court. Under the amendments foreshadowed, the court may make any orders as to costs or any other matter as the justice of the case requires. So, a person with a frivolous complaint would know in advance that, if he went to the Supreme Court, he would have to foot the bill. The Opposition realises that the Government regards this Bill as urgent, and the Government knows that amendments have been placed on file only in the last few minutes. I ask the Minister of Health whether there is any problem associated with adjourning this debate until next Tuesday so that honourable members can assess the merits of the amendments and so that the Parliamentary procedures can be more clearly defined. Although I cannot give an absolute assurance that this Bill will go through on Tuesday afternoon, I notice that the Leader of the Opposition is now indicating an assurance that the Bill will be dealt with on Tuesday. Though I support the Bill in principle, I point out that some honourable members may wish to seek further information on the amendments.

The Hon. D. H. L. BANFIELD (Minister of Health): I thank honourable members for their consideration of the Bill. I wish to deal with the Hon. Mr. Hill's point that this Bill supports the big man.

The Hon. C. M. Hill: I did not mention the big man; someone else did.

The Hon. D. H. L. BANFIELD: The honourable member supported what was said, that this Bill supports the big man. It may have been the Hon. Mr. Burdett who made this point. I point out that the little man cannot afford to go to a court, whereas the big man can afford to do so. I stress that the schedule in the Bill in relation to the scale of 1c for each $10 is the lowest in Australia. The Government introduced that scale; members opposite did not introduce it, although they claim that they look after the little people. Actually, the Government looks after all the people.

The Hon. R. C. DeGaris: You have multiplied the values.

The Hon. D. H. L. BANFIELD: The Leader has multiplied the value of his land by a greater amount over the last five years. Did the Hon. Mr. Hill multiply the value of his property by two or by three? He has accepted the fact that land values have increased, and he capitalised on it by the sale of property at Victoria Square.

The Hon. C. M. Hill: I have not yet, and the property is not in Victoria Square.

The Hon. D. H. L. BANFIELD: I did not want to give the correct address because I did not want the honourable member to have too many callers. Of course land values have increased, and land tax has increased also, and the scale has been adjusted. Does the Hon. Mr. Hill lower his rate of commission each time land values increase? Of course not! He says, "This will do me." We have lowered the rate in relation to land tax, and that is something that the Hon. Mr. Hill and his real estate friends do not do. It is necessary for this Bill to go through, and it is urgent. It is a money Bill which gives concessions to people. It is necessary to get the notices out. If we do not get the notices out in a reasonable time, the Treasury is affected, and the period of 60 days could go into the next financial year before all the processes were completed.

The Hon. R. C. DeGaris: That's not true.

The Hon. D. H. L. BANFIELD: It is true. If the notices are not issued until the middle of May, we do not get the money in the same financial year. Regarding the point that

amendments have only recently been placed on file, I point out that Government members knew about the amendments later than Opposition members did, but Government members can make up their minds about the amendments. These amendments are Opposition amendments, and Opposition members knew the details much earlier than Government members did.

We can make up our minds in relation to those amendments, and I suggest that honourable members opposite also can make up their minds because the amendments are theirs.

On the question of matters going to the court, already the court can hear matters of appeal on law, but, under the amendment suggested by the Hon. Mr. Burdett, every administrative decision could be taken to the court. This could bog the courts down and cause delays.

The Hon. R. C. DeGaris: Could it bog down the work of the Ombudsman?

Ther Hon. D. H. L. BANFIELD: Never mind about the Ombudsman; that is his job. The court has other things to attend to as well. Do not say that the people do not have any right of appeal.

The Hon. R. C. DeGaris: You are bogging down the courts and the Ombudsman, too.

The Hon. D. H. L. BANFIELD: That is not necessarily so. Already people can go to the Ombudsman, whose work admittedly can become bogged down, but now the Opposition is trying to bog down the courts. The Government is suggesting that this is not warranted. It is no use saying that this is something new for the Ombudsman: it is not, because his office was set up some years ago for this very purpose. The Opposition is now setting up the courts for this purpose, and the courts can be bogged down.

The Hon. R. C. DeGaris: Good Lord! That's a logical argument!

The Hon. D. H. L. BANFIELD: It was members of the Opposition who threw that argument in; I did not.

The Hon. R. C. DeGaris: I am not worried about the courts getting bogged down.

The Hon. D. H. L. BANFIELD: Of course not; it does not mean anything to the Leader whether the Government gets its taxation or not but, because this Bill contains concessions, the Opposition will be concerned if it does not go through.

The Hon. R. C. DeGaris: No we won't.

The Hon. D. H. L. BANFIELD: Throw the Bill out! I challenge members opposite to throw the Bill out. I do not care what they do about that; it is their prerogative. The onus is on this Council to do what it likes with the Bill. If the Opposition throws it out and denies the people these concessions, members opposite will have to be men and take the consequences. It is as simple as that. The Opposition has the numbers to throw the Bill out. Let it use its numbers.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

New clause 6—"Contracts, etc., to evade land tax."

The Hon. C. M. HILL: I waited patiently for the Minister to reply to the questions at the proper time, the second reading stage. I asked a question about clause 6. He overlooked answering that question, for reasons no doubt best known to him. I wonder whether he would deign to reply to the question I asked him about clause 6.

The Hon. D. H. L. BANFIELD (Minister of Health): We are in Committee. This is the time for questions to be asked and answers given. In relation to clause 6, the proposed new section is similar to that applying in the New South Wales Land Tax Act and to section 260 of the Commonwealth Income Tax Assessment Act.

The courts have provided boundaries to the operation of these provisions. The section does not apply to *bona fide* dispositions of property which avoid tax only consequentially, nor does it apply to normal ordinary everyday transactions. It does not deny owners choices offered by the Act itself. To bring the arrangement within the section, the Commissioner must be able to predicate by looking at the overt acts by which it was implemented that it was implemented in that particular way so as to avoid tax. The courts have not been concerned with subjective purposes, motives or intentions of taxpayers but with the character of the acts done and the transactions entered into.

The Hon. J. C. BURDETT: I would like to comment on the reply made by the Minister which clearly is incorrect. The proposed new section 42 quite clearly concerns motives and intentions of the taxpayer—"has or purports to have the purpose (whether as the main or a subsidiary purpose) of in any way directly or indirectly," and so on. Clearly, in the words of the proposed new section, the objects, intentions and purposes are included; to say that they are not is to contradict that proposed new section contained in the Bill.

The Hon. D. H. L. Banfield: Already decisions along this line have been given by the High Court and the Privy Council which bear this out.

The Hon. J. C. BURDETT: They cannot.

The Hon. D. H. L. Banfield: They did.

The Hon. J. C. BURDETT: It is not possible that any decisions could say that the purpose is not to be taken into account when the subject section says that the purpose is to be taken into account.

The Hon. D. H. L. Banfield: Argue that with the High Court, not with me.

The Hon. R. C. DeGARIS (Leader of the Opposition): This is the most ridiculous thing I have struck since I have been in this Council. First, the Minister when replying to the second reading debate imputes, in a most dogmatic, dictatorial and uncompromising way, a whole range of motives to the Opposition in regard to this Bill. We have already had stupid answers from the Minister. He talks about the courts being bogged down, and already there is an appeal to the Ombudsman regarding this matter. How many matters have been taken to the Ombudsman under the existing Act? I think two have been. The Minister talks about bogging down the courts, with two people using their rights now to approach the Ombudsman. So far the Minister has talked so much nonsense. In reply to the Hon. Mr. Hill, the Minister has made a statement that is not factual, as has been clearly pointed out by the Hon. Mr. Burdett. Without checking the matter further, the Minister says, "Read the High Court decisions."

The Hon. D. H. L. Banfield: I did not say that; I said, "Argue with the High Court."

The Hon. R. C. DeGARIS: That is a ridiculous answer. This Committee wants the Minister to say what that clause means, but so far he has not done so. This Committee is entitled to such an explanation.

The Hon. D. H. L. BANFIELD: I have already told members opposite what clause 6 is all about. I have told members of the decisions given in the High Court and in Privy Council. I did not say, "Go and read those decisions": I said, "If you do not agree with the decision of the High Court, argue with the High Court." I told honourable members what clause 6 was about; I said that it is in accordance with the decision given by the High Court and the Privy Council.

The Hon. J. C. BURDETT: Whatever the Minister may say about the decision of the High Court or the Privy Council, this new section we are being asked to pass states "has or purports to have the purpose," whereas the High Court or the Privy Council may be referring to differently worded sections. We do not know what is being referred to.

The CHAIRMAN: That is a question in fact. The Minister, as I understood him, said that this section 42 was identical to sections in the Income Tax Assessment Act.

The Hon. J. C. BURDETT: It is not identical to the provisions of that Act. Section 260 thereof is different altogether, and does not comprise the same wording as this section. Whatever it is, no court will say that the words of an Act of Parliament should be ignored. On the contrary, courts always say that they will interpret the words in an Act of Parliament and will not try to change them. The word is "purpose", so the purpose for which the person does a thing must be taken into account.

The Hon. C. M. HILL: I am confused about this matter. There has been a discussion about these matters going to the court, although under the Bill there is no provision for this to happen. However, there is an amendment on file that will grant a right of appeal to the Supreme Court. Will the Minister clear up the matter for me?

The Hon. D. H. L. BANFIELD: We do not know at the moment what the committee will do regarding the amendment. The answer depends on the result of that amendment.

The CHAIRMAN: I do not think that is correct. I think the Minister said earlier that the courts had interpreted sections like this one and had somehow drawn limits to their operation. The Hon. Mr. Hill is asking the Minister how that comes about.

The Hon. C. M. Hill: Yes, when it appears to me, as the Bill reads, that it cannot even be taken to the court.

The Hon. D. H. L. BANFIELD: In any event, it is competent under the common law for a taxpayer to take the matter to court. Members opposite are trying to put an administrative decision into the Bill. At present, a person can go to the court on a question of law but not in relation to an administrative decision.

The Hon. C. M. Hill: Surely one should be able to do that.

The Hon. J. C. BURDETT: The Minister has said that questions of law can, under the common law, be taken to court. However, that is true using one of the prerogative writs only. There is no right of appeal at present in the Land Tax Act. There is no general common law right of appeal. This can be done only by the means to which I have referred, and that is a means fraught with difficulties of all sorts.

The Hon. C. M. HILL: Perhaps I will leave that matter until the amendment regarding an appeal to the Supreme Court is debated. I now retrace my steps to the main point I made regarding clause 6. I refer to the instance of a man who owns a house in his own name and a factory in his company's name. He could find, after this Bill passed, that the two existing assessments on each of those properties suddenly and unexpectedly became aggregated, as a result of which he would be lifted into a higher rate of land tax and, therefore, receive a bill far in excess of the two separate amounts that he had previously paid.

I listened to the Minister's reply. I think he said that in ordinary every-day transactions the aggregation will not apply. However, I should like some further assurance from the Minister that it will not apply. It is as simple as that. I want an assurance not only that it will not apply immediately after the Bill passes (if it does pass) but also that it will not happen in future if the Bill passes in its present form. I think I am entitled to seek an assurance that, in the Minister's opinion, this cannot happen under the provisions of this Bill.

The Hon. D. H. L. BANFIELD: I can only give an assurance in relation to the present Government. On the present set-up, the examples given by the honourable member would not suffer any aggregation.

The Hon. R. C. DeGARIS: Would the Minister give some examples of where the Commissioner would aggregate? There seems to be in the Government's mind some areas in which it intends to aggregate, and those areas should be disclosed to the Committee.

The Hon. D. H. L. BANFIELD: There have been numerous examples. We had one instance of a land agent's transferring one-thousandth of an interest in a property for the sole purpose of avoiding tax. That is the sort of thing that happens frequently, and that is why it is necessary to put the protective clauses in the Bill.

The Hon. R. C. DeGARIS : I cannot understand how such a transfer will make that much difference to the land tax. Will the Minister explain that to me?

The Hon. D. H. L. BANFIELD: A millionaire could easily make a cop out of it. I could not do so because, if I transferred such a share, on my interest I would owe money!

The Hon. R. C. DeGARIS: This matter needs further explanation. If a millionaire transferred one-thousandth of an interest, how would it save land tax?

The Hon. D. H. L. BANFIELD: He would no longer have the interest if he transferred it to different owners.

The Hon. C. M. Hill: Does the Minister mean that this would apply if he transferred different interests to 1 000 different persons?

The Hon. D. H. L. BANFIELD: No, if he transferred numerous blocks to new owners.

The Hon. C. M. HILL: It seems that the Hon. Mr. DeGaris's point is a reasonable one to pursue. He asked how land tax would be affected if a person transferred one-thousandth of an interest in something.

The Hon. D. H. L. Banfield: They are different blocks.

The Hon. C. M. HILL: If he acts so that he achieves a lower rate, there must be a further explanation of the example. I am interested—

The Hon. N. K. Foster: I'll bet you are.

The CHAIRMAN: That is quite unreasonable. It reflects gravely on the honourable member and the Hon. Mr. Foster ought to withdraw it.

The Hon. N. K. FOSTER: I will withdraw it.

The Hon. C. M. HILL: I want to know whether the Government is justified in claiming that there are examples for which the law should be changed, affecting possibly every ownership of unimproved land in the State.

The Hon. D. H. L. BANFIELD: Take the case of a man with eight blocks transferring a one-thousandth part into new ownership, still with the family, and take it that he does it for the sole purpose of establishing aggregation. There would be eight different assessments but still keeping the whole property completely in the clutches of the family. There are other examples but, even if that was the only one, we would say that the provisions in the Bill were warranted. Many people try to work out ways and means of legally evading tax. Companies are set up for this purpose and lawyers are employed full-time for it. It is not illegal, but it is done solely to evade the principle of the Act. Every Government tries to close loopholes and, as they close one, the smart alec lawyers find another.

The Hon. C. M. HILL: I have received from the Minister an undertaking that his Government would not try to aggregate assessments in the particular example I

have quoted and in similar examples. Will the Minister comment on whether he believes that a future Government could sustain an aggregation principle of this kind if it was appealed against in the courts?

The Hon. D. H. L. BANFIELD: It could not be done in future, because the decisions of courts are based on the limitations.

Clause passed.

Clause 7—"Appeal."

The Hon. J. C. BURDETT: I move:

Page 3, after line 27—Insert following paragraph:

(a1) any decision of the Commissioner under section 10 or section 12a of this Act;

Page 4, after line 6—Insert following subsections:

(4) An appellant who is aggrieved by a decision of the Treasurer under subsection (3) of this section may, within thirty days after notice of the decision of the Treasurer and his reasons for making that decision is served personally or by post upon him, appeal against that decision to a judge of the Supreme Court.

(5) In any appeal under subsection (4) of this section, a judge of the Supreme Court may—

(a) dismiss the appeal;

(b) reverse or vary the decision appealed against;

(c) make any order as to costs or any other matter that the justice of the case requires.

Surely it is a matter of justice that there should be an appeal. Land tax assessments can be large and important to the taxpayer, who may be affected adversely. The appellant will succeed only if his cause is just. Is this Government opposed to justice? Why should it oppose an amendment of this kind?

The Minister has said, I think, that if such an amendment was passed the court could be bogged down. That is nonsense, because the matters appealed against would be confined to those under section 10 or section 12a or a decision of the Commissioner that he can make at present or one under new section 42. These are not merely administrative provisions. They all involve *quasi* judicial interpretation of the law and the facts. Every appellant knows that if he loses he will be faced with considerable expense that cannot be recouped.

I do not think there would be a large mass of appeals, any more than there are under the Income Tax Assessment Act. The procedure under that Act has worked well. First, there is a procedure for objection to the Commissioner, in which a determination is made by a senior officer. Secondly, there is a Board of Review, and thirdly there is an appeal to the court. The appeals under the Land Tax Act could be only appeals under section 10 or section 12a or an appeal against the decision of the Commissioner.

These involve questions of interpretation of the Act, and questions of fact and law. How can the Government deny such matters being taken to the court on the few occasions a taxpayer might seek to do so? Taxpayers should have the right to take these matters to the Commissioner or the Treasurer, and that is often all they will do. Such objection is dealt with by Crown Law officers.

It is a relatively inexpensive system and few taxpayers, except where the amounts are great or where they expect to succeed, will want to take the matter further. Any suggestion that the courts will be bogged down with appeals against administrative action is ridiculous.

The Hon. D. H. L. BANFIELD: We oppose the amendment. We are already providing wide appeals that previously did not exist. If it does not work satisfactorily we will look at it again. If it does not work, I assure the Hon. Mr. Burdett that that will be the time for him to illustrate to Parliament why it does not work. It was suggested that it is appealing from Caesar to Caesar, but that is not so. Presently, the Commissioner has statutory powers. They are his decisions, not ours. He must be Caesar in this instance, and by appealing to the Treasurer—

The Hon. J. C. Burdett: His boss!

The Hon. D. H. L. BANFIELD: It is not his boss at all. He operates under statutory powers.

The Hon. R. C. DeGaris: You're showing much naivety.

The Hon. D. H. L. BANFIELD: So is the Leader. This afternoon, members queried instructions to the court, and during the election Opposition members wanted us to give instructions to the Auditor-General. If that happened just once there would be a great outcry from members opposite. We would expect the Opposition to complain if we undertook such action, but we do not do that now, we have not done it and we will not be doing it in the future. It will not be Caesar appealing to Caesar because this is an avenue (not another avenue) of appeal which the Government is providing and which has previously not existed. We ask the Opposition to give it the opportunity to work and to see whether or not it breaks down.

The Hon. J. C. BURDETT: We have not previously had a section 42, either, in this form. It is not only because of that provision—

The Hon. D. H. L. Banfield: It's because of sections 10 and 12a.

The Hon. J. C. BURDETT: That is one reason. The Hon. Mr. Hill referred to the fears of people about this section. It is reasonable to have a full and regulated appeal as exists in the Income Tax Assessment Act. The Minister said that the provisions of new section 42 are similar to section 260 of the Income Tax Assessment Act. If we have a similar provision let us have a similar course of appeal.

The Hon. R. C. DeGARIS: The Minister said that if the provision does not work the Government will have another look at it. Who will judge whether or not it works: it will be the Government.

The Hon. C. J. Sumner: You can have a say.

The Hon. R. C. DeGARIS: The judgment about whether it works will be made by an interested party. In regard to appealing to Caesar, the Commissioner may be an excellent gentleman, but he is an interested party, as is the Treasurer. A person should have the right, after a decision is made, of appeal to an independent judicial body, that is, a body disinterested in the legislation.

Once this Bill passes, if it does pass, we will not see the Government making any changes. The Government will make its own decision on whether it is working or not. That is an unfair position in respect of new section 42. What the Hon. Mr. Burdett said is correct: this is a new provision. We asked for an appeal provision in regard to rural land, and that was not as important as the appeal provision in this clause. No matter what the Commissioner says, without an appeal procedure this clause represents an appeal from Caesar to Caesar.

The Hon. D. H. L. BANFIELD: Is the Leader losing touch with people outside, who are not backward in bringing examples forward? Is he no longer talking to his constituents? The Government will know because the Leader and all other honourable members will know if it is not working. They will inform their member of Parliament about the position. The Leader has raised thousands of more trivial matters in this Chamber.

The Hon. R. C. DeGaris: I said that the Government would not know or, if it did, it would not do anything about it.

The Hon. D. H. L. BANFIELD: A third alternative is

that you might not care about them either. Any person who believes he has been touched will go to his local member or his representative in another place. We will know about whether on not it will work even if members opposite do not.

The Committee divided on the amendment:

Ayes (10)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, C. M. Hill, D. H. Laidlaw, and A. M. Whyte.

Noes (10)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, T. M. Casey, B. A. Chatterton, J. R. Cornwall, C.W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

The CHAIRMAN: There are 10 Ayes and 10 Noes. To enable the amendment to be considered by the House of Assembly, I give my casting vote to the Ayes.

Amendment thus carried; clause passed.

New clause 4a reconsidered.

The Hon. J. C. BURDETT: I move to insert the following new clause:

4a. Section 12a of the principal Act is amended by striking out subsection (5).

This amendment is consequential.

The Committee divided on the new clause:

Ayes (10)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, C. M. Hill, D. H. Laidlaw, and A. M. Whyte.

Noes (10)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

The CHAIRMAN: This new clause is consequential on the amendment which was previously carried and on which I gave my casting vote in favour of the Ayes. I therefore now give my casting vote on this new clause in favour of the Ayes.

New clause thus inserted.

Title passed.

Bill read a third time and passed.

ADDRESS IN REPLY

Adjourned debate on motion for adoption.

(Continued from October 12. Page 135.)

The Hon. JESSIE COOPER: I support the motion in all its four parts. I add my thanks to those of other honourable members to His Excellency the Governor for opening this session of Parliament, and I wish to associate myself with His Excellency's acknowledgment of the service to the State of the Lieutenant-Governor, Mr. Crocker. I reaffirm my loyalty to Her Majesty the Queen. In welcoming His Excellency, I hope I may be excused for saying that I remember the first occasion on which I met Rev. Keith Seaman; it was when, at his kind invitation, I was guest speaker at a P.S.A. at Maughan Church shortly after my return from Nigeria in 1962. I remember that on that occasion I spoke on that fascinating country, its people, and its problems. I remember the occasion only too well, because my speech became the forerunner of what turned out to be a long series of addresses on the subject—67, to be exact, during the following six months.

I wish Mrs. Seaman well in her carrying out of her many duties as Governor's Lady, and I know that she brings charm and warmth of personality to the task.

We have been assured in the Governor's Speech opening this session of Parliament that the Government proposes to work within the framework of the Premier's policy speech given during the recent election campaign and the Speech opening the previous Parliament.

Judging on previous performances, the Premier's election policy speech gives us no guarantee of action and little guide as to what will or will not eventuate. If the Premier refuses to give his proposals the authenticity of statements made in Parliament, how much less faith are we to have in the double-talk and vaguely defined assertions made during election campaigns? But I suppose the refusal (to tell the people what the Government's proposals are or to inform members of Parliament of the spheres of planning for which they must prepare) is the first confirming sign of the arrogance of incipient dictatorship. It is an interesting historical fact that the downfall of all dictators comes when they refuse to allow those around them to advise or take part in their decisions during their headlong dash to self-destruction.

The Hon. J. C. BURDETT: I support the motion, and I thank the Governor for his Speech. I take this opportunity of renewing my allegiance to the Crown which I swore some four years ago in this place.

It is well known that the Governor's Speech is prepared by the Government, and the Government, not His Excellency, must bear the responsibility for what is in it or, in this instance, for what is not in it. I certainly do not intend any reflection on or criticism of His Excellency. However, I do think that it was remiss of the Government not to detail items of legislation which it planned to introduce in the coming session. Merely to refer to the Speech made at the opening of the previous session and to the policy speech, demonstrates a contempt for the institution of Parliament and for this Parliament and its members in particular.

It may be that the legislative programme is much the same as that outlined at the beginning of the last session and that little of the programme has been implemented because of the shortness of the session. It may be that it is only a short time ago that the programme was outlined. But the responsibility for the premature election rests fairly and squarely on the shoulders of the Government. It elected to cut its own legislative programme short and, having put the people to the trouble and expense of an early election, it should be prepared itself to go to the trouble again to tell the people in detail, as a Government in office, what legislation it intends to present to this session of Parliament, which it, the Government, has caused to be called. To fail to do so indicates contempt not only for Parliament but also for the electors.

After all, the Commissioner's remarks to Parliament in the somewhat quaint and formal precedent used indicated that His Excellency would in person inform us of the reasons for calling Parliament together. In fact, as the Government failed to supply His Excellency with adequate reasons, one can say that, having heard the Speech, we are little enlightened as to what the reasons for calling Parliament together are.

The editorial in the *Advertiser* of October 7 summed the situation up admirably. It pointed out that the Government's attitude was virtually to ignore Parliament. The listing of intended legislation in the Governor's Speech is more than just a tradition and a formality. People do look to the Governor's Speech as an indication of what the legislative programme of the Government is. I recall that on the evening of the day of the first opening of Parliament at which I was present as a member, I saw Sir Thomas Playford in the corridor. He had not been present at the opening. He said, "What was in the Governor's Speech—is the Redcliff Indenture Bill coming in?" Here is one example of the fact that people do look to the

Governor's Speech to find out what the Government's legislative programme is.

As the Government has disdainfully omitted to inform members of Parliament of details of its proposed legislation it cannot complain if this Council, for instance, casts a critical eye on some of its legislative programme when we do eventually know what was intended. On Thursday, by way of interjection, honourable members opposite referred to a short speech delivered by Sir Paul Hasluck when opening Federal Parliament. They must have been referring to his opening of Parliament on November 25, 1969. It was indeed a short speech. But the case was entirely different from the present one. The Government did not intend introducing any legislation other than money Bills in a very short session. The legislative programme was intended to be introduced in the following session. Here, on the other hand, we are told that there will be a substantial legislative programme.

Even on that occasion in 1969, the short speech was the subject of a censure motion by the Leader of the Opposition, Mr. Whitlam, who complained that the reading of the speech took less time than the 21-gun salute. He said "Over the last two years we have seen Parliament treated with growing contempt." That is certainly the case with this Government. But apparently Mr. Whitlam could say that, but we may not.

I was not impressed by the Hon. Ms. Levy's offer to give the Hon. Mr. DeGaris a copy of the Labor Party's policy speech. She is not even a member of the Government. There is a touch of arrogance in the action of a Government which does not outline to members of Parliament and the public its legislative programme in the right place, namely the Governor's Speech.

I pass now to consider the office of Chief Secretary. In the last few days, in the course of a Cabinet "re-shuffle", the honourable the Premier appointed the Hon. Mr. Simmons in the House of Assembly to be Chief Secretary. The Hon. D. H. L. Banfield, the Leader of the Government in this Council (a position which he has filled, if I may say so, with distinction), remains in that position with the portfolio of Minister of Health.

This is the first time since 1919 that the Chief Secretary has not been the Leader of the Government in the Legislative Council; the last Chief Secretary in the Assembly was also Premier (Archibald Henry Peake). It has therefore seemed to me to be an appropriate time to undertake an historical examination of the role of Chief Secretary in South Australia. Pursuant to ordinance No. 1 of 1851, the Legislative Council consisted of the Governor, four nominated official members, four nominated non-official members and sixteen elected members. The four official members, namely, the Colonial Secretary, Advocate-General, Registrar-General and Collector of Customs, constituted a "Cabinet", the Chief "Minister" of which was the Colonial Secretary.

In October, 1856, during the transition to responsible government, the Colonial Secretary (Boyle Travers Finniss) was appointed Chief Secretary, and likewise the Advocate-General (Richard Davies Hanson) was appointed Attorney-General. These two men retained their portfolios after the first election of a wholly responsible government in 1857.

It is apparent, therefore, that the office of Chief Secretary was originally analogous to the position of Chief Minister or to the current office of Premier. (In fact, from 1857, the Leader of the Government has always been called "Premier", but the office of Premier was not given statutory recognition until 1965, nor until then was a separate "Premier's Department" formed within the Public Service.) The second and third "Premiers" of the State, John Baker and Robert Torrens respectively, also held the commission of Chief Secretary, thus reinforcing the view that the office was reserved for the Chief Minister. It seems probable that each of the first three "Premiers" assumed responsibility for the management of Cabinet business. Accordingly, the "Premier's" own department, which was the Chief Secretary's Department, was probably directed to draft the agendas and process the documents for Cabinet.

Thus the Chief Secretary at that time combined two functions: as head of the department serving the Cabinet he was literally "Secretary" to the Cabinet, and as Chief Minister he was also Chairman of Cabinet. The fourth Chief Minister, R. D. (later Sir Richard) Hanson, broke with this tradition by not occupying the post of Chief Secretary. Instead he chose the Attorney-General's portfolio and appointed a member of the Legislative Council as Chief Secretary. Hanson's biographer, H. Brown, says in his unpublished thesis, at page 110:

> Under the old regime the principal figure in the Government—apart from the Governor himself—had been the Colonial Secretary, and with the advent of responsible government, it was understood that the Chief Secretary would also be Premier. Now this was to be altered, and the strongest personality, whatever his portfolio, was to assume the leadership.

This method of Ministerial allocation, although entirely novel in 1857, has since become the rule rather than the exception. That is to say, the majority of Premiers have assigned the job of Chief Secretary to a member of the Legislative Council other than themselves. Occasionally, however, Premiers have chosen to be Chief Secretary. A total of 20 Ministries have been commissioned in which the Premier has been Chief Secretary. Despite Hanson's Ministerial change it is probable that, for reasons of administrative convenience, the management of Cabinet affairs remained in the Chief Secretary's Department, where it continued until the changes made recently by the Dunstan Government. Until the appointment of a few days ago no member of the House of Assembly has been Chief Secretary since 1919. From then until now it has been accepted by all Governments (5 right of centre, 5 Labor) that the Chief Secretary should be the Leader of the Government in the Legislative Council.

Sir Thomas Playford has said that his reason, and also Mr. Richard Butler's reason, for keeping the office in the Legislative Council was simply that the two Houses of Parliament are equal except in respect of money Bills. Therefore, since the chief Minister sits in the Assembly, the second Minister should sit in the Council, thereby acknowledging the Council's equal status. Until 1968 the Chief Secretary had always been second Minister, except, of course, when the office was filled by the Premier. In 1968, however, the Dunstan Ministry created the post of Deputy Premier and appointed to it a member of the House of Assembly. Then, with the election of the Hall Government in 1970, the position reverted to its traditional form. Mr. DeGaris, Chief Secretary and Leader of the Government in the Council, was Acting Premier on each occasion that the Premier was absent from the State.

With the return of the Dunstan Government in 1970 the relatively new position of Deputy Premier was re-created. By consulting the annual estimates of expenditure, it is possible to measure the decline in the Chief Secretary's responsibilities.

Sir Thomas Playford said that all Ministers, including the Premier, were required to direct all matters they wished to present to Cabinet and Executive Council

through the office of the Chief Secretary. In 1965, the Walsh Government withdrew children's welfare and public relief from the Chief Secretary and created the new Ministry of Social Welfare (now Community Welfare).

A perusal of the Estimates for the 1964-65 financial year, the last year of the Playford Government, will show that up to that time the Chief Secretary was responsible for the following departments: State Governor's Establishment, Chief Secretary, Statistical, Audit, Printing and Stationery, Police, Sheriff's and Gaols and Prisons, Hospitals, Children's Welfare and Public Relief, Public Health, and the Public Service Commissioner's.

The Hall Government did not alter the Chief Secretary's responsibilities. The two major changes made by the Dunstan Government before the Corbett committee was appointed in 1974 were:

1. To divide the Ministry of health and chief secretariat between two Ministers. Hitherto, the Chief Secretary had been required by Statute to be Minister of Health (section 10 of the Health Act), but this provision was repealed by section 77 of the Statute Law Revision Act, 1973.

2. To transfer the Public Service Board Department from the Chief Secretary to the Premier.

The changes made since the Corbett committee released its report have been:

1974-75	State Governor's Establishment transferred to Premier's Department. (This change was not recommended by the Corbett report. In fact the Governor's Establishment was not mentioned in the report.)
1974-75	The Public Actuary was transferred to Treasury in accordance with the Corbett recommendations.
1976-77	The Chief Secretary's Department was abolished. This change, though not stated explicitly in the Corbett report, is implied by its other findings. Consequently, the Chief Secretary lost the necessary machinery to process the business of Cabinet and Executive Council, which passed to the Premier's Department.
1976-77	The former departments of Government Printer, State Supply and Chemistry Division have been united into one Services and Supply Department. This department remains the responsibility of the Chief Secretary, as do the Auditor-General's, Police and Correctional Services Departments.

The move by the Premier a few days ago was historical. Up until 1968, the person occupying the office of Chief Secretary had always been either the chief Minister or the second Minister of the State. Up until the time of the Premier's move, no member of the House of Assembly had ever been Chief Secretary unless he had also been chief Minister. Up until that time, the Chief Secretary had always been either chief Minister or the Leader of the Government in the Legislative Council.

I am by no means opposed to change, but changes should not be made unless there is a reason. That is why on Thursday last, when Hon. Mr. Sumner moved that the voting for a committee be disclosed, I opposed it. It had not been done before in recent times, and Hon. Mr. Sumner did not give his reasons for the change.

The Hon. J. E. Dunford: The reasons show themselves up by having a recount.

The Hon. J. C. BURDETT: I am dealing with a different matter now. The tradition that prevailed from 1919 to 1968 had much to commend it. The Constitution makes the two Houses absolutely equal in Legislative power except in regard to money Bills. Having the chief Minister in the Assembly and the second Minister in the Council recognised this. The practice of the Chief Secretary's being the Ministerial Secretary to the Cabinet and Executive Council was also valuable.

In effect, it put two people, instead of one, in charge of the Cabinet agenda and provided some check on the Premier, a thing that might prove most valuable at present. I note the steady whittling away by the Labor Party since 1968 of the power and dignity of the office of Chief Secretary, and I note it with regret.

The Hon. J. R. Cornwall: How many States have still got a Chief Secretary?

The Hon. J. C. BURDETT: I think most of them have. Labor Party sources are reported in the press as saying that they saw the move of the Hon. Mr. Simmons from Minister for the Environment to Chief Secretary as a demotion. Ten years ago, such a move would have been seen, of course, as a considerable promotion.

Turning to another matter, this Government has persisted in ruthlessly using everything remotely connected with the Government to advance the cause of the A.L.P. and to retain its tenure of office. We have had an example in this Parliament already when the Premier openly, as reported in the press, said that the Government insisted on a majority on all Parliamentary committees. As the Hon. Mr. DeGaris pointed out, the Government has no right to expect a majority on committees supposed to be representative of members of Parliament in their respective houses. Such committees should reflect, as nearly as possible, the percentages of members that each Party holds in each House respectively.

However, the Premier reacted angrily to the suggestion that the Liberal Party in this Council, which holds a majority, should elect a majority of members of that committee in the Legislative Council. Apparently, he thinks that the Labor Party should have the complete monopoly of power in all matters related to the legislative and executive functions of Government and Parliament.

In the field of the Public Service, we have in South Australia a Public Service of ability and integrity and one of which we can be proud. But, even in this field we see evidence of the Premier's attempts to make the Public Service an extension of the Labor Party.

The Hon. J. E. Dunford: What utter rubbish!

The Hon. J. C. BURDETT: I have no doubt that that is the case.

The Hon. J. E. Dunford: Give us some examples!

The Hon. J. C. BURDETT: I wish that the Hon. Mr. Dunford would listen. How can I give examples and make statements at the same time?

The ACTING PRESIDENT: Order! The Hon. Mr. Dunford should be patient.

The Hon. F. T. Blevins: Is this boring!

The Hon. J. C. BURDETT: If the Hon. Mr. Blevins thinks that this is boring, that is all very well.

The Hon. F. T. Blevins: All your colleagues do, too. They have all deserted you.

The ACTING PRESIDENT: Order!

The Hon. J. C. BURDETT: There has been too much use of persons employed in departmental work who are outside the Public Service. There is the honourable member's example.

The Hon. F. T. Blevins: The Federal Liberal Party does the same thing.

The Hon. J. C. BURDETT: That may be so. However, I am talking about this State. I do not always agree with the Federal Liberal Party.

The Hon. F. T. Blevins: No, only when it suits you.

The Hon. J. C. BURDETT: Obviously, such people will

be more dependent on and amenable to the Government than would public servants.

The Hon. F. T. Blevins: That is an unjustified slur on the Public Service.

The Hon. J. C. BURDETT: It is not. If the Hon. Mr. Blevins would only stop interjecting for long enough to let me answer his interjection, I would do so.

The Hon. F. T. Blevins: Right! Don't lose your temper.

The Hon. J. C. BURDETT: On a point of order, Sir, repeated interjections are out of order.

The ACTING PRESIDENT: I uphold the Hon. Mr. Burdett's point of order, and the Hon. Mr. Blevins is well aware of it. Perhaps the honourable member would let the Hon. Mr. Burdett get his message across, and argue with him afterwards.

The Hon. F. T. Blevins: I am astounded at the range of candidates for the President's job, Sir.

The ACTING PRESIDENT: Order!

The Hon. J. C. BURDETT: I was praising, not casting a slur on, the Public Service. I was suggesting that they would be people of integrity.

The Hon. J. E. Dunford: You were suggesting that they were being used. If that is not a slur, I will go he!

The Hon. J. C. BURDETT: Honourable members opposite have not listened to what I have said. I said that the Government has been making too much use of people who are doing departmental work but who are not within the Public Service. Such people (although I am not casting a slur on them, either) are obviously more apt and could tend more to be tools of the Government.

There has also been too much use made of persons doing what is essentially senior deparmental work on a contract basis. Again, such persons are likely to be more amenable to Government influence and more given to support the Government politically than are public servants. Even within the Public Service itself (and I cannot prove this, because, for obvious reasons, I cannot quote the examples) I am quite certain that there are too many cases where political affiliation to and support for the Labor Party become a necessity for promotion.

Particularly during the election campaign, many public servants made this complaint to me. There were so many that they could not all be wrong. For the sake of the public servants concerned, I cannot quote their names or quote any details which would enable then to be identified. Obviously, public servants must be loyal to the Government in carrying out its policy, but support in matters which are essentially Party-political should not be expected.

Some years ago the personal political beliefs of public servants were respected. They were expected, of course, to carry out the policies of the Government as such but not to engage in essentially Party-political issues. Some time ago, I heard a speech delivered by Sir Garfield Barwick, who had previously made visits to some of the emerging nations in Africa. The leaders there told him that they were not very concerned about the Westminster system. They said, "Give us a regime which is free from discrimination, where all are equally subject to the law, an independent Judiciary, and a Public Service of integrity, and that is all we need." I have no doubt that our public servants are personally men and women of integrity but I resent any attempt on the part of the Government to make them a tool of the A.L.P. To do so would be to undermine one of our basic and fundamental institutions.

It is especially appropriate to raise this matter at this time. The Hon. R. C. DeGaris has demonstrated quite clearly that the present election boundaries are so devised that a radical rebellion against the unfair boundaries is needed to enable this Government to be defeated. The South Australian electorate does not change its voting as radically as does the Federal electorate. The voting between Labor and non-Labor in South Australia has varied only between 46·5 per cent and 53·5 per cent with one exception, whereas in the Federal Parliament both sides have received up to 58 per cent support at different times.

The Hon. J. R. Cornwall: What was your primary vote at the recent election?

The Hon. J. C. BURDETT: I have been talking about the preferred vote, not the primary vote. On an across-the-board basis, the non-Labor Parties need 54 per cent to win. In the last election, with about 53 per cent of the preferred vote, Labor obtained 58 per cent of the seats, and even then three Liberal seats were won fairly marginally and only one Labor seat was marginal. With about the same overall percentage, Labor could have won up to another three seats. It is clear that at least in the coming three years (or such shorter period as the Government should select) a very considerable percentage of the citizens of this State will only have this Council to look to for protection.

I wish now to consider briefly the matter of massage parlours. It is very clear that many of them are operating as brothels, and the Government is doing absolutely nothing about them. Under the present law, the police are hamstrung because massage parlours which are operating as brothels have such an elaborate system of locks, alarms and long corridors that the police cannot obtain evidence of illicit operations.

The Hon. F. T. Blevins: How do you know?

The Hon. J. C. BURDETT: The Attorney-General told me that on a radio programme a few weeks ago.

The Hon. F. T. Blevins: Have you checked that up? Do you always take the Attorney-General at his word?

The Hon. J. C. BURDETT: I have been informed of that on many occasions. It is the responsibility of the Government to see that the law and legal procedures are such that the law can be enforced.

The Hon. F. T. Blevins: Are you criticising the police?

The Hon. J. C. BURDETT: No, I am criticising the Government, because the Government is making it impossible for the police to enforce the law.

The Hon. D. H. L. Banfield: What rot!

The Hon. J. C. BURDETT: It is almost impossible for the police to obtain sufficient evidence to prosecute massage parlours as brothels, and, if we look at the number of prosecutions launched and the smaller number that have been successful, we see that what I have said is true.

It is doubtless true that legal process can never stop prostitution; it is also true that legal process will never stop murder, rape, and various categories of robbery and fraud, but it is the responsibility of the Government to see that legislation and the law enforcement programme is so designed that the incidence of these and other crimes, including the conducting of brothels, is reduced to a minimum.

The Hon. J. E. Dunford: What are your colleagues in Victoria doing about massage parlours?

The Hon. J. C. BURDETT: I am not concerned about my colleagues in Victoria. They can look after themselves. I am concerned about South Australia and what the South Australian Government is doing about the matter. The Liberal Party announced before the election that its policy on this matter was to require legitimate massage parlours to be licensed. There should be health requirements, and a minimum standard of skill and/or training by masseurs should be laid down. The premises should be licensed not as brothels but as legitimate massage parlours. It should be

a condition of the licence that all licensed premises include a door giving ready immediate access to the police and that the police be notified about the access. This method would impose no hardship on legitimate massage parlours.

The Hon. J. E. Dunford: Do you believe in legalising the practices that go on in the parlours now, the prostitution?

The Hon. J. C. BURDETT: No. The Commissioner of Police, in a report in the *News* recently, spoke of the possibility of massage parlours being used as bases for gangs and organised crime. Recently a member of the Gay Liberation Movement who sought an interview with me asserted that massage parlours were used as centres for distributing drugs.

The Premier said recently that he was opposed to legalised prostitution because that amounts to trafficking in persons. I agree with him. I would probably put my reason in a different way, but it amounts to very much the same thing. I would say that I am opposed to legalised brothels because it would amount to recognition by the State of the degradation of women, not just the women involved but women in general. However, the Government's alternative to legalising brothels is to do nothing. Even legalised brothels would be preferable to the complete lack of control.

The Hon. C. J. Sumner: What do you favour?

The Hon. J. C. BURDETT: I have told the honourable member what I favour in detail, and I will not tell him again, as he can read it in *Hansard*.

The Hon. J. E. Dunford: What happens to the prostitution part?

The Hon. J. C. BURDETT: It remains illegal. The best solution is the licensing of legitimate massage parlours, and to make their use for illicit purposes easily detectable.

The Hon. J. E. Dunford: Changing the name on a licence will not do that.

The Hon. J. C. BURDETT: I know that, but I have given detailed suggestions to stop prostitution.

The Hon. J. E. Dunford: You said it could never be stopped.

The Hon. J. C. BURDETT: Members opposite interjecting should tell the truth: I said that it could not be stopped completely any more than rape, murder or other crimes could be stopped. I said that, just as the police and Parliament should do all they can to see that those crimes are stopped as far as possible, the same should apply to brothels. I support the motion.

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

ADJOURNMENT

At 5.25 p.m. the Council adjourned until Tuesday, October 18, at 2.15 p.m.