

HOUSE OF ASSEMBLY

Thursday, November 27, 1969.

The SPEAKER (Hon. T. C. Stott) took the Chair at 2 p.m. and read prayers.

LOTTERY AND GAMING ACT AMENDMENT BILL (COMMISSION)

His Excellency the Governor, by message, recommended to the House of Assembly the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

ASSENT TO BILLS

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

Children's Protection Act Amendment,
Electoral Act Amendment (Postal Votes),
Petroleum (Submerged Lands) Act
Amendment,

Prevention of Pollution of Waters by
Oil Act Amendment,

Underground Waters Preservation.

PETITION: COLEBROOK HOME

Mr. EVANS presented a petition signed by 29 citizens who strongly objected to the decision not to grant a licence to Colebrook Home to enable it to care for more than four children under the age of 12 years and to deny it the renewal of the lease of the premises and grounds. The petitioners prayed that the South Australian Government would be guided by the recommendation of the Parliamentary Select Committee on the Welfare of Aboriginal Children that the home should be encouraged to expand its activities.

Petition received.

QUESTIONS**QUEEN'S COUNSEL**

The Hon. D. A. DUNSTAN: In the last few days many members of the legal profession have questioned me about the appointment of additional Queen's Counsel in South Australia. It is widely reported in the legal profession at present that the Chief Justice, in accordance with the normal practice, has recommended the appointment of additional Queen's Counsel. Queen's Counsel are at present appointed by Executive Council on the recommendation of the Chief Justice, and it is his habit (as it was his predecessor's) to consult with his fellow judges before making recommendations to the

Executive Council. The reports amongst members of the legal profession are that recommendations have been made for the appointment of three additional Queen's Counsel, all of whom are able, have very wide practices and would be proper appointments as Queen's Counsel given their abilities, history and activity in the profession. However, the Government has refused to proceed with the appointments, because one of those recommended has political views which are not those either of the Government or of the Opposition and which are accounted generally unpopular in South Australia. There is nothing in law which says that someone cannot hold or advocate these opinions. Will the Premier say whether the Government has refused to proceed with the appointment of Queen's Counsel because one of those recommended has political opinions contrary to those of the Government and of the Opposition, and whether the Government intends to insist that there be a political test as to an appointment of this kind rather than a test, which I believe is the only proper one, whether this is a suitable appointment? The Chief Justice would not recommend someone who was not a suitable appointee for a post of this kind. The post is on a basis of experience, position and practice in the profession. Will the Premier clarify this matter, because the present feeling in the legal profession is considerable and the reports I have given in detail to the House are causing wide disturbance and concern?

The Hon. R. S. HALL: The Chief Justice has submitted to the Government three names for appointment as Queen's Counsel and the Government is not willing to recommend one of those.

The Hon. D. A. Dunstan: Why?

The Hon. R. S. HALL: The Leader has stated reasons that are not far from the mark. The Government has made this decision knowing full well that the Leader would raise the matter in the House. The Chief Justice has made a recommendation that is not acceptable to the Government.

Mr. Casey: He's a Communist, is he?

The Hon. R. S. HALL: The approval of Executive Council is not merely a formality: the Government does not view it as such and is not willing to approve one of the three. Therefore, it will not submit—

Mr. Corcoran: On what basis won't you approve?

The SPEAKER: Order! There can be only one question at a time.

The Hon. R. S. HALL: The Government will not submit to Executive Council this one of the three names. The Chief Justice has, therefore, withdrawn his support for his recommendation that the three be appointed, and that is where the matter stands at present.

Mr. CORCORAN: The Leader said he believed that one of the persons recommended by the Chief Justice to the Government for appointment as Queen's Counsel was a person who held political views different from those of the Government or of the Opposition and that he thought that it was for this reason that the Government held up the appointment. In his reply the Premier said that the reasons stated by the Leader were close to the point. I understand from that remark that the recommendation of the Chief Justice was not proceeded with by the Government because of the political convictions held by one of those recommended.

Mr. Broomhill: He made that clear.

Mr. CORCORAN: If that is the case, I think it would be the first time in the history of this State that this factor had been considered. This is blatant discrimination, Gestapo tactics, and McCarthyism.

The SPEAKER: Order! The honourable member cannot debate the question.

Mr. CORCORAN: I am not debating the question but commenting on the Premier's reply. Because of that reply and because of the serious nature of this question, will the Premier say whether the Government will further consider the matter?

The Hon. R. S. HALL: The Government will not reconsider its action in this matter: I make that plain. I am sorry that this matter has been raised here because, after all, Executive Council has the final responsibility of confirming, or otherwise, recommendations of the Chief Justice in this matter. It is not a reflection on the professional capacity of the persons put forward that the Government should select one and state that it could not accept that person. Opposition members are saying that the recommendations of the Chief Justice must be automatic but, first, the Government does not believe that and, secondly, it does not believe that the political affiliations of a recommended person should be without any recognition.

Mr. Corcoran: What! That's got nothing to do with it.

Mr. Hudson: Does that exclude him from being a lawyer?

The Hon. R. S. HALL: Much has been said about political affiliations, and the Chief Justice has now, of course, withdrawn his recommendations, because he was not willing to recommend only two of the three people concerned. Members must realize that the Government has a responsibility in this matter and has decided not to appoint Mr. Johnston, because he has had political affiliations with the Communist Party.

Mr. Freebairn: The Labor Party gave him their No. 2 preferences.

Members interjecting:

The Hon. R. S. HALL: Just a minute; this is too serious for that.

Mr. Jennings: The Premier would not be where he is if it were not for Communist preferences.

The SPEAKER: Order! This is not a tea party. The honourable Premier.

The Hon. R. S. HALL: The position of Queen's Counsel is an important one in this community and must be held by persons whose allegiance to the security of the State is unquestioned.

Mr. Corcoran: Is the Communist Party banned in this country?

The Hon. R. S. HALL: The Communist Party has been known throughout the world as an international organization.

Mr. Corcoran: Is it banned in this country?

The Hon. R. S. HALL: I would ask, in return, of members opposite whether they deny that the Communist Party has international affiliations. One could ask what the Communist Party did to Czechoslovakia.

Members interjecting:

The SPEAKER: Order! I cannot allow the Premier to debate the answer.

The Hon. R. S. HALL: I have no intention of debating the answer. I posed questions, to which I did not expect answers, in order to illustrate the seriousness with which one should regard such appointments. It is a simple position that the Government has adopted, and one in which no personality or reflection on a person's legal ability is involved whatsoever. If this selection were to be made on legal ability only, probably this recommendation would go ahead and not be questioned. But it is questioned now, because of the political involvement of the person concerned. I must

say that this is tied absolutely to the belief to which I have referred, and the Government is not willing to, and will not, appoint as Queen's Counsel a person who professes to be a Communist.

WHYALLA LOCAL GOVERNMENT

The Hon. R. R. LOVEDAY: Having examined the evidence given by the Highways Commissioner (Mr. A. K. Johnke) to the Select Committee on the Local Government Act Amendment Bill (Whyalla) in reference to full local government in Whyalla, I find certain statements that must be drawn to the attention of the Attorney-General, representing the Minister of Local Government. When asked by the committee about the local government area of Whyalla and what the Highways Department's position would be in relation to grants if the area was extended, Mr. Johnke said:

However, I think it would be fair to say that the amount of grant that the commission has received over the years has been tempered by the knowledge that the people of Whyalla pay only half registration fees under the Motor Vehicles Act. Section 37 of the Motor Vehicles Act includes Whyalla as part of the "outer areas" and, as such, the Act stipulates that the residents of Whyalla shall pay only half registration fees. As my department receives the revenue from registration fees, that matter has always been taken into account. The area included in or surrounding the proposed area would be "outer areas", because it is outside local government, and they would pay only half registration fees, in any event. I do not know what will happen if, as a result of this investigation, it becomes a local government area.

Then, in answer to a further statement by the Chairman, who said, "Thank you for pointing that matter out to the committee, Mr. Johnke," Mr. Johnke said, as recorded in the evidence:

It is a real factor in considering the amount of grant given.

The amendment made to the Road Traffic Act on August 20, 1941, altered motor vehicle registration fees in Whyalla and, since then, every person in Whyalla has paid full registration fees. Will the Attorney-General ask his colleague to examine thoroughly the grants made by the Highways Department to the Whyalla City Commission since 1945 and ensure that the proper grants are paid to the commission retrospectively, bearing in mind that they have obviously been deficient, in terms of Mr. Johnke's evidence?

The Hon. ROBIN MILLHOUSE: I will bring this matter to the Minister's attention.

POLICE SIRENS

Mr. EVANS: Has the Premier a reply to my question of November 13 about the fitting of sirens to police vehicles?

The Hon. R. S. HALL: Inquiries have revealed that the fitting and use of sirens is greatly restricted in the other Australian States and that they are not used in Tasmania at all. In general, police forces on the Continent do not use sirens and some forces in the United Kingdom have dispensed with them in favour of alternative flashing lights and dual horns. The use of sirens in this State was discontinued following a request from the Police Association and because there was a tendency for police drivers to place too great a reliance on them. Apart from this false sense of security, it was almost impossible for other motorists to judge from which direction the speeding vehicle was coming. We are satisfied with the present arrangement to fit patrol vehicles with flashing lights and to encourage police drivers to concentrate more on exercising every possible care and consideration for other road users when proceeding to emergencies.

TEXTBOOKS

Mr. BROOMHILL: Has the Minister of Education a reply to my question of November 20 about textbooks?

The Hon. JOYCE STEELE: The question the honourable member asked dealt with textbooks and resulted from a letter from a correspondent in the *Advertiser* dated November 20. The correspondent complained that students at Unley High School only recently received physics practical work sheets and notes on "sound" ordered and paid for earlier in the year. He implied that other classes were more favourably treated because of their greater scholarship. I am advised that the syllabus for the new Leaving physics requires a compulsory core and a minimum of three out of seven elective units. The special senior master in charge of physics decided that classes C, D, E and F would study "measurement", "fluid dynamics", "planets and gravity" and "sound" as being commensurate with the students' ability but still covering an extra elective. The books for these topics were produced jointly by the Institute of Physics and the South Australian Science Teachers Association as a non-profit making venture. Books for the first three topics arrived earlier in the year and the minimum requirements of the examination were

thus met. When it became obvious at the beginning of the third term that the book on "sound" would arrive too late for use, it was decided to substitute "motion of charged particles in fields". Duplicated notes on this topic were supplied free of charge. However, the order for "sound" could not be cancelled, but was merely handed out when it arrived.

It is apparent that the school was at pains to ensure that students covered the course adequately and would not be in any way hampered by the failure to receive a topic book. Departmental responsibility in regard to textbooks apart from a few books published for special courses by the Government Printer is limited to the publication of lists of suggested books. Conveners of subject committees have been asked to limit these lists as far as practicable after ensuring that they are readily available. Heads of schools have been advised to submit book orders as early as possible and to co-operate with booksellers by returning unneeded stock quickly. Schools have also been supplied with a copy of a paper on bookroom management to assist in improving the efficiency of bookroom administration. With regard to the honourable member's question concerning an Australian publisher producing textbooks, I would say that, although Australia is becoming less dependent on overseas publishing firms, the high cost of printing here and the difficulties of acquiring copyright would seriously curtail the efforts of State Education Departments in trying to arrange for publishing of textbooks in Australia. Australian publishing firms have even found it necessary to have work done overseas on copyright they control.

FERRY SERVICE

Mr. McANANEY: Has the Attorney-General representing the Minister of Roads and Transport a reply to my recent question about ferry services?

The Hon. ROBIN MILLHOUSE: Although it is desirable that scenic roads exist so that interested persons can see native flora and fauna in their own environment, the number of vehicles using a ferry crossing at Clayton would be relatively small. It is therefore felt that the heavy capital expenditure involved in constructing ferry landings, supplying and installing a ferry, and the subsequent operating and maintenance costs are not warranted.

PERSONAL EXPLANATION: SUPERANNUATION BILL

Mr. RODDA (Victoria): I ask leave to make a personal explanation.

Leave granted.

Mr. RODDA: In this morning's newspaper and in radio and television newscasts it was reported that, in the Committee stage of the Superannuation Bill last evening, the Minister of Lands was absent when a division was taken on an amendment moved by the member for Glenelg. In that division the voting was 19 Ayes and 17 Noes, and included in the official list of Noes was the name of the Minister of Lands (Mr. Brookman).

Mr. Hudson: Is this a personal explanation or a Party explanation?

Mr. RODDA: It is a personal explanation. I am responsible to have members on this side present, and I get the kicks when they are not here, so I wish to put the matter right when they are present. I think that the Minister of Lands has discharged his duties with care.

Members interjecting:

The SPEAKER: Order! The honourable member has leave to make a personal explanation, and I have ruled previously that, when this is done, the honourable member should be heard in silence. The honourable member for Victoria.

Mr. RODDA: The conduct of the Minister of Lands in this House is exemplary—

Members interjecting:

Mr. RODDA: —and his care and attention—

Members interjecting:

The SPEAKER: Order! Are honourable members going to respect the Chair and carry out its ruling or not? The honourable member for Victoria.

Mr. RODDA: The care and attention with which the Minister discharges his duties are well known to every member and, in order to avoid confusion and embarrassment to the Minister (to say nothing of the Government Whip), I ask that due cognizance be taken of the fact that the Minister voted, and that the media record this fact so that the people of South Australia may not think that the Government is falling down on its job and its responsibility by the way it discharges its duties as the Government of this State.

GEPPS CROSS TECHNICAL SCHOOL

The SPEAKER laid on the table the report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence, on Gepps Cross Boys Technical High School.

Ordered that report be printed.

QUEEN'S COUNSEL

The Hon. D. A. DUNSTAN (Leader of the Opposition) moved:

That Standing Orders be so far suspended as to enable him to move the following motion:

That this House has no confidence in the Government as a result of its admission that it has refused to make an appointment of a legal practitioner as Queen's Counsel on the ground that it disapproves of his political convictions.

Motion carried.

The Hon. D. A. DUNSTAN: I move:

That this House has no confidence in the Government as a result of its admission that it has refused to make an appointment of a legal practitioner as Queen's Counsel on the ground that it disapproves of his political convictions.

The Hon. D. A. DUNSTAN: I have taken the first opportunity this afternoon of moving a vote of no confidence which arises out of the extraordinary replies the Premier saw fit to give this afternoon on this most distasteful matter. In this country, people's political convictions, no matter how unpopular, no matter how distasteful, are theirs. It has been determined time and again that it is the basis of the maintenance of democracy (and this has been upheld by the Commonwealth referendum) that any person who acts within the laws of this country may hold and propound political convictions and beliefs no matter how distasteful they are to the members of the majority Parties in this country, and that the only way in which democracy can proceed is that we should be able to test our political beliefs against those who are opposed to them. If, in this country, we proceed on the basis of denying the rights of citizens to those with whose political convictions we disagree, we make of this country the very kind of country for which we condemn their political opinions.

We have no right to defend ourselves against Communists by using Communist tactics. We have no basis in this community for thought control. In consequence, it has been maintained constantly as a prime basis of civil liberty and political right that any person in this country may propound political con-

victions that are not against the law in that he may not be guilty of subversion, treachery or sedition and that he may not take part in a conspiracy forcibly to overthrow the Constitution. If he cannot be convicted on any one of those grounds, he has the right to propound his political convictions and to continue to hold every right of a citizen of this community. Democracy cannot exist in any other circumstances.

That was the position that obtained in South Australia until this decision by the Government. The Premier has named the member of the legal profession concerned. He is Mr. Johnston, who is an eminent member of the profession, no member of which, no matter what his political convictions, would suggest that Mr. Johnston was not eminently qualified for appointment as Queen's Counsel. I know that Mr. Johnston was very close to a recommendation for appointment on two previous occasions, and more than one judge spoke to me about his high qualifications for the post. He was never actually recommended but it could have been expected that it would be a short time indeed before he was.

Mr. Johnston has now been recommended. He has not been recommended for his political convictions because, for this post, his political convictions are entirely irrelevant. The post of Queen's Counsel is proper for senior counsel in South Australia, and on this basis he should be able to obtain appointment unless there is some extraordinarily good reason to prevent this that is not known to the Chief Justice but known to Executive Council. The reason is then discussed with the Chief Justice, and it must be something quite other than political conviction. What has happened here clearly is that a man eminently qualified as senior counsel has been recommended, along with two others also eminently qualified. The Chief Justice would not have made the recommendation without consulting the puisne judges. The Chief Justice has submitted the recommendation, and the Premier now admits that the Government has told the Chief Justice that one of those recommended is out because he is a Communist. On that basis the Chief Justice has withdrawn all recommendations from the Government, because he will not proceed unless the Government proceeds properly.

The Government stands condemned not only by the statements of the Premier here today but also by the fact that, on the Premier's

own admission (and the Premier made this statement to the House today: I was not aware of the position between the Premier and the Chief Justice), the Chief Justice has now taken the only proper course open to a Chief Justice upholding the right of the members of his profession: he will not proceed with the recommendation if the basis on which Executive Council refuses to consider it is not the propriety of the recommendation and whether the person concerned is a fit and proper person as a lawyer to have the position, but that Executive Council does not like his political convictions. Where does this end? It becomes a subjective decision of the members of Cabinet whether or not they like someone's political convictions, and if they do not like them he is out. That position has never been taken on this side of politics.

Mr. Corcoran: It has never been taken before in this State.

The Hon. D. A. DUNSTAN: We do not believe this is right. We did not refuse appointments because the people recommended had political opinions that were contrary to ours or unpopular.

Mr. Corcoran: We can point to a number of appointments where the people concerned were supporters of the present Government Party.

The Hon. D. A. DUNSTAN: What is more, there were other people who held unpopular political opinions (who did not support the Government, my Party, or the Communist Party) to whom I indicated that, as they were properly qualified for a job, an application for appointment would be favourably considered. Political convictions should not be involved at all. Once this sort of thought control comes in here and once we have this sort of McCarthyism (because it is nothing less than that), we do not have any kind of democratic Government in South Australia any more. A person has to decide that, if he wants to succeed in any profession in which the Government has any right in making nominations for senior positions, he had better be with the Government or he will not advance in his profession.

This is disgraceful. I know of no other part of Australia where this sort of thing has occurred, and it certainly has not occurred in England. The Premier has suggested that it is essential here that, because someone is a member of a Party that does not believe in the present form of Government in Australia and is affiliated internationally, he therefore should

not be appointed to the position of Queen's Counsel because, in the view of the Government, the loyalty of that person is in question. Mr. Johnston has never been prosecuted (and I know of no evidence on which he could be prosecuted) for any crime of sedition, treason, disloyalty or anything of the kind.

Mr. Jennings: He's a fine citizen.

The Hon. D. A. DUNSTAN: He is well respected in his profession and well regarded as an individual. I disagree singularly with his political convictions.

Mr. Corcoran: So do I.

The Hon. D. A. DUNSTAN: On the score of his political convictions, I have had the most bitter arguments with him. Many of the things he has advocated I abhor, but that is not the question. He is a citizen of this country who has not been the subject of prosecution of any kind. As an eminent member of his profession, he is entitled to advance in that profession without consideration being given to his political convictions. The people who engage him are entitled to have him in the position of Queen's Counsel if that is a proper post to which he should be appointed according to his abilities and position in his own profession. What has been the case in England? The Attorney-General knows very well that, under Conservative Governments, Communists have been appointed Queen's Counsel, and he cannot deny that. Who does the Premier think appointed Mr. Pritt a King's Counsel?

Mr. Corcoran: He wouldn't know who he was.

The Hon. D. A. DUNSTAN: I imagine that he does not know, but I think the Attorney-General does. The Lord Chancellor in England, in making recommendations for appointment of Queen's Counsel, has never considered the political convictions of an appointee. Members of the Communist Party in that country have been appointed and have had the Queen's Warrant in consequence. This is a gross departure from the principles of British justice and the administration of our courts, and it is an abrogation of the rights of the citizens of the State. Whatever a man's political convictions, be he Fascist, Communist, Democratic Labor Party, League of Rights, or Calathumpian, I would be fighting for him here if these particular circumstances arose. I cannot understand how the Government can have taken this step, because it must be contrary to the advice it has received and contrary to the proprieties in this matter.

When the Premier revealed the position, we asked him whether he would reconsider, and he said, "No". The only course then available to us was to uphold the rights of all the citizens of this State, not only Mr. Johnston's rights. We want to ensure that members of the legal profession, regardless of their political convictions, will be entitled to an appointment when that appointment is appropriate to their experience and ability in their profession. I hope the Premier will give more cogent reasons for the Government's action than he has given so far. If he gets up and asks rhetorical questions whether we think that what the Communists are doing in Czechoslovakia is good, he will denigrate not only himself but all other members of his Government. Of course members on this side do not agree with the policies of the Communist Party, but that is irrelevant.

Mr. Corcoran: Or with the Communist Party's tactics when they are similar to the tactics adopted on this occasion by this Government.

The Hon. D. A. DUNSTAN: Exactly. I have no doubt that, in Czechoslovakia under the present political regime, a person's political affiliations would be considered, but I hope this country is able to distinguish itself from that policy. I am appalled at what has been done here this afternoon. I remember what happened when certain people sought to take the oath of the legal profession. I heard it said then that it would be difficult for Mr. Johnston to take an oath of the kind required, but I am sure that it would not have been. I seem to remember that someone in the legal profession, at the time of Mr. Johnston's admission, raised the question, and that person was thoroughly damned by the members of the profession and by the bench. There can be no question but that this recommendation should proceed as I have said. I discussed the likelihood of its coming up with certain of the judges when I was Attorney-General, and they made clear that the point of view that I have expressed here today was the only proper one to take. It is about time the Government listened to its judicial advisers.

Mr. CORCORAN (Millicent): I second the motion moved so feelingly by the Leader of the Opposition and expressing no confidence in this Government because of its actions regarding the appointment of Queen's Counsel in this State. At the outset, I say that I believe that the Judiciary has proved itself in this matter and that the Government has damned itself.

The Judiciary saw fit to weigh up the qualifications, qualities and abilities of these three people in the proper aspects. The Judiciary considered what was required of a Queen's Counsel, quite properly ignoring other issues. The matter was then referred to the Government in the normal way.

Obviously, the Government has considered aspects that have never before been considered in this State in connection with the appointment of Queen's Counsel. In doing that, the Government has proved to members on this side and to the people of the State that it is not fit to govern. I am surprised that a man such as the Attorney-General has agreed to something of this kind, and I say that sincerely, because of all the things that we have ever treasured and all the things that members opposite continually talk about, what stands out is this love of freedom, the right of a person to express himself as he wants to, his right to practise his religion, and the right to follow the political Party of his own choosing. This is what members opposite have always said they are the champions of in this State. This is the very basis of democracy.

However, what has the Government done today? On the Premier's own admission, Mr. Johnston is unacceptable to the Government for this appointment because he is a member of the Communist Party. However, that Party is not outlawed in this country: it has recognition in law and, although the Premier has said that it has international connections, I remind him that the Labor Party also has international connections, and I suppose that, if we follow suit, because the Labor Party has international connections, if a man who follows the beliefs of the Labor Party is eminently qualified and is recommended by the Chief Justice for appointment as Queen's Counsel, he will also be denied that appointment. Where does this end? It has started with Queen's Counsel. Where will it end? If political aspects are considered, why not consider religious aspects? There is no difference between the two.

The Leader of the Opposition was right in moving this motion. This is a serious matter, not because it affects Mr. Johnston, not because he is a member of the Communist Party, but because the Government's action creates an unpleasant and unnecessary precedent, and I am certain that Government members realize now how serious is their move. They will not get away with this. This tactic has been tried in other places. We have seen McCarthy's

efforts in the United States of America. If he had had his way, the same sort of action as this would have gone on in America but, fortunately for that great democratic country, McCarthy's moves were seen through and he became ineffective. We do not want this sort of thing to happen in this country. We want to snip it out as soon as we see it, and that is why we have moved as we have in this matter.

If it is good enough for the Government to do this, it will become fashionable throughout every business and calling in this State to consider political affiliations before making appointments or promotion. Because the Government has done it, it will be said to be right, and the policy will go through the Public Service. If it is good enough in this case, why should it not apply in other cases? I know that members opposite would be the first to complain about this tactic. I submit to the House that Cabinet, by making this decision, has made an extremely grave mistake and, if Cabinet is big enough, it will recognize that mistake and move to put it right. It is not too late to do that. However, if the Government does not do that, it rightly deserves to have this motion moved against it, because it will be not only Opposition members who have no confidence in the Government but every right and proper-thinking person in this State.

The people will not be hoodwinked by the fact that Elliott Johnston is a Communist. They will see through the move made by the Government and see the error of it. People in this State can think for themselves and will do so on this issue. I appeal to the Government to consider the mistake that has been made and rectify it. If it is not prepared to do that, it deserves all the wrath that can be brought to bear on it not only by the Opposition but by people throughout the State and throughout the whole nation. That is how important this matter is. If the Government does not reverse its decision it should get it right in the neck, and I hope it does.

The Hon. R. R. LOVEDAY (Whyalla): It is almost incredible that we have witnessed such stupidity on the part of the present Government, although many of its other actions can match this one in other respects. This is probably the height of its stupidity since becoming the Government. It has learned nothing from the experience of those throughout the world who, in the past, have tried to crush people who think differently.

Obviously, because this man has different political opinions he is not to get this appointment. The Government is judging this case purely on the question of a person's political opinion. Obviously, this has been the major consideration in what has been done. I am not altogether surprised, because we remember that, when the Premier first came into this House and sat on the back bench, he spent most of his time trying to link up members on this side with the Communist Party, the same as another Government member (the member for Light) has done since he has been a member. If they were sincere with regard to what they have done in the past (and we can only judge them on that) they would strongly object to anyone who was a member of the Labor Party being appointed to a position of trust, because they have done their best for years to link us with the Communist Party. When the Premier came into this House he spent most of his time doing just that sort of thing, and he is now running true to form in relation to his statement today. Obviously, this gentleman has the qualifications to carry out the duties of the post for which he was recommended, and in the administration of justice that is all that is required. The suggestion regarding the denial of justice to this man is that he is incapable of delivering justice in this important position because of his political opinions. That is, in effect, what is being said when denying this man the right to this appointment.

It has been said that, because he has these political opinions, he could not carry out his duties properly, but nothing could be more ridiculous. If the minds and thoughts of all people in high places in this State could be revealed publicly they would be thinking many things that would not satisfy the Government; they could be thinking many things that were unorthodox. They can hold these opinions sincerely; they are entitled to hold them; and, in fact, they could be correct. Unfortunately, many people today think that they have a monopoly of the right ideas and are not prepared to grant that someone else may have the correct idea. The Government's action is an outstanding and typical example of this self-righteousness of opinion in regard to political theories.

The Deputy Leader has asked, "Where will this stop?" That is a particularly good question. Obviously, if the Government thinks that anyone has leanings toward Communism

this will influence its decision in making important appointments in this State. The Government's admissions today show that point clearly, although the Communist Party is a legal organization. It has not been suggested that this gentleman is a security risk or a danger to the Government: there is no suggestion that he wants to overthrow the Government by force. However, the problem is that, in our society (and in Australia in particular, as well as in other countries), there is a tendency to smear with the word "Communism" anyone who may have extreme left-wing political thought.

I should think, however, that about 90 per cent of the people who use this smear tactic could not say what Communism really means, could not describe it, and would not know that there are many brands of Communism. Nevertheless, they continue to use the smear because it is a convenient way of expressing themselves. Once the word has a connotation of something despicable and evil it covers all sins; people can get away with it and do not have to explain or justify what they say. The word "Communism" is sufficient, and that is what is being done today. This man has an honourable career in law and no-one can point a finger at his record: he is perfectly competent and can do the job. What are we afraid of? This action shows the fear in the minds of those who say that we have a democratic and good country with solid citizens, yet they fear appointing one man a Queen's Counsel merely because he has Communist leanings. How utterly ridiculous! Have we no confidence in our people and in our Government?

How absurd it is to penalize one man because of this ridiculous totalitarian attitude. That is what it is: the tyrannical attitude of a despot. I hope that better thoughts will prevail, and that it will be obvious how absurd the Government's attitude is in this situation. We remember the Government's past performances in this regard. The Premier has not continued with his baiting about Communism and the Labor Party in the last few years, because he learned better. Probably someone told him about it and said that his actions were not paying dividends. However, this attitude is cropping up again, and he has not learned to be sufficiently tolerant and wise in this matter to realize that he is making himself absurd and showing incredible stupidity.

The Hon. R. S. HALL (Premier): The Government has not approached this matter

in an emotional way. It has made a considered judgment that has been the subject of question and debate initiated in the House by the Leader after certain information was given to him. This is a subject of great importance to South Australian citizens and, of course, brings the debate in this House to the level of something of international interest, because we are discussing the propriety or otherwise of promoting a Communist in the legal profession to be a Queen's Counsel in South Australia. I think that one can never deny the long-standing truth of the motto of the Returned Services League—"The price of freedom is eternal vigilance." The State Government has exerted vigilance in such matters as this one. It is probably unpleasant for the people involved in this matter to have their names raised in the House, but throughout the months that the Leader has been in Opposition he has never thought of or been concerned about the distress he may have caused by referring to names in the House. On this occasion, the Government is willing to face up to the responsibility of its decision, as it faces up to the responsibility of all decisions that it makes.

The member for Whyalla made a telling statement when he said that people could not tell us what Communism meant. Unfortunately, that has been the story of Communism's success in many parts of the world. People could not tell what Communism meant, and in countries such as Hungary people have come to regret their ignorance. If the member for Whyalla would like to know a little more about the realities of Communism, perhaps he could talk to the tens of thousands of migrants in this State who have lived on the Continent, and perhaps he could ask them, if he does not know, what Communism means. Why does he not ask them? He would get some first-hand information if he did. He does not have to go far back in history to find out what Communism has meant to other countries and to see what has happened when people have not been vigilant.

I refer him to those occasions on which people in certain countries have let down their guard and have made decisions such as the Leader would have us make today, forgetting about the political consequences allied directly to security, forgetting about security itself, and making appointments entirely on theory. It has been said that this Government looks carefully at people who do not hold the same political beliefs and makes its decisions

accordingly. That is nonsense and has nothing to do with the reason why the Government has made its decision in this matter. In fact, the Government, on coming to office, appointed the Hon. Frank Walsh to one of the important boards within the State Government's jurisdiction.

Mr. Clark: Are you suggesting that Frank was a Communist?

The Hon. R. S. HALL: That appointment certainly gives the lie to any charge that we will not appoint to public office people whose political beliefs are opposite to ours. Having drawn the House's attention to that obvious practical denial of any charge such as the one members opposite would make, I return to this matter. In a way, while I regret the personal involvement of Mr. Johnston, whom I have no desire to hurt publicly and whose credentials I do not wish to debate here, I believe that this debate is to be welcomed, because it demonstrates the difference between my Party and that which the Leader of the Opposition leads in this State.

Members interjecting:

Mr. Hurst: Thank God there is a difference.

Mr. Corcoran: I've fought against Communists; you've probably never seen one.

The SPEAKER: Order! I must ask members to restrain themselves. This is a highly explosive and most important motion. Some important principles are involved in it and I ask members to hear each other in silence.

The Hon. R. S. HALL: One has to be practical in administering a Government, as members know, and not, on the one hand, claim to be anti-Communist, yet giving Communists the chance to advance in important positions within our society, on the other hand. This is a contradiction that will not be tolerated by the public and cannot be countenanced, bearing in mind the example of those countries which, having tried it and failed, continue to pay the miserable price for failing to guard their freedoms. Whether or not Mr. Johnston or any other Communist in this State has the right to hold his own belief is not the question. Of course, he has the right to hold that belief, as have people of all sorts of political persuasion in this State. The question is whether this Government will appoint a Communist to such an important position within our community. It is a selection that this Government must make; it is not an automatic selection, and it goes before Executive Council. However, it is a selection that this Government will not approve.

Mr. Hudson: Because a couple of your Ministers would resign. Is that the reason?

The SPEAKER: Order!

The Hon. R. S. HALL: People have tried before to have this dual approach to defending freedom by appointing freedom's enemies. We have to go back only a little way in Australian history to recall the occasion on which Dr. Evatt championed the Communist of the day.

The Hon. D. A. Dunstan: Who was this?

The Hon. R. S. HALL: Members have certainly heard of the Petrov case.

The Hon. D. A. Dunstan: Whom did Dr. Evatt champion in the Petrov case? Who was the leading Communist that he championed? Who was it?

Members interjecting:

The SPEAKER: Order!

The Hon. R. S. HALL: The person in question here today—

The Hon. D. A. Dunstan: Why don't you answer my question?

The Hon. R. S. HALL: The Leader has had his chance—

Members interjecting:

The Hon. D. A. Dunstan: You are just coming in here, smearing again.

The SPEAKER: Order! We cannot have more than one speech at a time.

The Hon. R. S. HALL: The person under discussion today has been a Communist Party candidate at elections in South Australia, and he was a member of the Communist Party National Appeals Committee in 1967-68; I understand that he was a member of the Communist Party of Australia, State Executive, from 1964 to 1966; that he was on the State committee from 1964 to 1968; that he was Secretary of the Communist Party of Australia, Adelaide Electorate Branch, from 1967 to 1968; and that he was a member of the Australia-U.S.S.R. Society in 1968. I understand that he would not deny his close associations with the Communist Party. The Leader is asking the State Government to appoint this man who could theoretically become a judge of the Supreme Court and Lieutenant-Governor of South Australia.

The Hon. D. A. Dunstan: Come off it. That's entirely—

The Hon. R. S. HALL: This is entirely different, I suppose. That is the chain of events that the Leader wants to make possible. Why does he champion this man only up to a certain stage? Why stop there? Is the Leader

going to discriminate before the bench? Does he say that this man should not be a Supreme Court judge?

The Hon. D. A. Dunstan: No.

The Hon. R. S. HALL: Well then, he believes that this man should be a candidate for the position of Supreme Court judge. If he is a candidate, would the Leader stop short of appointing him Lieutenant-Governor? What reason would he use to stop short of appointing him Lieutenant-Governor?

The Hon. D. A. Dunstan: That involves a political situation.

The Hon. R. S. HALL: The Leader admits that he draws a line and stops the continued possibilities of appointment. He stops short of appointing the man as Lieutenant-Governor but not of appointing him as a Supreme Court judge. What a marvellous line of thinking! We have a qualified approval from the Leader: an approval of appointment as Queen's Counsel and as a Supreme Court judge, but not an approval of appointment as Lieutenant-Governor, because the person concerned is a Communist. Where does the Leader's argument stand? He does not have an argument. The Leader, who has Q.C. after his name, would indulge in this sort of tactic. I have yet to know why he should have these letters after his name, except that his was a political appointment. The Leader himself was appointed by his own Cabinet. In this matter, he stops at the second of the three steps to which I have referred.

Mr. Hudson: You're getting lower and lower.

The Hon. R. S. HALL: One cannot defend the Leader's qualified support.

Members interjecting:

The SPEAKER: Order! Honourable members must restrain themselves.

The Hon. R. S. HALL: The difference is only one of degree. The Leader says the person concerned is good enough for two steps of appointment but not for the third. The Government says that he is not good enough for any steps. Having found that the Leader's argument is so shot through with inconsistencies we come back to the essence of the matter: that the Government firmly believes that the public of South Australia does not want a Communist appointed Queen's Counsel, because it knows that he would then be on the rung of promotion that could lead to the Bench and to the Lieutenant-Governorship of South Australia. Members of the public generally have regard to the welfare of the State.

We have the evidence of the tens of thousands of people who have come from Europe and who have been persecuted by this ideology. We know from them that Communists throughout the world have posed as mildly interested in politics while subverting the countries in which they have lived. We have constant reports from visitors to this State. Only as recently as last week a visitor told me of conditions in these countries. These things are well known and widespread, and the Government would be guilty of dereliction of duty if it made this appointment.

The Government has not acted on personal grounds. The law of this country says that a man may hold these beliefs, but the law does not say that we must support such a man and promote him to the post of Queen's Counsel. The Government, believing that the discretion to make this appointment is in its hands, has decided not to make this appointment. There the Government firmly stands.

Mr. CLARK (Gawler): During the Premier's remarks, you, Mr. Speaker, told members that this was a highly explosive situation. Indeed, so it is, and I am not going to try to make it less explosive. I was interested in the appalling drivel the Premier put before the House. I have heard him speak badly and I thought it was impossible for him to get worse, but today there is no question in the eyes of everyone that he has excelled himself in the wrong direction. We were told by the Premier that the Leader had had his chance. That is right, and he made very effective use of that chance, as he usually does. The Premier descended to what the boys call "hollering" and displaying a big smirk. He thinks that that is the way a Premier should act, but most people think differently. This matter is so ridiculous that it makes one wonder at the sense of one or two members who occupy the Government benches. Some years ago we had the pleasure of seeing the Premier (a Premier almost by complete accident) seeking notoriety by using the kind of tactic for which, until the last few weeks, the member for Light was well known. No-one thought better of the Premier for this. Most people in the House thought that, as a private member, he was a joke and, in my opinion, he has not improved one iota. How he could rise to become Premier of this State is beyond the comprehension of most people but, fortunately, the people of the State are becoming more and more aware of this each day.

I remember the first speech I made in the House in 1952 when I said, speaking of Communism and making something like a confession of faith, that I did not like Communism or its doctrines. I also said (and my opinions have since strengthened) that I did not like the Liberal Party very much better, and I still think the same thing. The Premier's remarks this afternoon tend to make me wonder which would be the better of the two. One thing can be said about Communism: it is based on a definite ideology and system of thought in which its followers believe completely and utterly. I do not believe that anyone, hearing the Premier "holler" at the top of his voice, could say that his Party had any ideology. Most members of my Party will not have the Communist Party at any price, but at least the Party has something for people to believe in, even though it be wrong. This arrogant Premier typically and appallingly blamed the Leader of the Opposition for using names, but everyone knows who mentioned the name of Mr. Johnston first this afternoon. It was not the Leader, although I believe that most members knew the name of the person being spoken about.

After mentioning Mr. Johnston's name, the Premier thought (back in the dim recesses of his brain) that he had put his foot in it and that he must do something, so he proceeded to drag in the Returned Servicemen's League and people who have come here from European countries. No-one believes in freedom more than the R.S.L. does, and what the Premier and the Cabinet have done is utterly contrary to any idea of freedom. The Europeans who came here from Communist-dominated countries came because they wanted freedom. Not one of them would appreciate the idea of a person, because of his political convictions, being robbed of a position he had widely earned. No-one believes in justice any more than the two groups the Premier had the audacity to name in support of his argument, but he did not have an argument. We were told that Mr. Johnston has a perfect right to be a Communist. At present he has, but under the ideas that have been promulgated this afternoon how long will he have this right? Will the next step be that he will not be allowed to practise as a barrister? Surely that is the logical conclusion.

The Hon. D. A. Dunstan: That is one step along the road the Premier talked about.

Mr. CLARK: Yes. A step in the opposite direction from the promotion he talked about.

The Hon. D. A. Dunstan: That is the logical inference.

Mr. CLARK: Yes. What organization or Party will go next? We have known for years, and we have heard from one or two members of the Government (fortunately not all but I think I could name three without trying, and I would not put the Attorney-General in this category), that the Government believes that anyone who is not a member of the Liberal Party should be given the "thumbs down" sign. To their way of thinking, the Communist is the lowest of the lot. Or is this so? We have had Communists in Australia for many years and at election time the old Communist slur is used. Indeed, before this debate is finished we will probably hear it again. We had a hint of it from the Premier. I shudder at what will be said if the honourable member for Light (Mr. Freebairn) comes into this debate with his ears back: I hope he does not. What we have heard in this debate and in the reply that led to the debate is the old indulgence of the big smear. The idea has always been that if you are going to make a smear make it big, and on this occasion the smear is on Elliott Johnston. Who will be next?

Is this the beginning of a police State? Communism is what is being put on the mat today, but what comes next? Is this Fascism? Is the Cabinet behind the Premier? Surely even the Premier would not descend to Fascism in this State. Conviction will not help a person when the numbers are not with him and I suggest that the Premier, by his remarks in this House this afternoon, has done something that I have never heard in the 17 or 18 years that I have been in Parliament. I suggest that the biggest smear that he made this afternoon was not against Mr. Johnston, because after all, in the eyes of the Premier's Party, anyone who is a Communist is a natural target of the big smear: the biggest smear was made against the judges. Surely the attitude that the Premier has adopted over this matter shows conclusively that in his opinion the action of the judges was improper, but I suggest that the action of the judges was completely proper.

Whatever political beliefs Mr. Johnston may have, he has never made a secret of them, and I suggest that in the past there have been times when, because he held those political opinions, his professional career has been damaged. I do not know for sure, but I suggest that this has been very likely indeed. The Premier told us

that Mr. Johnston was an open Communist, and that he ran for Parliament with his name as a Communist on voting papers. Of course he did, and he would have been proud to do so. We have had some difficulty in understanding this. Somebody earlier this afternoon (I think possibly the member for Whyalla) said that the Government had no understanding of Communism at all. I do not know about this, but I think that Government members would probably understand Fascism better.

I suggest to the House that circumstances in those downtrodden European countries where Communism has a footing are very different from those in South Australia, at least South Australia at the moment. Communism does not thrive in a climate such as that in South Australia or in Australia generally. How many Communists have ever managed to get enough support to be elected in Australia? However, I remember one occasion when a Commonwealth Liberal Government was saved by the preferences of a Communist candidate and the man who unfortunately on that occasion remained in the Commonwealth Parliament has now reached the Cabinet. I ask members to show their complete disapproval of the tactics of the Government in this case and to show that they no longer have any confidence in the Government.

The Hon. ROBIN MILLHOUSE (Attorney-General): It is a matter of great regret that this subject has been raised in this House. It is a matter of intense embarrassment to everyone concerned, particularly to the three nominees of His Honour the Chief Justice, and perhaps most of all to Mr. Johnston himself. The Opposition knew of the embarrassment that would thus be caused before the matter was raised as it has been this afternoon. This matter has been considered by the Government (I think I am giving away no secrets) over weeks of great anxiety, and all of the arguments, both pro and con, have been canvassed. Every argument that has been advanced in this House this afternoon was discussed before a decision on the matter was taken. I have known Mr. Johnston for many years, as has the Leader and I guess other members. He is a Communist and he is proud of the fact that he is a Communist. He has never sought to hide that fact, therefore it is certainly no smear, to use the word of the honourable member for Gawler (Mr. Clark), to call him a Communist.

Mr. Clark: But the way he is treated is surely a smear.

The Hon. ROBIN MILLHOUSE: I will get on to that in a moment. It is Mr. Johnston's right, as all members who have spoken have said, to be a Communist and to hold and to preach his views as he does. No-one would begrudge him that right in our democratic society.

Mr. Broomhill: We can wonder about that if you had your way.

The Hon. ROBIN MILLHOUSE: That is the position, and members opposite do not seriously contest that. Anyone may preach the beliefs he holds. The member for Whyalla has said that Mr. Johnston holds different political opinions from those of members on both sides of the House. That is correct, but it is a complete understatement. The fact is that the political opinions of Mr. Johnston, as a Communist, are fundamentally different from those held by members in this place, and his opinions include a belief in and an advocacy of the overthrow of our society as it is at present.

The Hon. R. R. Loveday: By what means?

The Hon. ROBIN MILLHOUSE: By force and violence if necessary. That is acknowledged by all people, by the Communists themselves and by all those who have even an elementary knowledge of Communism, the beliefs, theories and policies that are advocated by its adherents. If the member for Whyalla doubts this, let him consider the history of Communism and Communist Governments from the time of the Bolshevik revolution in Russia up to the present time. There is no doubt about the aims of Communism, and these are the aims to which Mr. Johnston, as a Communist, adheres. Let us think particularly of some of the things that have happened since the Second World War. Let us only mention what has happened in Korea and what is still happening in Vietnam.

The Hon. R. R. Loveday: I am aware of these things.

The Hon. ROBIN MILLHOUSE: I do not suppose that even the member for Whyalla or any other member would suggest that these actions and happenings do other than reinforce the proposition that I have put about the aim of Communism being to overthrow western society. We as a nation have reacted against the threat of Communism, as have many other countries throughout the world, and we are still (and this is perhaps the most significant point to make) reacting against Communism and the violence of Communism at present.

I believe, and the Government believes, that it is right that we are so reacting, and that Australia and Australians are right in the actions they are taking in these matters. All these things had to be borne in mind when the Government was considering the recommendation that it received from the Chief Justice.

Let us remember that we have talked of the appointment of Queen's Counsel. We may call them "silks", as they are generally called in the legal profession, but what is the full title of a Queen's Counsel? The title is "One of Her Majesty's counsel, learned in law". Members opposite may say (and I believe the Leader said this, by implication at least) that this is of no significance any longer, and that the taking of silk is merely a sign of professional advancement without any other significance, but the appointment is as one of Her Majesty's counsel. The fact is (and I do not think this can be controverted by any member of this place) that the aim of a Communist is to overthrow Her Majesty's Government. It is one thing to allow a person to hold this belief and to preach these views in our democratic society but it is another to appoint such a person one of Her Majesty's counsel.

I remind honourable members (although I need not do any more than give a passing reminder) that in the olden days the origin of this office was of a barrister who appeared for the Crown in the courts of the land, and that was the reason for the appointment—so that the person would be marked out as one who championed the Crown's cause. Honourable members may say that this is old hat and that nowadays we do not care about these things, but we, as members of the Government, do care about them and believe there is some significance in the fact that this is an appointment of one of Her Majesty's counsel. It seemed to us entirely to contradict the beliefs of Mr. Elliott Johnston that he should be appointed. On the one hand, he believes in and advocates the overthrow of our society and of the Government of which Her Majesty is head, and on the other hand we are asked to appoint him one of her counsel.

Mr. Hudson: Tut, tut!

The Hon. ROBIN MILLHOUSE: The honourable member may cluck and try to disparage what I am saying, but these are the considerations that the Government had before it. To take the matter a step further, I suggest that the position of members on this side and members opposite is apparently

different only as a matter of degree. During the Premier's speech, the Leader, as he is wont to do, interjected, saying that he would support the appointment of a Communist as one of Her Majesty's counsel (as a Queen's Counsel) on the recommendation of the Chief Justice. He said he would support the appointment of such a person, if in other ways the appointment were proper, as one of Her Majesty's judges in this State.

Mr. Hudson: This doesn't matter.

The Hon. ROBIN MILLHOUSE: I am not canvassing the appointment of any particular person.

Mr. Hudson: It follows from your argument.

The SPEAKER: Order! The member for Glenelg is out of order.

The Hon. ROBIN MILLHOUSE: All right, I am content to allow it to follow from my argument, because I can say without reservation that on legal ability and experience Mr. Elliott Johnston would certainly be considered for such preferment in due course. I am content to follow the member for Glenelg in this, and it does not affect my argument one iota. The Leader said he would be content to support the appointment of a Communist (of Mr. Elliott Johnston, if you like) as one of Her Majesty's judges of the Supreme Court. Then the Premier asked the Leader whether he would take the next step (and we know that traditionally in this State the Chief Justice has been the Lieutenant-Governor and the second citizen in the State—the viceregal representative on occasions), and the Leader said that he would not do that. He would stop there, because (and I made a careful note of this) appointing him Lieutenant-Governor would involve political considerations. That is what the Leader said.

Mr. Corcoran: It isn't as funny as it sounds.

The Hon. ROBIN MILLHOUSE: It was said that we acted on political considerations in this matter; of course we did, because there are no other considerations that would bar the transmission of the Chief Justice's recommendation of Mr. Johnston's appointment. Apparently we were only two steps ahead or behind (whichever way one prefers this put) of the Leader. The Leader would deny Mr. Johnston, or any Communist apparently, appointment as Lieutenant-Governor and, presumably, as Governor of the State.

The Hon. R. S. Hall: Why?

The Hon. ROBIN MILLHOUSE: Precisely. Why? If the Leader is sincere in moving this motion and is not trying to capitalize on a difficult situation—

Mr. Virgo: You know he is sincere.

The Hon. ROBIN MILLHOUSE: —why does he stop short of saying he would support such a man's appointment as Lieutenant-Governor of the State? I shall be glad to hear him answer that because, to me, precisely the same considerations apply whatever the preferment may be. Simply because the position of Lieutenant-Governor is a more senior position in our community does not, to me, alter the considerations that would permit or bar appointments one iota.

Mr. Clark: How did he manage to get into the profession in the first place?

The Hon. ROBIN MILLHOUSE: The member for Gawler would like to put me off—

Mr. Clark: You can't answer.

The Hon. ROBIN MILLHOUSE: —because I have come to the crux of the division of opinion between us.

The Hon. R. R. Loveday: How far down the scale do you go?

The Hon. ROBIN MILLHOUSE: As a Government, we do not believe, because of the political beliefs he holds, that Mr. Johnston should be appointed one of Her Majesty's counsel, and I have given the reasons. The Opposition would appoint him a Queen's Counsel, and allow him to become one of Her Majesty's judges, but it would stop short at that point.

Mr. Hudson: Not necessarily.

The Hon. ROBIN MILLHOUSE: The Leader has said that he would not go further than that, and that he would not appoint such a person Lieutenant-Governor, because that would involve political considerations. When he replies to this debate, I invite the Leader to say what are the differences in political considerations in the appointment of a silk or a judge as against the appointment of the Governor or Lieutenant-Governor of the State. He must do that if he is to support that sincerity in moving the motion that the member for Edwardstown says he has.

Mr. Virgo: Don't you believe he is sincere?

The Hon. ROBIN MILLHOUSE: That is all I want to say about this, except for one last point. The Chief Justice has, under the regulations made as far back as 1912, the

right and the obligation to recommend the appointment of silks. Under the heading "Regulations as to King's Counsel", the regulation states:

No practitioner of the Supreme Court shall be appointed as His Majesty's Counsel except on the recommendation of the Chief Justice to the Governor in Executive Council.

That recommendation was made. The Government felt unable to transmit the recommendation in full to His Excellency in Executive Council. The recommendation has now been withdrawn. There is no recommendation whatever before the Government for the appointment of Queen's Counsel. I bitterly regret that. I regret the injustice that this has caused to the other two nominees, particularly. The position now is that the Government has no recommendation before it for the appointment of Queen's Counsel and, therefore, it can take no action. So far as this chapter is concerned, the Chief Justice has closed it by withdrawing his recommendations. Those are the reasons for which the Government acted, and, apparently, those reasons would be shared two steps up the ladder by the Leader of the Opposition.

Mr. Clark: You won't go down the ladder, I notice.

The Hon. ROBIN MILLHOUSE: No.

The SPEAKER: Order!

The Hon. ROBIN MILLHOUSE: Obviously, the position of Lieutenant-Governor is senior to that of Queen's Counsel and at that level the same thing has motivated us as, apparently, has motivated the Leader of the Opposition.

Mr. HUDSON (Glenelg): First, I thank the Attorney-General for at least attempting to argue the case. We are indebted to him for doing something that the Premier did not do. I record the strongest possible objection at the hubris of the Premier, the wanton arrogance of the man. He has never been worse than he has been this afternoon. What he has done, the way he has done it and the way he indulged in this debate have done nothing other than degrade democracy in South Australia. At least the Attorney-General represents himself as being a somewhat archaic Tory. After all, we must remember that many members of the Liberal Party in South Australia are far to the right of the traditional English Conservative. The name of Mr. Pritt, who was appointed a King's Counsel, has already been mentioned in this debate. Pritt was a Communist who was appointed a King's Counsel in England, and later he was a member of the House of Commons. A significant

Conservative, far more liberal than any member opposite, Harold Macmillan, refers to Pritt at page 134 of his book *Tides of Fortune*, when he states:

Pritt was King's Counsel of distinction, with a wide practice, who had already made himself pretty troublesome in the war and now seemed to aspire to the position of spiritual heir of the Cripps of the thirties.

Also, let us hear what Harold Macmillan, a former Prime Minister of Great Britain, says about Sir Stafford Cripps, who during the 1930's was a King's Counsel and a Marxist. That Conservative Prime Minister of Great Britain, who for Liberalism would leave every member of this Government for dead, refers to Sir Stafford Cripps at page 60 of his book, and states:

The fall of Dalton led to the rise of Cripps. This strange and eccentric character had first come into notoriety before the war as a "parlour Bolshevik" of a high intellectual order. He had infuriated the Conservatives and alarmed many of his own Party by the extravagance of his views and the bitterness of his attacks upon all established institutions. He had insulted the Crown; made it clear that he wished to reduce Parliament to a mere rubber stamp of a Socialist dictatorship; and in the most critical years of Hitler's threats to the peace of the world had urged the workers of Britain to refuse to make munitions to defend a capitalist society. Combined with these public activities, which led him at one time to be ejected from the Labour Party, he was a most successful barrister enjoying one of the largest practices of his day. In this country businessmen are no fools. The same instinct which made Churchill welcome Stalin as an ally against Hitler induced leading companies and individuals to retain the services of Cripps—in spite of the dislike and disgust they felt for his political views—in private or corporate actions where large sums were at stake. For they respected his qualities as an advocate. A malignant rebel with Marxist leanings, the most highly paid advocate at the Bar, born from a rich and noble family, Cripps was, in addition, a devout Christian.

I hope the Attorney-General listens to these words of a former British Conservative Prime Minister:

In private life he was a delightful companion, except at meals—for he did not eat or drink, but only smoked. I got to know him fairly intimately in 1942, on his return from Russia, before I left for the Mediterranean.

Mr. Corcoran: He would have been appointed a King's Counsel by a Tory Government.

Mr. HUDSON: Yes. Harold Macmillan continues:

You could not be angry with Cripps for long because he was so sincere. Like all eccentrics, he had a slightly White Knight side to him,

detached from reality. He was so devoted to the cause which he served that he had no hesitation in taking actions that in any other man would have been thought thoroughly disloyal.

Macmillan talks about an English malignant rebel with Marxist leanings in a way that sends shivers down the Premier's spine. For Liberalism, Macmillan would leave every one of this sorry crowd opposite for dead; he makes this Government seem completely reactionary and near Fascist in character. Let me deal with the Attorney-General's point that a Queen's Counsel is one of Her Majesty's counsels learned in law. Does the Attorney-General suggest that a member of the Communist Party could not be elected to this Parliament because he could not take the archaic oath that every member of this House takes? We are supposed to spend our time seeking out any schemes that are around to overthrow Her Majesty. Does not the Attorney-General know that many of these phrases are archaic, completely out of touch?

Mr. Broomhill: Can a Communist stand for Parliament?

Mr. HUDSON: Yes, and, if elected, he can be a member. A member of the Communist Party has been a member of the Queensland Parliament. A Queen's Counsel is an advocate, practising his profession in the same way as if he were an ordinary lawyer.

Mr. Ryan: In Her Majesty's courts.

Mr. HUDSON: Yes, and before Her Majesty's judges. The only thing that a Queen's Counsel must do is make himself available for briefs from the Crown. That is the only effective distinction concerning his activities. However, Mr. Speaker, you know that a terrible thing has happened in South Australia under this Government! Her Majesty's Government provides money for the Law Society, but who is one of the people that the Law Society briefs? Yes, Mr. Elliott Johnston. Is that not a disgrace and is that not shocking! Is the Attorney-General to instruct the Law Society that Mr. Elliott Johnston must not be briefed for any of its clients, and that it must not in future use Mr. Elliott Johnston to advise on appeals? That is what Mr. Johnston has done.

It seems to me that, in the matter of the level to which a man with the opinions of Mr. Elliott Johnston should be appointed, a distinction arises at the level of an appointment as a judge. On the face of it, I think (and I may differ from the Leader of the

Opposition, although I may be able to convince him of the correctness of my argument) that one would not appoint Mr. Johnston to be a judge, simply because he believes, on the face of it, in the overthrow of existing laws, and a judge is required to administer the laws. One would not make such an appointment unless one was completely convinced that the man did not hold fully to the views that one associates with Communists.

I am not embarrassed by the arguments used by the Attorney-General. It seems to me that if one was considering an appointment that involved the upholding of the law and if one had suspicions that someone had views designed to overthrow that law (whether from the left or from the right) one would not make the appointment. However, this opinion is not involved in relation to the appointment of a Queen's Counsel. The Premier said, in what was a substitute for a speech, that it would be a gross dereliction of duty if Cabinet had appointed Mr. Johnston a Queen's Counsel. By implication, the Premier is accusing the Chief Justice and other judges of the Supreme Court, who supported the Chief Justice's recommendation, of gross dereliction of duty. Even the Attorney-General, who had the audacity to say that it was wrong to have brought up this matter in the House, has criticized the action of the Chief Justice. One does not know to what extent the Chief Justice has been supported by other members of the bench with respect to the withdrawal of the recommendation.

The Attorney-General expressed regret, and implied criticism of the Chief Justice by so doing, yet he said that we must not bring the matter before the House and that we must in no circumstances criticize the bench. However, he has criticized it this afternoon. The Premier has told us that the price of liberty is eternal vigilance. It depends on what we have to be vigilant about: obviously, we have to be vigilant about a man who holds the views that the Premier holds. The price of liberty of citizens in South Australia is eternal vigilance against the development of the kind of views that have led to this Government's decision. The Premier accuses Opposition members of not knowing anything about Communists or Communism.

The Hon. R. R. Loveday: He gave us a paternal lecture.

Mr. HUDSON: He did, but he has not had to deal with them in a political contest. Who are the people who have to see to

it that there is no Communist control of trade unions? I ask Government members to reply to that question. The effective diminution in the authority and influence of the Communist Party in this country has followed the failure of the Menzies Government's attempt to ban that Party, the failure of the referendum, and the rising strength of the Labor Party in the trade union movement. It ill behoves the Premier, with his lack of experience in these matters, to criticize Opposition members on that point. In this country there has been a tendency (certainly in post-war years) for the "Red scare" to be used for political purposes, and there seems to be an element of this attitude in the Government's present decision. It believes in a sort of compartmentalist view of the world: if one is a Communist one is going to overthrow the Government any minute.

The Premier forgets, when he talks about Czechoslovakia, that the man who was the defender of liberty was Dubcek, a Communist, and that the man who was one of the defenders, along with others, of Hungary against Soviet Russia was Nagy, a Communist. Can the Attorney-General, from his knowledge of Mr. Johnston (and I do not have that knowledge of him), say in this House that Mr. Johnston will use his special position as a Queen's Counsel (if he is so appointed) to overthrow the Government of South Australia by force or violence? Everyone agrees that it should be overthrown.

Mr. Hurst: Fifty-three per cent of the electors do.

Mr. HUDSON: The question is how. What subversion is Mr. Johnston suspected of and what kind of advocacy can he use as a Queen's Counsel which would lead to subversion and which he cannot use as an ordinary lawyer? If the argument was that this man, on the face of it, was going to be appointed to a position that involved the administration of laws that he had advocated should be disobeyed and overthrown, with the use of force if necessary, the argument might be on a different level, but this Government has really said that the University of Adelaide should never have permitted this man to graduate and that the Supreme Court of South Australia should never have admitted him to the bar to practise as a lawyer.

The only other legitimate point made was the Attorney-General's reliance on the archaic notion that once a person is a Queen's Counsel he is in some vague way associated with

the Queen in everything he does, and that if he is not the right kind of person he cannot be appointed. That is out of date. Would the Attorney-General consider that point if the position were not that of a Queen's Counsellor but if we called him a senior lawyer or a barrister Grade 1? Would that be all right or is it the fact that we use an archaic term to describe the position? Because of that, this man cannot get promotion which the Chief Justice, after discussion with other members of the Supreme Court, has seen fit to recommend. The plain fact of the matter is that this is a political decision by the Government because a couple of its Ministers have threatened to resign if Mr. Johnston is appointed.

I have been told that a couple of the Legislative Council Ministers have said that if Mr. Johnston is appointed they will resign from the Government. The gun has been pointed at the head of the remaining members of Cabinet and they have given in—contrary to their better judgment, I suspect. If that is the position, the decision has been taken because of internal political problems in Cabinet, and not on the merits of the case. In my view, this no-confidence motion is thoroughly justified; the Government's decision is wrong; it brings into disrepute and disrespect the Chief Justice and the whole Supreme Court; and it implies that a man who is entitled to be an ordinary advocate before the court cannot be a senior advocate because the Attorney-General says, "We cannot possibly have the Queen's name associated with him."

The Hon. G. G. PEARSON (Treasurer): I will comment on the concluding remark of the member for Glenelg (Mr. Hudson), who said that he, or at least members of his Party, had information that certain Legislative Council Ministers had threatened to resign if Mr. Johnston were appointed to this office. I see that the member for Glenelg is not remaining to answer my question.

Mr. Virgo: He's not allowed to interject.

The Hon. G. G. PEARSON: I understand that! On what authority did he make that statement, and what does he know about it? Precisely nothing. What he seeks to do is to get some headline in the press about some alleged situation within Cabinet that is entirely without foundation. That is a tactic frequently adopted by the honourable member, and fortunately for him, but unfortunately for the people of the State, it is sometimes successful. I wanted to give the lie to his statement.

The Hon. D. N. Brookman: It's a smear.

The Hon. G. G. PEARSON: Of course. When I or someone from this side says something, it is a smear: but when the member for Edwardstown (Mr. Virgo) calls people thieves and rogues it is not a smear. This matter was determined by Cabinet after considerable discussion and mature consideration of the issues involved. It was not entered into hastily or from a Party-political angle. It was not considered without full knowledge of the matters the Leader has raised in moving the motion, nor was it arrived at without full knowledge of Mr. Johnston's capabilities and reputation as a lawyer. It was not taken without a knowledge of Mr. Johnston's standing in the community as a citizen, but it was taken with the knowledge of Mr. Johnston's known active and official positions in the Communist Party. The situation has been outlined by the Attorney-General, and the procedures in this matter required the two steps that have been outlined by him as necessary to appoint a Queen's Counsellor. Having considered the Chief Justice's recommendations, the senior Minister present at Executive Council is required to read a document in the following terms to His Excellency, who presides at Executive Council:

The Council recommends His Excellency to appoint the following to be (one two or three, as the case may be) of Her Majesty's counsel learned in the law.

I emphasize that Council had to make in those words a recommendation to His Excellency that the following people should be appointed, so it is clearly the responsibility of the Government, and of the Government alone, to make a recommendation to His Excellency that certain people should be appointed.

Admittedly, it is by long custom, and by regulation I believe, the prerogative of the Chief Justice to make the recommendation, but the responsibility for the appointment is that of the Governor-in-Council and the responsibility for recommending that people should be appointed is entirely Cabinet's responsibility. The Government is not acting contrary to this authority; rather it is acting entirely within its required responsibility in making a decision, and it has made a decision. The Leader said that he had had some bitter arguments with Mr. Johnston over the years with regard to his political beliefs, and I can well imagine that. He said, "What Mr. Johnston advocates I abhor." Obviously, the Leader has given much thought to this situation, which he was well aware could arise

had he been in Government at this time. This must have exercised the Leader's mind somewhat and he must have given some thought to it because he also said that he had some discussions with Their Honors as to this possibility. Indeed, he said that Mr. Johnston had very nearly reached the point in his legal career where he would obviously have been an early recommendation for appointment as Queen's Counsel. The Leader has obviously given much thought to this matter and has come to the conclusion that because of Mr. Johnston's legal standing and ability he should be appointed. Therefore the Leader criticizes the Government for not appointing him. I wonder why the Leader had these thoughts and discussions, because obviously he himself entertained some doubt.

The Hon. D. A. Dunstan: That is not true. I had no doubt at any stage. The matters were raised with me by other people and I commented the same as I have today.

The Hon. G. G. PEARSON: If I do not read the honourable member's mind correctly—

The Hon. D. A. Dunstan: That is right, you don't.

The Hon. G. G. PEARSON: —I am sorry because I did not mean to misinterpret what he said. As the Leader spoke, the thought came to my mind that he had given some thought to this matter and had come to a conclusion, but obviously some other people had considered the matter, otherwise discussions would not have been initiated by other people with the Leader. This matter was discussed, as the Leader admits, but whether it was raised by him or by other people does not alter the fact that the discussion occurred, and it must have occurred because someone had some doubts about it, if not the Leader then someone else. Having heard the Leader assert that he never had any doubts about it, I absolve him from the charge of having any doubts, but someone had doubts because discussions were held.

He asked the question, "Where does this matter end?" The Deputy Leader also made a strong point of this when he said, "Where does this end? Does this go right down through all appointments for which the Government is responsible? Are we to assume that the Government will exercise a political discretion ('Party-political discretion' I think the intended interpretation must be) against any person who holds a political belief contrary

to its own for appointment to any official position for which the Government has the right of appointment?"

Around this somewhat emotional angle was built a great case: that we were reaching a point in this State where, in the hands of this Government, people with political beliefs contrary to those the Government espoused had no chance of advancement in the Public Service or of obtaining appointment for which the Government had direct responsibility. One can, on a small base such as this, build up a big inverted pyramid on an emotional argument. That has been done, but it does not remove the fact that the stone on which the argument rests is a small one and does not in this case exist at all.

The fact is that this Government has not discriminated against any person's appointment because of his political beliefs. Members may be interested to know that another wellknown Communist in South Australia was recently appointed to a position in a Government department. I do not intend to mention his name, but if anyone wants to ask me quietly I will tell him. However, I assure members that this person, who now occupies a responsible position in a Government department, is not only a member of the Communist Party but an even better-known Communist than Mr. Johnston. This, therefore, is not a valid accusation to level at the Government, because it does not stand up. The argument was further advanced (I am not sure by whom) that the Premier had suggested in reply to a question to him that, because the Communist Party had international affiliations, this was the criterion to be adopted because the Australian Labor Party had international affiliations. So it has, but I would not think that the Australian Labor Party would be a subversive organization. Indeed, I know firmly that the contrary is the case. So here again *reductio ad absurdum* has been applied to this argument in order to convince someone of something that does not exist.

It is a fact that Communism in Australia and the Communist Party in Australia are affiliated closely with international Communism. I am not sure at the moment whether it is affiliated to the Peking or to the Moscow brand of Communism. Some members of the Party would probably attach themselves to one and some to the other, but there is a close affiliation and exchanges are made as often as they can be arranged between the Australian Communist Party and Communist

Parties elsewhere. However, I do not want to debate that aspect at the moment because, frankly, I do not know which of the two groups is favoured by the Australian Communist Party today.

The people who hold responsible office in the Party must, I presume, subscribe to its principles and its objectives. This gentleman is not just a fellow traveller going along with the Communist cause; he is not a person who has some Communist sympathies; he is not a person who lends himself to the Communist cause and is used by the Party for its political advancement; he is not a person who is just held up as being one of the good citizens of this State who has Communist affiliations. No! He is or has been until recently, a highly responsible officer within the Party, holding several appointments. He is therefore not only a member of the Communist Party but an official of the Communist Party, and no-one can convince me that such a person does not subscribe to the basic beliefs and tenets of the Party.

Those beliefs and tenets are not in question. Therefore, the Leader believes that there is a limit beyond which a prominent member of the Communist Party should not be elevated. He said that the Government, by its actions, was preventing a person from advancing in his profession. I think advancement in a profession means that a person goes right to the top; that is what most people embarking on a professional career aspire to. However, the Leader stops short of the highest honour that can be conferred on a member of the bar. The member for Glenelg has deeper reservations about what is proper and what is not proper, because he said that he doubted very much whether it would be proper to appoint a member of the Communist Party to the Supreme Court bench, for he said that it was a function of a judge of the Supreme Court to uphold the law, whereas members of the Communist Party believed in setting aside the law when that was necessary to achieve their objective. I think I quote him correctly when I say that he said he had some doubts about the appointment of a Communist to the Supreme Court bench. Indeed, he said, "I differ from my Leader in this matter, but I would hope to convince him, in argument, that I was right."

The great cry for democratic and political freedom that has been raised today is not entirely applicable and relevant to this matter, because members have reservations about how far up the scale a member of the Communist

Party should be appointed. Mr. Johnston is not just an ordinary member of the Communist Party, and the appointment it is alleged should be given him is not just an ordinary appointment. That is the crux of the matter. The Government has declined to recommend to the Governor that Mr. Johnston be appointed a Queen's Counsel. The member for Glenelg would not appoint him to the Supreme Court bench, and the Leader would not appoint him Lieutenant-Governor. Just exactly where do we stand in this case? Apparently we all agree that there should be some point at which a member of the Communist Party should be held, so this is largely a question of degree. I have no antipathy towards any member of a political party, whoever he may be.

Mr. Virgo: You're giving a good display of it.

The Hon. G. G. PEARSON: If the honourable member cares to wander around my district he will find that what I have said is the case. I believe that in this matter we must have regard to the public welfare in the short and long term. The Communist Party does not work by the ordinary open and visual methods: it works insidiously, quietly, constantly, and dedicatedly. Every member of the Party is entirely devoted to the furtherance of the Party's objectives. As a responsible official, Mr. Johnston must either deny that responsibility to the Party or adhere to it. No-one knows better than the Australian Labor Party how actively, constantly, and insidiously the Communist Party works to establish its supremacy over and control of all situations in this country. No-one has had a harder or more difficult fight to contain the activities of the Communist Party than has the Australian Labor Party.

Mr. Virgo: Always helped by the Liberals!

The Hon. G. G. PEARSON: I remember some remarks made in this Chamber by the late Mr. O'Halloran and the way in which he expressed himself about the activities of the Communist Party. He was a sincere and dedicated Labor man who had entirely at heart the objectives of his Party and the welfare of its members. It is an open book that every now and again some drastic action has to be taken by the Labor Party in order to curtail the growth of Communism within its membership. Therefore, the Opposition well knows how this organization works. Anything that is done to elevate that Party to a point of prominence or to advance its status in the community by advancing its responsible

members and by promoting its objectives, either positively or indirectly, is not action to which the Government of the State should subscribe. I have no objection to any person's private or public belief in any political persuasion, but as a member of Cabinet, which is solely responsible for making a recommendation to His Excellency, after full consideration I will not deliberately and knowingly promote the cause of Communism in this country or any other country.

The Hon. C. D. HUTCHENS (Hindmarsh): I support the motion. With the Attorney-General, I regret that a matter of this nature has to be raised in the House, but it has been raised only because of the diabolical action of the Government. I believe the actions of the Government prove conclusively that it is unfit to govern and should be thrown out. By its actions, it has degraded democracy, smeared the judiciary, and destroyed the freedom of the individual. We have heard much talk by members opposite about Communism, for which I have a deep, ingrained dislike. However, Communism is not the question this afternoon. The question the House must consider is whether this country subscribes to the freedom of the individual and the right, without prejudice, of expression of political opinion. Many loose arguments have been advanced to try to throw a smokescreen around the matter. I repeat that I have a deeply ingrained dislike of Communism. It has been said that there is a fundamental difference between the Parties in this House and Communism. The fundamental difference between Communism and the Party to which members opposite belong is that the Communists are a little more honest about their intentions than are honourable gentlemen opposite. This afternoon we have been told about Her Majesty's counsel. This phrase is as old as Noah's Ark. In this country, a republican is given a great air of respectability, and such a person would not be debarred.

Mr. Freebairn: The honourable member has missed the point. A republican doesn't want to overthrow the Government.

The SPEAKER: Order! The honourable member for Light is out of order. The honourable member for Hindmarsh.

The Hon. C. D. HUTCHENS: The arrogance of the member who has interjected never ceases to amaze me. My point is that the republican is opposed to the Monarchy.

I have always thought that this Parliament made laws to protect the individual and to give him political and religious freedom as long as he did not engage in sabotage. No one can say that Mr. Johnston has embarked on subversive action. The Treasurer fell into the trap laid by the member for Glenelg, who referred to two Ministers to try to find out the attitude of all members of Cabinet. The Treasurer has told us that Cabinet is unanimous, unanimous in denying a person freedom to practise the type of politics that he chooses.

Mr. Hurst: Where will it finish?

The Hon. C. D. HUTCHENS: Yes. This is a Fascist attitude, the attitude of the Communists themselves, and the attitude that has destroyed democracy. A political Party that has a policy that will win the admiration of the people need not fear other political Parties. However, because the Party opposite is so devoid of progressive policy, it fears that it will be destroyed and therefore seeks to destroy anyone who criticizes it. Despite all that members opposite have said today, they would not stop at Communists: they would destroy the Labor Party and, like the Communists, be members of the only Party that could hold office. The Treasurer, in an appealing speech made with a smooth and soft voice, said that anyone who promoted a Communist would endanger the nation, but only a few minutes before he had said that the Government appointed a prominent Communist to a high position. He cannot have it both ways.

Mr. Hurst: Does he say that when he is selling wheat to countries overseas?

The Hon. C. D. HUTCHENS: Members opposite do not ask about the political beliefs of people in the countries to which they sell wheat and other grain. The councils of the world are doing their best to bridge the differences between the Communist nations and the western powers so as to bring about greater understanding and mutual respect. I find it difficult to have respect for Communism, but the Government's attitude is contrary to any democratic principle. The Premier asked what happened to countries that had done this type of thing.

Members on this side have explained that Communists have been appointed Queen's Counsel in Great Britain. Would anyone deny that the United Kingdom has done more for the advancement of democracy than has any other nation? Members opposite have said

that Mr. Johnston was a Communist candidate, but the law has been tested and the Communist Party is not prohibited.

Mr. Lawn: He's opposed me several times, and always conducts a gentlemanly campaign.

The Hon. C. D. HUTCHENS: He does not engage in smear tactics, but I cannot say that about other people. The motion does not justify Communism, but as long as I am able to speak I shall fight for the right of the individual to express his views. I am confident that our principles are strong enough to retain the respect of the people and I hope that Parliament puts the Government out of office, where it belongs, and gives the people a chance to elect the Party that they respect, those who are always vigilant in guarding the freedom of the people from persecution and prohibition for political purposes.

Mr. VIRGO (Edwardstown): In supporting the motion, I first want to put the record straight regarding a statement by the Treasurer. When talking about the influence of the Communist Party, the Treasurer said:

A.L.P. members know that they themselves every now and then must take some drastic action to restrict the growth of Communism within their own Party.

I wrote down those words as the Treasurer spoke, because I did not want to misquote him. That is a deliberate lie and should be withdrawn by a person who holds a responsible position. If Government members were honest they would admit that no member of the Communist Party can be a member of the Australian Labor Party, but a member of the Communist Party can be a member of the Liberal Party.

The Hon. C. D. Hutchens: I know that there is a member of the Communist Party who was nominated by a member of this House.

Mr. VIRGO: That does not surprise me. For the Treasurer to make such a statement is typical of the gutter-type tactics that have been adopted in this debate, and they were sparked off by the Premier's contribution when he got right down into the gutter.

Mr. McAnaney: You are an expert on gutters.

Mr. VIRGO: A short time ago a person from a European country, after hearing the Premier speak, said that he thought he was the reincarnation of Adolf Hitler. If the member for Stirling does not like that, he can lump it. Typical of the gutter-type tactics

adopted by the Premier was his filthy attack on the Leader over his appointment as a Queen's Counsel. These tactics show that logic has left the Premier and that he has to resort to abuse in order to state a case. The Government fails to recognize that its action is an attack on the basic principles of democracy, as accepted throughout the western world. That is why we raise our voices: it is not a question of supporting Communism, because, like my Leader, I abhor it. I fought against it, and that is something that Government members cannot claim to have done. The Treasurer spoke about the speeches of a former Labor Leader (Mr. O'Halloran) and of attacks on Communism. What he did not say was that, when members of the Communist Party were attempting to obtain control of Leigh Creek, it was Mr. Pat Galvin, the former Labor member for Kingston, who went up there and defeated them. The Liberal Party won enough Commonwealth elections by using the red bogey smear and, in desperation, it seems that it is trying the same tactics here. I am sure that the Government will fall flat on its face. The Labor Party is the only Party that repudiated the Communist Party. It is the standard of living created by the Liberal Party that has caused Communism to flourish, because it has existed through successive Liberal Governments.

Mr. McAnaney: You use more fantasy every minute.

Mr. VIRGO: I do not know about that, but the member for Stirling is becoming more Fascist. The Premier would be an acceptable candidate for Fascism at its worst. The result of the referendum a few years ago showed that most people in this country opposed a decision to declare the Communist Party an illegal organization. These people were not supporting the Communist philosophy: they were respecting the rights of people to indulge in various political philosophies. I hate the Liberal philosophy but I would not send them underground. I also hate the D.L.P. philosophy, but that does not mean that that organization should be outlawed. The principle being discussed this afternoon is not the philosophy of the Communist Party, the D.L.P., the Liberal Party, or the A.L.P. The basic question being debated is whether a person's political philosophy should be held against him when an appointment is being made. This time it is the appointment of a Queen's Counsel, but tomorrow it could be the appointment of a head of a department. I know of cases where

daily-paid employees have been denied promotion in a Government department because they hold Communist views.

Mr. McKee: So have members of the A.L.P.

Mr. McAnaney: You have denied people jobs because they don't believe in unionism.

Mr. VIRGO: The member for Stirling should make a speech rather than interject. If Government members hate Communism, why does not one of them tell the House why they trade with Red China? Why not let farmers in this State go bankrupt if they hate Communism so much? It seems that the Government's philosophy is that it must not allow a Communist to get into a position of authority.

Mr. Rodda: You would let them, I suppose.

Mr. VIRGO: I do not believe that the political views of any person should be held against him in the making of appointments, for that has nothing whatever to do with the matter. The making of an appointment rests on one factor alone: the ability of the person concerned to do the job. In this instance, no higher authority than the Chief Justice of this State—

Mr. Corcoran: And the other judges.

Mr. VIRGO: —has said that there are three people who they consider have the academic ability and legal knowledge to do the job. But the Government will not accept that, and we now learn that Cabinet was unanimous. I do not believe that it was unanimous, because I do not think the Attorney-General would be a party to such a decision. I am wondering just how hypocritical members opposite are. I took the opportunity a moment ago to look at the objectives of the Liberal Party of Australia, to which members opposite are affiliated, one of the objectives being "an Australian nation dedicated to political liberty and the freedom and dignity of man". The objectives go further, and refer to "an Australian nation in which an intelligent, free and liberal Australian democracy shall be maintained by"—and then follows a list of things, the relevant ones being "independence of the judiciary", "freedom of speech, religion and association", and "freedom of citizens to choose their own way of living and life, subject to the rights of others". That is a mockery. No member opposite can hold the view expressed today by the Premier, Treasurer and Attorney-General, at the same time believing in the principles to which I have referred,

Like the Attorney-General, I regret that this matter has been aired here today. However, unlike him, I point out that the responsibility for this situation lies fairly and squarely on the Government, which has created the situation and which has adequately displayed its bias concerning people of certain political leanings. While today the Government will not appoint a person because he is a member of the Communist Party, tomorrow it will be perhaps because he is a member of the Country Party; then because he is a member of the Democratic Labor Party or a member of the Australian Labor Party. In other words, we will reach the stage where there will be only one Party if the Government is permitted to follow this line. The basic principle of freedom which we love and for which our fathers and forefathers fought and died has been attacked by the action of this Government in discriminating for political reasons against a person because he holds a view that is contrary to the one held by the Government. This is exactly the principle of Communism. The Government is carrying out the principle of Communism for the supposed reason that it is fighting it. I hope that as a result of airing this matter today, irrespective of what comes out of it, we will establish once and for all that the South Australian Parliament and its members fulfil the principles of democracy.

The Hon. D. A. DUNSTAN (Leader of the Opposition): The argument of the Premier and the two Ministers who have spoken this afternoon is so shallow and so strange that I cannot understand the basis on which they have proceeded in this matter. The Premier inveighed against Communism and gave as his reason for not appointing Mr. Johnston the view that the appointment could lead to the subversion of the State by his being appointed to what is called a senior position. Let us look at what this position is, without all the folderol with which the Attorney-General came out about the position of Queen's Counsel. It is not the practice, as he well knows, for the Government simply to call on Queen's Counsel to assist the Queen at any stage of proceedings. It might be true, of course, that the Crown would brief Queen's Counsel on occasion. Mr. Johnston has certainly been briefed by the Law Society in major cases in South Australia (cases of great moment), and has been asked to advise the Law Society Council on matters of appeal, because the council knows full well of Mr.

Johnston's professional competence and disinterestedness in his professional capacity. What would Mr. Johnston, as a Queen's Counsel, do at the bar to subvert the State? Would he persuade the judges to a different view from that which they hold?

Mr. Clark: That is a reflection on the judges.

The Hon. D. A. DUNSTAN: Of course it is. Would he persuade other members of the bar to a view different from that which they hold? I notice that he has not been able to do much with the members of the bar so far. Would he persuade the public? Mr. Johnston has stood as a Communist candidate in this State on many occasions. He lost his deposit every single time. He is not, of course, without an appreciation of this fact, and he evinces a certain humour in this situation from time to time. I well remember the story told to me by a Labor Party worker in Port Augusta concerning when Mr. Johnston was standing against Mr. Riches in that seat. Mr. Johnston was addressing a street corner meeting. There was no-one at the meeting; he was standing on the corner, speaking to thin air. But when he had finished he thanked his audience for its attentive hearing and asked whether there were any questions! Mr Johnston was well aware on that occasion, as I am sure it has been brought home to him on every other occasion when he has stood as a political candidate, that his chances of persuading the public of South Australia to his views are absolutely nil and will not be enhanced by his being a senior counsel in South Australia. He now takes senior briefs. So what is it that the Government is saying Mr. Johnston would, by his appointment, be able to do against the common weal in South Australia? Would he use the bar to man the barricades? It is so ridiculous that I wonder the Government can say such things. Does it think the people of South Australia are in so weak a state of discretion and knowledge that they will succumb to the wiles of Mr. Johnston because he is appointed a senior counsel? The proposition is completely absurd. Then the Premier tried to extend the argument by saying, 'Oh well, Mr. Johnston's appointment as a Queen's Counsel qualifies him for appointment as a judge.' It does not: judges are not necessarily drawn from Queen's Counsel in South Australia, and the Government knows that.

Mr. McKee: The Premier may not know it.

The Hon. D. A. DUNSTAN: If he does not know it he should look at the Supreme Court Act and the Constitution Act and see who is qualified. The appointee does not need to be a Queen's Counsel: it is not an inevitable progression. Mr. Justice Walters was not a Queen's Counsel at any time in his career, and he was appointed to the judgeship—an appointment that was widely acclaimed in South Australia by the legal profession, and rightly so. What is this extension of the argument that this would give him a leg on the rung to some mythical promotion, because there is no such automatic or indeed likely promotion? The suggestion that by appointing him senior counsel means that he will get to be Lieutenant-Governor of this State is bizarre in the extreme, because the Lieutenant-Governor is directly involved in the administration of the State and must be able to take an oath, which is not required of a senior counsel. The Lieutenant-Governor is required to guarantee the secrecy of the communications given him by Executive Council. There is every reason why the utmost care must be taken that the person involved in such a position is able to give such an undertaking. Mr. Johnston could not do this.

Mr. Corcoran: He wouldn't want to.

The Hon. D. A. DUNSTAN: Of course not; he would not be involved in such a thing. This was seized on as a straw by the Premier and the Attorney-General as being some stray bit as to where to draw the line. However, there is no analogy between the appointment of a Lieutenant-Governor and that of senior counsel. Senior counsel are not involved in the administration of the Government of the State. It is the Premier's habit whenever under pressure in the House to descend to personalities. I know of no speeches he has made where he has not done so, and I have had occasion to complain of this before. He saw fit to reflect on my appointment as Queen's Counsel, but he knows that that appointment could not have occurred except on recommendation of the Chief Justice, and Sir Mellis Napier made the recommendation because he thought it was a proper one. If the Premier wants to go on with that sort of thing and make snide personal reflections and references, I think it is more a reflection on his own case than on those whose heads he seeks to heap such reflections.

The Attorney-General has said that this is a case where the Government has to take care because of the things that could follow and that the Queen's name could not be associated with someone who is of a political persuasion

such as that of Mr. Johnston. I do not know how serious the Attorney-General is. The phrase "Queen's Counsel" is merely an appellation for senior counsel at the bar, and he knows what the judicial practice has been in other parts of the British Commonwealth. There are many cases where people of political views as heterodox and as distasteful to the majority as Mr. Johnston's views have been appointed Queen's Counsel. It has happened in other dominions, in the colonies, and in England, because always the view taken in this matter has been that it is a matter of professional competence only and that in this, as in any other cases, there should be no political test of a person's advancement in his profession.

That is all that is involved here. This man is to be deprived of advancement in his profession because of his political views. The one thing that every speaker on the Government bench has failed to do (and something which the Premier, the Treasurer, and the Attorney-General would not say) has been to give their reasons for the judges' taking a different view of this matter. Obviously the judges have said to the Government, from what the Premier has told the House this afternoon, "The action you have taken in this matter, as well as the ground on which you have taken it, is improper and we will not proceed while you take this improper and unjust stand." That is what the Government is faced with, not just the conflict with the Opposition and the public: it has a head-on confrontation with the judges on what it is proper to do in this matter, and the judges, by their action, have condemned the Government for the action it has seen fit to take.

The Treasurer has said, "Oh well, the judges have made the recommendation and the Chief Justice has put the recommendation in, but I have to make the recommendation to the Governor." True, Executive Council certainly has to examine each recommendation that comes in. The appointment is not automatic, but when a recommendation comes in there would have to be some good and proper reason for a difference arising. It would have to be something related to a man's personal character in the practice of the profession or his competence—something which Executive Council considered was an insuperable obstacle and which it would discuss with the judges. I know of no case where previous accord has not been reached. What has happened here is that the Government for improper reasons has refused the recommendation and the Chief Justice has taken the only course open to him

to uphold the principles of the profession over which he presides: that is, to refuse to co-operate further with the Government because of the action it has taken.

I believe that the Chief Justice is courageous and right in upholding the principles of the law and of justice to the bar that has to practise before him. I believe that the members of this House are right in saying that the Government, by refusing to take the opportunity we have given it this afternoon to review this matter, has shown that it no longer deserves the confidence of the members of this House, just as it no longer deserves the confidence of the people of this State—and it does not have it, either.

The House divided on the motion:

Ayes (18)—Messrs. Broomhill and Burdon, Mrs. Byrne, Messrs. Casey, Clark, Corcoran, Dunstan (teller), Hudson, Hughes, Hurst, Hutchens, Jennings, Langley, Lawn, Loveday, McKee, Ryan, and Virgo.

Noes (18)—Messrs. Allen, Arnold, Brookman, Edwards, Evans, Ferguson, Freebairn, Giles, Hall (teller), McAnaney, Millhouse, Nankivell, Pearson, and Rodda, Mrs. Steele, Messrs. Teusner, Venning, and Wardle.

The SPEAKER: There are 18 Ayes and 18 Noes. There being an equality of votes, it is necessary for the Speaker to give a casting vote. I give my casting vote for the Noes, so the question passes in the negative.

Motion thus negatived.

AUSTRALIAN BOY SCOUTS ASSOCIATION, SOUTH AUSTRALIAN BRANCH, BILL

Returned from the Legislative Council without amendment.

LAND ACQUISITION BILL

Received from the Legislative Council and read a first time.

PETROLEUM ACT AMENDMENT BILL

Received from the Legislative Council and read a first time.

SAVINGS BANK OF SOUTH AUSTRALIA ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

ADJOURNMENT

At 5.19 p.m. the House adjourned until Tuesday, December 2, at 2 p.m.