LEGISLATIVE COUNCIL

Thursday 22 February 1979

The PRESIDENT (Hon. A. M. Whyte) took the Chair at 2.15 p.m. and read prayers.

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Commercial Motor Vehicles (Hours of Driving) Act Amendment,

South Australian Institute of Technology Act Amendment,

Supply (No. 1), 1979.

CONTRACTS REVIEW BILL

The Hon. T. M. CASEY (Minister of Lands): I have to report that the managers for the two Houses conferred together at the conference but that no agreement was reached.

The PRESIDENT: As no recommendation from the conference has been made, the Council, pursuant to Standing Order 338, must resolve to either insist on its amendments or lay the Bill aside.

The Hon T. M. CASEY: I move:

That the Council do not further insist on its amendments.

I must confess that on this occasion every attempt was made to resolve the deadlock between both Houses. Every attempt was made by the House of Assembly to resolve the issue, but it would appear from my assessment of the conference that one of the biggest problems confronting both Houses was the problem of defining small industry.

That was probably the biggest obstacle that confronted the conference managers. That definition was really the crux of the problem. The House of Assembly managers compromised on certain amendments on which this Council initially insisted. Although every attempt was made to reach total agreement, I am sorry that that could not happen. For those reasons, and in the interests of the South Australian public regarding contracts, I hope that, in order to save the Bill, the Council does not insist on its amendments.

The Hon. J. C. BURDETT: I ask the Council to insist on its amendments. The Bill in its present form would have given very little advantage to anyone and would have created complete chaos in the commercial field. Of course, that may not concern the Attorney-General, who, as the Premier said over the weekend, is inexperienced. However, it causes me considerable concern.

It must be remembered that the Bill merely gave the right to people in certain circumstances to go to the court. It would have destroyed the certainty of contracts and, after all, that is what contracts are for. The current edition of Halsbury's *Laws of England* defines "contract" as "a promise or set of promises which the law will enforce". Had this Bill passed in its present form a contract could not have been described in these terms.

The test was in relation to unjust contracts, but the terms of reference were so wide that no-one would know with certainty for many years, until many precedents had been created, what could be said to be unjust. As the Bill stands at present, it includes a provision that the court must take into account inequality of intelligence and mental capacity between parties.

The Bill was far too wide, and the Council proposed amendments, all of which, I suggest, were reasonable. Where there is any impropriety, trouble or problem in any field (and this has been the traditional approach in Parliaments under the Westminster system) it is better to legislate in that area with special legislation that fills the bill and suits the area. However, to try to legislate across the board will certainly produce uncertainty and more problems than are cured.

The main amendment moved in the Council which caused the problem with another place was that confining the Bill to consumer contracts. This is an area in which, generally speaking, the consumer can be said to be in a poorer bargaining position than the supplier. The Bill may have worked quite well in that specialised area. I therefore ask the Council to insist on its amendments.

The Hon. R. C. DeGARIS (Leader of the Opposition): Although the Minister has given a reasonable resume of what happened at the conference, I must support the views that have been expressed by the Hon. Mr. Burdett. The deadlock occurred because of the definition of "consumer". Although the Council managers considered, with good reason, that the Bill should be restricted to consumer-type contracts, they also agreed that the Bill could have application on a slightly wider basis than that involving the narrow definition of "consumer". However, the conference was unable to find a reasonable definition that would include the other groups. I agree with the Hon. Mr. Burdett that an across-the-board application of this measure would impose severe restrictions on the South Australian business community.

Those people who were not encompassed by the Council definition of the word "consumer" had protection under the trade practices legislation already applying. Also, there is the problem of a body of law understanding and being able to interpret what the word "unjust" really means. Further, there are other questions such as the intelligence of the two contracting parties. Of course, I am sorry that the Bill is to lapse if the motion is negatived. Nevertheless, we must be aware that in South Australia, if we are to seek a recovery, business enterprise must not be unduly hampered. Indeed, if there is to be a recovery, it must be led by business activity, and the Bill, as it came into this Council, was far too wide and restrictive for the whole business sector. Therefore, I cannot, on the evidence, support the motion.

The Hon. J. E. DUNFORD: During the conference I supported the Council in its viewpoint. However, I noticed at the conference that the Attorney-General was doing everything possible to arrive at a compromise with this Council. We had two breaks during which a compromise might have been reached, and it was obvious to the Attorney-General that the Council had no intention of compromising. The Attorney-General desired to bring in primary producers, and there was general agreement on both sides of the conference that primary producers ought to be included, because the term "primary producers" covers not only farmers: it also covers fishermen and people in many other occupations.

The uncompromising attitude that we took led me to make a comment to the Attorney-General that ought to be repeated here. I said to the Attorney-General that he ought to read the speech made by the Hon. Mr. Burdett on the Door to Door Sales Act Amendment Bill, in which speech the honourable member attacked consumer protection and, more important, attacked the Attorney-General for introducing the Bill. Yesterday, the Hon. Mr. Burdett suggested that we ought to wait until someone was

robbed or ripped off before we did anything. I do not know whether the Attorney-General has read the honourable member's speech. The Council managers made quite clear in the conference that there would be no compromise. They did not want this consumer legislation. This has been endorsed by the most notorious attacker of consumer protection—the Hon. Mr. DeGaris. Every day in this session he has said that consumer protection is killing private enterprise.

The Hon. R. C. DeGaris: I have not said that at all.

The PRESIDENT: I remind the Hon. Mr. Dunford that he is speaking on the conference itself, not in the second reading debate.

The Hon. J. E. DUNFORD: I am only reporting to the Council. I went to the conference to represent this Council, but I observed an attitude on our part of absolutely no compromise whatsoever.

The Hon. K. T. GRIFFIN: It is not correct to say that the Council managers had no intention of compromising, because there were a number of points on which some compromise was indicated as being possible. The difficulty arose over the limitation on the ambit of the Bill to consumer-type contracts. We indicated a preparedness to compromise on that, too, and agreed that it should properly be extended to cover small business but, in the short time available, neither the parties nor those assisting them could devise a suitable definition that would ensure that it was limited to consumer-type contracts extending to small businesses. It is a point which the Hon. Mr. Burdett has already mentioned and which has somewhat baffled the experts for a number of years.

It is not presently in the consumer legislation of this State, because of the difficulty in drafting it. We indicated that, if there was a suitable draft available to extend it in this way, we would certainly support it. There is no doubt that this sort of legislation would have some benefit for primary producers if extended to cover them, but the difficulty in the context of this Bill, which was designed to have such a broad coverage, is that to refer specifically to primary producers avoids the principal difficulty, and that is to give it sufficient breadth to include mixed businesses without giving primary producers, in this context, undue preference. It appeared to us that, whilst it was desirable in broad terms that primary producers should be included, it was likely to invoke some criticism for preferential treatment if they were included but other small business people were not. The difficulties were difficulties of drafting and of time. Notwithstanding that, I support the proposition of the Hon. Mr. Burdett that the Council should insist on its amendments.

The Council divided on the motion:

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

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

The PRESIDENT: There are 10 Ayes and 10 Noes. In giving my casting vote, I wish to point out that all of the best brains in both Houses of this Parliament have been unable to resolve this matter. So that the Bill can be redrafted in a form that may suit the majority in this Council on another occasion, I give my casting vote for the Noes.

Motion thus negatived.

Bill laid aside.

BELAIR PRIMARY SCHOOL

The PRESIDENT laid on the table the report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence, on Belair Primary School Upgrading.

QUESTIONS

McDONALD'S

The Hon. F. T. BLEVINS: I seek leave to make a short explanation prior to asking the Minister of Health a question about McDonald's hamburgers.

Leave granted.

The Hon. F. T. BLEVINS: Last year, when reading *Challenge*, a paper published in New South Wales, I saw a report containing alarming statements about McDonald's hamburgers. Although I will not read all of that report, the part to which I will refer will be a sufficient description for the Minister to appreciate my concern.

The Hon. C. M. Hill: Who published the paper?

The Hon. F. T. BLEVINS: It is published in New South Wales by a private individual. The report headed "The McDonald's Connection", states:

> First, the bun. An ordinary white bread roll contains around 3 per cent sugar, and there is a case for this being too much; a McDonald's bun contains a whopping 13 per cent sugar content. This serves a threefold purpose. It makes the bun brown more quickly under the griller; the sugar caramelizes on the bun, which both gives it an appetising aroma and eliminates the need for butter; and, of course, sugar is addictive, so, after a hearty meal of a Big Mac, don't be too surprised if you feel like another one.
>
> Second the meat, or, in McDonaldese, the all beef patty. All beef it is; the cheapest and lowest quality beef available. for human consumption. A McDonald's hamburger contains the largest proportion of fat, the smallest proportion of meat, of any comparable product. Third, the extras, McDonald's pickles, are a mass of flavoursome chemical additives, and the lettuce alone is treated with no less than 12 delicious chemicals.

Members interjecting:

The PRESIDENT: Order! If honorable members persist in interjecting, I will have to see that order prevails. The Hon. Mr. Blevins.

The Hon. F. T. BLEVINS: The report continues:

> These include sodium bisulphite, ascorbic acid, sodium citrate, citric acid, and sodium hexatophosphate. They are all there to make the lettuce "fresh, green, crisp and tasty".
>
> McDonald's are, in fact, quite cynically exploiting us and our children, their food is junk, high in calories, low in nutrition, and promoted by an advertising campaign as clever as it is sinister. Get the children addicted, and the next generation will be assured customers, dedicated eaters of mucky rubbish that makes the Friday night fish and chips of our childhood look like a nutritionist's dream meal.

As I think the Minister will agree that this is an alarming report, will he have it investigated to determine whether McDonald's in South Australia does treat its products with these chemicals?

The Hon. D. H. L. BANFIELD: I will have the matter investigated and bring back a report. I think the honourable member would have to agree that there would be some good in at least one of those substances, although I do not know which one.

SITTINGS AND BUSINESS

The Hon. R. A. GEDDES: On behalf of the Hon. R. C. DeGaris, I ask the Minister of Health whether he has a reply to a question that the Leader asked yesterday regarding the sittings of the Council.

The Hon. D. H. L. BANFIELD: Yesterday I stated that we would be sitting next week and that the Government would be watching the position from there on. The Government has now reviewed the programme, and the session will end next Thursday.

SOUTH AUSTRALIAN TIMBER CORPORATION BILL

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

The Hon. B. A. CHATTERTON (Minister of Agriculture): I move:

That this Bill be now read a second time.

In introducing this Bill for the establishment of a Timber Corporation, I would like to explain the background to the Bill, for the information of members. As a result of recent negotiations with overseas producers of pulp and paper, there appear to be good prospects for the Woods and Forests Department to establish long-term contracts for the sale of pulpwood, probably in chip form, from plantations in the South-East region. The sale of pulpwood is vital to the economics and silvicultural well-being of our plantations.

Discussions so far with potential buyers have assumed the establishment of a ship loading facility at Portland, Victoria, the port of exit. The complex would be established as a joint venture between the overseas buyer and the South Australian Government, with the Government holding a majority interest. The advantages of such an arrangement are twofold: it gives added security to long-term contracts negotiated; and it spreads the funding load.

The Government intends the corporation to hold shares on its behalf in the proposed joint venture company. Capital required by the corporation will be raised by way of semi-Government borrowings. The corporation will meet capital service costs on its borrowings from dividend income on investments and will therefore not be a burden on the State's Revenue Budget.

The Bill also provides for the corporation to engage in trading in timber and timber products in its own right. This feature will enable the corporation to trade in other States where necessary and provide the flexibility needed to successfully market the timber products of the State's forests in a highly competitive national market. The present Forestry Act does not provide this flexibility.

The Bill also provides for the corporation to hold shares in other ventures, with the intention of promoting markets for products of the South Australian Woods and Forests Department. In this regard, the Government proposes to transfer to the corporation its shares in Shepherdson & Mewett Pty. Ltd. and Zeds Pty Ltd.

It is important that negotiations for the establishment of this venture be concluded as quickly as possible to take advantage of the additional employment and revenue to the State. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 to 4 are formal. Clause 5 describes the corporation's legal status and accountability to the Minister. Clause 6 provides for the appointment of the Chairman and members of the corporation. Clause 7 provides for the term of office and conditions of appointment of members of the corporation. This clause also deals with the filling of casual vacancies, the removal of members of the corporation, and vacating of office by members.

Clause 8 provides for allowances and expenses payable to members. Clause 9 establishes the number required for a quorum and procedures for the conduct of meetings of the corporation. Clause 10 determines the validity of acts of the corporation. Clause 11 requires members of the corporation to disclose to a meeting of the corporation any interests they may have in proposed contracts or contracts entered into by the corporation. Clause 12 provides for the execution of documents under the common seal of the corporation.

Clause 13 sets out the powers and functions of the corporation to trade directly and acquire undertakings and interests in undertakings involved in trade in timber, timber products, and other products sold or traded with timber and timber products. Clause 14 provides for the corporation to delegate its powers or functions. Clause 15 provides for the corporation to employ a staff outside the provision of the Public Service Act. Clause 16 provides for the corporation to arrange superannuation for employees through the South Australian Superannuation Board. Clause 17 provides for the engagement of employees on a secondment basis from other departments of the Public Service or Government instrumentalities.

Clause 18 requires the corporation to prepare estimates of income and expenditure for the approval of the Minister and for the appropriation of income by the corporation to meet expenses incurred by the corporation and for the Treasurer to determine the distribution of surplus profits. Clause 19 sets out the borrowing powers of the corporation. Clause 20 provides for the banking arrangements of the corporation. Clause 21 provides for the corporation to invest surplus funds. Clause 22 requires the corporation to keep proper accounting records and to have such records audited each financial year. Clause 23 requires the corporation to submit an annual report to the Minister upon the conduct of the business of the corporation during each financial year, together with audited financial accounts. This clause also requires the Minister to table the report before each House of Parliament. Clauses 24 and 25 are formal.

The Hon. R. C. DeGARIS (Leader of the Opposition): At this stage, no Bill is before the Council, to my knowledge. I understand that the Bill originally introduced in the House of Assembly has been amended. However, owing to the lateness of the session, I feel that I should make some opening remarks at this stage, and then I will seek leave to conclude my remarks when the Bill is on members' files. In his explanation, the Minister states:

> As a result of recent negotiations with overseas producers of pulp and paper, there appears to be good prospects for the Woods and Forests Department to establish long term contracts for the sale of pulpwood, probably in chip form, from plantations in the South-East region. The sale of pulpwood is vital to the economics and silvicultural well-being of our plantations.

It is agreed that the sale of pulpwood is important to the management of the South-East forests. I remember a prominent German many years ago saying in the South-East that it was a crime that any of the timber resources of the South-East were committed to the saw. The whole production should be converted to chip production. Whether that was a valid comment I do not know, but it is

essential for the best management of the forests that a market be found for wood chips.

It was expected that, with the establishment of Apill, the Woods and Forests Department and the private forests would have an outlet for their surplus timber, suitable for pulping. The quantity thought to be required for this purpose has been over-estimated, and for some years it appears that a surplus of pulping timber will be available.

There is, of course, a ready overseas market for wood chips, and it is to this market that the Woods and Forests Department is turning its attention. In the management of our forests, no objection can be raised to the sale to overseas buyers of this surplus. It is expected that, if this market is established, the export will be made from Portland in Victoria. The Government intends by this legislation to establish a Timber Corporation which will be responsible for the sale of surplus wood chips from the forests. The Government also expects to establish a joint venture with a majority shareholding to the corporation to build in Portland loading and storage facilities for the export of wood chips.

The reasons given by the Government for a joint venture are that such a joint venture will give added security to long-term contracts and that it spreads the funding load. One could make a long comment regarding that statement. The capital required for the corporation will be raised by semi-government borrowings. In other words, it will be another of the multiple corporations and statutory authorities that the Government will have at its disposal with a borrowing capacity of, I think, $1 000 000 a year.

It is at this point that the first questions must be directed to the Government. The Woods and Forests Department has been successful as a grower of timber in the South-East, but I have always considered that that is where the departmental role should finish. The processing and marketing of that product should be in the hands of a statutory authority or left entirely to the private sector. The Woods and Forests Department has been successful in growing timber in the South-East. However, I do not think it can be said that it has been successful, as a Government authority, in marketing or in the secondary part of the industry.

The Hon. B. A. Chatterton: Why not?

The Hon. R. C. DeGARIS: I do not think it has; that is all.

The Hon. B. A. Chatterton: Qualify it.

The Hon. R. C. DeGARIS: I will qualify it by asking: if the Woods and Forests Department has been successful, why is the Government now establishing a corporation?

The Hon. B. A. Chatterton: That has been explained.

The Hon. R. C. DeGARIS: It is all very well for the Minister to say that. The statutory authority should be handling the secondary part of the industry, or the private sector should be doing it. Do I understand from the Minister's interjections that the Government is opposing its own Bill?

The Hon. B. A. Chatterton: No.

The Hon. N. K. Foster: Obviously, you don't understand it.

The Hon. R. C. DeGARIS: There does not seem to be any reason to establish a timber corportion to handle the sale of wood chips to overseas customers. I am certain that, if a customer can be found, the loading facility at Portland is hardly a pressing reason for the establishment of a timber corporation.

The Hon. B. A. Chatterton: Where will the money come from?

The Hon. R. C. DeGARIS: I suggest that people all over the world are buying wood chips. Indeed, this is being done in New Zealand and elsewhere, where there is no statutory corporation, and where people enter into a joint venture to provide loading facilities for that export trade. If an overseas customer wants to buy wood chips from us, let us sell them to him. However, why should we get involved in a joint venture, involving the construction of facilities in another State that will cost the Government $5 000 000 or $10 000 000? If the customer exists, let him buy our products and, if necessary, provide the loading facilities, or let the Victorian people provide the loading facilities at their port.

Further, it must be remembered that surrounding Portland is a considerable area of Victorian Government forests and a considerable area of private forests. There must also be, from those forests, a surplus of wood chip timber, because there is no close pulping industry other than the Snuggery mills. If the export wood chip industry is established and loading facilities are required at Portland, it does not seem to be a reasonable excuse to establish a timber corporation to carry out that function. Has there been any contact with the Victorian Government on its views?

The Portland Harbours Authority may be prepared to construct its own loading and storage facilities. It would seem to me that, without further information, to commit the South Australian taxpayer to underwrite the establishment of facilities at Portland, particularly if those facilities may at some stage be duplicated by the Victorian Government or a statutory body in Victoria, would be foolish. Has there been any contact with the private forest operators regarding their views? If so, will the Minister tell the Council about those negotiations?

My first questioning therefore relates to why the Government needs a Timber Corporation for this purpose. In the second reading explanation it is given as the first and, I would suggest, major reason for its establishment. However, the Bill has a much wider application than just the export of wood chips. It is my guess that no case has been made out to establish a Timber Corporation in order to export wood chips.

However, the Bill goes much further and is wider than that. Indeed, it seems to have all the trade marks of the Hotels Commission Bill. If we struck out "tourist industry" and inserted "timber and those products associated with it", it would fit the bill. For the second time, the Government has seen fit, probably because of the pressure exerted on it, to shelve, albeit temporarily, the Hotels Commission Bill.

I am quite sure that, if the private sector, associated with any part of the hardware, building, furniture, importing, and exporting industries, was aware of the wide scope of the Bill, it would be as irate as the tourist industry was with the Hotels Commission Bill. As no Bill is yet on file, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

ABORIGINAL HERITAGE BILL

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

The Hon. T. M. CASEY (Minister of Lands): I move:

That this Bill be now read a second time.

Honourable members will recall that last year the Government introduced legislation to protect our European cultural heritage. This was effected by the passage of the South Australian Heritage Act, 1978. The current Bill aims to improve the means of protection of the indigenous cultural heritage of this State.

Currently, protection is provided for Aboriginal

heritage through the Aboriginal and Historic Relics Preservation Act, 1965, which has not been amended since its introduction. Now it is intended to repeal that Act and introduce a new Act, to be called the Aboriginal Heritage Act, which will remedy the deficiencies of the current legislation, rationalise heritage legislation in this State, and, more importantly, will give greater recognition to the unquestionable right of Aboriginal people to have a say in what happens to their heritage.

In recent years, the Aboriginal people have been seeking greater recognition of, and searching for, better ways of maintaining an alive and vital relationship with their cultural traditions. There is no exaggertion in saying that after many decades of cultural shock and disintegration, there is a renaissance of indigenous Australian culture in the sense of renewed pride in the significance and relevance of these ancient and unique traditions by the Aboriginal people of this State, and indeed in Australia as a whole. The European cultural traditions that are embodied in this very Council have often not displayed sympathy and understanding for these very different traditions. Increasingly, though, those of us who carry the cultural baggage of Europe are coming to recognise the validity of these traditions as a highly significant source of social identity for the Aboriginal people.

No cultural tradition can survive or remain vital without aware members of its society to pass its meanings and significance from one generation to another. No cultural tradition can survive if the artifacts, buildings, paintings, and sites which are the products of that tradition are destroyed or allowed to disintegrate. Aboriginal cultural traditions are particularly sensitive to the depredations of other cultures—the populations are small—but more importantly, the landscape itself assumes great significance in these traditions. It is essential that we provide for the protection of sites of significance for these traditions if the traditions themselves are to survive and propser. This legislation seeks to do this.

There has been a tendency in the past to regard Aboriginal cultural traditions as interesting fossils of defunct social formations irrelevant to our own times. It is that kind of attitude which resulted in legislation about relics. This new Act recognises that Aboriginal cultural traditions are not dead with only the remains to be protected but are alive traditions which Aboriginal communities themselves must play the major part in conserving, preserving and passing on for the benefit of their future generations.

This proposed new legislation will substantially improve the protective measures for preservation of Aboriginal heritage in this State, enhance the social identity of Aboriginal communities, and stimulate a greater appreciation of Aboriginal culture and history in the community generally.

As I have indicated, there are a number of deficiencies in the current legislation. A major deficiency is that the Aboriginal and Historic Relics Advisory Board as constituted under the existing Act does not provide for Aboriginal representation. It is proposed that the board be replaced by an Aboriginal Heritage Committee of nine members appointed by the Governor, of whom at least three would be Aboriginals. I will be seeking at least one representative from a tribal group. This will enable Aboriginal people to have much greater involvement in matters relating to the preservation and protection of places and objects of sacred, ceremonial, mythological or historical significance, and the protection of Aboriginal remains.

The Government is also concerned to rationalise heritage legislation in this State. At present, there is some overlap between the Aboriginal and Historic Relics Preservation Act and the Heritage Act. It is proposed that the new legislation will be wholly concerned with the protection of Aboriginal items and sites, and not the pre-1865 European Heritage as it is at the moment.

This will focus the proposed new legislation on Aboriginal heritage.

Another major deficiency in the current Act is that it provides inadequate protection for sacred sites. The present Act provides only a trespass clause for protection of relics in prohibited areas but does not provide adequate protection for sacred sites. The lack of effective protection is becoming more serious because of the increasing demands on remote areas in which most sites are located. The effects of recreation and mineral exploration activities on Aboriginal artifacts and sites, and the inaccessibility of sites in such remote areas, all mean the current legislation has not been successful in providing the proper protection. The proposed legislation therefore aims at greater protection of sacred sites through restrictions on entering such areas without the written permission of the Minister.

To enable the Minister to be aware of which sites and items are under threat from mining, pastoral and other land use activities, a new register of Aboriginal sites and items will be prepared as soon as possible. Much effort will be expended in achieving this objective.

When an accurate documentation of sites, items and protected areas has been compiled, the Government will consider amendments to the Mining Act, the Pastoral Act and the Crown Lands Act. These amendments will be designed to give greater protection to the Aboriginal heritage of this State.

Provision is also made in the Bill for the control of trade in secret or sacred Aboriginal relics. Occasionally, there is offering for sale of such objects by the general public which causes offence to traditionally-orientated Aboriginal people in the State. The Bill will ensure that items of the Aboriginal heritage are not offered for public sale or display without the Minister's consent.

Under the current legislation, arrangements for declaring prohibited areas or historic reserves entails obtaining permission of the owner which is very cumbersome in practice. Protection should be afforded even if the present owner is not entirely willing. It is pointed out that under the Heritage Act there is no provision for owner consent to registration of items of European cultural heritage. The current Bill dispenses with consents—indeed it would be derogatory to the Aboriginal people if such consents were required in relation to their heritage but not in relation to our European heritage. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1, 2 and 3 are formal. Clause 4 repeals the Aboriginal and Historic Relics Preservation Act, 1965. Clause 5 sets out the definitions used for the purposes of the Bill. Clause 6 provides that the Act should not be interpreted so as to prohibit Aboriginal customs. Clause 7 sets out the duties of the Minister under the Act, including the keeping of a register of Aboriginal sites and items and ensuring the protection and preservation of such items and sites.

Clauses 8 and 9 provide for the establishment of an Aboriginal Heritage Fund which will provide for the acquisition of items and sites of Aboriginal heritage significance, for maintenance, restoration, research and

measures which would promote greater awareness in the community of our indigenous cultural heritage. Clause 10 provides for the delegation of powers of the Minister.

Clause 11 formally establishes the Aboriginal Heritage Committee which is to be made up of nine persons appointed by the Governor. The Committee's role will be to provide advice to the Minister of all matters associated with the State's Aboriginal heritage. It is envisaged that the committee will include at least three Aboriginal members to enable the Aboriginal people to play a much greater role than in the past in the management of the protection and preservation of their heritage. I will be seeking at least one representative from a tribal group. Other members will be appointed from Government departments having concern in this area and persons having recognised skills in archaeology and anthropology with knowledge of Aboriginal mythology.

Clause 12 sets out the terms and conditions of office of the members of the committee. Clause 13 provides for the payment of allowances and expenses of committee members. Clause 14 provides for a quorum of the committee being five out of its nine members and for general procedural arrangements. Clause 15 provides for a secretary to the committee.

Clause 16 sets out the functions of the committee. These will include recommending to the Minister on the declaration of protected areas and the acquisition of Aboriginal items and considertion of any matters relating to Aboriginal heritage protection referred to it by the Minister. Clause 17 provides for the appointment of inspectors who will be members of the Police Force or any Aboriginal persons appointed by the Minister. The valuable role which Aboriginal inspectors have played in the past is well appreciated: This Bill provides for involvement of the Aboriginal people in the protection of sites and objects.

The powers of inspectors are set out under clause 18. Responsibilities include surveillance of sites declared under the Act, preventing entry of unauthorised persons into protected areas, and the power to retain any item of Aboriginal heritage for investigation or legal proceedings. Clause 19 provides for compliance with the instructions of an inspector.

Clause 20 establishes the processes for declaring a protected area. This includes, in respect of Crown lands, that the Minister concerned is informed of the proposed declaration and, in respect of private lands, that the owner and occupier be informed of the proposed declaration. Provision is also made for the restriction of access to protected areas except with the written permission of the Minister and the publication of notices indicating such restrictions.

Clause 21 provides for the erection of signs at or in the vicinity of protected areas or registered Aboriginal sites. Clause 22 provides for the endorsement of title deeds with details of registered Aboriginal sites or protected areas. This will provide greater protection against damage from for example, proposed subdivisions.

Clause 23 enables the Minister to acquire land in the interests of Aboriginal heritage preservation. Clause 24 provides that no land shall be excavated for the purpose of exploring for an Aboriginal heritage item without the consent of the Minister. Restriction is also placed on the removal or interference with any item of the Aboriginal heritage.

Clause 25 provides for the excavation and removal of items of the Aboriginal heritage with the Minister's consent. This may be necessary in some cases to ensure the protection and preservation of objects which are under threat from the natural elements or pilfering. Clause 26 establishes penalties for damaging or destroying a registered item. Clause 27 requires the discovery of items of the Aboriginal heritage to be reported to the Minister. Clause 28 provides for the surrender of such items to the Minister for classification if required by the Minister. Clauses 29 and 30 provide for proceedings for offences against the Act and for forfeiture and seizure of an Aboriginal heritage item if the owner is convicted of an offence in relation to that item.

Clause 31 enables the Governor to make regulations under the Act. The Government recognises the importance of the State's indigenous cultural heritage and the need to protect it for the present and future generations of both the Aboriginal people and other sectors of the community. This Bill represents the Government's resolve to strengthen the measures for protection and preservation of that culture.

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

SOUTH AUSTRALIAN HERITAGE ACT AMENDMENT BILL

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

The Hon. T. M. CASEY (Minister of Lands): I move:

That this Bill be now read a second time.

Another amendment to the principal Act which I am introducing today is contained in the Bill for the South Australian Heritage Act Amendment Act, 1979. This Bill provides for an amendment to the principal Act for the protection of historic shipwrecks. This is not specifically provided for in the current Aboriginal and Historic Relics Preservation Act. With the proposed amendments to the Commonwealth Seas and Submerged Lands Act of 1973 which will give the States power over the three-mile territorial sea, it will be necessary for State legislation to protect shipwrecks within this limit. This is proposed in the present Bill.

Clause 1 is formal. Clause 2 provides for the amendment of the principal Act by including in the definition of "item" any shipwreck lying in the territorial waters of the State.

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

PREVENTION OF POLLUTION OF WATERS BY OIL ACT AMENDMENT BILL

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

The Hon. B. A. CHATTERTON (Minister of Agriculture): I move:

That this Bill be now read a second time.

The Prevention of Pollution of Waters by Oil Act was passed in 1961 to complement Commonwealth legislation introduced as a result of the 1954 Convention on the Pollution of the Sea by Oil. Similar legislation was passed in other States. The amendments now proposed are based on recommendations of the Council of the Association of Australian Port and Marine Authorities.

Under the existing provisions, if a discharge of oil occurs from a ship or from any apparatus for transferring oil from or to a ship, the person responsible for the ship or apparatus may be guilty of an offence and the Minister may remove the oil from the waters affected and recover

from the person responsible all costs incurred in such removal.

There are two serious defects: the Act does not apply to discharges from oil rigs, refineries, pipelines (except when transferring oil to or from ships) or vehicles, and there is no power in the Minister to take action or require others to take action to prevent spillages. The Bill seeks to remedy these defects. The scope of the Act is also extended to include pollution of non-navigable waters. It is possible that a body of water that is inland may be polluted as the result of the escape of oil from a vehicle, or, at some future time, from an oil rig, pipeline or refinery. I seek leave to insert the explanation of the clauses in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the Act will come into operation on a day to be fixed by proclamation. Clause 3 amends the long title of the principal Act so that it expresses that wider scope of the Act as amended. Clause 4 amends section 3, the interpretation section of the principal Act. There is a definition of "apparatus" to include pipelines, receptacles and any device used for exploration or recovery of oil. The definition of "jurisdiction" has been amended to include non-navigable waters.

Clause 5 repeals and re-enacts section 5 of the principal Act which deals first with the liability for a discharge of oil into the waters of the jurisdiction. Liability of the owner, agent or master in relation to a ship or the person in control in relation to any apparatus remains unchanged, although the definition of "apparatus" is now much wider. In the case of escape of oil from a vehicle the person liable will be the person who has undertaken to transport oil by means of that vehicle. Subclause (2) sets out the offence of discharging oil into the waters of the jurisdiction. The penalty remains at $50 000. Clause 6 repeals section 6 of the principal Act which provides for defences to charges under section 5. Defences to criminal and civil proceedings under the Act will be dealt with in proposed new sections 7c and 7d.

Clause 7 repeals section 7 of the principal Act, which gives power to the Minister to remove oil from polluted waters, and enacts new sections 7 to 7e. New section 7 is similar to the existing section but enables the Minister to take action to prevent a discharge of oil. The costs reasonably incurred by the Minister in exercising his powers under the section will be recoverable as a debt from the person who is liable under section 5 or who would have been liable if the discharge had occurred. Section 7a provides that the Minister may by notice require the person liable under section 5 (or who would be liable if a discharge occurred) to take steps to prevent the discharge or to prevent or mitigate pollution when a discharge has taken place. If such a notice is not complied with, the person upon whom it was served is guilty of an offence for which a maximum penalty of $50 000 is provided.

The Minister may in such circumstances cause the work to be carried out and may recover his reasonable costs as a debt due from the person concerned. Section 7b provides for the service of notices under section 7a. Section 7c provides that it shall be a defence to a charge for an offence under the Act that the alleged offence resulted from the need to save life or from military or similar action or from an irresistible natural phenomenon. It is also a defence that it resulted from the negligent or malicious act of someone other than the defendant or his agent.Section 7d provides similar defences to a claim for costs or expenses incurred by the Minister under sections 7 or 7a, with the exception that negligence of a third party is not a defence.

However, where the situation arose through negligence or failure of the Government in providing or maintaining navigational aids, there will be a defence. In the case of a discharge that the Minister thought was likely to occur, the person concerned will not be liable for costs and expenses if he can establish that in fact there was no real likelihood of a discharge occurring, or if the steps taken by the Minister were unreasonable. The section also provides for a maximum amount for which the owners of an oil tanker may be liable, based on tonnage, where the spillage was caused by the negligence of a third party.

Section 7e provides that where the Minister has a claim under sections 7 or 7a in relation to a ship or vehicle, the amount recoverable shall be a charge on that ship or vehicle, which may be detained until the amount owing is paid or security given. It is an offence, with a maximum penalty of $10 000 to move a ship or vehicle that is being detained.

Clause 8 makes consequential amendments to section 10 of the principal Act. Clause 9 makes formal and consequential amendments to section 11 of the principal Act. Clause 10 amends section 12 of the principal Act by altering the spelling of "harbormaster" to correspond with the form used in the Harbors Act. Clause 11 makes a consequential amendment to section 15 of the principal Act.

Clause 12 makes consequential amendments to section 16 of the principal Act. Clause 13 amends section 17 of the principal Act, which deals with proceedings for offences against the Act, by striking out the words "for the recovery of a penalty". This phrase is ambiguous since it ccould be understood to refer to proceedings to enforce payment of a fine that had already been imposed. Clause 14 makes two minor formal amendments and a consequential amendment to section 18 of the principal Act.

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

EMPLOYEES REGISTRY OFFICES ACT AMENDMENT BILL

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

The Hon. D. H. L. BANFIELD (Minister of Health): I move:

That this Bill be now read a second time.

From time to time honourable members have given consideration to the principles adopted as conventions and recommendations of the International Labour Organisation. As a foundation member of the I.L.O., Australia has long recognised the importance and desirability of establishing international standards in the labour sphere and its recent additional financial contribution to the operations of that organisation gives an indication of Australia's continuing commitment to its work.

International Labour Convention No. 96—Fee-Charging Employment Agencies (Revised), 1949, provides for either the progressive abolition or the regulation of such employment agencies. Employment agencies have existed as part of the Australian industrial scene for a long time, and it cannot be denied that they have an important co-ordinating role to play in assisting people to become settled into satisfactory employment. Hence it is

considered desirable that any ratification of the convention by Australia is only possible in respect of the regulation of employment agencies, and not their abolition.

Article 10 of the convention provides that if fee-charging employment agencies are not to be abolished by the competent authority, they:

(a) shall be subject to the supervision of the competent authority;

(b) shall be required to be in possession of an annual licence renewable at the discretion of the competent authority;

(c) shall only charge fees and expenses on a scale submitted to and approved by the competent authority or fixed by the said authority; and

(d) shall only place or recruit workers abroad if permitted to do so by the competent authority and under conditions determined by the laws or regulations in force.

At present, all of the 37 employment agencies in South Australia are required by the Employees Registry Offices Act to be licensed by the Permanent Head of the Labour and Industry Department, thereby ensuring compliance with the first two provisions of Article 10. However, with respect to the last two requirements of the article, the Act allows fees to be fixed by the individual agencies and requires the scale of fees charged by the agency to be exhibited on the premises of that agency.

In the last two years, both Western Australia and New South Wales have enacted legislation enabling the spirit of the I.L.O. convention to be honoured. Western Australia has opted for the approval of fees, while the New South Wales Act, which came into operation on 1 January 1978, provides for the fixing of fees by regulation. In acknowledging the contribution made by employment agencies the Government is anxious not to "over-control" the industry by fee regulation but, at the same time, is anxious to eliminate unscrupulous operators in this area. Hence, this Bill provides for the approval by the Minister of Labour and Industry of fee schedules submitted by employment agencies. This proposal has been discussed with appropriate representatives of the industry in South Australia, and I have assured those involved that the Government will continue its policy of full consultation with interested parties when establishing the guidelines relating to the approval of fees.

The Government has given detailed consideration to the phasing out of the practice of employment agencies charging fees to applicants. At present, the Employees Registry Offices Act merely provides that employees be charged no more than employers. There has been some criticism, mainly in other States, that some agencies, while levying a charge on applicants, have not provided any guarantee as to the intensity of the efforts made on the applicants' behalf, nor, of course, have they given any guarantee that the applicant will, in fact, be placed in employment as a result of that fee payment.

The Government cannot condone that practice, and considers it more equitable to charge the employer for the service given to him by the agency in advertising, interviewing, and selecting staff and prohibiting any charge being made to the employee. In order to give sufficient notice to those few employment agencies in South Australia which still make charges to employees, the Bill provides for the phasing out of this practice over a period of 12 months.

Consequential to the Government's decision above is the provision in the Bill to delete section 2a of the Act. At present, section 2a enables both the Nurses Board and the Medical Board to exempt from the provisions of the Act persons who find employment respectively for nurses and medical officers. Thus, because of the special circumstances existing in the medical profession in the past such agencies (and there are currently two agencies dealing specifically with employment for nurses, but none dealing with medical officers) have not had to comply with the provisions of the Act. Should that exemption be perpetuated it would enable agencies to continue to charge nurses for finding them employment.

The Government firmly believes that the removal of the advantageous position in which employment agencies for nurses currently find themselves is in line with the spirit of the I.L.O. convention and in keeping with contemporary trends towards non-discrimination in all walks of life. Its intention to delete section 2a from the Act has been supported by the Nurses Board of South Australia which, in any event, has not granted many certificates of exemption in the past as it is empowered to do under the section.

However, the employment of nurses for home nursing purposes is not regarded by the Government as the usual relationship between employer and employee but rather as a contract between the patient and the nurse for the rendering of professional services in a home environment. Nursing in private homes is not covered by an award, and each contractual arrangement is a private matter between the nurse and the patient (or someone acting on behalf of the patient) whether or not the recommended fee of any particular agency concerned is used as a basis for negotiations.

In addition, it would be extremely difficult to say that the necessary degree of control exists to establish an employee-employer relationship which in the past has been the basic test used by courts to determine cases based on a so-called contractual relationship. Accordingly, it is appropriate for the home nursing section to be excluded from the provisions of the Act. The Bill provides for exemptions by way of regulation.

Many submissions, both for and against the Government's proposals, have been made by interested sections of the community. The Government is convinced that the bulk of evidence suggests that there are sound social and economic reasons for continuing the practice of exempting home nursing. In particular, should the exemption be removed in this area and the paying of an agency's service become the sole responsibility of a patient and/or his family, it may well place an untenable, economic burden upon those financially responsible, which could easily operate to the detriment of the patient. The Government is not willing to let those in need of home nursing care and those whose responsibility it is to meet the costs involved from a modest weekly wage suffer through the imposition of an additional cost for nursing services.

As mentioned above, discussions have been held with appropriate representatives of the industry and I have been encouraged by the full and frank manner in which those representatives have discussed the Government's intentions with me. I have been informed that, although the home care market is only a small segment of the total market, costs will increase significantly should the exemption in respect of home nursing not continue. Thus, the action proposed by the Government in the Bill will enable a community need to be fulfilled without the imposition of an additional burden upon any particular section of that community.

I now turn to some of the other matters proposed in the Bill. There is at present no provision in the Employees Registry Offices Act relating to the placement or recruitment of workers abroad. An opinion from the Solicitor-General as to South Australia's legislative

competence in this regard indicates that, while the Commonwealth Migration Act provides for a kind of licensing of immigration agents and the fixing of maximum charges for certain services by those agents, the actual recruitment of workers in other countries for employment in South Australia (as distinct from any arrangements for their entry into the country as immigrants) and the recruitment of workers in South Australia for employment overseas are matters upon which South Australia can validly legislate.

Accordingly, the Bill provides that regulations can be made to cover these matters, and will enable South Australia to advise the Commonwealth that our legislation is not a barrier to the Convention being ratified in Australia.

The opportunity has also been taken to amend some machinery provisions in the Act in order to improve its administration. At present, on each occasion the fees relating to applications under the Act need to be altered, an amendment to the Act is required. Clause 17 of the Bill provides that such fees may be prescribed by regulation. In addition, the Act provides that an applicant for a licence issued under the Act must supply a certificate from a justice of the peace and six ratepayers who are personally known to the applicant. This provision has proved difficult on occasion, particularly where the relevant applicant is from interstate or overseas. The Bill seeks to amend the Act to require an applicant to supply two character and two business references with his application, which will provide the necessary flexibility while maintaining the desired safeguards.

Provision has also been made for the Act to require employment agencies to reveal their business or trading name and address in any job advertisement. Such an amendment is considered necessary in the light of complaints received by my department that only telephone numbers have been included in such advertisements. In such circumstances, difficulties and misunderstandings can easily arise on the part of the persons seeking employment. The Government considers that the requirement expressed in proposed new section 13 would do much to overcome this undesirable practice and would greatly assist the department in verifying that all employment agencies are registered in accordance with the Act. I seek leave to insert the explanation of the clauses in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the Act shall come into operation on a day to be fixed by proclamation. Clause 3 amends the interpretation section of the principal Act by replacing the definition of "Secretary of Labour and Industry" with the definition of "the Director" and by providing a definition of "transaction". Clause 4 repeals sections 2a and 2b of the principal Act, which provide for exemptions from the provisions of the Act. Exemptions will in future be made by regulation.

Clause 5 repeals section 4 of the principal Act and enacts new section 4, which provides for the issue of licences. Applicants for licences will be required to provide references as to their character and business experience. Where the applicant is a corporation, the references must relate to the nominated manager. Clause 6 amends section 4a of the principal Act by deleting references to the form of application and form of certificate, both of which are set out in the schedules to the Act, but will not be relevant under the proposed system. The schedules are to be repealed. Clause 7 repeals section 4b of the principal Act and enacts a new section 4b. The requirements as to the eligibility of a person to be manager of a corporation remain the same. The new section also provides that if the business of a corporation is carried on for more than twenty-eight days without an approved manager, the licence of the corporation is suspended.

Clause 8 effects formal and consequential amendments to section 5 of the principal Act. Clause 9 effects consequential amendments to section 6 of the principal Act. Clause 10 repeals sections 6a and 6b of the principal Act (the substance of which sections is included in proposed new section 4b) and section 7, the provisions of which are included in proposed new section 4. Clause 11 effects consequential amendments to section 8 of the principal Act.

Clause 12 effects consequential amendments to section 9 of the principal Act. Clause 13 effects consequential amendments to section 10 of the principal Act. Clause 14 repeals sections 13 and 13a of the principal Act and enacts a new section 13 which prohibits the publication of any advertisement relating to the hiring of employees, unless the business name and address of the licensee are included. The matters dealt with by the repealed sections are covered substantially by proposed sections 14c, 14d, and 14e.

Clause 15 repeals sections 14 and 14a of the principal Act and enacts new sections 14a to 14f, which deal with the same matters, as well as other matters. Proposed section 14 makes it an offence for a person to demand fees not chargeable under the Act. Proposed section 14a provides that a contract which contemplates the payment of excessive fees is voidable at the option of the employer or employee concerned and that the excess payment is recoverable from the licensee.

Section 14b will prohibit the charging of fees to a person who becomes the licensee's employee. Section 14c provides for the phasing out of fees to employees and regulates the charging of fees in the meantime. Section 14d regulates charging of fees to employers. Section 14e requires Ministerial approval for any licensee's scale of fees and specifies information which must be included in the scale. Section 14f provides for the return to an employer or employee of any fee paid in advance, if employment is not arranged.

Clause 16 effects a consequential amendment to section 16a of the principal Act. Clause 17 amends section 17 of the principal Act, which relates to the power of the Governor to make regulations. The amendment provides specifically for exemptions from provisions of the Act, for the prescribing of fees, penalties for offences against the regulations, and the conditions under which licensees may recruit persons within the State for employment outside Australia, or recruit persons from outside Australia for employment within the State. Clause 18 amends section 22 of the principal Act by increasing the maximum penalty for offences against the Act from $100 to $500. Clause 19 repeals the first, second and third schedules to the principal Act, which provide for forms required by the Act. Under the new system, forms will be prescribed by regulation.

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

LIBRARIES AND INSTITUTES ACT AMENDMENT BILL

The Hon. B. A. CHATTERTON (Minister of Agriculture) obtained leave and introduced a Bill for an Act to amend the Libraries and Institutes Act, 1939-1978. Read a first time.

The Hon. B. A. CHATTERTON: I move:

That this Bill be now read a second time.

The Community Development Department has been formed to draw together currently fragmented community development initiatives across a range of functional areas. Library services are seen as one of these areas and a key element in the composition of the new department. The purpose of this Bill is to effect the necessary legislative amendments to the Libraries and Institutes Act to enable the Libraries Department to be relocated and reorganized within the broader concerns of the Community Development Department.

Such a move is, of course, in line with the general desire on the part of the Government to encourage integrated service provision where possible and to continue the process of rationalisation of Government departments recommended by the Corbett Committee of Inquiry into the Public Service in 1975. It also takes account of the Crawford Report's recommendations relating to the need for a major reorganisation of the existing department.

The permanent head of the Community Development Department would, under this amendment, assume full responsibility for library services. The current Public Service standing of the State Librarian will not be affected by this legislation. Clauses 1 and 2 are formal. Clause 5 provides for the abolition of the Libraries Department and the designation of the State Librarian as permanent head. Clauses 3, 4, 6 and 7 are consequential amendments removing references relating to the State Librarian and Libraries Department.

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

MENTAL HEALTH ACT AMENDMENT BILL

The Hon. D. H. L. BANFIELD (Minister of Health) obtained leave and introduced a Bill for an Act to amend the Mental Health Act, 1976-1977. Read a first time.

The Hon. D. H. L. BANFIELD: I move:

That this Bill be now read a second time.

It amends the Mental Health Act, 1976-1977 (the principal Act), which is designed to replace the Mental Health Act, 1935-1974 (the old Act). The principal Act does not simply repeal the old Act but instead, by means of a schedule, strikes out all the Parts of the old Act except Parts III, IIIA and V. Parts III and IIIA deal with criminal mental defectives and Part V deals with the administration of the property of mental patients. The schedule also makes amendments to Parts III and V.

The principal Act is not yet in force but is expected to be proclaimed within the next few months. Provisions dealing with the administration of the property of mental patients are more conveniently placed in the Administration and Probate Act, 1919-1978. Section 17 of the amendment to this Act which was passed last year enacts new Part IVA dealing with this subject. It is intended that these provisions replace Part V of the old Act.

The purpose of this Bill is to amend the schedule to the principal Act so that Part V of the old Act will be struck out when the principal Act comes into force. Section 17 of the Administration and Probate Act Amendment Act, 1978, will come into force at the same time with the result that Part IVA of the Administration and Probate Act, 1919-1978, will replace Part V of the old Act. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 amends an error in the date of the old Act appearing in section 4 of the principal Act. Clause 3 amends the schedule. Paragraph *(a)* of subclause *(a)* replaces the long title of the old Act. The new title is now more suitable as the only Parts remaining in the old Act deal with criminal mental defectives. Paragraph *(ab)* alters the short title in section 1 of the old Act. Paragraph *(ac)* strikes out the sections of Part I other than section 1. Paragraph *(ad)* strikes out all the Parts of the old Act except Parts I, III and IIIA. Subclause *(b)* strikes out the paragraphs in the schedule that made amendments to Part V of the old Act.

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

SOUTH AUSTRALIAN HEALTH COMMISSION ACT AMENDMENT BILL

The Hon. D. H. L. BANFIELD (Minister of Health) obtained leave and introduced a Bill for an Act to amend the South Australian Health Commission Act, 1975-1977. Read a first time.

The Hon. D. H. L. BANFIELD: I move:

That this Bill be now read a second time.

Its purpose is to clarify and simplify proceedings under the Industrial Conciliation and Arbitration Act, 1972-1979, in relation to awards, orders and industrial agreements made under that Act in respect of incorporated hospitals and health centres and their employees.

The principal Act provides that the officers and employees of incorporated hospitals and health centres must be employed on terms and conditions fixed by the South Australian Health Commission and approved by the Public Service Board. In addition, hospitals and health centres can appoint staff only in accordance with a staffing plan previously approved by the commission. The result of these provisions is that there is considerable doubt as to whether the commission on the one hand, or the hospital or health centre, on the other, is the employer of people working in the hospital or health centre

The Bill provides that, for the purpose of awards, orders and industrial agreements made under the Industrial Conciliation and Arbitration Act, 1972-1979, the commission will be the employer. This is a logical corollary of the fact that the commission fixes the terms and conditions of employment. It will also enable the interests of all incorporated hospitals and incorporated health centres to be represented before the Industrial Court and the Industrial Commission, thereby reducing a proliferation of separate proceedings against each body. This will save an enormous amount of unnecessary time and effort. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the commencement of the Act. Clause 3 adds three new subsections to section 60 of the principal Act. Section 60 at present provides that the Industrial Court and Industrial Commission of South Australia have jurisdiction in respect of the South Australian Health Commission and incorporated hospitals and health centres and their employees. New subsection (2), enacted by clause 3,

provides that in any proceedings under the Industrial Conciliation and Arbitration Act, 1972-1979, or in any industrial agreement the commission will be deemed to be the employer.

New subsection (3) will ensure that even though awards and orders are made against the commission in respect of hospital or health centre employees and agreements are made in its name in respect of those employees, the hospital or health centre concerned will be bound. Subsection (2) applies only to proceedings and agreements and therefore the provisions of the Industrial Conciliation and Arbitration Act, 1972-1979, that directly bind employers independently of an award, order or agreement will continue to bind hospitals and health centres.

New subsection (4) excludes the representation of a hospital or health centre without the commission's consent. Such a provision is necessary if the commission is to retain control of proceedings before the court and the Industrial Commission and negotiations for industrial agreements and is necessary for the efficient disposal of industrial disputes.

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

CHIROPRACTORS BILL

The Hon. D. H. L. BANFIELD (Minister of Health) obtained leave and introduced a Bill for an Act to provide for the registration of chiropractors and the regulation of the practice of chiropractic; to repeal the Chiropractic Act, 1949; to amend the Physiotherapists Act, 1945-1973; and for other purposes. Read a first time.

The Hon. D. H. L. BANFIELD: I move:

That this Bill be now read a second time.

The principal object of this Bill is to establish a registration board to register chiropractors and regulate the practice of chiropractic. For the purposes of this Bill, the term "chiropractic" includes osteopathy. As honourable members would be aware, recognition of chiropractic has been a matter of contention for a long time. Historically, chiropractic originated in America in the late 19th century, although there are writings and theories on spinal manipulation as a healing art which go back well beyond that period. The emergence of the theory and its adherents aroused suspicion and antagonism at the time and overtones of this are still apparent today. However, chiropractic has survived and flourished to the extent that it has been estimated that over 250 000 new patients receive chiropractic treatment in Australia each year. This indicates a growing acceptance of, and demand for, chiropractic treatment.

At the same time, there has been increasing pressure both from the profession and the public for the establishment through legislation of a registration system for chiropractors, similar to those already in existence for a number of other disciplines in the health area. As honourable members would be aware, the Commonwealth Minister for Health in August, 1974 set up a committee of inquiry into chiropractic, osteopathy, homeopathy and naturopathy. The committee—known as the Webb Committee—published its report in April, 1977 and recommended that chiropractors and osteopaths should be registered in each State.

My Government subsequently announced as a matter of policy that it would introduce legislation to register chiropractors, and established a Working Party including four chiropractors to prepare a brief upon which legislation could be based, resulting in the Bill before you today.

The Government, in recognising the public demand for chiropractic, believes that the public should, and is entitled to be, protected from unqualified practitioners. The legislation therefore will not only recognise and encourage the continuation of this particular therapy, but will at the same time seek to ensure that future practitioners receive a high standard of training and pass appropriate examinations before being granted registration status.

I will not attempt to canvass the provisions of the Bill in detail at this stage, but will leave that to the explanation of individual clauses. I would conclude by saying that the Government in introducing this Bill is showing confidence in the profession. I trust that this confidence will be respected by the profesion itself and that it will be responded to in a responsible way by those who practice and will practice under the Bill. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 sets out the arrangement of the measure. Clause 4 provides for the repeal of the Chiropractic Act, 1949, and amendments of the Physiotherapists Act, 1945-1973, that are consequential to the provisions of this measure. Clause 5 sets out definitions of terms used in the Bill. Clause 6 provides for the establishment and incorporation of a board to be known as the Chiropractors Board of South Australia.

Clause 7 provides that the board is to consist of six members, of whom, for the first two years, four are to be practising chiropractors appointed and selected by the Governor and after the first two years, four are to be registered chiropractors elected by the registered chiropractors. The Chairman of the board is to be a member appointed by the Governor. Clause 8 provides for the conditions and terms of office of members of the board. The term of office of the first board, all of the members of which are to be selected by the Governor, is to be two years, and, thereafter, members, whether selected by the Governor or elected by the registered chiropractors, are to have a term of office of three years.

Clause 9 provides for remuneration of members of the board which is to be determined by the Governor. The remuneration is to be paid out of the funds of the board. Clause 10 regulates the conduct of meetings of the board. Clause 11 provides for the validity of acts of the board and certain immunity from civil proceedings for members of the board. Clause 12 provides for appointment by the board of a Registrar, to be a person approved by the Minister, and the appointment of other officers and servants. Clause 13 empowers the board to establish an office and for that purpose acquire any interest in real or personal property.

Clause 14 empowers the board to borrow moneys with the consent of the Treasurer and provides that the Treasurer may guarantee the repayment of any such loan. Clause 15 empowers the board to establish banking accounts at a bank approved by the Treasurer. Clause 16 empowers the board to invest any surplus moneys. Clause 17 requires the board to keep proper accounts and provides for the annual audit of its accounts by auditors appointed by the board and the audit of the accounts, at any time, by the Auditor-General.

Clause 18 provides for applications for registration as a chiropractor. Clause 19 sets out the qualifications for registration as a chiropractor. These are: the successful completion of a course of training to be specified by regulations, or the passing of an examination arranged by the board. In addition, those persons who apply for registration within three months from the commencement of the measure, having, from on or before the first day of February, 1979, until the date of application, practised chiropractic within the State, had their principal place of residence within the State and derived their incomes principally from the practice of chiropractic are, under this clause, to be entitled to registration. Clause 20 provides for the grant of registration to qualified persons upon payment of the registration fee. Clause 21 provides for annual renewal of registration. Clause 22 requires the Registrar of the board to keep and maintain a register of registered chiropractors. Clause 23 provides for issue by the Registrar of certificates of registration. Clause 24 provides that it shall be an offence after the expiration of three months from the commencement of the measure for a person, for fee or reward, to manipulate the joints of the human spinal column or its immediate articulations for therapeutic purposes unless the person is a registered chiropractor, a legally qualified medical practitioner or a registered physiotherapist or unless he does so in connection with a recognised course of training in chiropractic or an examination arranged by the board or he is exempted by regulation.

Clause 25 provides that it shall be an offence after the expiration of three months from the commencement of the measure for any person to use or display the title or description "chiropractor", "osteopath", "spinal therapist" or "manipulative therapist" or to cause a person to reasonably believe that he is a registered chiropractor unless he is a registered chiropractor. Subclause (2) of this clause permits registered physiotherapists to use the title "manipulative therapist". Subclause (3) of this clause would require registered chiropractors to use only the titles "chiropractor" or "osteopath" in the course of their practices as chiropractors.

Clause 26 sets out the grounds for disciplinary action to be taken by the board against registered chiropractors. Clause 27 empowers the board to investigate the conduct of registered chiropractors. Clause 28 provides that the board may appoint a person approved by the Minister to be an inspector and empowers an inspector to enter at a reasonable time any premises used by registered chiropractors and make inquiries. Clause 29 provides that the board may conduct inquiries into the conduct of registered chiropractors and empowers the board, if it determines that there is cause for disciplining a registered chiropractor, to reprimand him, impose a fine not exceeding $500 or suspend or cancel his registration. Clause 30 provides for the procedure in respect of inquiries held by the board. Clause 31 sets out in respect of the board the usual powers for the conduct of inquiries.

Clause 32 regulates the costs in respect of inquiries held by the board. Clause 33 provides for a right of appeal to the Supreme Court against any decision or order of the board. Clause 34 provides for suspension of an order of the board until determination of an appeal against the order. Clause 35 is an evidentiary provision. Clause 36 provides for the service of documents by post. Clause 37 provides for the summary disposal of proceedings for offences against the measure. Clause 38 provides for the making of regulations.

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

MOTOR BODY REPAIR INDUSTRY BILL

Second reading.

The Hon. T. M. CASEY (Minister of Lands): I move:

That this Bill be now read a second time.

It gives effect to the recommendations of a steering committee appointed to inquire into and make recommendations for the control of the motor body repair industry. The Bill, amongst other things, provides for amendments to the Motor Vehicles Act (Tow-Trucks). Certain clauses of that Act will be re-enacted in the new Act. In summary; the Bill provides for the constitution of a Board to licence and control the activities of the motor body repair industry, the towing industry and the motor vehicle loss assessing industry. These three groups are an integral part of the one industry and for that reason should all be subject to licence and control.

The industry which the Bill is intended to cover is a multi-million dollar industry within this State and has reached a stage where operational controls are necessary. The steering committee has found that a number of dubious and even illegal practices are carried out in the industry and must, for the protection of the public and the industry itself, be curtailed. This evidence before the steering committee came from members of the public, members of the industry itself and from the steering committee's own investigations.

Motor Body Repair Industry:

Throughout the State of South Australia, as far as can be ascertained, there are between 500-600 motor body repair workshops operating and between 50-75 workshops exclusively engaged on automotive spray painting. There are numerous problems within this industry which arise from fierce competition for the lucrative work of repairing damaged motor vehicles and in many instances the work produced by the shops is not of an acceptable standard. It is proposed:

(1) that licensed workshops shall have minimum plant and equipment as determined by the Board, in order that they can satisfactorily repair vehicles;

(2) that where a motor body repair business has four or more employees who are being paid tradesmen's rates of pay, they shall employ one apprentice. It is considered such action will increase the number of tradesmen in this vital industry and ensure in the long term higher work standards;

(3) that machinery for the settlement of disputes between the workshops and their customeers concerning the standard of work in the industry be set up. The administration will be in a similar manner to that provided under the Builder's Licensing Act in relation to disputes about the standards of building work.

Towing Industry:

The Bill provides for the licensing and control of tow-truck proprietors referred to in the Bill as tow-truck operators and tow-truck drivers. Applicants for licences will be closely checked in order that the Board can determine whether they are fit and proper persons to be licensed in the industry. The Bill also provides for a zoning and roster system under which tow-trucks licensed to attend the scenes of accidents will be required to abide. The zoning system means that the metropolitan area of Adelaide will be divided into a number of zones and tow-truck operators will be given the right to work within certain of the zones. A roster system will be drawn up for

each zone and will be handled and controlled by the South Australian Police Department. The administration of the roster will be audited by the Board.

It is proposed that when a person requires the services of a tow-truck he may contact the South Australian Police Department and they will send a rostered tow-truck to the scene of the accident. Nothing is contained in the Bill to prohibit any person not wishing to use the Police tow-truck roster system, from making his own arrangements and contacting a tow-truck operator himself directly. However, the Bill provides that it will be an offence for a tow-truck to attend the scene of an accident unless it has been requested to do so by the Police, through the roster system, or it has been called by the owner of the vehicle.

The Bill further provides for the Board to determine indemnity insurance shall be taken out by tow-truck proprietors to cover legal liability arising out of damage to a vehicle whilst being towed, damage to a vehicle whilst in storage at the proprietor's premises, or loss or theft of parts or valuables from the vehicle. A number of tow-truck proprietors already have this form of insurance, but the majority have not and clearly in order that the consumer is protected, proprietors will be required to have such a policy to indemnify themselves from claims.

Motor Vehicle Loss Assessing Industry:

The motor vehicle loss assessing industry is divided into two categories: the majority of motor vehicle loss assessors are qualified tradesmen, but a minority have a non-trade background. The Bill provides for acceptance of all present loss assessors in the industry, but future loss assessors will be required to be tradesmen or have experience deemed equivalent by the Board. The Bill also provides that motor vehicle loss assessors cannot have a pecuniary interest in any motor body repair workshop.

General Comments:

The Bill provides for the Board to investigate and inquire into the activites of its licensees and complaints against its licensees. The Board will have disciplinary powers which may include the imposing of a fine, suspension or termination of a licence. Decisions of the Board in these circumstances shall be subject to appeal to an appellant tribunal constituted by a Judge of the South Australian Industrial Court.

The overall objective of the Bill is to provide for a Licensing Board to licence and control the members of this industry in order that the standard of repairs can be policed and, hopefully, improved, that the fierce competition at present apparent in the tow-truck industry will be restricted in order that all tow-truck proprietors obtain a fair share of the work and the accident-chasing tow-truck proprietors will have their activities curtailed. The Bill also proposes to oversee the activities of the motor vehicle loss assessor, who, in many respects, is the hub of the industry because of his almost absolute authority of costing allowed for the repair contracts. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the Act shall come into operation on a day to be fixed by proclamation except in case of provisions in respect of which provision is made for a different commencement date. Clause 3 sets out the arrangement of the measure. Clause 4 provides for the repeal of Part IIIc of the Motor Vehicles Act which presently regulates tow-trucks.

Clause 5 sets out the definitions of terms used in the Bill. Clause 6 provides for exemption from the application of the Act by means of proclamations. Clause 7 provides for the appointment of inspectors. Clause 8 sets out the powers of inspectors. Clause 9 prohibits the impersonation of inspectors.

Clause 10 provides for the establishment of a Motor Body Repairs Industry Licensing Board. The board, under the clause, is to be constituted of seven members of whom four will be representative of the Royal Automobile Association of South Australia, the South Australian Automobile Chamber of Commerce, the United Trades and Labor Council and the Insurance Industry, respectively. Clause 11 provides for the terms and conditions of office of members of the board.

Clause 12 regulates the procedure for meetings of the board. Clause 13 ensures the validity of acts of the board notwithstanding defects in the appointment of any member. Clause 14 provides for the remuneration of members of the board. Clause 15 sets out the functions of the board. Clause 16 provides for delegation by the board. Clause 17 empowers the board to employ legal practitioners and other persons to assist it in the performance of its functions.

Clause 18 provides for the appointment of a secretary of the board. Clause 19 provides that the Secretary is to keep a register of licence and permit holders. Clause 20 requires the board to make an annual report upon the administration of the Act. Clause 21 defines "licence" for the purposes of Division I of Part III of the measure which relates to motor body repairers' licences. Clause 22 provides that it shall be an offence to carry on business as a motor body repairer after the expiration of three months from the commencement of the measure without a licence. A motor body repairer is defined by the Bill as being any person who carries on a business that involves the repairing of damage to the bodywork or structure of a motor vehicle. Subclause (2) of this clause provides that a person who is licensed as a motor body painter is not required to be licensed as a motor body repairer unless he carries out motor body repairing other than motor body painting.

Clause 23 provides for applications for motor body repairers' licences. Clause 24 provides that the board may grant a licence in its discretion, but must be satisfied that the applicant is a fit and proper person before granting a licence. Clause 25 provides that persons who apply for a licence within the period of three months from the commencement of the Act and who have carried on business as motor body repairers from 1 January, 1979, until the date of the application are entitled to be granted licences. Clause 26 provides for the imposition of conditions upon licences. Clause 27 provides for annual renewal of licences.

Clause 28 defines "licence" for the purposes of Division II of Part III of the measure, which relates to motor body painters' licences. Clause 29 provides that it shall be an offence to carry on business as a motor body painter after the expiration of three months from the commencement of the measure without a licence. A motor body painter is defined as a person who carries on a business that includes the painting (including the stopping up, rubbing down, masking, cleaning and polishing) of the bodywork of a motor vehicle in the course of the repairing of damage to the vehicle but does not include any other form of motor body repairing. Subclause (2) of the clause provides that a licensed motor body repairer is not required to hold a motor body painter's licence.

Clause 30 provides for applications for motor body painters' licences. Clause 31 provides that the board may grant or refuse a licence in its discretion, but that it is to satisfy itself as to whether the applicant is a fit and proper

person in determining whether to grant a licence. Clause 32 provides that any person who applies for a motor body painter's licence within the period of three months from the commencement of the measure and who has carried on business as a motor body painter from 1 January 1979 until the date of the application shall be entitled to be granted a licence.

Clause 33 empowers the board to impose conditions upon motor body painters' licences. Clause 34 provides for annual renewal of motor body painters' licences. Clause 35 provides that the provisions of Division III of Part III which regulate the conduct of motor body repairers and painters shall come into operation on the expiration of three months from the commencement of the measure. Clause 36 regulates the form of, and provides a cooling-off period in respect of a motor body repairs contract in respect of a vehicle damaged in an accident where the contract is entered within 24 hours after the vehicle is removed from the scene of the accident. This clause corresponds to the present section 98k of the Motor Vehicles Act.

Clause 37 prohibits any person from soliciting a contract of repair, or a contract for the quotation of the cost of repair, in respect of a motor vehicle involved in an accident that occurs within the declared area within six hours after the vehicle is removed from the scene of the accident. The declared area is defined in clause 5 of the Bill, but is essentially the greater metropolitan area of Adelaide. Clause 38 requires any person who has a motor vehicle in his possession for any purpose connected with the motor body repair of the vehicle to deliver it to the owner or agent of the owner upon request and payment of any amounts lawfully payable to that person in connection with the vehicle.

Clause 39 prohibits motor body repairers from engaging in what are known in the business as "off-the-hook" transactions. These amount to the payment of any moneys or the giving of any benefit to a tow-truck driver or tow-truck operator for making a damaged motor vehicle available to a motor body repairer for the purpose of repairing the vehicle. Clause 40 provides that the board may make rules with the approval of the Minister regulating the motor body repairing and painting industry. Amongst other things, the board is empowered to make rules as to the standards of motor body repairs or painting workshops and their equipment, the management of such workshops by qualified and experienced tradesmen and the employment of not less than one apprentice at large workshops which will be defined in the rules.

Clause 41 defines "licence" for the purposes of Part IV of the Bill which deals with motor vehicle towing. Clause 42 provides that it shall be an offence to carry on business as tow-truck operators after the expiration of three months from the commencement of this Act without a licence. A tow-truck operator is defined as a person who carries on a business that includes towing motor vehicles by means of a tow-truck. Subclause (2) of the clause provides a licence is not required unless motor vehicle towing is carried on by the tow-truck operator within the declared area.

Clause 43 provides for applications for tow-truck operators' licences. Clause 44 provides that the board may grant or refuse to grant a tow-truck operator's licence at its discretion. Clause 45 provides that a person who applies for a tow-truck operator's licence within the period of three months from the commencement of the Act and who has carried on business as a tow-truck operator from 1 July 1979, until the date of the application shall be entitled to a licence.

Clause 46 empowers the board to impose conditions upon tow-truck operator's licences. Clause 47 provides for annual renewal of tow-truck operators' licences. Clause 48 defines "permit" for the purposes of Part IV as a permit to act as a tow-truck driver. Clause 49 provides that it shall be an offence to act for fee or reward as a tow-truck driver within the declared area without a permit. Clause 50 provides for applications for tow-truck drivers' permits. Clause 51 provides that the grant of tow-truck drivers' permits shall be at the discretion of the board. The board must, under the clause, in determining whether to grant a permit satisfy itself as to whether the applicant is a fit and proper person, over the age of 18 years, the holder of a valid driver's licence authorizing him to drive tow-trucks, and proficient in driving and operating tow-trucks.

Clause 52 provides that a person who applies for a permit within the three month period after the commencement of the measure and who is the holder of a tow-truck certificate granted under Part IIIc of the Motor Vehicles Act shall be entitled to a permit. Clause 53 provides for annual renewal of tow-truck drivers' permits.

Clause 54 provides for the grant by the board of temporary tow-truck drivers' permits. Clause 55 empowers the board to impose conditions upon the grant of tow-truck drivers' certificates. Clause 56 provides that a tow-truck driver's permit shall be suspended for any period for which the permit holder does not hold a valid driver's licence under the Motor Vehicles Act. Clause 57 requires a permit holder to carry his permit with him at all times at which he is driving or operating a tow-truck.

Clause 58 provides that the provisions of Division III of Part IV of the Bill which regulate the conduct of tow-truck operators and tow-truck drivers shall come into operation on the expiration of three months from the commencement of the measure. Clause 59 provides that no person shall drive a tow-truck to or be present at the scene of an accident that occurs within the declared area except pursuant to a request made by a member of the police or the owner or person in charge of a vehicle involved in the accident or for a purpose not connected with the towing of a vehicle involved in the accident. The "scene of an accident" is defined by clause 5 to include any point within two hundred metres of a vehicle that was involved in the accident.

Clause 60 provides that a tow-truck operator shall not direct a tow-truck to proceed to the scene of an accident that occurs within the declared area except pursuant to a request made by a member of the police force or the owner or person in charge of a vehicle involved in the accident. Clause 61 prohibits the soliciting of requests for a tow-truck to proceed to the scene of an accident that occurs within the declared area. Clause 62 prohibits a tow-truck driver from having passengers in the tow-truck except the driver or passenger of a vehicle being towed while it is being towed. The clause also makes it an offence to be a passenger in a tow-truck except in those circumstances.

Clause 63 provides that it shall be an offence to remove a motor vehicle from the scene of an accident that occurs within the declared area for fee or reward unless certain conditions are met. These conditions are that the person removing the vehicle must be a tow-truck driver permit holder and a licensed tow-truck operator or employee of a licensed tow-truck operator, must have been requested to remove the vehicle by a member of the Police Force or the owner or person in charge of the vehicle, must be using a tow-truck registered by the board for the purpose and must obtain an authority to tow from the owner or person in charge of the vehicle or from an inspector or member of the Police Force. The clause provides for the form of authority to tow and procedure in relation to its execution

and how it is subsequently dealt with.

Clause 64 prohibits interference with the removal of a motor vehicle pursuant to an authority to tow. Clause 65 empowers an Inspector or member of the Police Force to require a person to leave the scene of an accident if he believes on reasonable grounds that the person has contravened any provision of the measure. Clauses 66 and 67 prohibit tow-truck operators and drivers respectively, from engaging in "off-the-hook" transactions.

Clauses 68 and 69 require tow-truck operators and drivers, respectively, to comply with the Wireless Telegraphy Act of the Commonwealth. Clause 70 provides that a tow-truck operator must deliver a motor vehicle to its owner or his agent upon request and payment of all amounts that may be lawfully claimed by the tow-truck operator in respect of the vehicle. Clause 71 empowers the board to make rules in respect of motor vehicle towing. Under this provision the board may make rules establishing a zoning and rostering system for the direction by the police force of tow-trucks to accidents that occur within the declared area.

Clause 72 empowers the Governor to make regulations defining the duties of the police force in relation to the zoning and rostering system. Clause 73 defines "licence" for the purposes of Part V of the Bill as a licence to act as a motor vehicle loss assessor. Clause 74 provides that no person may act as a motor vehicle loss assessor for fee or reward after the expiration of the period of three months from the commencement of the measure without a licence. A motor vehicle loss assessor is, by clause 5, defined in a similar way to the way in which loss assessor is presently defined in the Commercial and Private Agents Act, but is limited to loss assessing in respect of property damage to motor vehicles and at the same time extended to motor vehicle loss assessors in the employment of, for example, insurance companies. It is proposed that such loss assessors will be exempted by proclamation from the application of the Commercial and Private Agents Act.

Clause 75 provides for applications for motor vehicle loss assessors' licences. Clause 76 provides for the grant by the Board of motor vehicle loss assessors' licences. It is proposed that new licences will be granted only to applicants with expertise in assessing the cost of motor body repairs to vehicles. Clause 77 provides that a person who applies for a motor vehicle loss assessors' licence before the expiration of three months from the commencement of this Act and who, either, has held a loss assessors' licence under the Commercial and Private Agents Act since 1 January, 1979, or has been employed as a motor vehicle loss assessor under a contract of service since that date shall be entitled to a licence.

Clause 78 empowers the board to impose conditions upon motor vehicle loss assessors' licences. Clause 79 provides for the annual renewal of motor vehicle loss assessors' licences. Clause 80 requires corporations licensed as motor vehicle loss assessors to be managed by licensed motor vehicle loss assessors. Clause 81 provides that the provisions of Division III of Part V that regulate the conduct of motor vehicle loss assessors shall come into operation on the expiration of three months from the commencement of the measure.

Clause 82 provides that a motor vehicle loss assessor's licence does not confer any additional authority upon the licensee and that the licensee is not to use the licence in order to induce any person to believe that it does confer additional authority. Clause 83 prohibits motor vehicle loss assessors from having any direct or indirect financial interest in any motor body repairing, tow-truck or motor vehicle wrecking business. Clause 84 provides that motor vehicle loss assessors shall not seek or receive any benefit whether financial or otherwise for making a motor vehicle available to a motor body repairer for repairs or for providing any other service connected with a motor body repairer's business.

Clause 85 prohibits a motor vehicle loss assessor from making any misrepresentation designed to induce a person to settle a claim. Clause 86 provides that a motor vehicle loss assessor shall not settle a claim once proceedings have been commenced in any court in respect of the claim. Clause 87 empowers the board to make rules regulating motor vehicle loss assessing. Clauses 88 and 89 provide for investigations by the board, the Secretary of the board and inspectors.

Clause 90 provides for inquiries by the board, the disciplinary powers of the board with respect to licence and permit holders and the grounds for disciplinary action. Clause 91 provides for investigations and inquiries by the Board into the standard of workmanship of motor body repairers and empowers the board to order motor body repairers to make good any defective work.

Clause 92 regulates the procedures with respect to inquiries by the board. Clause 93 sets out the powers of the board upon an inquiry. Clause 94 provides for the ordering of costs by the board in relation to any inquiry. Clause 95 provides for the establishment of an appeal tribunal constituted of an Industrial Court Judge. Clause 96 provides for appeals to the appeal tribunal in respect of any disciplinary action taken by the board against a licence or permit holder.

Clause 97 provides for the suspension of an order made by the board where an appeal is made against the order. Clause 98 empowers the board to grant conditional or unconditional exemptions. Clause 99 permits the business of a licensee to be carried on for a maximum of six months after the death of the licensee. Clause 100 provides that licences and permits shall not be transferable. Clause 101 provides that an unlicenced person is not entitled to any fees or other consideration for any service in respect of which he is required to hold a licence.

Clause 102 requires a licence or permit holder to produce his licence or permit upon demand by the Secretary or any Inspector or member of the Police Force. Clauses 103 requires the return of any licence or permit that is cancelled or suspended. Clause 104 prohibits the provision of false information that is required to be provided under the measure. Clause 105 provides for service of documents. Clause 106 requires the Commissioner of Police and Registrar of Motor Vehicles to furnish information to the Board that is necessary for the administration of the measure.

Clause 107 protects the board, members of the board, inspectors, the secretary and the appeal tribunal from liability for acts done in good faith in the administration of the measure. Clause 108 is an evidentiary provision. Clause 109 provides that an officer of the corporation shall be guilty of an offence if the corporation is guilty of an offence which he could have prevented by the exercise of reasonable diligence.

Clause 110 provides for continuing offences. Clause 111 provides a general penalty for contravention by persons who are not licence or permit holders of any provision of the measure. Clause 112 provides for the summary disposal of proceedings for offences against the measure. Clause 113 provides for a general rule making power in the board.

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

INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT BILL

Second reading.

The Hon. T. M. CASEY (Minister of Lands): I move:

That this Bill be now read a second time.

Honourable members will recall that on two occasions since the parent Act was enacted in 1972 the moratorium period contained in section 133 has been extended to ensure that no legal challenge to the rules, officers or members of any registered association could be sustained during that period. The original provision was inserted in the Act to overcome temporarily problems arising from the decision of *Moore v. Doyle* in the Commonwealth Industrial Court.

At the time of the last extension, it was intended that the necessary legislation, based upon a report made in 1974 by Mr. Justice Sweeney to the Australian Government, would be prepared to overcome permanently the many difficulties outlined in the decision. To ensure that every opportunity was given to interested parties to participate in this matter, a preliminary draft Bill to effect these amendments was circulated for comment to the secretaries of all State registered organisations of employers and employees and to certain lawyers practising in the industrial sphere.

The comments received have indicated that considerable revision is necessary to the draft Bill. However, in view of the complexity of these changes and the continuing discussions on the matter between State and Federal Industrial Registrars, and at Ministerial level, it has not been possible to finalise the provisions of a revised Bill, which it is proposed be again circulated to interested parties for comment. Members will appreciate that the issues highlighted in *Moore v. Doyle* are of considerable significance to registered associations, and careful consideration must be given to the implications flowing from any action which may be contemplated. Accordingly, this Bill seeks to extend the moratorium period for a further three years until 4 January 1982.

It was originally intended that the amendment effected by this Bill would be included amongst general amendments proposed to the parent Act. However, the proposed legislation was not finalised in time for introduction before Parliament went into recess in November, and the previous moratorium period has since expired. In order to ensure continuity of that period, it is proposed that the amendment made by this Bill have retrospective effect. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the retrospective operation of the Bill. This will ensure the continuity of operation of section 133 of the principal Act. Clause 3 extends the operation of section 133 to the expiration of the ninth year after the commencement of the principal Act.

The Hon. D. H. LAIDLAW secured the adjournment of the debate.

DOG CONTROL BILL

In Committee.

(Continued from 20 February. Page 2724.)

Clause 2 passed.

Clause 3—"Arrangement."

The Hon. M. B. DAWKINS: I move:

Page 1, lines 10 and 11—Leave out all words in these lines.

My intention with this amendment is to delete from the Bill all references to the Central Dog Committee, which references are to some extent a vote of no confidence in local government. It denigrates local government to suggest that it cannot handle this legislation well.

The previous legislation had some limitations in relation to local government, particularly regarding finance. That, apparently, is being corrected by the Bill: we are given to understand that the financial situation is being corrected by regulation. Honourable members have been told about the new registration fees for dogs. However, the Government then turns around in the Bill and takes some of that money received from dog registration fees and gives it to the Central Dog Committee.

The ACTING CHAIRMAN (Hon. C. J. Sumner): I remind the Hon. Mr. Dawkins that the success of the amendment with which the Committee is now dealing depends on whether clauses 13 to 25 are deleted. The honourable member may prefer to deal in more detail with those clauses. Thereafter, the Committee could consider the amendment which the honourable member has moved and which is really a formal matter.

The Hon. M. B. DAWKINS: Very well, Sir. Clauses 13 to 25 relate to the constitution, composition, terms and conditions, quorum, and so on, of the proposed Central Dog Committee. Those clauses contain the usual procedures that are laid down in any Bill that sets up a board or committee of this nature.

I submit that the Central Dog Committee is an unnecessary body and that local government will be able, under the provisions of the Bill (particularly those from clause 28 onwards), to control dogs better than it has been able to do previously. I said in the second reading debate that I had received representations from several councils (indeed, I have been spoken to by representatives of some councils since that time) regarding the Central Dog Committee and the lack of necessity for it. It is regarded by some as a Big Brother central organisation that is not needed for the purposes of this Bill.

The Hon. J. R. CORNWALL: The details of this Bill were arrived at only after much consultation and after many submissions to a Select Committee of the House of Assembly. The Hon. Mr. Dawkins would be the first to admit that local government has a poor track record with regard to control of dogs. A regular complaint is that dog registration fees have not been applied properly: they have gone into the ordinary revenue of councils. I point out that the membership of the Central Dog Committee will include representatives from the South Australian Canine Association, the Local Government Association, the R.S.P.C.A., the Institute of Municipal Administration, and the Australian Veterinary Association. The committee will act principally in a consultative and advisory capacity. Further, it is envisaged that, once the legislation is working, any surplus funds will be passed on to the R.S.P.C.A., which for a long time has been struggling financially. It is terribly important that the R.S.P.C.A. be given funds to get on with its very important work and to extend the veterinary voucher scheme, which is designed to help poor and needy people to keep companion animals.

The Hon. C. M. Hill: Who bears the cost of that?

The Hon. J. R. CORNWALL: The cost is borne jointly by the veterinary profession and the R.S.P.C.A. The normal procedure is to charge less than the standard fee and to supply drugs at cost price. The scheme has worked well, but the amount of money available for it at present is very limited. That is a good reason why we should go

ahead with the Bill as it stands. I oppose the amendment.

The Hon. M. B. DAWKINS: I still believe that there is no real need for the Central Dog Committee. Local government will be able to do the job now that more money will be available. Of course, finance will be needed to operate the Central Dog Committee if the Bill is not amended. The Hon. Mr. Cornwall referred to councils not keeping separate accounts in connection with dog registration. That may have been the case, but I point out that clause 12 (1) provides:

> Each council shall keep separate accounts of the moneys received by the council pursuant to this Act and the moneys paid by the council in the administration and enforcement of this Act.

That is one of the improvements that will be effected if this Bill is passed. The later clauses in the Bill will enable the administration of the new legislation to be carried out effectively. Local government can do the job and do it well.

The Hon. N. K. FOSTER: Mr. Acting Chairman, what is your ruling concerning the scope of members' remarks that will be allowed?

The ACTING CHAIRMAN: We are really having a discussion on the whole issue now.

The Hon. N. K. FOSTER: The Hon. Mr. Dawkins believes that we should not set up a Central Dog Committee. He believes that local government can do the job. Actually, local government has not carried out its proper functions in this connection. I oppose the amendment.

The ACTING CHAIRMAN: The Hon. Mr. Dawkins adopted my suggestion of dealing generally with these matters while his present amendment is before the Chair. I have allowed the Hon. Mr. Dawkins to debate the general issues involved in Division II, even though the amendment before the Chair deals only with two lines in clause 3. I will allow other honourable members to adopt the same practice.

The Hon. JESSIE COOPER: One of the difficulties has been the lack of funds. How does the Hon. Mr. Cornwall think that the fee can be kept at $10 if this Bill becomes law? Every council will be responsible for employing many dog catchers. How can the Central Dog Committee, if established, expect any funds at all from any councils, when they will be required to have a myriad of dog catchers if those councils are to do their job properly? Councils will be faced with an enormous responsibility and expenditure.

The Hon. J. R. CORNWALL: The Bill contains specific arrangements for smaller councils to share wardens and pounds.

The Hon. Jessie Cooper: I'm interested in metropolitan councils.

The Hon. J. R. CORNWALL: That is a matter of administration. The Bill cannot do anything other than improve the existing situation, because there will now be somebody on the job full time. My other point concerns the problem of disease control within pounds. There cannot be a large number of dogs concentrated in one area without there being certain difficulties. I do not know how to overcome that situation entirely but, if one extended that argument to its logical conclusion, one would have to argue that places such as the Animal Welfare League and Mitcham Dogs Home should be closed down. The Animal Welfare League is doing a wonderful job in its new premises at Wingfield. Clearly, the R.S.P.C.A. needs more money to work effectively and expand, albeit not in a massive bureaucratic way. The veterinary voucher scheme is a very sensible scheme, because there has been a minimum of bureaucracy associated with it and because it involves sensible people who are responsible for co-operation and goodwill. The Central Dog Committee will be a voluntary committee, its members being reimbursed for expenses only and receiving no other remuneration. They will be people from responsible bodies in the community who have dogs' welfare at heart. It would be a great shame to proceed with this amendment because the Bill is laying the groundwork, as it were, for the veterinary voucher scheme to be expanded ultimately to something very worth while. Honourable members should not underestimate the importance of the dog as a companion, especially to the aged single person. I ask the Committee to reject the amendment.

The Hon. N. K. FOSTER: I cannot see how one can accept the Hon. Mr. Dawkins' argument for the removal of Division II, on the basis that local government will accept its full responsibility, and at the same time accept the argument advanced by the Hon. Mrs. Cooper. Both honourable members seem to be at cross-purposes.

The Hon. C. M. HILL: I support the Hon. Mr. Dawkins' submission. I acknowledge that there is a problem in this area. The Committee has two alternatives in its approach to this problem. One alternative is the provision in the Bill setting up this Central Dog Committee, and the other alternative, as espoused by the Hon. Mr. Dawkins, is to leave the problem as a responsibility of local government. I agree that local government has not measured up as well perhaps as it should have in the past. However, it has not been given the necessary powers to do so. I have much faith in local government and in its ability to meet challenges of this kind and to do the job, especially when the work to be done is in the local community.

The Hon. J. R. Cornwall: What about the R.S.P.C.A.?

The Hon. C. M. HILL: I accept what the honourable member claimed. It may be possible for the society to obtain funding from local government if it acts in such an umbrella capacity.

The Hon. J. R. Cornwall: That would be too bureaucratic.

The Hon. C. M. HILL: It would not be bureaucratic for a small part of registration fees to be paid to the society for its special task.

The Hon. R. C. DeGaris: It wouldn't do much in country councils.

The Hon. J. R. Cornwall: That's inaccurate.

The Hon. C. M. HILL: I know of many pensioners and others of limited means being provided a service by their veterinarian at a reduced charge and that is commendable.

The Hon. T. M. Casey: The Hon. Mr. Cornwall does that.

The Hon. C. M. HILL: I do not suggest that he does not. The Government intends to establish a Central Dog Committee, and the amendment allows the Government to overcome this problem. It should be dealt with at a local level because the problem is not the same throughout the metropolitan area, and each council can best deal with its own problems. The Government should give councils the opportunity to carry out a local activity.

The Hon. T. M. CASEY (Minister of Lands): The honourable member believes that the Bill takes something from local government. In fact, it gives more responsibility to local government. In 1977 the Government established a working party to examine the problem of registration and control of dogs. A Select Committee on this matter was established in 1977, and Liberal members of that committee supported the Bill in another place. The Select Committee contacted about 22 councils in South Australia. This problem was considered over a long period by the committee, which made these recommendations.

No Bill is perfect, but this Bill provides local government with more responsibility than it had previously. It had responsibility, but it did not live up to it, and honourable members opposite cannot deny that.

This Bill sets out specifically what is to happen to dogs. Councils can share responsibility where appropriate between them for pounds, etc., as applies in, for example, the Weeds Act. All administration costs will be taken from registration fees and, what is left, after the prescribed percentage is taken out, will be available. All remaining funds go to the Central Dog Committee, whose purpose is to inform the public on how dogs should be controlled through the issue of pamphlets, etc. The R.S.P.C.A. will get a certain amount: it does a tremendous job.

The Hon. Jessie Cooper: Do you honestly believe there will be any funds left if this Bill comes into force?

The Hon. T. M. CASEY: Funds from where?

The Hon. Jessie Cooper: From the $10.

The Hon. T. M. CASEY: There will not be much left for the first two years, because of the need for councils to build pounds and be involved in expenditure on administration, but eventually funds will be available. The Government has been generous to the R.S.P.C.A. in grants. We do not want to see funds collected from the registration of dogs going into general revenue: we want the funds to be used in educating people to control dogs. I do not understand honourable members' implication that local government is being defranchised in this matter, because it is not true.

The Hon. J. A. CARNIE: This Bill does not take power from local government: in some respects, it gives power. However, the Minister has not given a valid reason for having the Central Dog Committee. I agree with all that has been said about the work done by the Royal Society for the Prevention of Cruelty to Animals, and the society needs funds. What is the difference between local government paying a prescribed percentage to a committee and paying it to the society? Payment could be made to the society easily from an administrative point of view. I see no need for the Central Dog Committee, and I support the amendment.

The Hon. R. C. DeGARIS (Leader of the Opposition): The problems for local government in the Brighton area are different from those in the Carrieton council area. If the people of Brighton wanted a by-law that provided that dogs must be on a leash when they were in a public place, the Brighton council could adopt such a by-law. However, that would be ridiculous in Carrieton. Responsibility in all these matters should rest with local government.

The Hon. T. M. Casey: That is where it rests.

The Hon. R. C. DeGARIS: It does not. Pounds must be constructed, and what would the Carrieton council do about a dog pound?

The Hon. T. M. Casey: It may not need one.

The Hon. R. C. DeGARIS: There may be need for an advisory dog control council that can advise councils and the Government on particular problems, but I do not believe that it is possible to lump all the State together. There is need for a compromising approach, and probably the best way to do it is to get people from both Houses together in a conference and come up with something realistic. The Bill is totally unrealistic and stupid, regardless of whether it has been dealt with by a Select Committee. Responsibility for the control of dogs should rest with local government, not with a Central Dog Committee.

The Committee divided on the amendment:

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

Noes (10)—The Hons. D. H. L. Banfield, F. T. Blevins, T. M. Casey (teller), 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 matter to be considered further, I give my casting vote for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 4 passed.

Clause 5—"Interpretation."

The Hon. M. B. DAWKINS: I move:

Page 2, lines 17 and 18—Leave out all words in these lines.

This amendment is consequential on the amendment that the Committee has just carried.

Amendment carried.

The Hon. M. B. DAWKINS: I move:

Page 2, after line 23—Insert definition as follows:

"district council" means a district council as defined in the Local Government Act, 1934-1978:

This amendment relates to an amendment that I will move later to clause 11. It applies particularly to some country councils.

Amendment carried.

The Hon M. B. DAWKINS: I move:

Page 2, after line 26—Insert definition as follows:

"municipal council" means a municipal council as defined in the Local Government Act, 1934-1978:

Amendment carried; clause as amended passed.

Clauses 6 to 10 passed.

Clause 11—"Establishment of pounds, etc."

The Hon. M. B. DAWKINS: I move:

Page 5, line 3—Leave out "council shall" and insert "municipal council shall and any district council may".

It is inappropriate in my view, and in that of some of my colleagues, that each council, particularly some country councils, should be bound to establish, operate, and maintain a public pound for the purposes of this legislation. In some cases this would be impracticable and, indeed, not even necessary. This leaves it to the discretion of the district council as to whether it sets up a pound or makes other arrangements.

Amendment carried; clause as amended passed.

Clause 12—"Payments by councils to the committee."

The Hon. M. B. DAWKINS: I move:

Page 5, lines 16 to 21—Leave out all words in these lines.

I have no doubt that councils will administer the legislation well when they find that they have the teeth and the additional finance to do so. Clause 12 (2) is now redundant.

Amendment carried; clause as amended passed.

Clauses 13 to 25.

The CHAIRMAN: I will allow the Hon. Mr. Dawkins to move, in one motion, that clauses 13 to 25 inclusive be left out.

The Hon. M. B. DAWKINS: I move:

That clauses 13 to 25 inclusive be deleted.

Amendment carried.

Clause 26 passed.

Clause 27—"Registration."

The Hon. M. B. DAWKINS: I move:

Page 10, after line 35—Insert:

(4) The fee prescribed for registration of any dog—

(a) that is a working dog;

or

(b) in the name of a person who is a pensioner, shall not exceed one half of the maximum registration fee prescribed under this Act.

(5) In subsection (4) of this section—

"working dog" means a dog that is used principally for the droving or tending of stock:

"pensioner" means a person who is in receipt of a pension under the Social Services Act 1947, as from time to time amended, of the Commonwealth.

The Minister has indicated that provisions of the kind in my amendment may be prescribed by regulation, and I do not doubt the Minister's word on this matter, but it will be possible for any future Administration to alter the situation at the drop of a hat. It is therefore preferable that the provisions be in the Bill itself.

The Hon. R. A. GEDDES: I support the amendment. The Minister referred to these proposals in his second reading explanation but, of course, a second reading explanation does not have the same effect that a provision in a Bill has. The Select Committee of the House of Assembly intended that working dogs be recognised.

Amendment carried; clause as amended passed.

Clause 28—"Registration disc or tattooing."

The Hon. C. M. HILL: I move:

Page 11, line 7—After "Act," insert "at the option of the applicant, either the registrar shall issue to the applicant a registration disc of the prescribed kind or".

The Bill provides that all newly registered dogs will have their ears tattooed as a means of registration and identification but many dog owners would object to their dogs' ears being tattooed. They would prefer the traditional method of registration and identification. My amendment provides for two options. To the best of my knowledge, tattooing is not compulsory in any other State, and I understand, although I am willing to be corrected on this point, that South Australia would be the only place in the world where tattooing of dogs' ears was compulsory, if this clause was passed in its present form. Tattooing should be introduced in stages. It could be optional for a period and then, if dog owners show by their choice that they prefer tattooing, the Government can consider whether tattooing should be made compulsory.

The Hon. T. M. CASEY: I cannot accept the honourable member's amendment, for several reasons. One has only to read the report of the Select Committee to find how many stray dogs are in the community today. A stray dog cannot be identified unless it has something permanent attached to it, for example, a brand or tattoo. People can remove a disc, and the dog has nothing by which it can be identified. The honourable member is not doing anything at all to help solve the stray dog problem. I cannot say whether or not we are the only country that will have compulsory tattooing of dogs. However, I remind the honourable member that there are many other animals in Australia, and in this State, on which there must be an identifiable mark; for instance cattle—

The Hon. Jessie Cooper: That is a necessity.

The Hon. T. M. CASEY: Why is it a necessity? It is necessary for identification purposes. If cattle stray, one knows to whom they belong by the brand.

The Hon. Jessie Cooper: You can't put a collar around their necks.

The Hon. T. M. CASEY: You can put ear tags on them, as many breeders do, but they can be removed.

The Hon. J. C. Burdett: Why not let dogs wear a disc?

The Hon. T. M. CASEY: Discs are easily removed; in fact, they fall off.

The Hon. Jessie Cooper: You are dealing with a different situation; these animals will suffer greatly.

The Hon. T. M. CASEY: I do not think so. I cannot speak for the animal itself, but according to the two veterinary surgeons to whom I spoke, one in this Chamber and one in another place, the dog does not suffer from tattooing. It is a very minor operation. As I have never seen it done, I cannot voice an opinion on it, but I believe it would be more painful to put a tag in a sheep's or pig's ear, or a ring in a bull's nose, and yet that is accepted.

The Hon. Jessie Cooper: For a reason.

The Hon. T. M. CASEY: There is a reason here, too, because a stray dog has to be able to be identified in some way. There are thousands of them in the community, and people dispose of them just as they dispose of cats. If the honourable member wants this legislation to have any effect, especially on the stray dog problem, then his amendment will defeat the aim, because one will not be able to identify these dogs. The best method is to have a permanent mark of some description on the animal. I suggest that a tattoo on the ear is the best way, as it is not a painful operation, according to the experts.

The Hon. C. M. HILL: I deny the accusation that I do not want to do anything to overcome the stray dog problem. I am not opposing increased fees so that councils will have better resources to police this matter and more labour to check whether dogs are registered, and to generally administer this area. Compulsory tattooing will not solve the stray dog problem, because many dogs will still not be registered for the first time, and one will find them on the streets. It is not the be all and end all of the problem, which I understand involves about 30 000 unregistered dogs. Once dogs have been first registered, there will be some identification.

I take the view that has been expressed by people in the suburbs who do not want to have their dogs tattooed. If they are prepared to register their dogs by the traditional method, which has been in force for as long as I can remember, I see no reason why they should not have that choice. The Minister talks about family dogs as though they were another cow or pig or sheep on the farm. Where is he going to stop? Next it will be cats, and even children, in the line up for a tattoo! I am totally opposed to the principle. Let the Minister experiment with his proposal and see whether people want it, and in due course, if the problem is not solved, he can introduce compulsory tattooing.

The Committee divided on the amendment:

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

Noes (10)—The Hons. D. H. L. Banfield, F. T. Blevins, T. M. Casey (teller), 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. I give my casting vote for the Ayes.

Amendment carried; clause as amended passed.

Remaining clauses (29 to 66) and title passed.

Bill read a third time and passed.

MEMBERS OF PARLIAMENT (DISCLOSURE OF INTERESTS) BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos. 2, 8, 10 and 11 and had disagreed to amendments Nos. 1, 3 to 7, 9, and 12 to 15.

Consideration in Committee.

The Hon. D. H. L. BANFIELD (Minister of Health): I move:

That the Council do not insist on its amendments.

The amendments destroy the intention of the Bill.

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

believe that we should insist on the amendments. Some of the amendments that were agreed to by the Government in this Chamber were disagreed to by the Government in another place. The situation is similar to the dog control legislation. As the amendments disagreed to by the Government are the main changes to the Bill, we should insist on them.

Motion negatived.

Later:

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendments to which it had disagreed.

The Legislative Council agreed to a conference, to be held in the Legislative Council conference room at 9.15 a.m. on 26 February, at which it would be represented by the Hons. D. H. L. Banfield, F. T. Blevins, J. C. Burdett, R. C. DeGaris, and C. M. Hill.

APPEAL COSTS FUND BILL

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

DANGEROUS SUBSTANCES BILL

In Committee.

(Continued from 20 February. Page 2719.)

Clause 4 passed.

Clause 5—"Interpretation."

The Hon. J. C. BURDETT: I note that the term "inflammable or otherwise dangerous" is used in the clause. I thought that this place had established that the correct word was "flammable". I also notice the word "inflammable" in the title. Is it possible to correct that as a clerical amendment, Mr. Chairman?

The Hon. D. H. L. Banfield: I am not inflexible.

The CHAIRMAN: That correction will be made in the clause and in the title.

Clause passed.

Clause 6 passed.

Clause 7—"Non-derogation."

The Hon. K. T. GRIFFIN: I move:

Page 2, after line 32—Insert subclause as follows:

(2) The provisions of this Act shall not limit or affect any civil remedy at law or in equity.

In the Liquefied Petroleum Gas Act and the Inflammable Liquids Act, provisions preserve the rights of persons at common law, but there is no such provision in this Bill as it stands. It seems, not only because of the provision in the other two Acts but also because provisions in this Bill give limited remedies, that there ought to be a provision that the ordinary rights at law or equity are not prejudiced. Civil remedies would be particularly in the law of tort.

The Hon. D. H. L. BANFIELD: I accept the amendment.

Amendment carried; clause as amended passed.

Clause 8 passed.

Clause 9—"Powers of inspectors."

The Hon. K. T. GRIFFIN: I move:

Page 4, after line 24—Insert subclause as follows:

(6a) A person shall not be guilty of an offence against subsection (6) of this section if he refuses to answer a question, the answer to which would tend to incriminate him.

The Trade Standards Bill and other legislation contains a similar provision. With such wide powers for inspectors, it is important for a person under threat to have the right to refuse to answer questions that would tend to incriminate him. That is a well-established principle and should be included in this legislation.

The Hon. D. H. L. BANFIELD: The Government opposes the amendment, because a similar provision has operated successfully in the Industrial Safety, Health and Welfare Act for five years.

Amendment carried.

The Hon. C. M. HILL: The powers given to inspectors under this clause are extremely wide. If those powers applied in a domestic situation they would have to be examined closely. If the Government intends that these powers be applied to the domestic field, citizens' rights would have to be further protected. One can imagine many examples of acids being stored in private homes for the purposes of servicing batteries and for other work that handymen may be involved in.

Will the Minister give an undertaking that the Government intends that this inspectorial work will be confined to commercial and industrial areas rather than to the domestic field? Will the Minister also give an undertaking that inspectors will not knock on doors of private citizens of Adelaide and country towns seeking to inspect garages to see whether they contain a litre or two of acid or chlorine that is used in swimming pools?

The same point can be made regarding stopping vehicles. Is it intended that inspectors will stop sedan cars that are obviously used for private purposes, or that they will use this power to stop only commercial vehicles that obviously could be conveying dangerous substances?

The Hon. D. H. L. BANFIELD: I give the assurances sought by the honourable member that the inspectors will make inspections in non-domestic areas only, and that they will stop commercial and industrial vehicles only.

Clause as amended passed.

Clauses 10 and 11 passed.

Clause 12—"Protection of Minister, Permanent Head and inspectors from liability."

The Hon. K. T. GRIFFIN: I oppose this clause *in toto*. I am concerned that the indemnity is extended to the purported exercise, performance or discharge of the powers, functions or duties referred to. Having considered the matter, I am informed that there is no need for the clause, because, in the general administration of the State, where an officer of the State exercises, performs or discharges any power, function or duty under legislation resulting in some personal liability being attached to him, the Government, as employer, indemnifies.

Where an officer has acted beyond the scope of those powers, functions or duties, I am told that a similar situation applies. I therefore see no reason for the inclusion of this clause. I am also told that it is no longer general practice to include this sort of provision in a Bill of this kind because of the principle to which I have earlier referred.

The Hon. D. H. L. BANFIELD: The Government believes that this clause will give the necessary protection to those who will be responsible for the administration of the Act. I point out that a similar provision is contained in the Industrial Safety, Health and Welfare Act. Because the clause provides such protection, the Government wishes to retain it in the Bill.

The Committee divided on the clause:

Ayes (8)—The Hons. D. H. L. Banfield (teller), T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, N. K. Foster, Anne Levy, and C. J. Sumner.

Noes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, and D. H. Laidlaw.

Pair—Aye—The Hon. F. T. Blevins. No—The Hon. R. A. Geddes.

Majority of 1 for the Noes.

Clause thus negatived.

Clauses 13 and 14 passed.

Clause 15—"Offence with respect to the keeping of dangerous substances without a licence."

The Hon. K. T. GRIFFIN: I move:

Page 6, after line 3—Insert:

(2) Subsection (1) of this section shall not prevent the keeping of inflammable liquids—

(a) in any quantity not exceeding the following:

(i) one hundred and twenty litres of class A inflammable liquid if all that liquid is kept in substantial closed containers which comply with the regulations none of which containers shall have a capacity exceeding sixty litres;

and

(ii) One thousand two hundred litres of class B inflammable liquid if all that inflammable liquid is kept in substantial closed containers which comply with the regulations:

Provided that in respect of any such liquid stored in containers with a capacity exceeding two hundred litres—

A. the capacity of the container shall be deemed to be the quantity kept;

B. the storage is at least six metres from any public way or protected work or is separated therefrom by a screen wall; and

C. the space to a width of three metres from the place of storage is cleared of all inflammable material, including weeds, rubbish, packing cases, straw or other readily combustible material, and no such inflammable material is allowed to remain within three metres of such storage;

(b) in the fuel tank of any vehicle propelled by a motor; or

(c) in quantities not exceeding five thousand litres of each class of inflammable liquid on any land which is more than two hectares in area and is intended for use of agricultural, horticultural, floricultural or pastoral purposes by the owner or the lessee of that land and is not for re-sale, provided that—

(i) such inflammable liquid is stored in substantial closed containers which comply with the regulations at least fifteen metres from the boundary of that land or from any public way or protected work; and

(ii) the space to a width of three metres from such place of storage is cleared of all inflammable material, including weeds, rubbish, packing cases, straw or other readily combustible material, and no such inflammable material is allowed to remain within three metres of any place of storage.

(3) In subsection (2) of this section—

"class A inflammable liquid" means any inflammable liquid which has a flash point of less than twenty three degrees Celsius:

"class B inflammable liquid" means any inflammable liquid which has a flash point of not less than twenty-three degrees Celsius:

"flash point" in relation to any inflammable liquid means the flash point of the inflammable liquid determined by test using either the Abel apparatus or the Pensky Martens apparatus in the manner prescribed:

"inflammable liquid" means—

(a) any oil, liquid or spirit any part of which is derived from petroleum, shale, schist, coal, peat, bitumen and any other similar substance;

(b) any liquid containing alcohol which is not proved to be fit for human consumption; or

(c) any other liquid which the Governor, by proclamation, declares to be an inflammable liquid,

and which has a flash point of less than sixty-five degrees Celsius:

"protected work" means—

(a) a building in which any person dwells, or in which persons are accustomed to assembly for purposes of public concourse, public religious worship, public entertainment, amusement, education or discussion, or a public office;

(b) a building in which persons are employed for the purpose of any trade or business, and which is not part of premises on which the inflammable liquid may be kept pursuant to a licence under this Division;

(c) a dock, wharf (as defined in this section), or timber yard, any part of a harbour, port, or river where it is customary for ships to berth, moor, or lie;

(d) any part of an oil refinery in which inflammable liquids are being processed;

(e) any other place which the Governor, by proclamation, declares to be a protected work:

"public way" means any road, street, highway, thoroughfare, or other way used for purposes of thoroughfare, but does not include any private road, private thoroughfare, or private way which is under the control of the occupier of any premises on which the inflammable liquid may be kept pursuant to a licence under this Division:

"screen wall" means a wall of brick, stone, concrete, solid earth, or other substances efficient for the purpose of preventing the spread of fire from any one place to any other place, and shall be deemed to intervene when straight lines drawn from every part of a depot to every part of a protected work pass through such screen wall.

The provisions in this Bill seek to provide the same exemptions from licensing that are in the Inflammable Liquids Act, and those exemptions facilitate the conveyance and keeping of predominantly petroleum liquids on rural properties for primary producers generally, as well as for earth movers, contractors and others. I am anxious to preserve the *status quo*. There is nothing specifically referred to in the Bill which would repeat those exemptions. If they are not to be repeated it would cause me some concern. It may be that they will be covered by regulations and, if the Minister is prepared to give an assurance that they will be repeated in regulations and that there is no intention to remove such exemptions, in the circumstances in which this Bill is before us and consistent with the theme of the Bill, I would be prepared to accept that assurance.

The Hon. R. A. GEDDES: I support the Hon. Mr. Griffin's amendment. I have no doubt that primary industry would have to fight over many years to have such provisions included in the relevant legislation. It is not that they should be a privileged class, but the great difficulties that primary industry has in the handling of dangerous substances, particularly petrol, should be recognised.

There were no regulatory provisions previously, and I agree entirely with what is being provided here, so that Governments in the future will recognise the problems of primary industry, the mining industry, earth-moving industry, and local government in moving fuel around in country areas. I support the amendment.

The Hon. D. H. L. BANFIELD: I am prepared to accept that this can be done by way of regulation, and I give an assurance on that matter.

The Hon. K. T. GRIFFIN: I presume from that assurance that the regulations will be in a similar ambit to the present exemptions.

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

The Hon. K. T. GRIFFIN: Therefore, I do not wish to proceed with the amendment and seek leave to withdraw it.

Leave granted; amendment withdrawn.

Clause passed.

Clause 16—"Licence to keep dangerous substances."

The Hon. C. M. HILL: Can the Minister assure me that the ordinary private citizen will not have to apply for a licence under the new Act to keep relatively small quantities of dangerous substances (including petrol and chlorine) in his private home?

The Hon. D. H. L. BANFIELD: It has never been the practice of the departmental inspectors to go into the domestic area, and I can give an undertaking that that will continue.

Clause passed.

Clauses 17 to 23 passed.

Clause 24—"Appeal to Minister against decision of Director."

The Hon K. T. GRIFFIN: I move:

Page 7—

Line 36—Leave out "appeal to the Minister" and insert, "within the period of one month from the making of the decision, appeal to a local court of full jurisdiction."

Line 37—Leave out "Minister" and insert "local court of full jurisdiction."

As it stands, the clause gives to persons who are aggrieved by a decision of the Director a right of appeal to the Minister who may, on hearing the appeal, affirm, vary or quash the decision appealed against. This is akin to an appeal from Caesar to Caesar. I am concerned that the right of appeal is so limited. Because of the Director's power both in the granting, cancellation or suspension of licences and in attaching conditions to those licences, I believe that, because licences could have serious implications not only for the community but also for the applicant, there should be a right of independent appeal to a local court of full jurisdiction. The right of appeal is important. It assures the independence of the tribunal making the assessment about whether or not to affirm, vary or quash a decision appealed against, and that is in the interests of ensuring that justice is not only being done but is seen to be done.

The Hon. D. H. L. BANFIELD: Similar legislation has operated since the 1930's. Similar provisions have operated well in other Acts—for example, the Steam Boilers and Enginedrivers Act. The Government believes that this is a better way of doing it, and obviously previous Liberal Governments agreed, because otherwise they would not have included that provision in the legislation introduced. Having experienced its satisfactory working, we see no reason for change. Therefore, I oppose the amendment.

The Hon. K. T. GRIFFIN: I concede that there are similar provisions in other legislation, but the provision is not a common one. I refer to the distinction between the legislation presently appearing and the breadth of this Bill, which is wide in its application when it is strictly interpreted. Whilst the department and the Government will probably not want to use it to its fullest extent now, we must ensure in future that for other Administrations, with different persons involved in dealing with the Act, there is a proper safeguard against the abuse of power. I therefore believe that it is still important to have in the legislation, because of the breadth of the Bill, the right of appeal to a tribunal such as a Local Court of Full Jurisdiction.

The Hon. D. H. L. BANFIELD: Although I have not changed my opinion, in order to save time I will not call for a division.

Amendment carried; clause as amended passed.

Clause 25—"Exemption by Chief Inspector."

The Hon. K. T. GRIFFIN: I move:

Page 8, after line 20—Insert subclause as follows:

(5a) A notice given under subsection (4) or (5) of this section shall not have effect until the expiration of the period of fourteen days from the day on which the notice is given or a day specified in the notice, whichever is the later.

I want to ensure that notice is given to a person who has a licence in the event of any addition to or variation or revocation of any of the conditions of an exemption. There is no provision for notice in the clause at present.

The Hon. D. H. L. BANFIELD: I oppose the amendment. The Government believes that such a provision is undesirable, as it is not difficult to envisage the development of a potentially dangerous situation which involves exempted persons and which requires immediate action to be taken. I think that the honourable member would have to agree with me on that point.

The Hon. K. T. GRIFFIN: I recognise that there may be some minor difficulties, but I believe that some notice ought to be given before such addition to or variation or revocation of any conditions takes effect.

Amendment carried; clause as amended passed.

Clause 26 passed.

Clause 27—"Offences by bodies corporate."

The Hon. K. T. GRIFFIN: I move:

Page 9—

Line 2—Leave out "every manager" and insert "the manager".

Lines 4 and 5—Leave out all words in these lines and insert "that offence unless he proves that he did not know and could not reasonably be expected to have known of the commission of that offence or that he exercised all due diligence to prevent the commission of that offence".

This clause provides for every member of the governing body and every manager to be guilty of an offence in certain circumstances, and provides a defence. My amendment seeks to limit the offence to the manager and, more specifically, to define the defence.

The clause is very strict and my amendment provides more flexibility and justice.

The Hon. D. H. L. BANFIELD: I am prepared to accept the amendment.

Amendment carried; clause as amended passed.

Clauses 28 to 30 passed.

Clause 31—"Regulations."

The Hon. K. T. GRIFFIN: I move:

Page 10, lines 43 and 44—Leave out all words in these lines.

One provision in this clause allows regulations to confer discretionary powers on an officer or class of officer to grant approvals, give directions, and impose requirements. It is a wide power to refer to officers by regulation. There may be need for the delegation of authority in certain instances, but I do not believe that this is the clause by which to do it. I am concerned about how the power

will be exercised and how regulations will be prepared.

The Hon. D. H. L. BANFIELD: I think the way in which the city boys have no interest in the country areas is shining through. If no discretionary powers are given and the officer must stick strictly to the requirement, we will be worse off. It is necessary to retain flexibility so as to correct any dangerous situation that occurs. It is envisaged that this provision will cover country areas particularly, and officers will be able to exercise judgment about whether something is dangerous, and they will make a decision. If a dangerous operation is to be performed and an inspector has no discretionary power, there may be a difficult position. I oppose the amendment.

The Hon. C. M. HILL: I support the Hon. Mr. Griffin in his contention that this regulation-making power is far too wide. I have not seen a longer regulation clause and, if the Minister has not enough opportunity to operate within the guidelines that the remainder of the clause lays down, he will be going too far in trying to get us to agree to what is almost a blanket opportunity to bring down regulations that give any directions and impose any requirements. Neither Mr. Griffin nor any other member who supports the amendment wants to restrict the officers unfairly, but regulations must be within the guidelines.

Amendment carried; clause as amended passed.

Title.

The CHAIRMAN: Before putting the title, I draw the attention of members to the word "inflammable". It has been suggested that the word "inflammable" be substituted by "flammable". Regarding the title, however, that substitution, as it refers to another Act, the Inflammable Liquids Act, which this Bill seeks to repeal, cannot be made. I intend, with the agreement of the Committee, however, to make the alteration elsewhere.

The Hon. D. H. L. BANFIELD: The title cannot be altered but the substitution can be made in other places in the Bill.

The CHAIRMAN: It is proposed to make the substitution only in the body of the Bill.

Title passed.

Bill read a third time and passed.

[Sitting suspended from 5.52 to 7.45 p.m.]

COMPANIES ACT AMENDMENT BILL

(Continued from 20 February. Page 2721.)

The Hon. K. T. GRIFFIN: I move:

That it be an instruction to the Committee of the whole Council on the Bill that it have power to consider a new clause relating to the dealing by a company in its own shares.

Motion carried.

In Committee.

Clauses 2 to 8 passed.

Clause 9—"Repeal of section 9 of principal Act and enactment of section in its place."

The Hon. K. T. GRIFFIN: I move:

Page 11, line 25—After this line insert:

(10a). In any inquiry under subsection (9) of this section, a registered company, auditor or registered liquidator may be represented by counsel.

There is no specific provision in this clause for an auditor or liquidator who is under review to be represented by counsel, although I have been informed that it is generally the practice of the present board to allow such repesentation. Notwithstanding that practice, I believe that, because of the serious consequences that could flow from an inquiry by the board into an auditor or liquidator, it is important that this provision be included specifically.

The Hon. D. H. L. BANFIELD (Minister of Health): I am prepared to agree to one or two of the amendments that the honourable member has on file, and I hope I receive reciprocity.

Amendment carried.

The Hon. K. T. GRIFFIN: I move:

Page 12, lines 1 to 6—Leave out all words in these lines and insert "that a failure to honour an undertaking referred to in paragraph *(e)* of subsection (11) of this section."

Under this subclause, the board may in any inquiry it is undertaking in respect of an auditor or liquidator find two things: first, failure to pay costs or a fine is conduct discreditable to an auditor or liquidator; or, secondly, failure to honour an undertaking that he has given to the board is discreditable conduct. I have no objection to the failure to honour an undertaking being regarded as discreditable conduct, but I have some objection to the failure to pay costs or a fine being so regarded. There is already provision in subsequent subclauses for fines or costs to be recovered. I would have thought that this was adequate sanction.

I am therefore seeking to delete that part of the clause which refers to the failure to pay costs or a fine imposed under the section being deemed to be conduct discreditable to an auditor or liquidator.

Amendment carried.

The Hon. K. T. GRIFFIN: I move:

Page 12, lines 28 to 30—Leave out the words "his receiving notice of the decision or from the expiration of one week after the decision was made, whichever first occurs," and insert "service of notice of the decision."

This provision refers to a person who is aggrieved by the decision of the board and who may appeal to the court for the decision. It is a rather curious provision which provides that he may do that within one month of the date of receiving notice of that decision or from the expiration of one week after the decision was made, whichever first occurred. It is possible that, if he is not present at the hearing at which the decision is given by the board, it may be after the expiration of the week before he receives notice through the post. In that event, he would be precluded from appealing the decision under the provisions as they stand. The amendment will make clear that it is one month from the date of being served with the notice of the decision within which he must appeal.

Amendment carried.

The Hon. K. T. GRIFFIN: I move:

Page 12, lines 37 and 38—Leave out the words "notified of the decision or after seven days after the decision is made, whichever first occurs" and insert "served with notice of the decision."

There is a similar provision here, but it deals with cancellation, suspension, or refusal to renew the registration of an auditor or liquidator. I seek to clarify the position in the same way as did the amendment which has been carried.

Amendment carried.

The Hon. K. T. GRIFFIN: I seek leave to amend the new subsection by inserting the words "either personally or" after the word "inquiry" and before the words "by post."

Leave granted; amendment amended.

The Hon. K. T. GRIFFIN: I move:

Page 12, line 38—After this line insert the following subsection:

(17a) Notice of a decision of the Board in an inquiry under subsection (9) of this section shall be served on the person who is the subject of that inquiry either personally or by post directed to his last known address.

There is no provision for service of the notice of the

decision of the board. I am seeking to include a specific provision that notice of any decision shall be served on the person who is the subject of the inquiry either personally or by post directed to his last known address.

Amendment carried; clause as amended passed.

Clauses 10 and 11 passed.

Clause 12—"Repeal of sections 12 and 13 of principal Act and enactment of sections in their place."

The Hon. K. T. GRIFFIN: I move:

Page 13, line 43—After this line insert the following paragraph:

(ba) has not been completed with sufficient particularity;

This is the amendment to which I referred in the second reading debate, when I indicated a difficulty to which attention had been drawn by Mr. Justice Hogarth in *re Alpina Pty. Ltd.* where there were difficulties in identifying the registered office of a company which in that case was under review.

The notice of the situation of the registered office had been lodged as 80 King William Street. In fact, that was a multi-storey block and the registered office had not been described with particularity to enable service to be effected. This amendment seeks to give the commission a discretion that, if any document is submitted to the commission without sufficient particularity shown, the commission can reject it, refuse to receive it, or require it to be amended.

Amendment carried.

The Hon. K. T. GRIFFIN: I move:

Page 14, line 12—After "as the Commission" insert "reasonably".

I draw attention to a possible difficulty which this proposed subsection would raise, particularly where the commission adopted, as a matter of policy, a requirement that every document which was lodged should be an original or, if it was not an original, it should be accompanied by a signed original. The consequence of that would be that a document which may have been stamped in New South Wales and produced for registration as a charge in South Australia may be subject to double stamp duty. I wish to safeguard the position a little further by providing that the commission may require the production of any document as it considers reasonably necessary in order to decide whether it will refuse to register or receive a principal document.

Amendment carried; clause as amended passed.

Clauses 13 to 16 passed.

Clause 17—"General provisions as to alteration of memorandum."

The Hon. K. T. GRIFFIN: I move:

Page 17, lines 32 and 33—Leave out all words in these lines and insert the following subsection:

(3a) Any alteration of the memorandum of a company referred to in subsection (3) of this section shall take effect seven days from the date of the resolution, order or other document.

The Hon. D. H. L. Banfield: That does not make sense.

The CHAIRMAN: I suggest that the amendment be postponed.

The Hon. K. T. GRIFFIN: This provision deals with the memorandum of a company and alterations that may be made to it. It seemed to me that in lines 32 and 33 there was some difficulty in construction, and that it would be better to clarify it in the way that the amendment does so that any alteration to the memorandum takes effect at a time specified in the proposed new section. If there is difficulty with this we can leave it until the end of the Committee stage.

The Hon. D. H. L. BANFIELD: The honourable member should not proceed with this amendment. We think it is preferable that a change to the company's memorandum should not come into effect until it has been received and checked by the Commissioner. The honourable member is suggesting it take place seven days from the date of the resolution, before it has either been received or checked. I am sure that the honourable member would want the opportunity to have the matter checked, because seven days may not be long enough. We strongly oppose this amendment.

The Hon. K. T. GRIFFIN: My anxiety is that if an alteration to the memorandum of a company is made by special resolution at a meeting of the members of a company and is then lodged it may not be processed within 7 days. It may not be processed within 14, 21 or 28 days. I am anxious to ensure that there is some pressure to ensure that there is no undue delay in processing of amendments to a memorandum of association of a company.

The Hon. D. H. L. BANFIELD: If there is some urgency in the matter, and that does happen all the time, it can be checked by the Commissioner at short notice if the company is prepared to indicate the urgency. I can see a hell of a mess arising if by any chance it automatically comes into effect and it is an invalid alteration.

Frequently, requests are made for the matter to be treated expeditiously. If a request is not made and at the end of 7 days an alteration was made, it could be invalid and would cause much confusion. As I give an assurance that requests for urgent attention will be favourably considered, I ask the Committee to not accept the amendment.

The Hon. K. T. GRIFFIN: I can see both arguments, but I am not persuaded from my amendment, which I would like passed so that, perhaps at a more appropriate time, it could be changed to meet with the approval of the Commissioner.

The Hon. D. H. L. BANFIELD: I am concerned that a lawyer is willing to allow a company to act on something that may be invalid merely because the company is too lazy to have the matter expedited. What about the damage that could be done? I ask the Committee not to accept the amendment because of the harm that could result from people acting on an invalid alteration. The honourable member cannot give an example where co-operation has not been provided. Such co-operation will continue.

The Hon. K. T. GRIFFIN: I have found the Corporate Affairs Office to be helpful in such matters. The Bill provides that alterations do not come into effect until the Commissioner has approved them, and I seek a half-way position.

I also said that I am not averse to considering reasons for wanting the Bill as it stands, and that during the progress of the Bill, I hope there will be an opportunity to review it. The only way in which to keep it alive is to move the amendment and to make some satisfactory arrangement to both sides at some other appropriate occasion.

The CHAIRMAN: The amendment itself is not satisfactory to the table.

The Hon. K. T. GRIFFIN: The Clerk has suggested a form which I think would be satisfactory. I move:

Page 17—

Line 25, leave out the word "and".

Lines 32 to 33—Leave out all words in these lines and insert thereafter:

and *(c)* by inserting after subsection (3) the following subsection:

(3a) Any alteration of the memorandum of a company referred to in subsection (3) of this section shall take effect seven days from the date of the resolution, order, or other document.

The Hon. D. H. L. BANFIELD: The same provision operates in New South Wales, and it is being adopted here for the sake of uniformity. A company might be incorporated in New South Wales and registered in South Australia, thus acting under two sets of rules. This, in itself, could cause problems to that company. For the sake of uniformity, and so that there will be no misunderstanding as regards a corporate company which is registered in another State and which might be acting on an invalid alteration, the Committee should vote against the amendment.

The Hon. R. C. DeGARIS: What is the position in Victoria and Western Australia regarding this point, those States having already passed amendments to the Companies Act?

The Hon. K. T. GRIFFIN: The Victorian Act now contains a provision in a different form that has a similar effect to that in the Bill, but it is more positive in the steps the Commissioner must take to ensure that the alterations take effect promptly. It may be appropriate to review the form of subsection (3a) at some stage, but I cannot envisage any alternative other than to stick with my amendment at this stage and leave it at that.

The Committee divided on the amendment:

Ayes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, and D. H. Laidlaw.

Noes (9)—The Hons. D. H. L. Banfield (teller), T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Pair—Aye—The Hon. R. A. Geddes. No—The Hon. F. T. Blevins.

The CHAIRMAN: There are 9 Ayes and 9 Noes. I give my casting vote for the Ayes.

Amendment thus carried; clause as amended passed.

Clauses 18 and 19 passed.

Clause 20—"Omission of word 'limited' in certain cases."

The Hon. K. T. GRIFFIN: I move:

Page 19, line 21—After "secretaries" insert "and publication of accounts".

Section 24 enables the Minister, in certain cases, to dispense with the use of the word "limited". This section deals principally with charitable, scientific, religious, or other bodies, and the companies embraced by the clause are generally limited by guarantee. Under the present provisions, the Minister, on granting a section 24 licence dispensing with the use of the work "limited", can direct that the company need not file returns and particulars of directors, annual returns, returns of managers and secretaries and the publication of accounts. The publication of accounts should be required under this Act. The Minister should have that discretion because after all, the companies to which the benefit applies are of a charitable nature.

The Hon. D. H. L. BANFIELD: It is not very often that members opposite want to give a Minister more power. Rather, time and time again they have sought to take away power from a Minister, yet here this evening they are suggesting that the responsible Minister should be all-powerful. We believe that there should not be power for the Minister to exempt a company in this respect, because the Minister would be under unreasonable pressure in such circumstances. In this connection we get back to the disclosure of interests. The Minister may have shares in a company that is seeking exemption. The company, in those circumstances, may ask the Minister to exempt it. Is that what members opposite want? I do not think it is, but it is a possibility, and it is unreasonable for the Minister to be put in that position. New South Wales will not have a bar of it, and South Australia should not have a bar of it, either.

The Hon. K. T. GRIFFIN: I think the Minister has missed the point of section 24. It is possible but most unlikely that the sort of company to which section 24 applies will be a company limited by shares; rather, it will be a company limited by guarantee. One of the provisions that must be satisfied is that the company will not apply its profits or income in any way other than in promoting its objects, and it must prohibit the payment of any dividend to its members. If the Minister has shares or an interest in such a company, he is unlikely to get any benefit from it. To have a section 24 licence granted, it must specifically preclude the payment of a dividend to its members. Such a company would be akin to an association incorporated under the Associations Incorporation Act which does not have to file its accounts.

In New South Wales and Victoria there are no such things as associations incorporated under the Associations Incorporation Act, because there is no such Act in those States. In those States, they more frequently use the licence provisions of a section similar to section 24. There is good reason to give the Minister the discretion he already has to dispense with the filing of accounts. It is not a question of the Minister being all-powerful; it is a question of exercising a discretion in favour of a company formed for limited charitable, scientific or similar objects.

The Hon. D. H. L. BANFIELD: It is surprising that the honourable member did not give instances as to where it would be desirable not to have the accounts published. The documents of the company are open to the public.

The Hon. K. T. Griffin: It is a discretion for the Minister.

The Hon. D. H. L. BANFIELD: The accounts are the main thing that should be open to the public, so that the position is known. The honourable member made no attempt to give a reason why there should not be a publication of accounts. It is in the interests of the public and of everyone concerned for the accounts to be published and displayed; the documents are open to the public, and the accounts should be, too. It should not be for the Minister to decide.

The Committee divided on the amendment:

Ayes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, and D. H. Laidlaw.

Noes (9)—The Hons. D. H. L. Banfield (teller), T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Pair—Aye—The Hon. R. A. Geddes. No—The Hon. F. T. Blevins.

The CHAIRMAN: There are 9 Ayes and 9 Noes. I give my casting vote for the Ayes.

Amendment thus carried; clause as amended passed.

Clauses 21 and 22 passed.

Clause 23—"Default in complying with requirements as to proprietary and private companies."

The Hon. K. T. GRIFFIN: I move:

Page 21, line 1—Leave out all words in this line.

The Bill seeks to delete from section 27 (7) of the Act two words that have been there for a considerable time. The section deals with the offer of subscription or deposit with a company arranged by or through a solicitor, broker, agent, or any other person who by advertisement has invited the public to make use of his services in arranging investments.

The Bill seeks to delete the words "by advertisement" so that any person who falls into that category and who is inviting the public to make use of his services in arranging investments commits an offence by having arranged the subscription of the shares. I want to leave the words "by advertisement" there. I am concerned that solicitors who may customarily undertake this work, and have held themselves out as doing that work, but are not permitted to advertise, may suddenly find themselves brought within the terms of the section if those words are deleted.

The Hon. D. H. L. BANFIELD: We oppose the amendment as we believe that solicitors should be put at risk if they extend an invitation to the public and make an arrangement with a client. We oppose the amendment.

The Committee divided on the amendment:

Ayes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, and D. H. Laidlaw.

Noes (9)—The Hons. D. H. L. Banfield (teller), T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Pair—Aye—The Hon. R. A. Geddes. No—The Hon. F. T. Blevins.

The CHAIRMAN: There are 9 Ayes and 9 Noes. I give my casting vote for the Ayes.

Amendment thus carried; clause as amended passed.

Clauses 24 to 31 passed.

Clause 32—"Certain notices, etc., not to be published."

The Hon. K. T. GRIFFIN: I move:

Page 28, lines 39 and 40—Leave out all words in these lines and insert the following paragraph:

(a) specifies the names of two persons purporting to be directors of the corporation and is signed by those persons;.

This clause enacts new provisions with respect to notices and the publication of notices relating to subscriptions or the purchase of shares, debentures, or invitations to the public to purchase or subscribe to shares or debentures in a corporation. The particular provision to which my amendment relates is the evidentiary one. The defence is that a person who publishes a notice relating to a corporation is not guilty of an offence if that person has a certificate signed by two directors of the corporation.

I think the provision is specifically related to publication by the media. My concern is that, because of the way in which the clause is now drafted, if such a notice presented to one of the newspapers specifying the names of two directors and signed by those directors, that newspaper would have to go to the companies office and search the register to ascertain that in fact the two signatories were directors of the corporation.

My amendment provides that, where the notice specifies the names of two persons purporting to be directors of the corporation and is signed by those persons, the defence is applicable. That means, of course, that the newspaper, for example, publishing the notice does not have to inquire at the companies office about whether they are directors. It is sufficient if they purport to be directors and the notice is signed by them.

The Hon. D. H. L. BANFIELD: This amendment leaves the matter open to too much abuse. The honourable member pointed out that it is mainly the press that publishes this sort of thing. We do not think there is any hardship for newspapers to check to find out whether people are actually directors of the company. We know that from time to time the press prints much that is not true and is deliberately misleading. We also know that things should be checked before they are published. It is a pity the media does not do that more often.

The Hon. C. M. HILL: To which newspaper are you referring?

The Hon. D. H. L. BANFIELD: I do not care which one. How many times have you stood up in this place and said you have been misquoted in one of our newspapers? I am not scared of the truth: what I am scared of is that the press hold itself up as responsible, and it is not responsible when it does not report correctly. It would not be too difficult for the press to check on whether the signatures are those of directors, as checking would involve no hardship.

The Hon. K. T. GRIFFIN: An inadvertent breach could occur where a report is signed by a person purporting to be a director and it is not checked, which involves going to the Corporate Affairs Office and ultimately assessing the computer print-out. My amendment does not open the way to abuse, and reduces slightly the onus on persons publishing reports. It will facilitate the publication of reports and provide protection.

The Hon. D. H. L. BANFIELD: The effects of an invalidated alteration would provide a field day for lawyers. It is not unreasonable for someone to check whether a signature is correct and is that of a purported director. It is not a problem, it is a safeguard.

The Hon. K. T. GRIFFIN: The Bill contains provisions that provide much the same sort of situation as regards the Commissioner's signature. Any document on which his signature appears is deemed to be signed by him unless proved to the contrary. All I am trying to do is to facilitate the administration.

The Committee divided on the amendment:

Ayes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, and D. H. Laidlaw.

Noes (9)—The Hons. D. H. L. Banfield (teller), T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Pair—Aye—The Hon. R. A. Geddes. No—The Hon. F. T. Blevins.

The CHAIRMAN: There are 9 Ayes and 9 Noes. I give my casting vote for the Ayes.

Amendment thus carried; clause as amended passed.

Clauses 33 to 37 passed.

Clause 38—"Return as to allotments."

The Hon. K. T. GRIFFIN: I move:

Page 31, lines 19 to 23—Leave out all words in these lines and insert the following paragraph:

(b) by striking out from subsection (4) the word "Registrar" wherever it occurs and inserting in lieu thereof, in each case, the word "Commission".

If a certified copy of a contract is lodged, the original contract, duly stamped, shall be produced at the same time to the commission. There is no discretion for the commission to request, or not request, the production of an original contract. A similar situation obtains in clause 12, under which the commission may require a person to produce an original document if a copy is lodged.

There should be consistency in the Bill. On many occasions a contract has been stamped interstate and is produced for registration in South Australia. A company may be a foreign company registered in South Australia, and ordinarily a copy verified by statutory declaration is lodged at the office of the Registrar of Companies. We have here a specific provision requiring that the original must be lodged. If it is lodged, stamp duty will most likely be payable in South Australia. If it is a large sum, as sometimes occurs, it could mean thousands of dollars extra

stamp duty being paid in South Australia in addition to the duty paid interstate, where the company is incorporated. The amendment will substantially keep section 54 (4) the same as it is, except that the word "Registrar" is changed to "Commission".

The Hon. D. H. L. BANFIELD: I accept the amendment.

Amendment carried; clause as amended passed.

Clauses 39 to 47 passed.

New clause 47a—"Dealing by company in its own shares, etc."

The Hon. K. T. GRIFFIN: I move:

Page 34, after line 18, insert new clause as follows:

47a. Section 67 of the principal Act is amended by inserting after subsection (1) the following subsection:

(1a) Where the purpose, or one of the purposes, of a contract is to enable or assist a company in giving financial assistance to any person in contravention of subsection (1) of this section a party to the contract who did not know of and had no reason to suspect that purpose may enforce the contract against all other parties to it.

Section 67 of the principal Act relates to dealings by a company in its own shares. I previously indicated difficulties experienced when a company lends money to another company, which money is used by the borrower corporation for financing the purchase of its own shares. In so doing, that company is generally in breach of section 67, but the lending company is also in difficulty, because the lending transaction is thereby tainted with illegality.

The new clause seeks to preserve the rights of the lender corporation. It is essential to preserve the civil liability of the borrowing corporation *vis-a-vis* the lending corporation. It does not purport to deal with the criminal liability of a company or any of its directors.

The Hon. D. H. L. BANFIELD: We oppose the new clause, which only restates the existing law, thereby possibly creating confusion.

The Hon. K. T. GRIFFIN: The matter is sufficiently in doubt to have caused several people to communicate with me about it. Further, I understand that the Law Society on several occasions over recent years has drawn attention to the difficulty that practitioners find in dealing with section 67. They have drawn that to the Government's attention, but no action has been taken. This is the appropriate time to eliminate the area of doubt.

The Hon. D. H. L. BANFIELD: I am sure the honourable member would be most disappointed if people did not contact him for an interpretation, because he has set up in business to provide interpretations.

The Hon. K. T. GRIFFIN: I said that several people had contacted me (I thought I said "practitioners") in relation to this Bill and had raised this point about section 67. I also said that the Law Society had raised it as a matter of general concern to practitioners, with a view to having it clarified.

The Hon. D. H. L. Banfield: Did they draft this new clause for you?

The Hon. K. T. GRIFFIN: The Parliamentary Counsel drafted it, and I am prepared to rely on the drafting. I am satisfied that this new clause will resolve a doubt about section 67.

New clause inserted.

Clauses 48 to 69 passed.

Clause 70—"Approval of trustees."

The Hon. K. T. GRIFFIN: I oppose this clause, which relates to section 79 of the principal Act and to the Minister's granting his approval to a company acting as trustee or representative for the purposes of a deed under Division V of Part IV of the principal Act. Section 79 (2) allows the Minister to exercise his discretion so that if, in special circumstances, he is satisfied that it is impracticable to secure a company to act as trustee, he may grant his approval to a person or persons whom he thinks fit to act as trustee or representative for the purpose of such a deed.

The Bill seeks to delete that discretionary power, and I am unhappy about its deletion. I am not sure whether or not it has been used in the past but, notwithstanding that, I think that, whilst it is a discretionary power, if there are instances where it needs to be used the Minister should have that power, which is only to be exercised in special circumstances anyway. I therefore oppose this clause.

Clause negatived.

Clauses 71 to 74 passed.

Clause 75—"Instrument of transfer."

The Hon. K. T. GRIFFIN: I spoke on this in the second reading debate and raised some questions about the ambit of the proposed section 95 (5). Section 95 of the principal Act facilitates the transfer of shares in deceased estates where those shares are on interstate registers. The proposed subsection (5) is novel to this State. It is included in New South Wales. I cannot really understand the significance of it. I wanted to ensure that, by being deemed an instrument of transfer for the purposes of the section, it did not attract stamp duty. Having had an opportunity to look further at the amendment and at the clause, whilst I am still concerned about the implications, I think that it is arguable that such an instrument, if deemed to be an instrument of transfer, attracts stamp duty. Therefore, to indicate to the Committee that I am reasonably co-operative, I do not propose to proceed with the amendment I have on file.

Clause passed.

Clauses 76 to 93 passed.

Clause 94—"Disclosure of interests in contracts, property, offices, etc."

The Hon. K. T. GRIFFIN: I move:

Page 54, line 39—After "amended" insert—

(a) by striking out subsection (3) and inserting in lieu thereof the following subsection:

(3) A director of a company shall be deemed not to be interested or to have been at any time interested in any contract or proposed contract or mortgage charge or other security or proposed mortgage charge or other security by reason only—

(a) that he has guaranteed or joined in guaranteeing the payment of any debt or the performance of any obligation of the company;

(b) that he has given or joined in giving an indemnity to any person in respect of any debt or obligation of the company; or

(c) in a case where a contract or proposed contract or mortgage charge or other security or proposed mortgage charge or other security has been or will be made for the benefit of or on behalf of a corporation which by virtue of the provisions of subsection (5) of section 6 is deemed to be related to the company—that he is a director of that corporation,

and this subsection shall have effect not only for the purposes of this Act but also for the purposes of any other law but shall not affect the operation of any provision in the Articles of the company.; and

(b)

The amendment arises again from some practical difficulties in acting under section 123 of the principal Act, which provides for disclosure of interests by directors in relation to contracts with which the company is involved. I have no desire to tamper with that general principle of disclosure in those circumstances, but the practical difficulty has been drawn to my attention. If one considers the section as drafted, it is a difficulty that, even if a director discloses an interest, it may well preclude the director from exercising his responsibility as such director with respect to a contract, particularly a contract of loan or guarantee.

It must be remembered that, where a loan is made to a particular company, it may be guaranteed either by its subsidiary or by its holding company. If the directors are common to both, the guarantee will be prejudiced in consequence of the interests of the director in both the subsidiary and the holding company. What we are seeking to do in this rather long clause is enable directors, having disclosed their interests, to continue to exercise their responsibility in the circumstances I have outlined, so that such a transaction is not prejudiced by that contract. I think the amendment will satisfactorily deal with the difficulty to which I have referred.

The Hon. D. H. L. BANFIELD: The Hon. Mr. Griffin has lost me there. Honourable members opposite appeared to be as confused as did members on this side when trying to follow the Hon. Mr. Griffin's explanation. My mother told me, "When in doubt say, 'No'." I disagree to the amendment.

Amendment carried; clause as amended passed.

Clauses 95 and 96 passed.

Clause 97—"Loans to directors."

The Hon. D. H. L. BANFIELD: This clause extends the scope of section 125 to prevent loans to relatives and directors. My colleague is agreeable to the deletion of the clause because it would have created difficulties for banking institutions. I ask members to vote against the clause.

Clause negatived.

Clauses 98 to 128 passed.

Clause 129—"Declaration of contributions for political and charitable purposes."

The Hon. K. T. GRIFFIN: This clause is a novel provision. It seeks to require, in the directors' report relating to a particular year, a disclosure of any money subscribed for political or charitable purposes or both, if it exceeds $100 in total in that year. This provision is foreign to company law Statutes and general law throughout the States of Australia. I have already questioned the motive for the inclusion of this particular clause. Suffice to say that, from a technical point of view, if this were to be passed it would be the only area where, in the directors' report and annual accounts, a specific item of expenditure such as this would have to be disclosed.

If one has seen the accounts of companies and the annual directors' reports that must be lodged with the Registrar of Companies (soon to become the Commissioner for Corporate Affairs), one would understand that such detail was not required. The provision in this clause, if enacted, would be anomalous in the general procedures relating to annual accounts and directors' reports. For that reason, I suggest that it is inconsistent to have this clause in a company law provision. My colleagues will refer to other reasons for opposing the provision. If only for the technical reasons and the inconsistencies it would raise, and the anomalous situation it would present, and because of the suspect motivation for such a clause, I oppose it.

The Hon. J. E. DUNFORD: I support the clause. It has been said here time after time that the Australian Labor Party relies on affiliation fees from the trade union movement. In the union I represented for many years I had to produce a half-yearly balance sheet endorsed by the membership and it also had to be endorsed at the end of each financial year. All expenditure had to appear in that balance sheet. All the balance sheets that I prepared showed political affiliations, amounts, and the political Parties to which they were contributed. This was clear to all members.

The Hon. R. C. DeGaris: Has the A.W.U. ever refused to make any contribution to the A.L.P.?

The Hon. J. E. DUNFORD: That was in Queensland. That was a decision of the membership endorsed by the membership. Certainly, it has not occurred in South Australia since 1948. We are required by law to give the Industrial Court of South Australia a copy of the balance sheet signed by the auditors each year showing names and addresses. We must lodge a roll of the full membership of the organisation. I support the clause, because it removes a devious way for companies to subscribe to political Parties without the knowledge of shareholders. Senator Wheeldon, from Western Australia, in 1975 or 1976 showed that insurance companies, without the consent of an annual meeting or of the shareholders, were using funds to promote the Liberal Party.

Insurance workers in Adelaide given half a day off to attend a rally in Victoria Square were paid from shareholders' funds. Shareholders should know what companies are doing with their funds. I have no objection to people accumulating wealth, but I disapprove of other people being entrusted with funds that do not belong to them and using those funds wilfully to promote a political Party to support their purposes. That is a dangerous situation.

The Hon. Mr. Griffin is here to look after legal practitioners and represent companies. This provision is long overdue, and similar legislation exists in the Western World. Liberal members and D.L.P. members of the Australian Workers Union had the opportunity to oppose the union's affiliation to the Labor Party, and shareholders should have a similar opportunity.

The Hon. C. J. SUMNER: I support the clause. The Hon. Mr. Griffin said that this was the only provision of its kind in Australia. That seems to me to be a weak argument. I believe that similar clauses exist in other democracies outside Australia. The honourable member's other argument was that, if the clause were passed, it would mean that it would be the only donation of a company that would have to be shown in the company reports. He seemed to think that that was odd, too. Again, that seems to me to be an inadequate argument. I would have thought that, if the public interest required such a disclosure, and it it were the only item of this kind to be shown in company reports, that is hardly an argument against the clause. Such a disclosure should be made in a way similar to the disclosure of interests by members of Parliament. If a political Party was receiving substantial donations from a private company, the Party might be tempted to propose policies or to act through its representatives in Parliament in a manner that would be favourable to that private interest, but detrimental to the public interest.

Finally, the honourable member said that the clause was being introduced for questionable motives, but he did not elaborate on that. I treat that statement with the contempt it deserves. I support the clause.

The Hon. D. H. L. BANFIELD: How many times have we heard the Opposition say that from time to time trade unionists make donations to the Australian Labor Party? It is an open book, and people are aware of it. We are not

ashamed that we support the Labor Party, but we have to show any donation in our annual report. If I had shares in a company (and I have not), what right would that company have of spending my hard-earned money by donating to the Liberal Party (non-productive), without any reference to me? Before a trade union makes a donation to a political Party, the donation must be approved by members at a meeting and shown in the annual report.

Companies should not have to disclose donations and should do so, because it is public money. What do members opposite have to fear? Disclosures should be made so that shareholders can decide whether they want to continue to be a shareholder of that company, when they believe money has been put into the company for a productive purpose.

The Hon. J. C. Burdett: The Liberal trade unionist has no option.

The Hon. D. H. L. BANFIELD: He has: he can attend a meeting and oppose such a donation being made. I have never been given the opportunity at a company meeting to oppose the handing out of money to be used for political purposes.

The Hon. D. H. Laidlaw: Insurance companies do not give political donations.

The Hon. D. H. L. BANFIELD: Maybe, but they tell people where they should be at certain times, and they are not doing the work for which they are employed. Nobody is refuting the fact that insurance companies do that. Mr. Dawkins will not oppose such things. The honourable member knows that, if donations to political Parties were disclosed, the company would not be supported. Shareholders should know to which Party the company is donating money. This applies to charities also, because some people are violently opposed to donating funds to particular charities. The shareholders should know what charitable organisations are being supported by the company in which they have invested money. I hope that the clause is accepted.

The Hon. D. H. LAIDLAW: I am concerned for South Australian-based public companies that may be required to divulge the origin of political donations if those companies compete for work in other States. These companies might tender to State Government departments in other States or statutory authorities against companies based in another State, which do not have to disclose political donations. The competitors of South Australian companies could ascertain to which Party South Australian companies donate funds.

The Hon. D. H. L. Banfield: What is wrong with their knowing?

The Hon. D. H. LAIDLAW: South Australian companies could be hampered if political donations were disclosed, particularly if the Party opposed to that receiving donations from the company was in Government in the particular State. This provision should be introduced at the same time as it is introduced in all other States.

The Committee divided on the clause:

Ayes (9)—The Hons. D. H. L. Banfield (teller), T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Noes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, and D. H. Laidlaw.

Pair—Aye—The Hon. F. T. Blevins. No—The Hon. R. A. Geddes.

The CHAIRMAN: There are 9 Ayes and 9 Noes. So that this clause can be further considered, I give my casting vote for the Noes.

Clause thus negatived.

Clauses 130 to 136 passed.

Clause 137—"Qualified privilege for auditors in respect of certain defamatory statements."

The Hon. K. T. GRIFFIN: I move:

Page 79—Leave out this clause and insert the following clause:

137. Section 167b of the principal Act is amended by striking out from subsection (2) the word "Registrar" wherever it occurs and inserting in lieu thereof, in each case, the word "Commission".

Clause 137 seeks to substitute for our present section 167b a new section, which will be similar to the New South Wales provision. My concern is that the present section seems adequate to protect auditors; under that section they have very wide powers to make defamatory statements and, provided they are not made with malice, in the course of their duties as auditors they have a wide power to bring to the attention of the public particular activities which, when referred to in writing, would become libellous if defamatory.

Instead of referring to what I would regard as a specific area of defamation, the provision now refers to qualified privilege. I would prefer to see our present section remain and to see the clause defeated. In the second reading debate, the Minister did not give any explanation of the reason for the change, and I oppose the clause.

Amendment carried; clause inserted.

Clauses 138 to 142 passed.

Clause 143—"Appointment of Commission as inspector."

The Hon. K. T. GRIFFIN: I oppose this clause. Nothing similar appears in our present Act nor in the legislation in Victoria or Western Australia, although I understand it appears in New South Wales. It seeks to allow the commission to be appointed as an inspector and to exercise the powers of an inspector. Under the investigation provisions of the Act as it will be amended by the Bill, specific powers of appointment are given by the commission to investigators. It seems that, if the commission is itself appointed as an inspector, presumably it would be appointed by the commission itself, and there may well be some conflict. It should appoint inspectors, who should be responsible to it. I cannot see how this clause would be of any advantage in the administration of the legislation.

The Hon. D. H. L. BANFIELD: We ask for the retention of the clause. The legislation in New South Wales contains a provision where the commission is often appointed as an inspector under the Act. This clause should be adopted throughout Australia. We seek to have it adopted.

Clause negatived.

Clauses 144 to 146 passed.

Clause 147—"Reports by inspectors, etc."

The Hon. K. T. GRIFFIN: I move:

Page 84, after line 51—Insert the following subsection:

(12) Nothing in this section operates to diminish the protection afforded to witnesses by the Evidence Act, 1929-1978.

This clause deals with reports by inspectors, and includes some of their powers. One of the provisions is that if from a report the Minister is of the opinion that an offence may have been committed and that a prosecution ought to be instituted, the Minister shall cause a prosecution to be instituted. Proposed subsection (7) states:

Where the Minister has formed the opinion referred to in subsection (6) of this section he may, by notice in writing given before or after the institution of a prosecution in

accordance with that subsection, require an officer of the company of which affairs were investigated (not being an officer who is, or, in the opinion of the Minister, is likely to be, a defendant in the proceedings) to give all assistance in connection with the prosecution or proposed prosecution that he is reasonably able to give.

That suggests that it may be possible for the Minister to require an officer to give all assistance, but he may do that in such a way as to override the protections that are given to witnesses under the Evidence Act. I concede that that is arguable, but I think that, because the powers of inspectors and the Minister are so wide, it is important to ensure that if it is in doubt it ought to be specifically provided that witnesses have the protection given by the Evidence Act.

Amendment carried; clause as amended passed.

Clause 148—"Cost of investigation."

The Hon. K. T. GRIFFIN: I move:

Page 85, lines 7 to 12—Leave out all words in these lines and insert the passage—

(company) should be paid by the company, the Minister may apply to the court for an order directing that the expenses or part thereof be so paid, or, if they have been paid under subsection (1) of this section, that the company reimburse the Crown or, in either case, that the company reimburse the Crown in respect of the remuneration of any servant of the Crown concerned with the investigation, and the court may make such order with respect to the application or its subject matter as it thinks fit.

This clause deals with the costs of an investigation. Proposed new subsection (2) provides:

Where the Minister is of the opinion that the whole or any part of the expenses of and incidental to an investigation into affairs of a company under this Part (including the expenses incurred and payable by the Minister in any proceedings brought by him in the name of a company) should be paid by the company, the Minister may by order direct that the expenses or part thereof be so paid or, if they have been paid under subsection (1) of this section, direct the company to reimburse the Crown . . .

From that sort of order there is no appeal, yet further on in that clause there is a provision that, where the Minister is of the view that such costs ought to be paid by a person instead of by the company, the Minister may apply to a court or cause an application to be made to the court for an order that a person other than the company pay the costs of the investigation. I believe it is important that there be some consistency, and that either there ought to be a right of appeal from the order for the Minister or the Minister ought to be required to make an application to the court.

Section 178 allows the Minister to apply to the court. As a similar provision exists in Victoria and Western Australia, it is desirable to follow that procedure. The court can make a proper assessment of whether a company should be required to pay costs.

The Hon. D. H. L. BANFIELD: We oppose the amendment. It is at the Minister's discretion whether he requests a company to pay for the investigation. A Minister is answerable to the public, and he would not make such a decision lightly. If a company was helpful in an investigation, the costs would be much less, but where a company sets out deliberately to hinder an investigation the Minister should be empowered to make the company pay for those expenses. The clause does not provide that the Minister shall order all the costs against the company; he has a discretion, and I oppose the amendment.

The Hon. K. T. GRIFFIN: Companies that have acted as the Minister suggested should pay the costs of the investigation, but a court, which has jurisdiction throughout the Companies Act, should assess whether a company should pay all the costs, some of the costs, or none of the costs. If the company has caused difficulty or delay, that will be presented to the court in the Minister's application. I want to ensure that the provisions of this section are applied fairly where the circumstances warrant the nature of the order referred to.

The Committee divided on the amendment:

Ayes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, and D. H. Laidlaw.

Noes (9)—The Hons. D. H. L. Banfield (teller), T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Pair—Aye—The Hon. R. A. Geddes. No—The Hon. F. T. Blevins.

The CHAIRMAN: There are 9 Ayes and 9 Noes. I give my casting vote for the Ayes.

Amendment thus carried.

The CHAIRMAN: The honourable member has certain other amendments to clause 148.

The Hon. K. T. GRIFFIN: I move:

Page 85—

Line 17—Delete "Minister" and insert "court".

Lines 24 to 27—Leave out all words in these lines and insert the passage—

whether an application or applications under subsections (2) or (7) of this section should be made.

Line 46—Leave out "Minister" and insert "court".

Page 86, line 11—Leave out "by the Minister".

The amendments are consequential on the amendment that has just been carried.

Amendments carried; clause as amended passed.

Clause 149 passed.

Clause 150—"Application for winding up."

The Hon. D. H. L. BANFIELD: I move:

Page 87—

Line 22—Strike out the passage "or a recognised company".

Line 25—Strike out "adaptations" and insert "adaptation".

Lines 26 and 27—Strike out the passage "or a recognised company".

Line 30—Strike out "or a recognised company".

Lines 36 and 37—Strike out "or a recognised company".

Amendments carried.

The Hon. K. T. GRIFFIN: I move:

Page 87, after line 40—Insert the following subsection:

(4) At the time of making an application under subsection (1) of this section the Minister shall cause notice of the application to be served on the company.

Under this clause a report of an inspector may recommend the winding up of a company. In Victoria and Western Australia there is a specific provision that, where there is to be such an application, notice of it must be given to the company when the application is made. The provision is important, because the company should be notified of any such application.

Amendment carried; clause as amended passed.

Clauses 151 to 188 passed.

Clause 189—"Application for winding up."

The Hon. K. T. GRIFFIN: I referred in my second reading speech to the change in procedure envisaged by this and subsequent clauses on winding up. The present provision in South Australia is that their should be a petition for winding up a company, which is to be lodged with the Supreme Court. A substantial body of law and a considerable amount of practice has established proce-

dures which should be followed. I was concerned that the change to an application would open up an area that was relatively under-developed in the law regarding winding up. Having spoken to officers of the Corporate Affairs Department, I accept that the change from a petition to an application will be implemented at the time of new rules of court and new regulations being adopted, so that the procedure will not be as clouded as I first thought. I support the clause.

Clause passed.

Clause 190—"Circumstances in which company may be wound up by court."

The Hon. K. T. GRIFFIN: I move:

To leave out this clause.

Clause negatived.

New clause 190.

The Hon. K. T. GRIFFIN: I move:

To insert the following:

Section 222 of the principal Act is amended—

(a) by striking out from paragraph *(d)* of subsection (1) the passage "or a private company" wherever it occurs.

Amendment carried.

The Hon. K. T. GRIFFIN: I move:

To insert the following:

(b) by striking out from paragraph *(a)* of subsection (2) the passage "by leaving at the registered office" and inserting in lieu thereof the passage "by leaving at the registered office or by delivering to the secretary or a director of the company or by otherwise serving on the company, in such manner as the Court approves or directs,"

Under my amendment, the court will have a discretion to direct other means by which a notice may be served. Section 222 of the principal Act provides for a notice of demand for a debt to be served on a company and, if that demand is not satisfied in accordance with the provisions of the notice, the company is deemed to be unable to pay its debts. The consequence that flows from that is that there may be a petition lodged for winding up the company.

I want to facilitate service of the notice, because there have been difficulties in some circumstances in identifying the registered office of a company for the purpose of serving such a notice. The amendment does not prejudice a company to which such a notice is directed.

The Hon. D. H. L. BANFIELD: I cannot agree with the honourable member. Where a notice of winding up a company is to be served, it needs to be served only on the secretary or a director. The Bill provides that a notice should be served on any two directors or on a single director and the secretary. All sorts of complications could arise if a person were to pigeon-hole the notice and say nothing about it. Although this could happen if two people were served, it is most unlikely that they would conspire together to forget the notice. It is a safeguard if two people are served.

The Hon. K. T. GRIFFIN: If a company is avoiding its creditors, it will be that much more difficult to have a notice served on two persons. There is some safeguard so that, if the court believes that there should be some other method of service, it can approve or direct such a method. I want to adhere to my amendment.

Amendment carried; new clause inserted.

Clause 191—"Commencement of winding up by the court."

The Hon. K. T. GRIFFIN: I move:

Page 100, after line 15—Insert the following subsection:

(3) At the time of the commencement, withdrawal or dismissal of proceedings for a winding up the court shall lodge with the commission notice, in the prescribed form, of the commencement, withdrawal or dismissal of the proceedings.

I do not disagree with parts of clause 191, but a practical difficulty which has been evident for some years is that, although a petition for winding up may be lodged at the court, no notice of that lodging is required to be given to the Registrar of Companies, or, as he will be called, the Commissioner for Corporate Affairs. Creditors or other persons dealing with a company against which a petition has been lodged could be prejudiced. The suggestion may be made that the amendment provides an obligation on the court to do a certain thing. The remedy is in the hands of the court; in providing for rules dealing with applications for winding up, you also provide a requirement that the applicant lodge notice of commencement of proceedings with the Commissioner for Corporate Affairs.

This provides useful information to those who may be dealing with the company and does not prejudice the administration of the Act. Nor does it place an undue burden on the court to attend to it.

The Hon. D. H. L. BANFIELD: Although we agree with the amendment in principle, we believe that the wording is unsuitable.

Amendment carried; clause as amended passed.

Clauses 192 to 218 passed.

Clause 219—"Priorities."

The Hon. K. T. GRIFFIN: I move:

Page 110, line 43—Insert after the word "date" the following passage "and which had become due and payable within twelve months next preceding that date".

My amendment relates to the order of priority of debts in the winding up of a company. Under existing section 292 (1), the Commonwealth has priority fifth in line for one year's assessment of Commonwealth land tax, as it used to be, and income tax. If the Commonwealth has allowed more than one year's income tax to accumulate, then it must rank with the other unsecured creditors for that tax which is in excess of one year's accumulation. The Bill provides that not only will the Commonwealth department have a priority seventh in line for one year's assessment, but it gives to the State unlimited priority for accumulated pay-roll tax. I want to limit the priority that the State may have for pay-roll tax to one year's pay-roll tax to be consistent with the Commonwealth priority.

If pay-roll tax accumulates beyond one year and the commissioner does not move to collect it, then be it on his head. On many occasions I think it would help the company, the creditors, and the commissioner for State Taxes if he were to move on companies where there has been a significant accumulation of outstanding pay-roll tax. The amendment will have the effect of limiting his priority for pay-roll tax to one year or, for any excess over that, he will rank equally with the other unsecured creditors.

The Hon. D. H. L. BANFIELD: This clause is applicable in every other State in the Commonwealth, and I know that the honourable member would not want to be out of step with those States.

The Hon. J. C. Burdett: You do.

The Hon. D. H. L. BANFIELD: I do not want to be out of step with every other State. The existing provision is accepted and applicable in every other State of Australia.

The Hon. J. C. Burdett: What about clause 129, then?

The Hon. D. H. L. BANFIELD: We are talking about this clause.

The Committee divided on the amendment:

Ayes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, and D. H. Laidlaw.

Noes (9)—The Hons. D. H. L. Banfield (teller), T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Pair—Aye—The Hon. R. A. Geddes. No—The Hon. F. T. Blevins.

The CHAIRMAN: There are 9 Ayes and 9 Noes. I give my casting vote for the Ayes.

Amendment thus carried.

The CHAIRMAN: I draw the attention of the Minister to page 110, line 38, where the word "Act" second occurring should read "Acts". That will be attended to.

Amendment carried; clause as amended passed.

Clauses 220 to 254 passed.

Clause 255—"Offences."

The Hon. K. T. GRIFFIN: I move:

Page 130, line 36—Leave out the words "section 381" and insert the words "section 382".

This amendment is to correct a typographical error.

Amendment carried; clause as amended passed.

Clauses 256 to 263 passed.

Clause 264—"Repeal of Part XIII of the principal Act and enactment of Part in its place."

The Hon. K. T. GRIFFIN: I move:

Page 138, lines 6 to 11 inclusive—Leave out these lines.

This clause establishes the Corporate Affairs Commission and deals with some of the powers of the commission and the Commissioner. In particular, proposed new section 400 provides that the commission shall observe and carry out any direction given by the Minister on a matter of policy. The commission shall, when directed by the Minister to do so, report to the Minister on the policy the commission is pursuing, or proposes to pursue, in the exercise or discharge of any of its powers, authorities, duties or functions referred to in the direction. I object on principle to this provision. I wonder why the commission should be subject to Ministerial direction on matters of policy.

The Commission for Corporate Affairs, constituted by the Commissioner, is responsible for administering the Act in the way in which it is drawn and according to its terms. I do not see why there ought to be power for the Minister to give direction to the commission on policy matters. The way in which the provision is drafted suggests to me that such directions could be beyond the specific powers of the commission referred to in the Act. That would give me some concern, because the provision would introduce into the administration of company law a considerable uncertainty and, I think, an undesirable aspect to the law. There is no reason specified in the Minister's second reading explanation why this provision should be in the Bill. There is presently no power to direct the Registrar of Companies, because obviously it has not been necessary, and I believe that it is not necessary for the commission or the Commissioner.

The Hon. D. H. L. BANFIELD: We vigorously oppose the amendment.

Amendment carried.

The Hon. K. T. GRIFFIN: I move:

Page 138, lines 33 to 49 inclusive—Leave out these lines and insert the following clause:

403. (1). There shall be a Commissioner for Corporate Affairs.

(2) The Commissioner shall be appointed, and shall hold office, subject to, and in accordance with, the Public Service Act, 1967-1978.

Page 139, lines 1 to 20 inclusive—Leave out these lines.

The Bill provides for the Commissioner to be appointed by the Governor, to hold office for a term which expires when he attains the age of 65, to hold office on terms and conditions determined by the Governor, to be removed from office upon presentation of an address from both Houses of Parliament praying for his removal, and to be suspended under certain specific clauses of this Bill. There is no need for the Commissioner to have such protection. The Auditor-General, the Valuer-General and Public Service Commissioners have such protection, and one can understand why this is so: they are required to provide advice, decisions and reports relative to the administration of the Government. However, the Commissioner does not do that and therefore does not need the security provided.

He should be appointed and should hold office subject to, and in accordance with, the Public Service Act. That is the basis upon which the present Registrar of Companies holds office, as will the Registrar-General of Deeds, under a Bill yet to be debated. I have previously pointed out that this security is not evident in any other States, and it should not be included here.

Amendment carried; clause as amended passed.

Remaining clauses (265 to 272) and title passed.

Bill read a third time and passed.

ROAD MAINTENANCE (CONTRIBUTION) ACT AMENDMENT BILL

In Committee.

(Continued from 21 February. Page 2730.)

Clause 2—"Definitions."

The Hon. T. M. CASEY (Minister of Lands): I cannot accept the amendment that the Hon. Mr. Griffin moved yesterday. At a meeting of Transport Ministers, it was agreed to seek uniformity in the legislation. It is a reciprocal arrangement amongst the States, so that there is uniform legislation. In this way, the legislation is easier to police.

The Hon. K. T. GRIFFIN: I appreciate the general need for uniformity in these areas, but I suggest that my amendments, whilst technically affecting the question of uniformity, do not prejudice the ability of Governments here and interstate to recover outstanding road maintenance. I have already expressed my concern at the breadth of the provision in clause 2. The provision could catch people who may have incidental responsibility in the control or management of the business of a body corporate; such people could come within the definition of "Director". Because the Bill has such far-reaching implications, I want to ensure that persons who are not intended to be caught are not caught within the strict interpretation of the provision. I therefore adhere to my amendment.

Amendment carried; clause as amended passed.

Clauses 3 and 4 passed.

Clause 5—"Reciprocal enforcement of orders."

The Hon. K. T. GRIFFIN: This clause seeks to provide some reciprocal rights for enforcement of interstate orders for payment of fines and sums for road maintenance. After the procedure laid down in new section 12a (1) has been followed, the directors who are responsible in this State thereby become liable for payment of fines imposed interstate and road maintenance imposed interstate.

That causes me some concern, because there may not have been any opportunity for those persons, on whom liability is thus imposed, to be heard in the interstate court, and there is no provision upon registration in this court for those persons to prevent the issue or execution of a warrant of commitment. My amendments seek to give a limited right to a person to apply to a magistrate in chambers, for a warrant of commitment to be either

withdrawn or not issued and executed.

The grounds upon which he may so apply are limited: either that grounds for the issue of a warrant of commitment against the director under the section do not exist, or that the director exercised reasonable diligence to ensure that the body corporate would meet its obligations under the corresponding law. Under that provision, he must make some diligent effort to ensure that the company met its obligations under the corresponding law. It is not a passive but an active requirement.

The clause is likely to prevent injustice. If it is not carried, serious situations arise where persons who were directors or who were in control the management of a company may be liable to be imprisoned at the rate of one day for every $20 outstanding for a liability which initially was not theirs, and on which they have had no right of appeal or no right to be heard. I regard that as grossly unjust.

The CHAIRMAN: Does the honourable member agree that the second amendment "After line 31" is consequential?

The Hon. K. T. GRIFFIN: In a broad sense. I prefer that the Committee consider proposed new subsection (3a) down to the word "order". I move:

Page 3—After line 9 insert new subsection as follows:

(3a) Where an order has been registered in pursuance of this section, a director of the body corporate may apply to a magistrate in chambers for an order—

(a) forbidding the issue of a warrant of commitment against the director;

or

(b) setting aside a warrant of commitment issued against the director.

(3b) Where, upon an application under subsection (3a) of this section, the magistrate is satisfied that—

(a) grounds for the issue of a warrant of commitment against the director under this section do not exist;

or

(b) the director exercised reasonable diligence to ensure that the body corporate would meet its obligations under the corresponding law,

the magistrate shall make an order forbidding the issue of a warrant of commitment, or setting aside a warrant of commitment, against the director.

(3c) Where an order is made in pursuance of subsection (3b) of this section, a director on whose application the order was made shall be discharged from liability under the registered order.

The Hon. T. M. CASEY: This legislation is a reciprocal arrangement between the States. Any alteration will interfere with that situation. Apparently, the other States agree that their legislation is working quite well, and I cannot see why it should not work in the same way in South Australia. I cannot accept the amendment.

The Hon. J. C. BURDETT: I support the amendment. In its present form, the Bill will enable a person to be imprisoned without having had the opportunity of making any application to the court, and without having been able to put his case to the court. This seems to be an infringement of natural justice.

The Hon. M. B. DAWKINS: I support the amendment, which relates to a matter I discussed in the second reading debate. The Hon. Mr. Griffin has put it much more eloquently than I could have put it. I am convinced by his arguments.

Amendment carried.

The Hon. K. T. GRIFFIN: I move:

Page 3, after line 31—Insert new subsection as follows:

(5a) Where a director or former director of a body corporate discharges a liability under a registered order he is entitled to contribution from the other persons who were directors of the body corporate when the liability to which the order relates was incurred, or the offence to which the order relates was committed.

This additional subsection provides that where an order is made against a director and he is required to pay a liability, he has a right of contribution against the other directors. It was unclear that he had that right, and I want to clarify the position.

The Hon. T. M. CASEY: I cannot accept the amendment.

Amendment carried; clause as amended passed.

Clause 6 and title passed.

Bill read a third time and passed.

LEGAL SERVICES COMMISSION ACT AMENDMENT BILL

In Committee.

(Continued from 20 February. Page 2728.)

Clause 5—"Terms and conditions of office."

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

Page 2, lines 12 and 13—Leave out "(not exceeding three years) specified in the instrument of his appointment" and insert "of three years".

This pertains to the term of office of members of the commission. There seems to have been a duel between the Government and Opposition in this Chamber for some years about this matter. The Government has persistently, when referring to terms of appointment of members of commissions, committees and so on, said that the appointment is "for a term not exceeding". The Opposition has always insisted it should be for a fixed term. The reason given, which we think is a good one, is if the appointment is for a short term, theoretically even one month, it would put the members of the committee very much in the hands of the Government.

The Hon. B. A. CHATTERTON (Minister of Agriculture): This procedure was adopted in legislation in other States, and came from the meeting of Attorneys-General. The Attorney is puzzled why Liberal Party members in other States and at Federal level support this approach, while their South Australian colleagues do not. It is not a matter of fundamental importance, but I oppose the amendment.

The Hon. M. B. DAWKINS: I support the amendment. In dealing with the Country Fire Services Act, the Minister accepted a similar amendment, and the same provision applies elsewhere. The honourable Mr. Burdett's arguments are to the point, because a fixed term is desirable.

Amendment carried; clause as amended passed.

Remaining clauses (6 to 18) and title passed.

Bill read a third time and passed.

DOOR TO DOOR SALES ACT AMENDMENT BILL

(Second reading debate adjourned on 21 February. Page 2818.)

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Interpretation."

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

Page 1, after line 13—Insert:

"book" means any book, engraving, lithograph, picture or any other like matter whether illustrated or not.

I explained my amendments in detail in the second reading

debate. This Bill is a combination of the principal Act and the Book Purchasers Protection Act.

The protections under the two Acts are simply linking the procedure. Under the Door to Door Sales Act, there is a cooling-off period, and a contract may be terminated by notice given within eight days. The procedure under the Book Purchasers Protection Act is that a contract is unenforceable unless it is confirmed not less than five days and not more than 14 days. What the Bill does is to make the second procedure at present in the Book Purchasers Protection Act apply to contracts of a prescribed class. The Minister's second reading explanation said that it was intended to prescribe books, but that goods of any kind could be prescribed. I intend to seek to amend the Bill in accordance with the second reading explanation and to retain the confirmation procedure in regard to books as at present and also the termination procedure in regard to other door-to-door sales as at present. We are retaining the same procedure in the same Bill as the Bill sets out to do. If we are to to that, it is necessary to define "book". The definition of "book" is taken from the Book Purchasers Protection Act. I commend that amendment to the Committee.

The Hon. D. H. L. BANFIELD (Minister of Health): We oppose the amendment. The amendment prescribes that the Bill shall refer only to books, and removes any prescribed class. We consider that it is necessary for the Bill to refer to prescribed class, rather than to books, thus providing flexibility in the Bill. At this stage, we are not contemplating prescribing any class of goods, other than books, but we cannot say that in the future some other problem may not arise, thus making the provision necessary. Such action would be taken only where the volume of complaints had shown that a serious situation existed, as in the case of books at present.

If many consumers were being subjected to extremely high-pressure selling tactics, perhaps including deceptive statements, and the protection of the eight-day cooling off period did not seem sufficient, then the Government would consider extending the protection of the five to 14-day confirmation period to meet that situation.

In the meantime, the public would be exposed to high-pressure selling tactics. We make no apology, because we believe that the householder should not be subjected to the tactics used from time to time. The Government's view is that such an instance would be similar to that of the Hon. Geoffrey O'Halloran Giles, who said, in 1963:

> My own view would be that, if we cannot adopt proper trading practices and apply effective control, then we should disallow house-to-house trading completely.

In 1963 the Hon. Mr. DeGaris said:

> As far as I am concerned, I am prepared to offer the maximum protection to people in this situation.

We should be prepared, so that, when a sufficient volume of complaints arises, we can prescribe a check. The Hon. Mr. DeGaris now has an opportunity to show that he agrees with what his colleague Mr. O'Halloran Giles said in 1963.

The Hon. J. C. BURDETT: What was said by the Hon. Mr. O'Halloran Giles and Mr. DeGaris in 1963 related to books, and that protection is to be retained. Protection given under the Door to Door Sales Act is adequate and strong in normal circumstances. When there are door-to-door sales to which that Act applies, a notice must be given to the purchaser, setting out his rights. The purchaser has the right to terminate the contract by notice within eight days. That is substantial protection. Regarding misconduct and malpractice, a survey was undertaken by Price, Waterhouse & Company for the years 1974 to 1977. In the last year of the survey, there were 1 760 000 contracts on door-to-door sales in South Australia by members of the Direct Selling Association alone. Complaints made to the Consumer Affairs Department concerning door-to-door sales of booksellers and others totalled 208, so it can hardly be said that there is any evidence of gross malpractice on the part of door-to-door salesmen. Where this occurs, the present Act and protections are adequate.

The Hon. R. C. DeGARIS (Leader of the Opposition): I remind the Minister that in 1963 a private member's Bill was introduced in the Assembly. Action was taken by the back-bench of the Liberal Party, on that occasion, and I was one of those involved when the Bill was before this Chamber; I freely admit that. The Minister said that, when there was a serious volume of complaints, the Government wanted to be able to take action. There is not a serious volume of complaints, as pointed out by the Hon. Mr. Burdett. The extreme strictures applying in the Book Purchasers Protection Act may have been necessary at that stage but they are not necessary today; things have changed. To allow the Government to prescribe matters other than those involving booksellers is going too far. If there is a serious volume of complaints, they are over and above the protection already existing in the Door to Door Sales Act.

I do not believe that that will happen. The Hon. Mr. Burdett's approach is correct. I would be prepared to say that we should bring the Book Purchasers Protection Act to uniformity with the Door to Door Sales Act. I cannot see why there should be extra restrictions upon door-to-door booksellers over and above the restrictions upon other door-to-door sellers.

The Hon. C. M. HILL: If the Government finds that there is a need to cover activities other than door-to-door book selling, it can come to Parliament in the future and explain the problem. At that stage the appropriate activity can be included in the legislation if Parliament is satisfied that there is a problem. However, at present the Minister says that there is no problem other than in the book-selling area.

The Committee divided on the amendment:

Ayes (9)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill, and D. H. Laidlaw.

Noes (9)—The Hons. D. H. L. Banfield (teller), T. M. Casey, B. A Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Pair—Aye—The Hon. R. A. Geddes. No—The Hon. F. T. Blevins.

The CHAIRMAN: There are 9 Ayes and 9 Noes. I give my casting vote for the Ayes.

Amendment thus carried.

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

Page 1—

Lines 16 and 17—Leave out "of the prescribed class" and insert "for the sale of books".

Line 22—Leave out "of the prescribed class" and insert "for the sale of books".

Amendments carried.

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

Page 2, line 18—Leave out all the words in this line.

This matter was well aired in the second reading debate. The Government, by proclamation, has taken out of the Door to Door Sales Act the question of life insurance. There seems no reason why the Government should reinclude life insurance except that it wants to give greater scope in that field to S.G.I.C., because that organisation does not have salesmen selling life insurance. Over a long

period, the industry has relied greatly on its door-to-door activities. The number of complaints received is minimal; I have never had a complaint regarding the life insurance industry. There is no case for the industry to be included in this clause.

The Hon. D. H. L. BANFIELD: I oppose the amendment. I can assure the Leader that the reason for such inclusion was not so much shortcomings on the part of the industry, but rather the difficulty of justifying its continued exemption from the general provisions of the Door to Door Sales Act, 1971. However, after negotiations with the Chairman, Mr. Bruce Paul, and other officers of the Life Offices Association of Australia, it has been agreed that the exemption under the principal Act will continue subject to consumers being given, by all companies selling life insurance door to door, a 14-day cooling-off period and cover against accidental death commencing from the time of signing of the proposal form.

This will be achieved by the making of a proclamation under section 6 (2) of the Act, the wording of which has been carefully worked out between the Chairman and other officers of the L.O.A., the Crown Solicitor and officers of the Public and Consumer Affairs Department. This wording has been endorsed by all these parties and a copy of this proclamation is being tabled before this House. The third schedule of the proclamation requires that, if a proposer suffers an accidental death within 60 days of signing of the proposal form, then the insurer will agree to pay out under the terms of the policy applied for up to an amount of $50 000. However, if the form of death is one which the insurer would not have agreed to cover in that particular case, for example, if the proposer is a hang-glider pilot and dies in a hang-gliding accident, then the insurer will not be required to pay out in those circumstances. Nor will the insurer be required to pay out if it has communicated to the proposer its decision to decline cover to the proposer.

The second schedule of the proclamation requires a statement for term policies to the effect that there is no surrender value for such policies, and requires the first schedule to be also complied with. The first schedule provides for the giving of a 14-day cooling-off period to all proposers for life insurance and a warning as to surrender values of such policies. The Life Offices Association being agreed upon the wording of this proclamation, the Government intends to proclaim it upon the enactment of this Bill.

The matter has been carefully considered and has been canvassed in the industry, and the assurance has been given by the Government that proclamation is sufficient. For these reasons, we oppose the amendment.

The Hon. R. C. DeGARIS: The idea of a proclamation does not satisfy me, because it can be removed as easily as it can be proclaimed. There is no protection to the industry. I am surprised that the Government will stand over the industry, saying, "You do this and we will make a proclamation." That is what the Minister said in his reply. I do not believe that that is a fair go for an industry which has a fine record.

The Hon. D. H. L. BANFIELD: I take exception to the accusation of standover tactics. If we had not conferred with industry, we would have been abused up hill and down dale. We have reached an agreement with the industry and, because we have, the Hon. Mr. DeGaris says that the industry was stood over. I take strong exception to that, because from time to time members opposite ask us to confer with industry, yet as soon as we reach an agreement the Leader says that we used standover tactics. I assure the Leader that the industry is satisfied and supports the Bill. Obviously, the Hon. Mr. DeGaris has not spoken to the industry.

The Hon. R. C. DeGaris: Yes, I have.

The Hon. D. H. L. BANFIELD: Did it indicate to you that it supported the arrangement?

The Hon. R. C. DeGaris: I am not saying.

The Hon. D. H. L. BANFIELD: Of course you are not. You were not able to stand over them. You are not satisfied with what the industry wants because it does not suit your particular purpose. It does not matter to the honourable member whether it suits the industry, as long as it does not suit the honourable member we should not proceed even though the industry is happy about the position.

The Hon. R. C. DeGARIS: I suggest that the Minister asks the industry whether it would like my amendment or what the Minister proposes. It is obvious that when this Bill was prepared the industry approached the Government for an exclusion for life assurance and the Government said it would give an assurance but "Here are our conditions." This is what happened. If the Government asks industry whether it wants it to remain in the Bill or to be removed it will say that it wants to be removed.

The Hon. D. H. L. BANFIELD: The Hon. Mr. DeGaris can stand in this place and report what took place between the industry and the Government, yet he is not prepared to say what took place between himself and the industry. That would be the only thing the honourable member would know about. How can the honourable member stand here and say that?

The Hon. R. C. DeGaris: You told me.

The Hon. D. H. L. BANFIELD: You told us you had conferred with the industry, but you were not prepared to tell us what the result of that was. Yet you stand here and make a statement purporting to know what took place between the Government and the industry, when you were not present. The honourable member can report to this place only what took place between him and the industry.

The Hon. R. C. DeGaris: The industry would prefer not to be in the Bill at all. I have already brought that to the attention of the House.

The Committee divided on the amendment:

Ayes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris (teller), K. T. Griffin, C. M. Hill, and D. H. Laidlaw.

Noes (9)—The Hons. D. H. L. Banfield (teller), T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Pair—Aye—The Hon. R. A Geddes. No—The Hon. F. T. Blevins.

The CHAIRMAN: There are 9 Ayes and 9 Noes. I give my casting vote for the Ayes.

Amendment thus carried.

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

Page 2, lines 25 to 31— Leave out all words in these lines and insert "the amount of forty dollars or such greater amount as may be prescribed".

At present the Act covers only contracts for more than $20 or some higher prescribed amount. The Bill seeks to provide for any prescribed amount, even $1. In the second reading explanation the Minister said that the Government believed that it was necessary to prescribe a lower figure in respect of some classes of sale. He said some large sellers with a high volume of sales were guilty of conduct indicating that the sum should be prescribed and should come within the Act.

In the second reading debate I asked the Minister to give examples of such classes of operation because, as

Parliament was being asked to provide a rigorous restraint on people in respect of whom he said there were complaints, details should be given to Parliament. From the total number of complaints made, I find it difficult to believe there have been so many in this area. The Minister did not give me details for which I asked (he did not reply to the second reading debate) but doubtless we will hear those from him now. We have had inflation since 1971, and I suggest that $40 is an appropriate amount. It is not necessary to prescribe lower figures. The Hon. Mr. Hill said that the Avon company last year had 195 000 sales above $20, and last year was caught by the legislation. Many companies conduct relatively small sales above $20, yet their operations are perfectly proper and there is no need to impose the strictures contained in this Bill.

The Hon. D. H. L. BANFIELD: The Government opposes the amendment. Either the principal Act or the Book Purchasers Protection act apply to sales below $20. This Bill substitutes for this amount an amount to be prescribed. The Hon. Mr. Burdett said it could be $1, but the Government does not expect that the amount would be less than $20, except in the case of books and magazines. Submissions have been invited from bodies wishing to have it increased in other areas. A dropping of the amount in the case of books has been made necessary by a proliferation in recent years of fly-by-night interstate firms selling magazine subscriptions door to door for cash amounts between $10 and $20, for which often no value at all is given.

I suppose to people like the Hon. Mr. Burdett $10 or $20 does not mean a thing but, to many people who get taken in by these people who cannot be caught under the present Act, it means much today. It is mainly the little people who are caught for less than $20. It will be interesting to see who is supporting the little man in these circumstances.

I know that I will have the support of the Hon. Mr. Hill on this matter, because time and time again he says, "We on this side support the little man." It is desirable to have flexibility in the Bill so that the Government can respond quickly to situations that might arise in the future. No such situations are in sight, but we must be able to protect people who get touched by these fly-by-nighters.

The Hon. C. M. HILL: I support the amendment. The sum fixed by the Government as a minimum in 1971 as $20 would be higher than $40 today, in keeping with the general trends of inflation. The Government wants, on the Minister's own admission, to reduce that sum and to dispense with the minimum sum altogether.

The Hon. D. H. L. BANFIELD: Since the original sum was included in the Bill, more sales have been made by the fly-by-nighters, and it is for that reason that we want to amend the legislation. The Hon. Mr. Hill is defending the actions of people who touch the average householder. The books have little value, but the sellers rip $10, $15 or $18 off the householder. Although $10 may not mean a thing to the Hon. Mr. Hill, I assure the Opposition that it means a lot to many people in certain circumstances. When the Hon. Mr. Hill is put to the test he does not stand up to what he has said in the past.

The Hon. J. C. BURDETT: Although we have not been told anything about the numbers of these complaints, the total number in regard to books and magazines for 1977 (the latest figures which I have) was 51.

The Hon. D. H. L. BANFIELD: So what! Only 51 cases have been reported of people being touched, but many cases have not been reported. Because only 51 complaints were received, the Hon. Mr. Burdett considers that nothing should be done about them.

The Hon. J. C. BURDETT: Those 51 cases related to complaints about book and magazine salesmen, and not the kind of complaint the Hon. Mr. Banfield is talking about.

The Hon. D. H. L. BANFIELD: Complaints are made and the Opposition is not prepared to take any action to prevent them, and in so doing is protecting the crooks.

The Hon. M. B. Dawkins: Rubbish!

The Hon. D. H. L. BANFIELD: If the honourable member considers what I have said is rubbish, he should be aware that plenty of people have been touched. If he is not trying to protect this fly-by-nighter, what is he trying to do?

The Hon. C. M. HILL: Can the Minister say how many of those 51 complaints have been substantiated and justified?

The Hon. D. H. L. BANFIELD: If complaints are made, the Government should take action. If the Hon. Mr. Hill is not aware of how many people are touched by door-to-door salesman, he cannot be in contact with the public at all.

The Committee divided on the amendment:

Ayes (9)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill, and D. H. Laidlaw.

Noes (9)—The Hons. D. H. L. Banfield (teller), T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Pair—Aye—The Hon. R. A. Geddes. No—The Hon. F. T. Blevins.

The CHAIRMAN: There are 9 Ayes and 9 Noes. I give my casting vote for the Noes.

Amendment thus negatived.

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

Page 3, line 5—After "subsection (2)" insert "and inserting in lieu thereof the following subsections:

(a) The Governor may, by proclamation, exempt any persons, or persons of a specified class, from the provisions of this Act to such extent as may be specified in the proclamation, and the operation of this Act shall be modifed accordingly.

(3) The Governor may, by subsequent proclamation, vary or revoke a proclamation under this section".

I have examined very carefully the question of certain people with door-to-door contacts. I do not wish to name a particular company, but we will say that a firm may have been successfully selling pine lots in South Australia for, say, 50 years with no complaints. That may be in the prescribed class. There may be a particular person or group that the Government may think should not be in that net. My amendment gives the Government power, by proclamation, if a certain company has given wonderful service to the State over many years in regard to development, to remove it from the prescribed class.

The Hon. D. H. L. BANFIELD: How many times have we heard the Leader say he is opposed to proclamation? It is lovely to see that on this occasion he supports doing something by proclamation, and I dare not oppose the amendment.

The Hon. R. C. DeGARIS: As usual, the Minister is only half right. First of all, he must regulate to get the prescribed class into the net but, once he has done that, I am prepared to allow the Government to proclaim some group out.

Amendment carried; clause as amended passed.

Clause 5—"Application of Act."

The Hon. D. H. L. BANFIELD: I move:

Page 3—

Line 38—Leave out "consent" and insert "request".

Line 42—Leave out "consent" and insert "request".

These amendments are consequential on the amendment moved and carried in another place.

Amendments carried; clause as amended passed.

Clause 6—"Formal requirements in relation to contracts and agreements."

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

Page 4—

Lines 23 and 24—Leave out "of the prescribed class" and insert "for the sale of books".

Lines 27 and 28—Leave out "of the prescribed class" and insert "for the sale of books".

The first amendment deals with the same matter as my previous amendment, which was carried. The second matter is the substantial amendment.

The Hon. D. H. L. BANFIELD: We oppose these amendments, on the same grounds.

Amendments carried.

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

Page 5, line 8—Leave out "of the prescribed class" and insert "for the sale of books".

This amendment is also consequential.

Amendment carried.

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

Page 5, lines 15 to 17—Leave out all words in these lines.

The Bill prohibits the vendor, when a contract is made, from furnishing to the purchaser any document or form suitable for giving notification under subsection (1). This applies in regard to the sale of books. When a contract is made no money may be received, and the contract is void *ab initio* unless confirmation in writing in not less than five nor more than 14 days is given. That is a strong protection to the purchaser. The purchaser has to make the effort to give confirmation in writing.

These two lines in the Bill go further and prohibit the purchaser, from the time of the contract or at any other time, being furnished with any document or form suitable for giving notification. This sounds quite Draconian and quite unnecessary. Many purchasers would not go to the bother of writing their own letter, which they would have to do if no form could be given. Some would not have the ability to write a letter of confirmation.

If a suitable form is left it has to be filled in by the purchaser and signed by him and delivered. It seems quite inappropriate and quite wrong, putting too much of an onus on the vendor, if he is not allowed to leave a suitable form to be completed and returned by the purchaser.

The Hon. D. H. L. BANFIELD: In 1963, when the Book Purchasers Protection Bill was first before this place, the late Hon. Frank Potter devised the idea of preventing salesmen from seeking confirmation of contracts, with the idea that purchasers should be left in peace to make up their own minds without being subject to further pressure. This was supported by the Hon. Mr. DeGaris preferring it to an alternative motion to replace the confirmation principle in the style of the present Door to Door Sales Act, so even the President supported the principle in the beginning.

The Hon. R. C. DeGaris: You're wrong.

The Hon. D. H. L. BANFIELD: Over the years salesmen have left cards with people. This may not be objectionable in itself, but unfortunately a number of abuses have led the Government to conclude that the practice must end. Some salesmen actually get the cards signed and post-dated and on the night that the contract is signed it is presented to the consumer as just one of the contract papers to be signed. Such a confirmation is ineffective. It is next to impossible to detect this sort of practice. Some cards grossly mislead consumers into believing that they have no choice in the matter. I have a card of Field Educational Enterprises of Australasia Pty. Ltd., which claims:

> This card is your protection under the Book Purchasers Protection Act of South Australia.

It does not explain how the protection works. It goes on:

> I must be returned to Field Educational Enterprises of Australasia Pty. Ltd. after five days but before 14 days (5-14) from the date of contract.

It continues further:

> If the order is not confirmed as above it will not be enforceable and your books cannot be delivered: If you then wish to proceed it will be necessary for you to re-sign the order.

Nothing on the card tells the consumer that there is no obligation to sign it at all and that if he does not sign it he escapes liability under the contract altogether. The consumer is therefore left wondering, unless he checks his contract, just what his protection is. Reluctantly, the Government has concluded that confirmation cards and forms can no longer be tolerated. However, it does not prohibit stamped addressed envelopes. The important thing is that the confirmation itself must be on the purchaser's own initiative and not that of the salesmen.

The Hon. J. C. BURDETT: The Minister seems to overlook the fact that the contract has to show the protection that the purchaser has, and it sets out these rights.

The Hon. R. C. DeGaris: In large print.

The Hon. J. C. BURDETT: Correct. The size of the print is set out. The point is that in order for the contract to be enforceable and for any money lawfully to change hands, five days after the making of the contract, when the vendor is not there and there has been time to cool down (and it must be at least five days after and between five and 14 days) the purchaser has to send back the confirmation. I can see no objection to leaving some suitable form.

The Hon. D. H. L. BANFIELD: The Hon. Mr. Burdett says that I did not acknowledge that the consumer was left with his contract. What I did say is that the card is mistaken.

The Hon. J. C. Burdett: I said you did not point it out.

The Hon. D. H. L. BANFIELD: I did. I said that nothing on the card tells the consumer that he has no obligation to sign the card and that if he does not sign it he escapes liability under the contract altogether. Rather, he is led to believe that if he fails to sign the card he will be required to sign the contract again. The consumer is therefore left wondering, unless he checks his contract or makes other inquiries, just what the protection the card talks about is. I did acknowledge the position.

The Hon. J. C. Burdett: In a back-handed way.

The Hon. D. H. L. BANFIELD: No-one could be much more straightforward than that.

The Hon. J. C. Burdett: But you didn't acknowledge.

The Hon. D. H. L. BANFIELD: You are not acknowledging that this card is a lot of baloney and is misleading.

The Hon. J. C. Burdett: It is not, very.

The Hon. D. H. L. BANFIELD: Not very, just a little bit—of course it is. It states:

> This card is your protection under the Book Purchasers Protection Act of South Australia.
>
> It must be returned to Field Educational Enterprises of Australasia Pty. Ltd. after five days but before 14 days (5-14) from the date of contract.

The Hon. J. C. Burdett: You missed something out.

The Hon. D. H. L. BANFIELD: I did not. The card states:

IMPORTANT

This card is your protection under the Book Purchasers Protection Act of South Australia.

It must be returned to Field Educational Enterprises of Australasia Pty. Ltd. after five days but before 14 days (5-14) from the date of contract.

If the contract is not confirmed as above, your books cannot be delivered and you will be required to re-sign the contract.

Then there is a line for a signature, and then it states:

FIELD EDUCATIONAL ENTERPRISES OF AUSTRALASIA PTY. LIMITED

Second Floor, 44 Pirie Street, ADELAIDE, S.A. 5000

Telephone: 212 1988.

What have I left out?

The Hon. J. C. BURDETT: My card states:

If the order is not confirmed as above it will not be enforceable and your book cannot be delivered.

The words "will not be enforceable" were not read by the Minister. Perhaps his card is different.

The Hon. D. H. L. BANFIELD: That is my point. Obviously, all sorts of card are handed around, some of which may be misleading, and some are more informative than others. When one tries to check on these people, they say, "Look at this card." They may be handing out cards worded differently from the card referred to by the Hon. Mr. Burdett. The situation smells a little bit more! The honourable member must acknowledge that different cards are being handed out, and honourable members can assume the reason for that.

The Hon. J. C. BURDETT: The purchaser has great protection. The vendor is not allowed to receive any money until the contract is concluded. The contract expires and becomes void *ab initio* unless the purchaser sends confirmation in writing within five to 14 days, and the confirmation is not to be solicited. That is in the Act, and it remains in the Bill. Although unable to solicit confirmation, the vendor may leave a suitable form. There is no reason why he should not, and it is Draconian to provide otherwise. Many people would not write a confirming letter, and many people could not.

The Hon. J. E. DUNFORD: The Hon. Mr. Burdett said he would consider the Government's position if we gave the proof that people were not protected under the legislation. I was once a door-to-door salesman and, although I always operated within the law, I have always been opposed to people not getting an opportunity under the law. The schedule sets a standard for door-to-door salesmen that cannot be deviated from.

What our Leader has just read out leads me to believe that people need the protection provision, but it is not their protection. This Bill is their protection, and it will become known to all door-to-door salesmen, many of whom are invited back time and time again. They will conform to the standards. Field Educational Enterprises (Australia) Pty. Ltd. is not a new company. It operates elsewhere in Australia, and it has a high reputation. It has been operating for 20 years. If such a company would issue a misleading document, what might a disreputable firm do? We are obliged to act in this matter by means of using a uniform document. Anyone who did not understand the document could have it explained by a member of the family or a neighbour.

The Hon. J. C. BURDETT: The schedule is already in the Act, but it is not the confirmation. There must be some confirmation. A schedule could be included and it could be uniform. I see no harm in the vendor's leaving with the purchaser a suitable form that the purchaser could return after five days if he so wanted.

The Hon. D. H. L. BANFIELD: Surely, we can draw our own conclusions in this matter. One card was sent to the Government, and a different card was sent to the Opposition. If this is the sort of thing a business will do to the Government and the Opposition, what might it do to the gullible public? Could a compromise be reached in regard to the form of the card? A compromise was suggested today by Mr. John Fulton of the Direct Selling Association of Australia in conversation with departmental officers. It is acceptable to the Government because, while preserving the right of sellers to produce cards to facilitate confirmation, it will enable the form of the card to be prescribed to avoid the objectionable features that have already been referred to.

The Hon. J. C. BURDETT: I do not think that the difference between the cards was sinister, deliberate, or meant to defraud or mislead. I think that different forms were used at different times. There was no suggestion of anything sinister or fraudulent, and the Minister should withdraw the remark if that is what he suggested. The probable explanation is that when it was pointed out to the company, or when they realised, that the form that the Minister read from—

The Hon. N. K. Foster: Which form?

The Hon. J. C. BURDETT: The form that the Minister stated, the form of the Field Educational Enterprise, (Australia) Pty. Ltd., which the Minister read in full. I think that, when it was pointed out to the company that the words "will not be enforceable" should be included, the new form was used. The Opposition does not object to uniformity. If a uniform form could be used for confirmation and left by the vendor, we would have no objection to that. The Minister's suggestion is entirely acceptable.

The Hon. R. C. DeGARIS: Another schedule is needed to cover these confirmation forms. The words prescribed will have to be used if we want to proceed at this stage. Progress should be reported.

The Hon. D. H. L. BANFIELD: This could be done by consultation, not necessarily by regulation.

The Hon. R. C. DeGARIS: It can be done by regulation because the schedules are there.

The Chairman; I am prepared to accept the amendment to page 5, line 16.

The Hon. J. C. BURDETT: I would like to know what the amendment is before it is put. I will accept the amendment if the Minister guarantees that it will be prescribed.

The Hon. D. H. L. BANFIELD: I am not the Minister who polices this Act. I give an assurance and that is as far as I can go.

The Hon. J. C. BURDETT: I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

The Hon. D. H. L. BANFIELD: I move:

Add at the end of line 16, page 5, the words "unless it is in the form prescribed".

Amendment carried.

[*Midnight*]

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

Page 5, lines 22 and 23—Leave out "of the prescribed class" and insert "for the sale of books".

This amendment is consequential.

Amendment carried.

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

Page 6, line 35—Leave out "non-confirmation or".

This amendment is consequential.

Amendment carried; clause as amended passed.

Remaining clauses (7 to 13) and title passed.

Bill read a third time and passed.

ADJOURNMENT

At 12.3 a.m. the Council adjourned until Tuesday 27 February at 2.15 p.m.