HOUSE OF ASSEMBLY

Wednesday 4 March 1981

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

PETITION: RESIDENTIAL TENANCIES

A petition signed by 22 residents of South Australia praying that the House urge the Government to give due consideration to objections lodged on behalf of landlords in relation to the Residential Tenancies Act Amendment Bill was presented by Mr. Millhouse.

Petition received.

PETITION: EDUCATION FUNDING

A petition signed by 35 residents of South Australia praying that the House urge the Government to stop cuts in education funding, and maintain and extend development in education at all levels was presented by Mr. Hemmings.

Petition received.

PETITION: WATER QUALITY

A petition signed by 82 residents of South Australia praying that the House urge the Government to improve the quality of water being supplied to an extensive area in the northern suburbs was presented by Mr. Hemmings.

Petition received.

MINISTERIAL STATEMENT: ASSAULT ON PRISONER

The Hon. D. O. TONKIN (Premier and Treasurer): I seek leave to make a statement.

Leave granted.

The Hon. D. O. TONKIN: Further to my Ministerial statement of last week regarding Gregory J. Cleland, and the comment which that statement elicited from a member of this House, I have received a request from the Ombudsman to table his report on the matter.

Although this is not a matter technically within the jurisdiction of the Ombudsman, I am happy to table that report, together with my response of yesterday's date informing the Ombudsman that, although the Government has for some time had before it proposals for substantial changes to the visiting justices system, final decisions must necessarily be delayed pending receipt of the report of the Royal Commission. My reply further informs the Ombudsman that, when the Royal Commission has reported, a wide range of amendments to the Prisons Act will be placed before Parliament. I therefore table that report and I also table copies of letters written by the Ombudsman to me on 18 and 26 February. This latter letter summarises the conclusions of a recent detailed police investigation into the allegations made to the Ombudsman by the prisoner Cleland. Although the Government does not necessarily agree with the Ombudsman's observations, it does not consider it appropriate to debate them.

MINISTERIAL STATEMENT: MEAT HYGIENE ACT

The Hon. W. E. CHAPMAN (Minister of Agriculture): I seek leave to make a statement.

Leave granted.

The Hon. W. E. CHAPMAN: On 12 February, the Meat Hygiene Act, its regulations and schedules and the consequential amending Acts were proclaimed so that the public of South Australia has access to the supply of wholesome meat. Generally, that legislation has been well received by all sections of the meat industry, local government and the community. Yesterday, there was a meeting of the Meat Hygiene Authority's Industry and Local Government Consultative Committee, at which this general acceptance was reinforced.

However, there are some aspects of the legislation which have caused concern in the industry, and the Government recognises that every new legislative initiative, particularly one of this magnitude, has teething problems. I intend therefore to take steps to rectify these problems promptly and as they arise to allow the legislation to be better understood and appreciated by the industry and thereby achieve the Government's stated objectives.

One matter of concern has been expressed by South Australian wholesalers trading interstate, particularly to Victoria, which has abolished reinspection fees, but still maintains a physical re-inspection of meat entering that State. Officers of the Meat Hygiene Authority have reached agreement with their counterparts in Victoria on means of removing that obstacle, and I am awaiting confirmation of this arrangement from the Victorian Minister of Agriculture. Under the proposed system, meat to be exported from South Australia to Victoria will be certified by Meat Hygiene Authority officers, and forward notice will be given to the Victorian authorities. Negotiations to achieve similar arrangements with New South Wales and Queensland are proceeding.

The second area of concern is the reaction of some slaughterhouse operators to certain of the procedural requirements. There also appears to have been a degree of over-enthusiasm by Meat Hygiene Authority officers in their efforts to implement the regulations forthwith. For example, many butchers have chiller facilities at their shops, and to have it a mandatory requirement to install a chiller at every slaughterhouse site is unnecessarily expensive, and in my view should be optional as in the case of freezer facilities.

I propose, rather than exercise Ministerial exemption under section 57 of the principal Act, to modify the wording of regulation 3.09, which requires every slaughtering works to have a chiller on site. Clearly, it is not practical to apply that regulation across the State. It should, however, be recognised that the principal object of the legislation is to upgrade, realistically, the standards of hygiene at all slaughtering premises, where applicable, across the State. It is not the policy nor the objective of the Government to remove people from the industry or dictate the number of slaughtering works required to service any given area of the State.

Quite the contrary, it is the Government's policy to stay out of the way of private industry wherever possible and, with respect to slaughterhouses, allow the respective local government authorities to deal with the day-to-day administration and *ad hoc* inspections of such premises, all of which were undertakings given to the industry during the introduction and passage of the current legislation. After all, the Local Government Association requested, on behalf of its member councils, retention of these powers and to have its own draft hygiene regulations adopted by the Meat Hygiene Authority. This request has been fulfilled to the letter.

Local government must, therefore, accept full responsibility for these hygiene regulations produced by its

association and tabled in the Parliament on 17 February 1981. The Government, through the Meat Hygiene Authority, will maintain an overview of hygiene standards in slaughterhouses and will intervene at the local government level only when requested to do so by local government or if and when a council fails to fulfil its role. With the benefit of regulations based on their own association's submission, I believe we will now receive full co-operation from councils which in recent years were reluctant to enforce the old Health Act requirements on many slaughterhouse premises, which has resulted in a shocking deterioration of standards in some instances.

I also intend:

(1) to rationalise requirements where there is a duplication between the Building Act and the Meat Hygiene Act schedules relating to plans and specifications submitted at the time of rebuilding, altering or extending the premises; and

(2) to reconsider the slaughterhouse and abattoir licence fee structure. For example, there appears to be an anomaly, particularly as it currently applies to application fees as required to accompany applications from premises to the Meat Hygiene Authority for the first time.

Having initiated this major legislative innovation which has involved consultations with industry and local government, and as a result introduced new concepts, I expect to receive full and realistic co-operation between authority officers, local government and those in the meat industry.

QUESTION TIME

S.G.I.C.

Mr. BANNON: Will the Premier say whether the Government has completed its review of the future role of S.G.I.C., and, if so, does the Government plan to exclude the commission from the no-fault insurance scheme? If it has not completed the review, when will it be completed? In answer to a question on 13 August 1980, some 6½ months ago, the Premier told the House that the whole future operation of S.G.I.C. was being studied as part of the review of the operation of the no-fault accident insurance scheme and the compulsory third party scheme. Two days later, he told the *News* that the commission's role would be reviewed within the next few weeks. This question has some urgency, as I am informed that shortly third party premiums will rise by more than 20 per cent.

The Hon. D. O. TONKIN: I am surprised that the Leader has some foreknowledge apparently of the committee's decision as to the increase in third party premiums. Be that as it may, he seems to have sources of information all his own. I would prefer to await the report of the committee. I do not doubt that it will be a considerable increase. As to the remainder of his question, yes, there has been a detailed study into the no-fault insurance scheme, and into the role that S.G.I.C. may or may not play; perhaps I should rephrase that and say the role that S.G.I.C. can play in no-fault insurance scheme. The scheme has a number of associated difficulties which have come forward during the consideration of it. Advice has been taken from Victoria and New Zealand, and I think that most of the potential problems are being ironed out at present and that a decision will be made in the near future. An announcement will be made then.

SMALL BUSINESS

Mr. OLSEN: Following his announcement regarding the Government's intention to establish the Small Business Advisory Council, will the Minister of Industrial Affairs ensure that the composition of that committee has adequate representation from those involved in small business enterprise? It has been alleged in trade publications that the previous Government, in establishing the Small Business Unit, gave only lip service to the provision of services to that community. Further, it is said that, if the council is to receive support and recognition from that vital sector of the business community, it should have representation on the council from people who have had practical experience in small business enterprise.

The Hon. D. C. BROWN: The answer is yes, and in fact I have already announced the composition of the Small Business Advisory Council. I announced it on Monday when I announced that the Government was setting up such an advisory council. The membership of the council reflects the broad cross-section of the small business community that the honourable member is seeking. The Chairman is Mr. Lincoln Rowe, Director of the Department of Trade and Industry. Other members include Mr. Ron Paddick, Executive Director, Mixed Business Association of South Australia; Mr. Frank Curtis, Management Consultant and Chairman of the Small Business Advisory Committee of the Chamber of Commerce and Industry; Mr. Mark Mau, representing the Federated Chamber of Commerce, that organisation representing smaller retailers, particularly in country areas; Mr. John Messenger, a private accountant and Chairman of the Small Business Committee of the Joint Committee established between the Institute of Chartered Accountants and the Australian Society of Accountants. The committee also includes Mr. Robert Denniston, Executive Director of the Australian Institute of Mangement. Then there are two specific appointments of people currently operating small businesses. The first is Mr. Robin Chisholm, who is Chairman of a small manufacturing company, Alulite Proprietary Limited. The other is Mr. Graham East, who is a small businessman and retailer from the Kadina area. That committee, as I have outlined, represents a very broad cross-section of small business in this State. It represents retail, manufacturing and commercial small business, including both city and metropolitan areas.

Three important areas are essential as a fundamental part of the Government's policy on small business. The first is that the Government must ensure that the right type of environment is provided, free from unnecessary Government legislation and regulation, to allow small business to flourish and prosper. Secondly, the Government assists small businesses in obtaining the best possible advice, particularly when they are trying to establish, because so many small businesses collapse in the first two years of existence. The third area is to ensure that small businesses, where possible, have an effective voice with Government. The Small Business Advisory Council has been set up to ensure that small businesses have that effective voice.

The Premier has asked me, as Minister, and the Department of Trade and Industry, to look immediately at how a certain proportion of finance can be made available for the small business section, through the banking sector of our community. One problem at present is that small businesses, particularly with resource development and therefore great demands on borrowed capital in Australia, have difficulty in getting access through banks to suitable finance, not at subsidised interest rates but at normal bank interest rates.

Therefore, the Government is carrying out that study. Obviously, it cannot report until the Campbell committee of inquiry at a Federal level has handed down its findings

on the Australian financial system. I also announced on Monday the setting up of a Small Business Advisory Bureau, in which the staff will be significantly increased from the existing unit. The Government has taken these important steps, and this shows the highest priority that it gives to small businesses.

I heard the comments made by the Leader of the Opposition after my announcement, and it was interesting that he came out with perhaps a predictable response—the Government was acting too late and was not doing enough.

The Hon. D. O. Tonkin: I think we've heard that before.

Members interjecting:

The SPEAKER: Order!

The Hon. D. C. BROWN: I think we have, too. It was only yesterday that the Leader of the Opposition was proudly boasting about the fact that he was a Cabinet Minister under the previous Government. I point out that, under that Government, the staffing of the Small Business Advisory Unit, which was established only in 1977, declined from nine to three. That is the sort of importance that the previous Government placed on small business! It actually reduced to one-third the staff available for the Small Business Advisory Unit. This Government, with the highest priority given to small businesses, is now building up the process of advice to small business.

ANZAC DAY

The Hon. J. D. WRIGHT: Will the Premier say whether the Government will proclaim a public holiday to mark Anzac Day on Monday 27 April and, if not, why not? The Premier will be aware that this year Anzac Day falls on a Saturday. He will also be aware that the section of the Holidays Act dealing with Anzac Day has not changed since its enactment in 1922. Under the Act, if Anzac Day falls on a week day, then working people are entitled to a holiday. If Anzac Day falls on a Sunday, then the holiday is observed on the following Monday. However, if Anzac Day falls on a Saturday, no holiday is observed on the following Monday.

I am informed that the Western Australian Government has dealt with this anomaly and this year has declared a holiday to mark Anzac Day on Monday the 27th. The Minister of Industrial Affairs may not be aware of that information, but it is a fact. The South Australian Government has the power, under section 5 of the Holidays Act, to proclaim a holdiay on a day in lieu of the day fixed by the Act. Under section 4 of the Holidays Act, a special holiday can be proclaimed, and, in my view, it should be proclaimed. This situation has not arisen for many years, certainly not during the term of the previous Labor Government. So, perhaps in advance of any amending legislation, the Government will do the decent thing and grant a holiday, on the Monday by proclamation.

The Hon. D. O. TONKIN: I am disappointed in the Deputy Leader of the Opposition and I sincerely trust that his sentiments, which he has made very clear in asking this question, do not reflect those of his colleagues. April 25 has always been celebrated in South Australia, and throughout Australia, as Anzac Day, a day of great significance indeed for the Australian nation. It has been traditional that it is celebrated on the 25th because of the very great significance of that date itself.

The Hon. J. D. Wright: So was proclamation day.

The SPEAKER: Order!

The Hon. D. O. TONKIN: I know that the Deputy Leader does not have much regard for it, obviously, but I believe that the spirit of Anzac Day is important, and I do not believe that Anzac Day is an excuse for just another holiday; I do not believe any other resident of South Australia or any other Australian citizen believes that either.

The Hon. J. D. Wright: Have a referendum on it.

The Hon. D. O. TONKIN: I am sorry, Mr. Speaker, but I get very cross when I find—

Members interjecting:

The Hon. D. O. TONKIN: I know that some of the members of the Opposition do not take Anzac Day particularly seriously, but it just so happens that I do.

Members interjecting:

The SPEAKER: Order!

The Hon. D. O. TONKIN: I said "some", and it is quite clear who is laughing on the other side, and who is taking it seriously.

Members interjecting:

The SPEAKER: Order! I have issued a general warning to all members and I ask that that warning be heeded because the next step will be a warning, and the subsequent consequences are well known to all honourable members.

The Hon. D. O. TONKIN: Suffice to say that I believe that since Anzac Day this year will fall on a Saturday, the day will be celebrated on that Saturday and certainly there will not be a holiday granted on Monday the 27th.

CONSULTANT SERVICES

Mr. ASHENDEN: Will the Premier indicate to the House how the levels of expenditure on consultant sevices under the present Government compare with consultants' fees paid by the previous Government? Recently the Leader of the Opposition has been widely quoted in the press on this matter in relation to consultants employed by the present Government and this has caused a number of my constituents to contact me on this matter. Therefore, I would appreciate it if the Premier could provide the details I seek.

The Hon. D. O. TONKIN: I am delighted that the honourable member has such perceptive constituents who are prepared to take such a deep interest in the matters which have been misrepresented by the Leader of the Opposition. I certainly noted the remarks that were made by the Leader outside this House, as reported in the press, that the Government was spending huge amounts on consultancies; "It is Government by consultancies", he said. Later in his statement he admitted that consultants had a place in Government, but he said, "It appears the Government has handed over a large area of responsibility to consultants." I think we had better get the record straight. I have taken the opportunity to get a few figures, because I did not particularly like—

Mr. Keneally: Yet they were too costly to get.

The Hon. D. O. TONKIN: I am coming to that. I do not know why members of the Opposition should be so proud of wasting so much of the taxpayers' money. I have some figures which have been obtained for major items—unfortunately not all of them have been available at such short notice. Some statutory authorities and some departments are not included, including the Department of Water Resources, which always has an extremely large consultancy fee. I am quite certain that if the Leader had referred to his former Leader, the member for Hartley, he would have been given some pretty good advice, and he

should have listened to it. The figures we have show quite clearly in corrected terms (and remember that these are conservative figures, because they do not include all consultancies and do not list some departments), that in 1978-79, $5 300 000 was paid; in 1977-78, $5 800 000 was paid; and in 1976-77 the figure was just over $5 000 000. Those figures are in corrected terms and do not include probably $2 000 000 or $3 000 000 worth of other consultancies that have not been traceable, because of the difficulties involved. This, of course, does not track down the other information requested by the member for Baudin when he asked the nature of the consultancies, who was appointed, and all the other details.

I would just like to point out to the Leader that there has in fact been little change in the use of consultants. In the present total, which we had presented to the House in a reply yesterday, I point out that the Pipelines Authority has spent $1 200 000 on the Bechtel oil pipeline study. Something the Leader should know is that the transport authority and the Department of Transport were obliged to pay $2 600 000 in consultancy fees largely, I am informed, in respect of the bus depot at Regency Park which was planned, designed and constructed during the previous Government's term of office.

Mr. Becker: At what cost?

The Hon. D. O. TONKIN: An enormous cost; it was another Rolls Royce development. Another thing which puts this whole matter into some perspective is that, during the Labor Party's last three years in office, the total spent on consultancy fees in today's terms was $16 000 000. For the first 18 months of this Government's term in office, picking up some of the bills for the consultancies left to us, our figure is perhaps a little less than $8 000 000. In other words, we are well on track for the usual average expenditure on consultancies. If the Leader of the Opposition believes that this Government is in some way government by consultancies, he is labelling previous Governments in this State for at least the past 10 years with exactly the same charge.

FISHING NETS

Mr. KENEALLY: Can the Minister of Fisheries say whether the Government has made a final decision in relation to the use of all haul and set nets in the South Australian coastal waters by A and B class commercial fishermen and, if it has, what is that decision? The Minister will recall a deputation he received from A and B class fishermen from Port Augusta who told him that they were concerned about the decision of the Government to discontinue the use of nets by B class fishermen but to allow the 3 centimetre haul net to be continued to be used by A class fishermen. It was pointed out to the Minister that, whereas the 5 centimetre set net that the B class fishermen used did no damage to the fish stock, the 3 centimetre haul net did considerable damage to the fish stock. In fact, the deputation brought down for the benefit of the Minister samples of the 3 centimetre and 5 centimetre nets, and when the Minister was confronted with the 3 centimetre net he was surprised, and promised the deputation that he personally would see that that particular activity was stopped. To his embarrassment, he was informed that it was a legal size net and really he could not stop it at all, but the Deputy Premier who had been delegated as the Minister's minder on that day—

The SPEAKER: Order! I draw to the honourable member's attention the requirement that questions and explanations will deal in fact and that comment is not allowed.

Mr. KENEALLY: Of course, Sir. The Deputy Premier, who was there, also evinced surprise at the size of the mesh net that A class commercial fishermen were able to use in the Spencer Gulf. He promised that Cabinet would consider the proposal put to that deputation by the fishermen and bring down an early decision. As yet, I have had no indication of that decision. I ask the Minister what is the Government's policy on those issues that I now raise.

The Hon. W. A. RODDA: The member for Stuart, with his usual canine approach to these matters, putting words into other people's mouths—

Mr. KENEALLY: I rise on a point of order, Mr. Speaker. I am not sure that I heard the Minister correctly, but I think he said, "The member for Stuart, with his normal canine approach to these matters." Is that a reflection on me? I think it is, and I hope you agree, Sir. I ask the Minister to withdraw that reflection.

The SPEAKER: Order! Does the honourable member claim to be aggrieved by that statement?

Mr. KENEALLY: Totally.

The SPEAKER: The honourable member has identified words of the honourable Chief Secretary that he claims caused him concern. Is the honourable Minister prepared to withdraw that statement?

The Hon. W. A. RODDA: If it is offensive to the honourable member's dogged determination, I will withdraw the remark. I was going to develop further along the line on which I started, but I will not. It is obvious that the member for Stuart does not read his provincial papers. It was made plain to the honourable member at that deputation, which was attended in the manner described, as offensive as that description may have been to me. The Deputy Premier and I met the deputation from the Northern Spencer Gulf people at which A and B class fishermen attended. I remind the member for Stuart that a call was made, in terms of our fishing policy, for holders of B class licences, should they wish to do so, to apply to transfer to A class licences. A number did not do that.

Mr. Keneally: What happened about the 3 cm net?

The Hon. W. A. RODDA: I will come to that in a moment.

Mr. Hamilton interjecting:

The SPEAKER: Order! I warn the honourable member for Albert Park.

The Hon. W. A. RODDA: The matter under discussion was nets for B class fishermen. A two-year long study which was made by the Department of Fisheries and which was set up by the previous Government found that there were very big strains on the fishery resource in Spencer Gulf. The Government took action, which was conveyed to the B class fishermen. They are not permitted to use any nets, whether 3 cm or 20 cm. They did not avail themselves of the Government's offer to transfer to A class licences. They can still fish by the line method and sell their catch. The honourable member mentioned the nets brought down. They brought down a series of nets, as they had done before. The honourable member's remark that it was news to me is his interpretation.

Mr. Keneally interjecting:

The SPEAKER: Order! I warn the honourable member for Stuart.

The Hon. W. A. RODDA: The Government's policy is to see to it that the professional fisherman is able to earn his living from his profession, and the resource will be looked after. The Government's attitude towards B class fishermen is well known to the constituents of the honourable member and to other residents of Spencer Gulf.

MINERAL EXPLORATION

Mr. GUNN: Can the Minister of Mines and Energy inform the House about the latest position regarding mineral exploration in this State?

The Hon. E. R. GOLDSWORTHY: I understand the member for Eyre's interest in this question, because much of the major mining operations in this State come within his vast electorate. The proposed Roxby Downs world-class mine will be developed there. The operations at the Middle Back Ranges, Mount Gunson, Honeymoon, and Beverley, all dramatic and important developments, occur in his electorate. The figures in relation to mineral and petroleum exploration are something of which the Government can be very proud. At the end of 1980, 361 mineral exploration licences were current in South Australia. This was almost three times the number at the end of June 1979, which was 123. During 1980, about $21 000 000 was spent on mineral exploration in South Australia, double the expenditure in the previous year.

Mr. Abbott interjecting:

The Hon. E. R. GOLDSWORTHY: If the honourable member cares to listen, he will note that there has been a dramatic leap in the success that this Government has had in this area. If he listens carefully, he will learn that, if his Party ever gets into Government, it had better follow the lead that this Government is setting at the moment. Exploration drilling in 1980 totalled 350 500 metres, a 37 per cent increase on the previous year. About 70 companies are participating in what is the most intensive and widespread exploration ever experienced in the State. It is interesting to note the comments in the latest annual report of the Department of Mines and Energy in relation to this upsurge in exploration activity. The Director-General states:

> The most significant development with regard to mineral industry in the year under review has been the change in South Australian Government uranium policy.

He is talking about the accession to the Treasury benches of the Liberal Government and the clear and carefully thought out policy of this Government in relation to uranium. His report continues:

> Last year reference was made to the potential for uranium discovery and development in this State, the key role that an expanded mineral industry could play in the State's development, and the need to encourage more vigorous exploration. As a consequence of the change in policy referred to above, and also because of a wider national awareness of the importance of mineral and energy resources, South Australia is now on the threshold of major mineral oriented industries.

I hope that the Leader of the Opposition will heed those words. He may care to rethink his unqualified and unthinking support of the policy of his Federal counterparts in relation to a resource rental tax, for instance, and complete Federal domination of the mineral and hydrocarbons sector, with the corporation that his Federal counterpart is projecting.

The other factor I might mention in relation to this great upsurge in mineral activity is that I have made clear that this Government does not have any major hang-ups about multinationals or transnationals, as they are called by the member for Elizabeth. We will not generate high levels of exploration unless we attract to this very high risk activity overseas capital, and we have done that very successfully. We fully endorse the Federal Government's policy of a 51 per cent Australian equity in any future development and a 75 per cent Australian equity in uranium development as a general ground rule for those activities. By contrast, there is the sort of attitude evinced by a significant section of the Labor Party, and I refer to the hard left section headed in this State, as I think most commentators would admit, by the member for Elizabeth, the Hon. Peter Duncan. That group was quite strident in its criticism of the multinationals. Recently the member for Elizabeth went into print in taking to task his Federal colleague, Mr. Hawke, for his soft attitude towards transnationals. He was quite effusive in commenting on the Boyer lectures of Mr. Hawke. This is the sort of statement which has inhibited and which will continue to inhibit, if it is given free play, the attraction of capital to this State to undertake this vital exploration work. The member for Elizabeth stated:

> Nowhere can I find any real evidence of a desire on Hawke's part to fundamentally change the substance.

This is, of course, the overthrow of the system. He continued:

> Nowhere can I find evidence of Hawke seeking meaningful change in the power of the Australian Government to deal with the almost insurmountable challenge confronting it—the power of the transnationals.

He gave Hawke a king-size pay-out in the final paragraph of his commentary. The leader of the left wing stated:

> On the other hand, the writers of the essays could well study Mr. Hawke's Boyer lectures to see the divergent path upon which this prospective leader would seek to take the Labor movement.

Nothing highlights more clearly than that the confusion of the member for Elizabeth in his lengthy commentary on the Boyer lectures of his now Federal counterpart, Mr. Hawke.

The Hon. D. C. Brown: He's trying to become Federal Leader, I understand.

The Hon. E. R. GOLDSWORTHY: The honourable member acknowledged some months ago that Hawke was in the leadership stakes.

Members interjecting:

The SPEAKER: Order! Would the Minister please resume his seat? I gave a general warning recently, and I gave a specific warning to members. It is not my intention to give a further specific warning at present because of the manner in which the interjections have perhaps been enticed by the Minister's answer, but any further warnings will be quite specific.

The Hon. E. R. GOLDSWORTHY: The facts that I am putting before the House indicate quite clearly why people who have money to spend on exploration, high risk capital, are scared stiff of the Labor Party and why we have been able to attract this record level of exploration in terms of effort and money simply because we do not have these divisive forces within the Labor Party. We know where we are going in relation to these matters. Nothing highlights more clearly the split down the middle of the Labor Party than the sentiments of one of the honourable member's colleagues, who went into print last year taking Mr. Hawke apart. The mineral exploration effort in this State is a matter of which the Government is justly proud, and I urge members opposite to rethink their policies and attitudes in relation to these important issues.

MORPHETTVILLE RACECOURSE

Mr. TRAINER: Will the Minister of Recreation and Sport provide information regarding developments that may take place at the Morphettville Racecourse in the near future, particularly in regard to the installation of lights for night-time functions, the operation of a casino, and the holding of rock concerts? I hope that I can explain my question without hurting the Minister's felines!

I have been approached by constituents in my district of Ascot Park who have expressed their concern at the impact on the residential suburb of Plympton Park of developments at the Morphettville Racecourse. Residents were affected to some extent by the recent yearling sales at the racecourse, although not so severely as in 1980, and when the new grandstand (replacing the one destroyed by fire) opens in a few weeks, they expect to again have traffic wending its way through the residential streets of Plympton Park. However, the impact on residents may go further than that example. I draw the Minister's attention to an article in the *Sunday Mail* of 18 January entitled "Night life plans for new grandstand", which states:

> The new $6 500 000 Morphettville Racecourse grandstand will be used as a night-time entertainment centre after it opens on 25 March.
>
> Bingo evenings, dinner dances, conventions and exhibitions are planned by the S.A. Jockey Club.
>
> And the facilities could be used as a casino should the Government allow a casino to be set up in S.A. . . .
>
> The jockey club chairman, Mr. R. W. Clampett said: "We are keen to make this a multi-purpose venue attractive to the whole public and have it used when there is no racing at headquarters.

The article then points out that the total investment involved at the grandstand is about $10 000 000, and it has occurred to some of my constituents that there would probably be some sort of financial pressure—

The SPEAKER: Order! The honourable member is now commenting.

Mr. TRAINER: No, I said it was put to me by some of my constituents that there might be financial pressure on the organisers to perhaps recoup their investment. The article further states:

> Adelaide sport and entertainment promoter Trevor Hunt said yesterday [17 January] . . . the new grandstand would be an alternative entertainment centre worthy of further investigation.
>
> "I would have to study the capacity of the stand and the possible proximity of people to a stage before coming to a conclusion about its suitability as a concert venue.
>
> If Marion Council is happy about loud concerts at Morphettville then it would be worth taking a close look at the facility."

In view of the Government's previously expressed viewpoint concerning a casino, and in view of the recent public reaction to the lighting at Football Park and to the noise from rock concerts at the Adelaide Oval, any information that the Minister of Recreation and Sport can provide to me and my constituents would be much appreciated.

The Hon. M. M. WILSON: I will obtain for the honourable member all the information I can on the question. As Minister in control of the racing industry, I do not really have much say in the way in which the grandstand will be used: organisations such as the Marion council would certainly have a greater say in that type of activity. However, I can assure the honourable member that it will not be used as a casino—certainly it will not unless there is a great change of heart in this State. I just cannot foresee that happening at all during the term of this Government: I am quite prepared to make that a categorical statement. As to whether it is used for conventions, social evenings and the like, I am informed that that would be the case. As the honourable member would realise, there has been much discussion in this city over recent weeks about the noise that comes from concerts, and the like, but the effects of noise on surrounding residents would be more in the field of the Minister of Environment. Unfortunately, wherever a facility such as this is installed, there is invariably an effect on residents surrounding it. The desired approach of this Government is to keep that effect to a minimum. I shall obtain more specific details for the honourable member.

THEBARTON PRIMARY SCHOOL

Mr. SCHMIDT: Can the Minister of Health say whether the South Australian Health Commission intends to test blood lead levels of children at Thebarton Primary School? Following reports of ambient air lead level readings at Thebarton higher than those recommended by the National Health and Medical Research Council, an announcement was made in yesterday's *Advertiser* that a survey was to be conducted by a private practitioner in conjunction with Amdel Laboratories.

The Hon. JENNIFER ADAMSON: First, I should inform the House in answering that question, and I hope that this will also be a reassurance to the staff and to parents of the children attending Thebarton Primary School, that the Health Commission has advised that there is no conclusive evidence from world-wide studies to indicate that ambient air lead levels such as those experienced and measured at Thebarton have any adverse effect on the health of children. Nevertheless, any parents who are concerned have a right to have their fears allayed. Recognising that right, I have asked the Health Commission to make arrangements for the Adelaide Children's Hospital to provide blood lead level tests for any children at the Thebarton Primary School. Parents can take their children to the casualty section of the hospital, where they will be examined and the appropriate tests done. There will be no charge for the tests, and the examinations will be supervised by a special paediatrician.

Having said that, I would like to add that it should be recognised that whatever the result of those tests, or if the tests indicate a higher than normal blood lead level, there is no way that that level could necessarily be attributed to the ambient air lead levels at Thebarton, because a variety of factors can cause high lead levels, one of which is diet. There would be no way of telling whether the lead level in any child is directly attributable to ambient air lead levels at Thebarton. I should also add that the study which was outlined in yesterday's *Advertiser* should be viewed with some caution in so far as comparisons between the Hills district and the Thebarton district are concerned, as was proposed and reported in the *Advertiser*. Such comparisons presumably would indicate a difference between the two. However, at the same time, there are many other socio-economic and environmental factors which are different at Thebarton from those in the Hills district, which may not necessarily relate to factors which are affected by lead levels.

I should also add that, although there have been no previous studies in South Australia of the type proposed, there have been studies in New South Wales of this kind and, as the editorial in the *Advertiser* indicated, the studies appear only to have increased confusion on this matter; they do not appear to have aided by clarifying the issue. The House may be aware, because it has been announced here before, that the South Australian Health Commission is involved in a major study of the effects of lead on early childhood growth and development at Port Pirie. That is a major epidemiological study, and it cannot be compared to the study that is proposed to be mounted at Thebarton. It is a thorough study which is undertaken from, I think, preconception of children at Port Pirie, and it is one which will have immense value when it is completed, which will not be for some years.

I think the announcement in yesterday's *Advertiser* should be viewed with some caution. I have had no official advice of it and I am unaware whether the proposed project has been funded or of the precise details of the study. I would only add that there are several laboratories in Adelaide which have the capacity to measure lead in blood. Those with the greatest experience are at the Adelaide Children's Hospital and the I.M.V.S., which are equipped with modern equipment, and their work is done in conjunction with public health authorities.

Any parent who is concerned can take a child to the Adelaide Children's Hospital, where the blood lead level will be conducted under the supervision of a specialist paediatrician and without any charge.

FOSSIL FUELS

Mr. PETERSON: Is the Minister of Mines and Energy aware of a method of generating electricity from fossil fuels known as magneto hydro dynamics, and will he say whether the system has been evaluated for application in future power generation plants in this State? This question is pertinent, I believe, because of the current concern over the continuation of the gas supply for generation in this State.

During the last decade, this technique has been extensively researched in the U.S.A. and U.S.S.R. It is of such significance that those two powers have co-operated with each other, and Russia has a large pilot plant feeding into the Moscow power grid. With this system, no steam is produced. The fossil fuels are burnt and the gases are stripped of their electrons, and it is possible to extract 30 per cent to 50 per cent more electricity from a tonne of coal at no extra cost than by conventional methods.

In addition to this significant increase in power generation because of the reduction in coal used, approximately one-third less atmospheric pollution is released, thermal pollution is reduced, and less cooling water is required. A pilot plant is being installed at Sydney's White Bay power station and, because of the obvious advantages to this State in extending the fossil fuel resources and with the environmental aspects, we should fully investigate the system for use in the future, as it would obviously be of great benefit to all South Australians.

The Hon. E. R. GOLDSWORTHY: Again, the question from the honourable member is one of those good questions we get quite rarely nowadays from the other side of the House, so I congratulate him on a thoughtful question.

I have not heard of the system described by the honourable member as magneto hydro dynamics, but maybe I have heard of the system under a more commonplace name. However, I do not recognise it, I must admit. We are having a look at the gasification of coal, but this is a refinement on that obviously; from the information given by the honourable member, he is not referring simply to that process. We have vast quantities of fossil fuels in this State in the form of low-grade lignite, and we are looking at ways in which that can be used.

I will be happy to get for the honourable member all the information I can, and I will forward it to officers in the Energy Division. Those officers would be recognised around Australia as first-class officers in this field. I will ask these people, who are experts advising the Government, to look at that article. If it is practicable, we will look at the White Bay pilot plant development described by the honourable member. As a Government, we are interested in alternative energy sources. As I have pointed out several times, we are spending record amounts of money and have increased the vote for alternative energy research. That is the sort of thing in which we are interested. I thank the honourable member for his very good question, which I shall certainly follow up.

JOGGERS

Mr. EVANS: Is the Chief Secretary aware of recent media reports, particularly one in the *News* yesterday, concerning a police plan to encourage joggers to obey normal pedestrian traffic laws, and what further information can he make available about this plan? Some people in the community are concerned about what this plan means. Are the police concerned only with one or two joggers in training, or are they looking at organised fun runs and competitions used as recreation by large groups?

I was told by people who contacted me that in those organised runs, in which many thousands participate, the police are usually in attendance, and give full co-operation. The organisers work with them and other bodies to make sure that all safety precautions are taken. Next Sunday, a mountain run is planned in the Hills. Some concern was expressed about whether the police were worried about this run. The course is picturesque, and has a challenge in it. I was told that more than 1 000 people will participate. Has the Minister any more information? I invite him to compete in this competition with the 1 000 other people in the Stirling district.

The Hon. W. A. RODDA: I saw the report. I think the headline was: "Joggers could run into the law." The honourable member's question is about the professionals and those who seek physical fitness to help them on their daily path. As I was told by the Commissioner of Police, the article resulted from a media release prepared by the Traffic Director to educate pedestrians, and joggers in particular. He said that there have been a few complaints from motorists concerning the manner in which some joggers use the highways, but generally joggers are doing the right thing. They have the right to use footways, highways and byways. Indeed, I have observed them jogging even in the height of summer. I have seen a very prominent member of this House jogging hither and thither, and have noticed that he has been so keen that, when he comes to a red light, he runs on the spot all the time, paying due heed to what is meant by that light and keeping out of the way of traffic. Since the matter has been raised, the police have stated that joggers are not immune from road traffic laws ordinarily applicable to pedestrians, and make certain points, among them being the duty to use the footpath if one is provided, and the duty to use the right side of the road and face oncoming traffic where no footpath is provided.

There is also a duty not to cross a carriageway within 20 metres of traffic lights except at the lights, a duty to comply with traffic lights, to exercise care and consideration, and to show reasonable consideration at all times for all other road users. The honourable member referred to fun runs, mountain runs, and various other forms in which people enter into this arduous type of exercise at all hours of the day and night. There is an onus on people taking part in those activities to see to their own safety and at the same time not to hinder or to put motorists at risk, causing problems on our highways.

I am told that, provided the organisers of fun runs make arrangements with the Police Department, they receive every co-operation. That was highlighted in the question raised by the honourable member. I understand that, for

the mountain run that will be held in the Hills this week, due arrangements have been made and police will be there to protect the runners. I thank the honourable member for his invitation, but I will be in the sunny South-East, where we do not have to take part in jogging.

Generally, the police are appreciative of the courtesy and the care and attention of joggers, but one or two complaints have been received from motorists of people who are putting themselves at risk. I here make a plea to my colleague, the Minister of Transport, to ask people who use the highways in this way to see to their own safety and to co-operate fully with motorists. We all wish the member for Fisher success in the mountain run in the Stirling district at the weekend.

CAPE JERVIS ROAD

Mr. SLATER: Is the Minister of Tourism aware of recent comments of residents of the South Coast area regarding the urgent need for the sealing of a 34-kilometre stretch of road between Cape Jervis and Victor Harbor, claiming that, in the interests of tourism, the road should be sealed? Various comments have been made by local residents following a series of accidents on that stretch of road. One comment of a local resident was reported as follows:

> One thing for sure is that the district as a whole is thoroughly frustrated and annoyed at the sort of tripe we're being fed back by the Government. The Government is being false in its policies of trying to boost tourism and road safety. It's a lot of lip service. This is one of the top tourist areas within a day's drive of Adelaide, and it continues to be neglected.

In view of those comments, I ask the Minister whether she believes that some action should be taken, in the interests of tourism, in relation to this stretch of road.

The Hon. JENNIFER ADAMSON: The honourable member would be well aware that it would be easy and tempting for me to say that I think that action should be taken to seal that road, and of course I will say that, because I believe it, but if this question had been addressed to the Minister of Transport, in whose area of responsibility it rightly falls, he would undoubtedly give the answer, as his predecessor would have done, that there are virtually unlimited demands on road funds, but resources are limited and priorities have to be observed.

I am aware that tourism on the Fleurieu Peninsula is developing strongly, principally as a result of the intensive enthusiasm of local people and the efforts of the local regional association. I will certainly take up the matter of the road between Cape Jervis and Victor Harbor. I feel sure that the honourable member who so capably represents the area, the Minister of Agriculture, has already made representations on behalf of his constituents. I find it uncharacteristic that the constituents of Alexandra should address this to the Government in those rather brusque terms, and I will see what I can do to ensure that the matter is brought to the attention of the Minister of Transport and that he gives it sympathetic consideration, which I feel sure that he will do.

PETROL

Mr. BLACKER: Can the Premier say whether petrol resellers in South Australia receive the Federal Government's fuel freight equalisation subsidy, and, if they do, why is there as much difference as 3·7c a litre between prices in metropolitan and some country outlets? I am informed that all petrol retail outlets in Australia are eligible for and, I believe, receive the Federal Government's fuel freight subsidy, which ensures, with the freight components, that fuel prices would not differ by more than ·2c a litre anywhere in Australia. As there are differences of up to 3·7c a litre in this State, why should that be the case?

The Hon. D. O. TONKIN: I think the honourable member is not entirely accurate in his statement of the situation as he sees it. I did not catch the figures exactly, but I will be delighted to take up his question, to find out for him what the figures really are, and provide an answer.

UNEMPLOYMENT

Mr. MAX BROWN: Will the Premier say whether the latest survey on South Australian employment in major companies, conducted by the Government economist, indicates an overall increase or decrease in employment as compared with 1979 and, if it does, what was the extent of the change? Will these surveys be continued following the apparent transfer of the Economics Division of the Department of Trade and Industry to the Premier's Department, which transfer was gazetted on 23 December last?

The Hon. D. O. TONKIN: Those surveys will continue. The general question of unemployment must be balanced against job vacancies in employment, and this is a matter we have been into in this House many times. There has been a steady increase in the level of unemployment in this State over the past five or six years; that is a matter of fact in which no-one can take pride. However, there has been a reversal of the situation in relation to the creation of jobs in this State and, where jobs were being lost at a very rapid rate over the last two years of the previous Administration, that trend has been reversed and jobs are now being created again in South Australia. Indeed, in the 16 months since September 1979, some 3 800 jobs have been created. That does not mean that we can in any way take any pleasure from the unemployment figures, which still remain unacceptably high.

I know that the honourable member is very concerned about the situation at Whyalla, and he will find that I am concerned about it, too, and so is the Government. It seems that the fortunes of Whyalla are, taken overall, beginning to take a turn for the better. Unfortunately, we have had a recent announcement that one factory at Whyalla is due to close down, but hopefully we can cushion the impact of that and, with any sort of luck and diligence, we will be able to find a buyer for that concern and provide the same number of jobs. Hopefully, we might be able to increase it.

The Hon. J. D. Wright: To do what?

The Hon. D. O. TONKIN: It is not a question of doing the same sort of work, because the company made it clear that it was not able to produce the product economically to enable it to compete with other tenderers for similar work. The factory is there. I must put on record my concern at some reports I have received in the last 24 hours of accelerated moves to run down the equipment in the factory and to transport some of it out, contrary to the understanding that I was given by the company.

I am taking this matter up direct with the Chairman of the company, and I will try to find out exactly what the company's intentions are. I understood that it would be run down over 12 months to allow time for the factory to

be disposed of. If the assets, machinery and plant are being disposed of, the work force and the skills of the work force can be preserved only by selling the factory for some other related use. We will make every effort to achieve that.

The Director of the State Development Division has already made a number of approaches to interstate and overseas firms, but it is far too early to make any specific statements about who has been approached. However, I repeat that I am well aware of the honourable member's concern for his district, and I can assure him that the Government will do everything in its power to ensure that that facility is utilised, that jobs are maintained and, hopefully, that the activity will expand.

PERSONAL EXPLANATION: ANZAC DAY

Mr. O'NEILL (Florey): I seek leave to make a personal explanation.

Leave granted.

Mr. O'NEILL: I am forced to do this because of the despicable attempt by the Premier to denigrate members on this side with his reference to our attitude to Anzac Day. My father, now deceased, was at the landing, he fought through the campaign, and his services were recognised by the Government of this country. I resent the imputation made by the Premier.

ELECTORAL ACT AMENDMENT BILL

Received from the Legislative Council and read a first time.

The Hon. D. O. TONKIN (Premier and Treasurer): I move:

That this Bill be now read a second time.

The second reading explanation has been canvassed widely in another place. Considerable amendments have been made to the Bill, and I refer to one item in particular, which is that the most significant amendments relate to the Legislative Council voting system. It has been the Government's and my Party's policy that at some appropriate time the list system of voting for the Legislative Council should be replaced by a proportional representation voting system, permitting voters to indicate their preferences for the individual candidates standing for election instead of groups of candidates determined on a Party basis. Having determined that support exists for such a move, the Government has decided to take this step at this stage and, accordingly, the Bill now includes provisions designed to provide for a voting system for the Legislative Council that is based substantially on the system adopted by New South Wales in 1978 for its Legislative Council. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Remainder of Explanation of Bill

This amending Bill results from a most comprehensive review of the Electoral Act. The Electoral Act was last reviewed in 1969. Some amendments of a limited nature have occurred since then, but the recent examination of the Act has revealed defects that require amendment to ensure better operation of the Act. There are changes in this Bill resulting from experience gained at the last election in particular. Some of the amendments reflect problems identified in the Norwood Court of Disputed Returns *(Crafter v. Webster and Guscott)*; others result from a review of the running of elections generally.

The Court of Disputed Returns dealt with a wide range of matters, and consideration of the judgment of that court has led to amendments which will clarify the powers, duties, roles and functions of officers with respect to an election and the procedures to apply in a Court of Disputed Returns. Let me identify several of the important matters arising from the recent Court of Disputed Returns.

Section 170 of the Electoral Act sets out the requirements of a petition but is silent on the application of the Limitation of Actions Act, which the Full Supreme Court has ruled does give a wide discretion to extend the time for lodging or amending a petition challenging the result of an election. With respect, that does not take into account that the Limitation of Actions Act is designed to apply principally to litigation, not to elections.

It is desirable that a Court of Disputed Returns be convened expeditiously and that the grounds of complaint in a petition should be known at an early stage after an election, and the matter dealt with quickly. To apply the Limitation of Actions Act opens up the potential for considerable delay and detracts from the objects of the Electoral Act. Therefore, it is appropriate to clarify the time constraints on a petitioner under the Electoral Act rather than relying on the Limitation of Actions Act. The Bill provides for a petition to be lodged within 21 days, but the court is allowed a discretion to grant an extension of up to 28 days if hardship would result if an extension were not granted.

The matter of "doubling up" was a subject of concern. Accordingly, the Bill allows a voter to be accompanied by a person rendering assistance where the presiding officer is satisfied that that is appropriate. In company with this, but having wider application, the Bill provides that an error of an officer shall not void an election if the act or omission of the officer was reasonable in the circumstances and his action could nevertheless be deemed to be substantial compliance with the Act. In the Court of Disputed Returns, excusable and inadvertent errors by officers were identified but they did not affect and would not have affected the result.

The Bill also clarifies the position where ballot-papers are found by presiding officers outside ballot-boxes. It is clearly provided that they are invalid and must not be placed in ballot-boxes by officers. Entitlement to enrolment and transfer of enrolment are clarified to ensure that rolls accurately reflect the residency of electors. Where a Court of Disputed Returns orders a new election the same rolls will be used as for the avoided election if the writ for the new election is issued within six months of the writ for the avoided election. It must be remembered that the new election is not a by-election but a rerun of the avoided election.

There are a number of other changes. For example, polling will close at 6 p.m. rather than 8 p.m. This brings us into line with a number of other States where the change has brought advantages and no inconvenience has occurred. Earlier closing and better use of the hours of daylight will be of a great advantage in country areas where ballot-boxes have to be conveyed long distances to counting centres. Election results will be available and materials returned to returning officers at least two hours earlier. There should be less problems with poorly lit polling centres when elections are not held in daylight saving time. A number of complaints are received about polling booths in poorly lit areas. The change will also

mean polling staff, who already work long hours during polling hours and in counting, may be relieved from the pressure of such long hours by the reduction in polling hours.

A Returning Officer may with the concurrence of the Electoral Commission reject a nomination, if in the opinion of the returning officer the name of the person nominated is obscene, frivolous or has been assumed for an ulterior purpose. There has been an increasing problem in this area where persons change their names only for the purposes of an election and then change them again after the election. The amendment complements the amendments made last year to the Births, Deaths and Marriages Act, 1966-1980.

The powers and functions of the Electoral Commissioner are broadened by enabling him to conduct elections (with the approval of the Minister) which do not take place under the Electoral Act on behalf of various non-governmental or semi-governmental bodies. These include elections for officers of associations of employers and employees where their rules specifically allow this to occur.

Finally, the most significant amendments relate to the Legislative Council voting system. It has been the Government's and my Party's policy that at some appropriate time the list voting system for the Legislative Council should be replaced by a proportional representation voting system permitting voters to indicate their preferences for the individual candidates standing for election instead of groups of candidates determined on a Party basis. The Government has decided to take this step at this stage. Accordingly, the Bill now includes provisions designed to provide for a voting system for the Legislative Council that is based substantially upon the system adopted by New South Wales in 1978 for it Legislative Council. The system adopted by New South Wales was, in turn, based substantially on the proportional representation voting system for Senate elections. The New South Wales system differs from the Senate system in one major respect, that is, in New South Wales preferences are not required to be indicated for each candidate standing for the election as is the case in relation to the Senate.

Instead, voters for the Legislative Council in New South Wales are required to indicate preferences for 10 candidates. This appears to the Government to be a relatively arbitrary figure, since there are 15 vacancies required to be filled at each periodical election for the New South Wales Legislative Council. It is the Government's view that it makes better sense to require preferences to be indicated for a number of candidates not less than the number of candidates required to be elected at each Legislative Council election, that is, in the case of ordinary periodical elections, 11 candidates. This approach will result in significantly less informal voting than occurs under systems such as the Senate system where preferences are required to be indicated for every candidate. Apart from this aspect, the provisions included in the Bill providing for the new voting system for the Legislative Council are largely identical in form and are identical in effect.

In addition to amendments affecting other matters in the Electoral Act there has been a comprehensive review of the monetary penalties to ensure that they are more realistic. This Bill represents the first major revision of the Electoral Act since 1969. The Bill covers a very wide diversity of subjects and, for this reason, it will be convenient to explain the Bill in more detail in terms of its individual clauses.

Clauses 1 and 2 are formal. Clause 3 repeals a number of obsolete transitional provisions in section 3 of the principal Act. Clause 4 amends the definition of "prescribed postal elector" in section 5 of the principal Act. The definition substitutes the phrase "place of residence" for the previous phrase "place of living". The proposed amendments relating to qualification for enrolment are framed in terms of the elector's "principal place of residence". Hence the change in terminology proposed by this clause.

Clause 5 amends section 6 of the principal Act. The amendment deals with the powers and functions of the Electoral Commissioner and empowers the Commissioner to carry out non-statutory functions as authorised by the Minister. The amendment will thus enable the Electoral Commissioner to conduct certain elections that do not take place under the Electoral Act on behalf of various non-governmental or semi-governmental bodies. Clause 6 enacts new section 6a of the principal Act. This new section will empower the Minister to delegate any of his powers or functions under the Electoral Act to the Electoral Commissioner or any other officer.

Clause 7 makes a consequential amendment to section 6c of the principal Act. Clause 8 repeals sections 6f and 6g of the principal Act and substitutes a new section. The repealed sections and the new section are transitional provisions. The new section 6f provides that where in any other Act or in any document, rule or regulation a reference is made to the Returning Officer for the State, the Assistant Returning Officer for the State, or the Principal Returning Officer, the reference shall be read as a reference to the Electoral Commissioner.

Clause 9 amends section 7 of the principal Act. The amendment prevents the appointment of persons over the age of 70 years to the office of the returning officer, and provides that a returning officer, on attaining the age of 70 years, shall cease to hold office as such. A returning officer who attains 70 years of age during the course of an election may, however, continue in office until the election is completed.

Clause 10 amends section 8 of the principal Act. At present this section prevents the appointment of assistant returning officers at places within the State with responsibilities relating to postal voting. It has been found that this limitation causes inconvenience in a number of cases and consequently clause 10 removes that limitation. Thus, in future, such returning officers may be empowered to deal with postal voting applications. The clause also provides for the appointment of assistant returning officers to be made for districts and divisions instead of, as is presently the case, portions of districts. This new wording more accurately reflects existing practices under which such officers exercise the powers of the returning officer at a particular polling place but in relation to the whole Assembly district, council division or, in some cases, a number of districts or divisions.

Clause 11 inserts a new section 8a in the principal Act. This new section empowers the Minister by instrument in writing to fix a scale of fees and allowances payable to officers or specified classes of officers employed upon a temporary basis in the administration of the Act. The present system under which the fees of temporary employees are fixed by regulation has been found to be excessively cumbersome and, consequently, the simpler method of fixing these fees by instrument under the hand of the Minister is now proposed.

Clause 12 repeals and re-enacts section 14 of the principal Act. At present this section provides that the Minister may fix polling places in relation to individual subdivisions. Under the new system proposed by the Bill a voter will be able to vote at any polling place within his district and hence the relationship of polling places to

individual subdivisions is no longer desired. The new section is framed by omitting reference to the appointment of polling places for individual subdivisions. Clause 13 repeals section 15 of the principal Act. The substance of this section is now to be incorporated in new section 19. Clause 14 makes a consequential amendment to section 17 of the principal Act.

Clause 15 repeals section 19 of the principal Act and substitutes a new section. The new section provides that whenever a new subdivision or district is constituted, or the boundaries of an existing subdivision or district are altered, a new roll is to be prepared for that subdivision or district. The old provision under which the Governor was to require the preparation of new rolls by proclamation has been removed. Clause 16 makes a consequential amendment to section 22 of the principal Act.

Clause 17 inserts new provisions dealing with enrolment. At present enrolment for the House of Assembly is not compulsory and once a person is enrolled there is no obligation for him to seek to change his enrolment to some other subdivision or district when he changes his place of residence. New subsection (2) provides that a person who is qualified for enrolment as an elector and whose principal place of residence is in a subdivision shall if his principal place of residence has been within the subdivision for at least one month be entitled to have his name placed on the Assembly roll for that subdivision. New subsection (3) provides that an elector whose name is on the roll for a subdivision and whose principal place of residence is in another subdivision shall, one month after that place became his principal place of residence, be entitled to have his name transferred to the roll for the subdivision in which his principal place of residence is situated, and, if he fails to make such a claim for transfer of enrolment within three months after his entitlement arose, he shall be guilty of an offence and liable to a penalty not exceeding $100. New subsection (5) deals with a change of address within the same subdivision. Thus, where an elector whose name is on the roll for a subdivision changes his principal place of residence but that place of residence remains nevertheless within that subdivision, the elector is required to notify the Electoral Commissioner within three months of the address of his present place of residence.

Clause 18 repeals and re-enacts section 29 of the principal Act. This new section deals with formal requirements in relation to a claim for enrolment or transfer of enrolment. Clause 19 makes consequential amendments to section 38 of the principal Act. Clause 20 removes an obsolete reference in section 44. Clause 21 amends section 46 of the principal Act. A new subsection (3) is enacted providing that an objection may be made against an enrolment on the ground that the principal place of residence of the person enrolled is not, and has not during the period of three months immediately preceding the date of objection been in the subdivision for which he is enrolled.

Clause 22 amends section 50 of the principal Act. The new subsection (2) inserted by this clause deals with the issue of a writ for a new election where an election of a member to a seat in the House of Assembly is declared void by the Court of Disputed Returns. The present subsection does not deal with this case and it is thought it should do so. Clause 23 amends section 53 of the principal Act. This section presently provides that at least seven days must intervene between the day of nomination and polling day. The amendment increases this period to 10 days, which is thought to be a more realistic period.

Clause 24 amends section 61 of the principal Act. A new subsection inserted by the clause provides that the returning officer may with the concurrence of the Electoral Commissioner, reject a nomination if in the opinion of the returning officer the name of the person nominated is obscene, frivolous or has been assumed for an ulterior purpose.

Clause 25 repeals and re-enacts section 69 of the principal Act. This section deals with the case where a candidate dies before or on polling day. At present the section provides that the death of a candidate avoids the election. However, this may well cause problems in relation to an election of candidates to the Legislative Council. Thus a new subsection (2) provides that if a nominated candidate for election to the Legislative Council dies before or on polling day the Act shall apply in relation to the election as if the name of that candidate did not appear on the ballot-paper, and any preference expressed by a voter for that candidate shall be ignored and any subsequent preferences renumbered accordingly. The clause also inserts a new subsection (3) designed to make it clear that the fact that any preference is to be ignored would not render the ballot-paper informal where, for example, it would mean that the voter failed to express the requisite number of preferences.

Clause 26 amends section 71 of the principal Act. The purpose of the amendment is to provide that where an election is declared void by the Court of Disputed Returns, any deposit paid by the candidate is to be returned to him. In relation to Legislative Council elections under the proposed new voting system the deposit of any candidate is to be returned if he obtains a number of votes not less than one-half of the quota determined at the beginning of the count. This provision is the same as that which applies in New South Wales in relation to Legislative Council elections.

Clause 27 amends section 73 of the principal Act. The amendments add physical disability (as distinct from "infirmity") to the list of reasons justifying postal voting, and do away with the requirement that an application for postal voting papers be made in the presence of an authorised witness. Clauses 28 and 29 make consequential amendments to the principal Act. Clause 30 amends section 75 of the principal Act. The amendments are partly consequential on previous amendments made by the Bill, but a new subsection (1a) is inserted which empowers an officer to correct an error in an application for a postal voting paper.

Clauses 31 and 32 make consequential amendments relating to postal voting. Clause 33 amends section 81 of the principal Act. The amendment deals with the witnessing of a postal vote and provides that the authorised witness must write his full name and the address of his usual place of residence in legible script in the space provided on the envelope. Clauses 34 and 35 remove from the principal Act the references to the certified list of voters. This concept is no longer necessary or desirable in view of modern methods of preparing and maintaining the roll.

Clause 35a amends section 96 of the principal Act which provides for the printing and form of ballot-papers. This amendment is consequential on introduction of the proportional representation voting system for Legislative Council elections. The clause amends subsection (1) of this section dealing with ballot-papers for Legislative Council elections so that it requires a square to be printed alongside the name of each candidate instead of, as at present, each group.

Clause 36 amends section 101 of the principal Act. The purpose of the amendment is to provide that the poll shall close at six o'clock in the evening instead of eight o'clock as at present. Experience has shown that the period of 10

hours between eight o'clock in the morning and six o'clock in the evening allows a sufficient opportunity for voting. The further two hours in the evening results in unnecessary expense.

Clause 37 amends section 105 of the principal Act. The amendment deals with the questions that may be put by the presiding officer to a person claiming to vote. The purpose of the amendment is to make it clear that where a person has ceased to have his principal place of residence within the district for which he is enrolled for three months or more preceding the date of the issue of the writ, he is not entitled to vote at an election in that district.

Clauses 38, 39 and 40 remove further references to the certified list of voters. Clause 41 amends section 109 of the principal Act. This amendment relieves a voter from the obligation to fold his vote in such a way as to show clearly the initials of the presiding officer and to exhibit it so folded to the presiding officer. Thus the voter merely has to fold his vote so as to conceal his vote and deposit the voting paper in the appropriate ballot-box.

Clause 42 repeals and re-enacts section 110 of the principal Act. This section deals with assistance to voters who may be physically handicapped or who may need other forms of assistance in registering their vote. Subsection (1) provides that if a voter satisfies the presiding officer that he is unable to vote without assistance, he may be accompanied by an assistant of his choice while in the polling booth. Subsection (2) provides that the assistant may assist the voter in any of the following ways:

(a) he may act as an interpreter between the voter and the presiding officer or any other officers;

(b) he may explain the ballot-paper and the voter's obligations under the principal Act in relation to the marking of the ballot-paper;

(c) he may assist the voter to mark the ballot-paper, or may himself mark the ballot-paper at the voter's direction;

(d) he may fold and deposit the ballot-paper in the ballot-box on behalf of the voter.

A person who assists a voter is prohibited from disclosing any knowledge of the vote of that voter.

Clause 43 amends section 110a of the principal Act. This section deals with voting by persons whose names have been omitted in error from the relevant electoral roll. The amendments are largely consequential upon earlier amendments made by the Bill but the presiding officer need not ensure that scrutineers are present when he folds the voting papers and places them in an envelope under subsection (3). Clause 44 makes a consequential amendment to section 111 of the principal Act.

Clause 44a amends section 113 of the principal Act which provides for the mode of voting. This amendment is consequential on introduction of the proportional representation voting system for Legislative Council elections. The clause amends this section by substituting for subsection (1) *(a)* dealing with the mode of voting under the group voting system a new subsection (1) *(a)* requiring each voter for a Legislative Council election to indicate preferences for a number of candidates not less than the number of vacancies to be filled at the election. The voter is required to do this by placing consecutive numbers beginning with the number 1 in the squares opposite the names of the candidates of his choice.

Clause 45 deals with the adjournment of a poll in an emergency. Subsection (1) of the new section 114 provides that a returning officer may adjourn the polling at polling places generally or at any specified polling place or polling places for a period not exceeding 21 days. Subclause (2) provides that a presiding officer may adjourn polling at a specified polling place if, in the circumstances there is no time to communicate with the returning officer for the district. Under subsection (3) public notice of an adjournment is to be given as soon as practicable after the adjournment takes effect. Clause 46 amends section 118a of the principal Act. These amendments are purely of a drafting nature.

Clause 47 amends section 123 of the principal Act. This section relates to the conditions upon which votes are to be declared informal. Paragraph *(a)* provides that the section will apply to absent voting, postal voting and electoral visitor voting. At present the section provides that it will not apply to these forms of voting except to the extent to which the regulations make it so apply. There seems however no reason why it should not apply of its own force to such forms of voting. Paragraph *(b)* amends paragraph *(a)* of subsection (1). The amendment removes reference to authentication by the initials of a presiding officer, thus leaving to regulation the manner in which a ballot-paper is to be authenticated. Paragraph *(b)* provides a test for determining whether a ballot-paper is formal or informal in an election for the Legislative Council under the proportional representation voting system. The effect of the provision is that where a ballot-paper indicates the voter's first preference for one candidate and subsequent preferences for the requisite number of candidates it shall be formal and the preferences shall be counted up to any point at which a break occurs in the numbering or the same number is recorded alongside the name of more than one candidate.

This provision is the same in effect as clause 2 (2) of the sixth schedule to the Constitution Act, 1902, of New South Wales which deals with informal votes for elections to the New South Wales Legislative Council. New subsection (3) inserts a proviso relating to both House of Assembly and Legislative Council elections that where a voter has indicated his preferences for all candidates or groups except one it shall be presumed that the candidate or group in respect of which no indication has been made is the one least preferred by the voter and that the voter has accordingly duly indicated his preference for all candidates or groups (as the case may require). A new paragraph *(e)* is inserted to make it clear that where a ballot-paper that is required under the provisions of the Act to be deposited by the voter or a person assisting the voter in a ballot-box is not so deposited, the ballot-paper is to be regarded as invalid.

Clause 48 amends section 125 of the principal Act which deals with the counting of votes. The amendments provide for the proposed new proportional representation voting system for the Legislative Council. Paragraphs *(a)* to *(h)* delete all references to "groups" in paragraphs (1) to (4) of section 125. The present paragraphs (9) to (11) of section 125 which provide for the method of counting under the group voting system for Legislative Council elections are replaced by new paragraph (9) which provides for the new proportional representation system. The wording of new paragraph (9) is, apart from being numbered and arranged slightly differently, virtually identical to the wording contained in Part 2 of the sixth schedule to the Constitution Act, 1902, of New South Wales which makes provision for the counting of votes at elections for the New South Wales Legislative Council. The New South Wales provisions are, in turn, identical in most respects to the corresponding provisions relating to the counting of votes at elections for the Senate contained in section 135 (5) to (9) of the Commonwealth Electorate Act, 1918. New paragraph (9) and the provisions contained in Part 2 of the sixth schedule to the New South Wales Constitution Act differ in substance from the

Senate provisions in three areas.

First, in paragraph (9) *(d)* (i) of the Bill and in clause 10 *(a)* of Part 2 of the sixth schedule to the New South Wales Act the passage in parenthesis is included in order to cater for the existence of formal ballot papers that do not indicate preferences for every candidate standing for election. Secondly, paragraph (9) *(p)* of the Bill and clause 15 of the New South Wales provisions provide that counting need not be continued where one vacancy remains, in which case, the candidate with the majority of the votes remaining in the count shall be elected, or where the number of continuing candidates is equal to the number of remaining unfilled vacancies. Thirdly, paragraph (13a) of the Bill and clause 4 (2) of the New South Wales provisions provide a definition of "surplus votes" that again caters for the existence of formal ballot-papers that do not indicate preferences for every candidate standing for election. Paragraphs *(j)* and *(k)* of the clause also remove references to "groups".

Clause 49 amends section 127 of the principal Act to enable the Court of Disputed Returns to order a recount. Clause 50 repeals and re-enacts section 129 of the principal Act. This section deals with the conduct of the recount. It provides that the officer conducting a recount may, and at the request of a scrutineer shall, reserve any ballot-paper for decision. Where a ballot-paper has been reserved for decision under the proposed section, the Electoral Commissioner is to decide whether the ballot-paper is to be allowed and admitted or disallowed and rejected. However where the recount was ordered by the Court of Disputed Returns, the court is to decide whether the ballot-paper should be allowed or rejected.

Clause 51 repeals section 162 of the principal Act. This provision presently provides the witnesses called on the part of the prosecutor in any prosecution for an offence against the Act may unless the court orders to the contrary be cross-examined by the prosecutor or his counsel. It further provides that the court may, without argument, order that the prosecutor or his counsel be not allowed to cross-examine any witness called on his part if the witness appears to the court to be hostile to the person charged. The provisions of this section are somewhat curious and there seems no real point in its retention. Clause 52 amends section 170 of the principal Act. The amendment deals with the lodging of petitions before the Court of Disputed Returns. It provides that if the Supreme Court is satisfied on application made before or after the expiration of the period allowed for lodging a petition against an election that the period should be extended in order to prevent undue hardship to a petitioner, it may extend the period by not more than 28 days. Except as provided in this amendment, the period for lodging a petition is not to be extended. The amendment also provides for service of a copy of the petition on every candidate in the disputed election.

Clause 53 repeals and re-enacts section 181 of the principal Act. The purpose of the amendment is to make clear that the Court of Disputed Returns may inquire into the qualifications of a person permitted to vote under section 110a, that is, a person whose name did not appear on the relevant electoral roll.

Clause 54 amends section 184 of the principal Act. This section at present provides that the Court of Disputed Returns is to act according to equity and good conscience and in accordance with the substantial merits of the case without regard to technicalities and legal forms. The purpose of the amendment is to make it clear that notwithstanding that the court acts without regard to legal formalities, nevertheless the onus of satisfying the court that proper grounds exist for granting the relief sought by the petitioner lies upon the petitioner.

Clause 55 repeals and re-enacts section 185 of the principal Act. The new section provides that no election shall be declared void on account of delay in the declaration of nominations, the polling or the return of the writ; an act or omission of an officer that was in the circumstances, reasonable and in substantial conformity with the Act; or an act or omission of an officer that is not proved to have affected the result of the election.

Clause 56 amends section 109 of the principal Act. The purpose of this amendment is to ensure that where a new election is ordered by the Court of Disputed Returns the same rolls will be used for that new election as in the previous election and only those who were entitled to vote at the previous election will be entitled to vote at the subsequent election. However, this principle will not apply if more than six months intervenes between the dates on which writs for the respective elections were issued.

Clause 56a amends section 198 of the principal Act which provides for the making of regulations. The clause inserts a power to make regulations prescribing the method by which votes shall be taken at random in the counting of votes for Legislative Council elections.

Clause 57 increases penalties in the principal Act. These have not been altered now for some years and an increase is necessary in order to take account of the effect of inflation on the value of money.

Clause 58 makes consequential amendments to the fourth schedule of the principal Act.

Mr. ABBOTT secured the adjournment of the debate.

At 3.15 p.m., the bells having been rung:

The SPEAKER: Call on the business of the day.

COMMUNITY WELFARE ACT AMENDMENT BILL

Second reading.

The Hon. JENNIFER ADAMSON (Minister of Health): I move:

That this Bill be now read a second time.

Its principal object is to re-enact in an updated form those Parts of the Community Welfare Act that deal with the provision of welfare services, an area that has been reviewed critically over the past few years. In 1977, in line with developments at that time, public consultation was sought in the first stage of the review of the Community Welfare Act. Submissions were received from the public, interested organisations, and staff of the department. Six meetings were held, each involving up to 40 individuals, dealing with various issues which the Act might cover.

The results of these meetings formed the basis for consideration by a Community Welfare Act Review Committee appointed in 1978 and chaired by Professor Ray Brown of the School of Social Administration at Flinders University. The task of this committee was to consider the many suggestions put forward during the consultation, together with the committee members' own knowledge of the latest community welfare principles and practice, and to recommend changes to the Act. The committee completed its task and reported to the then Government in 1978. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Remainder of Explanation of Bill

Following the change in Government and in line with our election promise, I appointed a Community Welfare Advisory Committee under Professor Leon Mann of the

School of Psychology at Flinders University to inquire into the delivery of community welfare services. The terms of reference were designed to ascertain the views of clients of the department which was seen as a significant area not covered in the previous consultations. Initial findings were presented in May 1980, and formed the basis for a meeting of members of the Brown committee, Mann committee and senior officers from my department. The proposals from that meeting are embodied in the Bill now before you.

The Mann committee inquiry, which was unique in Australia and possibly in the world, reflected the developing relationship between the department as a service provider and the people receiving those services. The patronising view taken of clients had been replaced by one of recognising that each client has the ability and the right to seek help and be a respected partner who is able to influence policy and organisational change. It is important that legislation should reflect the department as being in partnership with consumers of services and non-government organisations, particularly those operating in local areas or with particular groups of people in special need. A high level of consumer satisfaction with the department's services, varying from 75·6 per cent to 87·3 per cent in the inquiry studies, reflects that the approach the department has adopted is sound. It is therefore important to incorporate as succinctly as possible in legislation the practices that the department currently carries out, together with those which should be introduced or amended to achieve an even more effective and efficient service.

This Bill therefore takes into account the changing nature of community welfare services, including client involvement in the determination of those services and the increasing importance of self-help groups and non-government organisations. The Bill specifically outlines the objectives of the Minister and department in relation to priority areas such as families and people who may be in specific need; groups such as single parents, migrants, aged persons, handicapped persons, the unemployed, and individuals living in isolated areas. It also provides for people affected by decisions of the department to appeal against those decisions.

The statement of the objectives of the Minister and the department in the existing Act has been widely commended. It is continued and extended in the present Bill. The Government's community welfare policies will be focused on the family, by providing or facilitating the provision of services designed to strengthen the family as the single most important social unit. Particular attention will be given to programmes aimed at reducing the incidence of disruption of family relationships, or where this occurs, minimising the effects.

Community welfare services must be directed also to people with specific needs. These services may be provided directly by the department, through non-government organisations which are either self-supporting or receive Government grants, or by mutual aid groups. Emphasis will be given to providing assistance to individuals in their own communities thus avoiding the need for costly and often inappropriate institutions and centralised services.

Over the past eight years the department has progressively and successfully decentralised its services. This has facilitated close co-operation with community groups and individuals, the more immediate identification of needs and the more efficient provision of assistance. Staff working at the local level are able to assist communities to take greater responsibility for their own well-being, and assist in the care and development of people who had previously been institutionalised. This process will be further developed in the interests of providing more effective services.

A number of deficiencies still, however, exist in the delivery of the department's services. One of these is the difficulty of access to services for some people. While many members of the public appear well informed about departmental and other welfare services and where to go to obtain assistance, there are sections of the community, usually those who have the greater need, who still experience considerable difficulty in getting help. These include factory workers, aged persons, people in rural areas, and migrants with a non-English-speaking background. The Bill allows for services to be made available, where appropriate, through schools, places of employment, medical practices or any other place where people might find greater ease of contact. Factory workers for example, because of their work arrangements and difficulties in gaining access to a telephone during working hours, are often deprived of welfare services.

Through the establishment of localised facilities the department has been better able to achieve satisfactory co-ordination of welfare services, and where there are gaps, assist local groups in meeting their own needs. Increasingly, clients have been involved in this process, not only in dealing with their own difficulties but in assisting in the prevention of problems arising for others. This Bill seeks to further consolidate the partnership of clients with the department through their involvement in consumer forums and Programme Advisory Panels. This will enable the department to be more acutely aware of the needs of individuals, and will enable clients to influence the manner in which services are provided.

The report of the Mann committee contained a large number of recommendations designed to extend and improve the services of the department, and to provide the right of appeal against administrative decisions. Several major recommendations requiring legislative changes are dealt with in this Bill. Other recommendations will need careful study over a period of time, and any desirable amendments will be made in the future. However, it appears that most of the recommendations can be dealt with administratively. Major changes dealt with in this Bill include:

1. The establishment of appeal boards. In the same way as it is important that clients be able to participate in the development of services, it is important that they should have the opportunity to appeal against departmental decisions which affect themselves. The Bill makes provision for the Minister to establish appeal boards to deal with appeals lodged by persons affected by decisions made by the department.
2. Establishment of a Children's Interests Bureau. This bureau would support the welfare, interests and rights of children. It would ensure that issues relating to the well-being of children are studied carefully and the results of the studies distributed and understood. This is consistent with the Government's policy of supporting families and ensuring that Government decisions and proposals do not adversely affect family life.
3. The delegation of guardianship rights. The Mann committee found that a small number of children under the guardianship of the Minister remained in foster care on a long-term basis and required very little support from the department. The Bill provides for the Minister to delegate to foster parents, in this type of situation, guardianship responsibilities.

4. Holding of consumer forums. It is proposed that consumer forums be held periodically in each locality served by a departmental office. The forum would give clients of the department and others the opportunity to discuss the way the services are being provided, any areas of unmet needs and to make recommendations for changes.
5. Appointment of programme advisory panels. The Bill provides for the Director-General to appoint programme advisory panels to advise him on matters relating to the services provided by the department. These panels and the consumer forums will further consolidate efforts to achieve a partnership between clients and the department.
6. Licensing of foster care agencies and family day-care agencies. It is proposed that these agencies should be subject to a licensing system similar to that provided for baby-sitting agencies in 1976. The Government is concerned to ensure a high-quality standard of care for children who are separated from their parents, whether only for a few hours during the day, or whether on a longer term basis in a foster situation. It is therefore desirable that the agencies responsible for "matching-up" parents and children with care providers should come under the scrutiny of my department. It will also give the agencies greater status as far as their potential customers are concerned, who often look for some tangible evidence of reliability.

The Bill also contains various amendments to the maintenance provisions of the Act, most of which arise out of the fact that the Commonwealth Family Law Act now covers the field as far as the maintenance obligations between husbands and wives are concerned. It is proposed that the maintenance provisions in the Community Welfare Act will only deal with the question of the maintenance of children (apart from enforcement of any existing husband-wife orders).

Finally, the Bill repeals those provisions dealing with Aboriginal Reserves that are now redundant in view of the transfer of all such reserves either to the Aboriginal Lands Trust pursuant to the Aboriginal Lands Trust Act, or to the Pitjantjatjara people pursuant to another measure now before you.

Clause 1 is formal. Clause 2 provides for the commencement of the Act on a day to be proclaimed. Clause 3 amends the arrangement of the Act. Clause 4 inserts a transitional provision continuing the operation of licences, approvals, etc., given under the provisions repealed by the Community Welfare Act Amendment Act, 1980, being provisions that are substituted by provisions substantially the same.

Clause 5 effects various amendments to the definitions. Sundry definitions are amended so that the expression "guardians" is used consistently throughout in relation to children ("guardians" is defined as including the parents of a child). It is made clear that children's homes relate to the care of children on a residential basis, whereas child care centres and family day-care agencies relate to the care of children on a non-residential basis. The definition of "near relative" is modified so that it applies only in relation to children (this is of significance to the maintenance provisions of the Act). "Step-parent" is defined as meaning a step-parent who, while married to the child's parent, at any time accepted the child as part of his household.

Clause 6 repeals Parts II, III and IV of the principal Act and substitutes three new Parts. Division I of new Part II provides for various administrative matters. New section 7 continues the Minister as a corporation sole with the usual powers. New section 8 gives the Minister and the Director-General the power to delegate their various powers and duties under the Act. New section 9 requires the Director-General to give an annual report to the Minister on the work of the department. Division II sets out an amplified and updated set of objectives for the Minister and the department. The two main objectives set out in new section 10 are the promotion of the welfare not only of the community, but of individuals, families and groups within the community, and the promotion of the dignity of the individual and the welfare of the family. A comprehensive list of the means by which these objectives are to be pursued is provided. Emphasis again is placed on family services, and services to persons with special needs.

The Minister and the department are directed to preserve the dignity and self-respect of the clients of the department, and not to discriminate against any person, except where so-called "positive discrimination" is required to help a person overcome his problems. Division III deals with the setting up of various advisory bodies. New sections 11, 12 and 13 re-enact in substantially the same form the provisions dealing with the establishment of advisory committees. Sections 14 and 15 provide for the establishment of panels to advise the Director-General on any of the department's services. Division IV deals with community aides and again, new sections 16 to 20 are substantially the same as the present provisions. It is provided that the initial appointment of a community aide will be for a year, as a period of probation, and thereafter his appointment will be for two-year terms. Divsion V provides for Community Welfare Consumer Forums. New section 21 directs the Minister to cause forums to be held from time to time in each locality served by the district offices of the department. A forum provides the clients of the department and voluntary organisations with an opportunity to feed back to the department their views on the delivery of services by the department.

New Part III deals with the way in which community welfare services are to be provided. New section 22 directs the Minister to endeavour to provide the department's services at the local level. New section 23 continues the Community Welfare Grants Fund, and provides for the establishment of a Residential Care and Support Grants Fund. The moneys in the latter fund will go towards assisting persons who run licensed children's homes, and towards preventative or rehabilitative programmes for children in such homes, or at risk of being placed in such homes. New section 24 provides that the Minister is empowered to contract out the provision of any service to certain classes of persons and organisations.

New Part IV deals with all the various services relating to the welfare of children. Division I sets out the principles to be observed by persons dealing with children under the provisions of Part IV. Obviously, the interests of the child are the paramount consideration. Again, emphasis is placed on the importance of the child's relationship with his family, while at the same time giving recognition to the rights, needs and wishes of the child himself. New section 26 provides for the establishment of the Children's Interests Bureau, the main functions of which will be to conduct inquiries into matters affecting the welfare of children, and to increase the awareness not only of the public but also in the department and other areas of the Government, of the rights of children, and of matters that affect their welfare. Division II provides for the care of children in certain circumstances. The new sections

contained in subdivision I relating to the placing of children who are in need of care under the guardianship of the Minister are substantially the same as the provisions currently exisiting. More emphasis is placed on consultation with or notification of parents in the case of applications made by children. The period of temporary guardianship under new section 28 is reduced from three months to four weeks, as the department considers that any longer period of guardianship ought to be dealt with either under section 27, or under Part III of the Children's Protection and Young Offenders Act.

In new section 32 it is provided that the Director-General may place an uncontrollable child in a detention centre for a period of up to a week, if the child is likely to cause serious injury to himself or others, or to property. Experience has shown that such a child can sometimes best be handled if he or she is placed in a secure area and given the individual attention so necessary in such cases. The parents of the child must of course be notified of such action. The Children's Court is given additional powers in appeals relating to the discharge of a child from the guardianship of the Minister. The court may adjourn the appeal for up to six months. The court also may make an order that the child remain under the Minister's guardianship but subject to conditions fixed by the court, which may be later revoked or varied on application. Subdivision 2 provides for all the various facilities and projects established by the department itself, such as training centres, children's homes, etc. New section 36 (4) provides for the very successful Intensive Neighbourhood Care programme now being run by the department. This programme caters for the placing of certain young offenders or children in need of care in approved families.

Subdivision 3 deals with foster care and licensing of foster care agencies. Once again, new clauses 40 to 47 are substantially the same as the existing provisions. One important change is the provision in new section 41 that a person may not, for fee or reward, be a foster parent to any child unless he is an approved foster parent. The current provision only applies in relation to children under the age of 15 years. However, it has become increasingly apparent that children are just as much at risk, maybe even more so, at the vulnerable ages of 15, 16 and 17, and that control over the fostering of such children is quite essential to their welfare. New section 48 provides for the licensing of foster care agencies. Licences will be granted automatically to all agencies existing at the commencement of this Act. Subdivision 4 provides for the licensing of children's homes.

New section 51 provides, in effect, that no more than three children (the current provision relates to the care of five or more children) may be cared for, for fee or reward, away from their guardians and relatives on a residential basis, unless the person providing the care is licensed to do so. This provision is seen to be very important in the struggle to prevent young people from being drawn into highly suspect so-called "religious" communities run by groups who do no more than seek to exploit their young recruits. New sections 52 to 55 are substantially the same as the current provisions. New section 56 provides for the handling of complaints by children in homes, or by their guardians.

Subdivision 5 provides for the licensing of child care centres. New sections 57 to 61 again do not substantially differ from the existing provisions. Subdivision 6 provides for the licensing of baby-sitting agencies, again with no substantial change. Subdivision 7 deals with approved family day-care and the licensing of family day-care agencies. New section 65 makes it clear that family day-care is care for children on a non-residential basis. New section 67 obliges an approved family day-care provider to keep a register similar to that kept by children's homes and child care centres. New section 68 gives the Director-General a similar power of entry and inspection in relation to family day-care premises as he has with children's homes and child care centres. New sections 70, 71 and 72 provide for the licensing of family day-care agencies. The department believes that there are no such agencies in existence at the moment, but that there is a strong likelihood that agencies of this nature will develop in the foreseeable future.

Subdivision 8 contains various miscellaneous provisions. New section 73 provides a necessary definition. New section 74 provides for the granting of financial and other assistance to foster parents, intensive neighbourhood care families and other similar persons. New section 75 provides for the apprehension of children who run away from training centres, or any other place of detention. New section 76 prohibits a person from inducing a child to run away from a training centre, or from harbouring such a child. New section 77 prohibits a person from loitering in the grounds of any departmental home (this includes a training centre) and from communicating with a child in detention or a child under the Minister's guardianship when forbidden to do so by the Director-General.

New section 78 gives the Director-General power to enter places for the purpose of ascertaining whether a child is being cared for in accordance with this Part, where he has a reasonable suspician that the Act is being contravened. New section 79 prohibits persons who do not hold a licence or an approval under this Part from advertising that they are prepared to look after children for free or reward. New section 80 is a new provision providing that the Minister may hand over a greater degree of control to foster parents who have for more than three years cared for a child who is under the Minister's guardianship. A child of or over 15 years of age may refuse to consent to such action. The guardians of the foster child must be notified of the foster parents' application, and may make submissions thereon.

Notwithstanding the delegation of his guardianship powers under this section, the Minister may still exercise those powers himself, should an emergency situation arise, New section 81 provides for the establishment of review panels. New section 82 gives the Director-General a power of entry for the purposes of ascertaining whether a child is in need of care. New section 83 prohibits the selling or giving of cigarettes, etc., to children under the age of 16 years—this section is identical to the existing provision. It is also an offence to sell, lend or give a child under the age of 16 a prescribed substance or article, that is, any substance or article (other than cigarettes, etc.) specified in the regulations. New section 84 empowers the Director-General to hold moneys on behalf of children in an account held at Treasury.

New section 85 is a new provision empowering the Director-General to give consent to the medical or dental treatment of children in detention or under his control pursuant to an order of the Children's Court. The Director-General may only exercise this power when the guardians of the child cannot be found or the treatment is so urgently required that it would be prejudicial to the child's health to delay while the consent of a guardian is obtained. I point out that old section 75 of the Act as it now stands has not been included in the new provisions. This section prohibited any person other than a parent from caring for a child under the age of 15 years for more than six months unless that person was authorised by the Director-General. This provision has never been enforced due to the difficulties of detecting such an offence, and

also because the department is satisfied simply to control the fostering of children, which of course is the care of children for fee or reward.

Division III re-enacts the provisions dealing with the protection of children from physical or mental maltreatment. The provisions are substantially the same as the existing ones, with one or two changes. The composition of regional panels is increased to include a nominee of the Director-General of Education. The functions of a regional panel set out in new section 88 make it clear that the panel is a recommending and facilitating body only, and that it cannot order, but can only recommend and encourage persons to undergo appropriate treatment. New section 89 provides for the establishment of local panels, to assist regional panels. It is provided in new section 90 that the main functions of a local panel are to provide direct support to persons who are maltreating their children, and to be a support and back-up group to persons who are involved in treating a person who has maltreated a child.

New section 91 increases the categories of persons who are obliged to report a suspected case of maltreatment. Psychologists, chemists, kindergarten teachers, teacher aides and social workers in hospitals, etc., are added to the list. New section 93 is a new provision empowering an officer of the department or a member of the police force to take a child to a hospital or doctor where he believes the child has been maltreated. This power may be exercised where the guardians of the child cannot be found, where they refuse or fail to have the child medically examined, or where it would prejudice the child's health to delay while the consent of the guardians is obtained. Similarly, the medical practitioner concerned may admit the child to hospital or treat him, without the consent of the guardians, or contrary to the wishes of the guardians. New section 94 re-enacts an existing provision.

Clause 7 repeals Part V of the Act dealing with Aboriginal Reserves. Clause 8 amends the headings to Part VI of the Act. Clause 9 repeals the provisions dealing with the maintenance of destitute persons. These provisions are very rarely used, and mostly have only been used in relation to getting financial support for aged migrants whose families refuse to support them after bringing them out to Australia. Such migrants are the responsibility of the Commonwealth Government which has jurisdiction over the maintenance guarantees given before such aged migrants are permitted entry to Australia. The provisions to be repealed are therefore virtually redundant. New section 98 therefore only deals with the maintenance of children by their near relatives. Parents are primarily liable, and step-parents are liable in the event of the death, disappearance or financial incapacity of the parents. No distinction is made as between the mother and the father of the child—both are equally liable, as in the Family Law Act. All sections dealing with the maintenance of husbands and wives are repealed.

Clause 10 provides that maintenance payments need not necessarily be paid through the Director-General; it may be more convenient for payment to be made directly into a bank account, for example. Clause 11 effects a consequential amendment overlooked in the 1975 amending Act.

Clause 12 amends the provision dealing with blood tests for the purposes of ascertaining the paternity of a child born outside marriage. This section has never been brought into operation, although it was enacted in 1975, as there are practical difficulties in finding medical practitioners who can take blood samples. It is provided that the mother can request blood tests. The father can request blood tests even if the mother is not alive. The court is given a discretion as to whether or not it orders blood tests. It is provided that analysts cannot only carry out the tests but also take the blood samples. The child must be at least six months old, as apparently blood tests taken before that age may be inconclusive. If the defendant in an affiliation case refuses, or fails without reasonable excuse, to undergo a blood test directed by the court, the court is free to draw whatever inferences from that fact it thinks fit in the circumstances.

Clause 13 is a consequential amendment. Clause 14 repeals those provisions of the Act that provide for the contribution by one parent to another towards the funeral expenses of a child who dies. These provisions have never been used, and in any event, the department has a fund from which financial assistance is given to persons who cannot afford to pay funeral expenses. The provisions are therefore virtually obsolete.

Clause 15 repeals Division II of Part VI, which provided for the summary protection of women, a matter now to be handled under the Family Law Act. Clause 16 is a consequential amendment. Clause 17 repeals the provision of the Act that provided for the making of maintenance orders on an *ex parte* application. The department does not use this provision and can see no practical merit in retaining it.

Clause 18 is a consequential amendment. Clause 19 provides that a maintenance order ceases upon a child under the age of 18 marrying. Clause 20 re-enacts the provision dealing with the maintenance of a child after he has turned eighteen. It is made clear that such an order can be continued, or made, for the purposes of the child undertaking (before he turns 21) or completing a course of training or education aimed at gaining him employment, or for the purposes of a child who is unable to earn a living because of physical or mental incapacity occurring before he turns 18.

Clauses 21 and 22 repeal two sections now redundant following the repeal of Division II of Part VI. Clause 23 provides a further case where a court dealing with an affiliation case may accept the uncorroborated evidence of the woman. The court may exercise this discretion where the defendant refuses, or fails without reasonable excuse, to undergo a blood test directed by the court. This amendment is consequential upon the earlier amendment permitting the mother to request blood tests. Clause 24 clarifies the ways in which a direction to attend court for examination of his means, etc., may be served on a defendant in maintenance proceedings.

Clause 25 seeks to ensure that moneys held on deposit in a bank, finance company, building society, etc., are moneys that are attachable for the purposes of enforcing payment of maintenance orders. It is proposed that financial assistance granted by the department to persons in need will not be recoverable hence the deletion of paragraph *(c)*.

Clause 26 re-enacts the provision dealing with the power of the court to require security from the defendant to ensure compliance with the maintenance order. It is made clear that the court can require either a bond or other security. The period for which a defendant can be committed to prison for refusing or failing to enter into such a bond or give such security is reduced from six months to three. A provision is added requiring the court to satisfy itself as to the defendant's financial capacity before it exercises any of its powers under this section.

Clause 27 amends the section of the Act that provides for the imprisonment of defendants who are in default with their maintenance payments. These amendments are mainly to bring this section into line with the comparable

provision in the Family Law Act. The maximum period of imprisonment is reduced from twelve months to six. Again the court is required to satisfy itself as to the financial means of such a defendant before exercising any of its powers under this section. Thus a defendant will, for example, have a chance to be heard before a suspended sentence of imprisonment is invoked as a result of his default. Clause 28 is a consequential amendment.

Clause 29 redefines "net earnings" and allows more flexibility in the types of deduction to be allowed for the purposes of calculating the net earnings of a defendant in maintenance proceedings. The definition as it now stands only refers to deductions of income tax contributions and other certain deductions referred to in the Income Tax Act. In the future, the deductions will be set out in detail in the regulations. Clause 30 substitutes a reference to the Family Law Act for an out-of-date reference to the Matrimonial Causes Act. Clause 31 provides that persons exercising powers in good faith under the Act are immune from civil liability.

Clause 32 makes clear that this section dealing with the Minister's immunity from liability for acts of children in detention applies in relation to all "children" in detention, whether under or over the age of 18 years. Clause 33 effects an amendment that is consequential on the decision not to recover grants of financial assistance.

Clause 34 provides, in new section 250a, that where the Director-General decides to lend moneys to a person in need, he must satisfy himself that the borrower will be able to repay the loan within a reasonable amount of time. A written loan agreement must be entered into so that all parties will be quite clear as to their obligations. The Mann Report recommended that loans should still be made in certain circumstances, and that in all other cases of financial emergencies, straight out non-recoverable grants should be made. New section 250b provides a right of appeal to the Minister for any person aggrieved by a departmental decision made in relation to him. The Minister will establish appeal boards for the purpose of investigating appeals, and although these boards will hear the appeals and make recommendations to the Minister, the Minister will have the right to make the final decision on any appeal.

Clause 35 effects consequential amendments to the regulation-making power. Clause 36 increases the maximum penalty for offences against the Act from $200 to $500.

Mr. ABBOTT secured the adjournment of the debate.

KANGARILLA TEMPERANCE HALL (DISCHARGE OF TRUSTS) BILL

Second reading.

The Hon. H. ALLISON (Minister of Education): I move:

That this Bill be now read a second time.

It relates to two pieces of land within the area of the District Council of Meadows. The land has had a complicated, and somewhat obscure, history. The allotment on which the Kangarilla Temperance Hall now stands came into the hands of the trustees of the Temperance Hall Kangarilla by a conveyance dated 28 May 1875. It may be that the trustees were to hold the property on trust for the Kangarilla Bible Christian Church. The adjacent land certainly had belonged to the Bible Christians, and it was conveyed by the Methodist Church to the trustees for the Temperance Hall in 1930. The trustees declared that they held both pieces of land upon the same trusts. In 1952, the trustees sought to have the land vested in the Kangarilla Institute. The attempt, however, miscarried because the institute was not then incorporated. In 1976, the surviving trustees purported to transfer the land, subject to the trusts, to the District Council of Meadows. There is considerable doubt as to the validity of this transfer, although the Registrar-General has issued certificates of title to the land, subject to a caveat preventing disposal of the land, in the name of the council.

The purpose of the present Bill is to confer an unequivocal title to the land on the council, to free the land from all trusts and interests that may presently affect it, and to empower the council to sell the vacant allotment. It is intended that the hall should be maintained for the benefit of the public, and the moneys realized from the sale of the adjacent allotment will be applied towards the maintenance and improvement of the hall. I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 contains definitions required for the purposes of the new Act. Clause 3 declares that the land is vested in the council in fee simple and discharges trusts and other rights, interests or claims that might exist immediately before the commencement of the new Act. Subclause (2) requires the council to maintain the hall in perpetuity for the public benefit. Subclauses (3) and (4) empower the council to sell the adjacent land and require it to apply the proceeds of sale towards the maintenance and improvement of the hall.

Mr. CRAFTER secured the adjournment of the debate.

STATUTES AMENDMENT (ADMINISTRATION OF COURTS AND TRIBUNALS) BILL

Adjourned debate on second reading.

(Continued from 19 August. Page 443.)

Mr. McRAE (Playford): This Bill is supported by the Opposition. It was introduced in the Legislative Council, where it was thoroughly debated. The overall concept of a department which will be involved in the administration of courts and tribunals is an admirable one. The administration of the law courts in the past has had a fairly untidy history, and on balance I think it may be said that, while there are some oddities about this measure in the sense that the great majority of the law courts and tribunals come within its purview, one or two important courts do not. One of the obvious ones is the Licensing Court, and one would question why that court should remain out in the cold, as it were. The same comment might be made of the Industrial Court and the Industrial Commission. While I, as a strong supporter of that body as a specialist court, can understand such a distinction, nonetheless it does have an impact in each case on the career potentialities and flexibility of some of the judges.

One matter which concerns the Opposition and on which we would like an assurance from the Minister relates to the Planning Appeal Board, which is a specialist tribunal like some of the others I have mentioned and which has an autonomous existence and an autonomous presiding officer. The Opposition would be somewhat

concerned if lurking behind the general thrust of this Bill there was some unspoken attempt to remove the current incumbent, Judge Roder, from his position. The Opposition feels that that judge has carried out his duties very well and that it would be wrong if there was some manoeuvre lying behind this measure which would lead to that result.

The Bill was debated thoroughly in the other place, so I do not believe that the time of this House should be taken up further, considering the heavy programme that we have. We support the overall principle. We do have a couple of question marks as to why some courts and tribunals which may well come within its ambit have not been placed there. When the Minister replies we would like an assurance that, while Judge Roder is wanting to maintain his position, a position that he has maintained so well, that position will not be interfered with. Subject to that assurance, I support the measure.

The Hon. H. ALLISON (Minister of Education): I thank the Opposition and the member for Playford for their obvious support for this measure, which has been very thoroughly debated in the Upper House, as the honourable member said. I give him my assurance that the amendment in Part VII relating to the Planning and Development Act is intended to abolish the system under which the Chairman and the Associate Chairman of the Planning Appeal Board are appointed by the Government and simply to provide instead that the Chairman of the Planning Appeal Board is to be a judge nominated by the senior judge. We would assume that there would be no reflection at all upon the sterling work done by His Honour Judge Roder, who is the present incumbent.

Bill read a second time.

In Committee.

Clauses 1 to 10 passed.

Clause 11—"Salaries of judges and masters of the court."

The Hon. H. ALLISON: I move:

That clause 11 printed in erased type be inserted:

Section 12 of the principal Act is repealed and the following section is substituted:

12. (1) Subject to this section, the salary of

(a) the Chief Justice;

(b) a puisne judge;

or

(c) a master,

shall be such as is determined, from time to time, by the Governor in relation to the relevant office.

(2) A salary determined under this section shall not be reduced by subsequent determination.

(3) The salaries payable to the judges and masters of the court shall be paid out of the General Revenue of the State, which is appropriated to the necessary extent.

Mr. McRAE: I would like to place on record the co-operation of the Opposition.

Clause passed.

Remaining clauses (12 to 71) and title passed.

Bill read a third time and passed.

POLICE REGULATION ACT AMENDMENT BILL

Adjourned debate in Committee on motion of Hon. W. A. Rodda:

That the Legislative Council's amendment be agreed to.

(Continued from 26 February. Page 3268.)

Mr. McRAE: The Opposition has had an opportunity to discuss this matter with its legal committee; it is a matter that has had wide debate in days gone by, and some serious problems have been raised. As I understand the law generally, an employer normally is liable for the acts of his employee which cause harm or damage to others. However, the courts in this State have taken a different view in relation to police officers and other officers of the Crown carrying out duties under Statute; in other words, they are carrying out their duties under a statutory mandate at that particular point rather than under the direction of their employer, who in this case is the Commissioner of Police.

The problem raised, therefore, was that under the existing law any citizen who felt that he had been aggrieved by the police in terms of an assault or a wrongful arrest, or something of that sort, had no option but to sue the individual police officer. If he went to the Crown he would be met with the defence that the courts had already decided the matter that way. I want to make it perfectly clear from the Opposition's point of view that it is not suggested that any more than a tiny minority of police officers would act in such a way as to disgrace themselves and the force to which they belong and to harm and damage others in a malicious way. One would not expect more than one officer in 50, if that, to be involved in such behaviour, any more than one would expect one officer in 50 in the Public Service as a whole, or for that matter one person in 50 in the workforce, to act in this way. Still, it does behove the Opposition to seriously consider the matter, particularly from the legal point of view when there is a major change to the law of this kind.

I want to place this on record should anything later come out of this. As we understand the position and the basis on which we support the amendment, it is as follows: the key to the amending enactment is paragraph (2) of new section 51a, which provides a cause of action, which in legal terms might be termed a vicarious liability, against the Crown in certain circumstances. The circumstances as we understand them are these: if a police officer in the exercise of his duty harms someone and he does that in an illegal way but necessarily but in fact he has been acting in the exercise or discharge or purported exercise or discharge of any powers, duties, functions, or responsibilities conferred on him by the Police Regulation Act or any other Act, and, I stress, in addition he is acting in good faith, then the proper thing to do is for the citizen to sue the Crown. As we then understand the position, the Crown would act in all respects as if it were the officer involved, and it would take the judgment, if judgment was given against it, and pay out the citizen aggrieved. The only defence available to the Crown would be as follows—and again we want to place on record an example.

Let us assume that a person sues, saying that a police officer in the course of that officer's duties unlawfully assaulted him. It seems to us that there would be two defences, and two defences only, open to the Crown. The first defence would be to say that there was never any assault or there was no wrongful assault in the eyes of the law—in other words, the policeman was acting in self-defence or there had been some other situation which did not make it an assault in legal terminology. The second defence would be for the Crown to actually allege the following: "We admit an assault in legal terms, but we deny liability because we say that that particular officer was in fact not acting in good faith or, alternatively, was not acting in the exercise of his duty."

Again, let me place a couple of examples on record. Let us assume that a police officer is off duty, he is not purporting to be involved in the administration of any Act of any Parliament, he is not in fact doing that, but he has

an altercation, let us say, at the football; he just happens to be there as a spectator and, because of a rush of blood to the head, he turns around and hooks his neighbour. That is the sort of situation in which we imagine quite plainly the cause of action would lay against citizen and police officer because it has nothing to do with him as a police officer; he was just someone involved in a fight.

There is another example of a police officer making out that he is carrying out his duties under a particular Act (it might be investigating an offence under the Criminal Law Consolidation Act or an offence under the Police Offences Act), whereas in fact his sole intent is to act in bad faith and to harass and humiliate some citizen for some ulterior motive which that citizen would not know. In those circumstances, again, it would be the police officer who would be sued.

Taking it one step further, the Opposition also sees the practical result of all these situations would be as follows. One would normally expect, in any situation (it is said, and I have heard it said often) that only 2 per cent of the entire population is likely to act in a malicious, underhanded or unlawful way, so in those circumstances where the one man in 50 is involved we would anticipate that, if a member of the public was aggrieved and had been assaulted, he would sue the Crown and, as a result of that, depending upon the findings of the court, there would be an inquiry. We imagine that that would follow as a legitimate part of the disciplinary procedures set up elsewhere in the Police Regulation Act.

The Opposition seriously considered whether anything might be gained by suggesting to the honourable gentleman in another place a further amendment to new section 51a (2), but having canvassed that with the Parliamentary Counsel we came to the view that we might be moving sideways and backwards rather than forwards. Perhaps I can indicate our support on that basis, but I would be pleased on behalf of the Opposition if the Chief Secretary would now indicate whether he sees the matter as we do.

The Hon. W. A. RODDA: I thank the honourable member for his learned exposition on how the Opposition sees this amendment. Of course, the honourable member is a skilled barrister, and I appreciate his expertise in these matters. My simple rustic mind, as his colleague described it recently, accepts that what the honourable gentleman has said this afternoon is what has been explained to me by the Police Department. It is something the department has needed for some time. This provision is now incorporated in the legislation in New South Wales, Queensland and the Northern Territory. It was strongly advocated by the Officers Association and the Police Association, which are pleased to see it being incorporated in this legislation. I understand that it will work as the honourable member has explained it to the House.

The Hon. R. G. PAYNE: I thank the Chief Secretary, who, on Friday, reported progress after I indicated to him that we had not had time in our legal committee to fully consider the matter. I also indicated my concern about the proposed change in the new clause as it stands. I was grateful to have been in the House to hear the explanations given by the member for Playford today, but I am still concerned about what the change really means to the ordinary citizen who may get into a conflict situation with a police officer. That citizen may well have had a history of offences, and at the time of an incident may have fully recompensed the State by serving a term of imprisonment or paying a fine. A person may well occupy what could be described as a lowly status in society, and recovery of any damages he may suffer to be taken out against a police officer, as is now the position, could be correctly described as a civil action. That is fairly easy to institute. It is not so easy to win, of course. However, it can be put into action and concluded.

In my 10 years in the House, on two occasions a citizen has complained to me about a police officer's action. My attitude, apart from inquiries I made, was to obtain legal representation for that person. In both cases, successful actions were taken, in one against an officer, and in another against two officers. I agree with the member for Playford's remarks that the percentage of police officers, particularly in the South Australian force, which I know best, likely to get into the position we are talking about would be extremely low. Nevertheless, there is that possibility.

There is a definite difference between an ordinary citizen launching a civil action against a police officer, and a citizen taking on the Crown. I know it has been explained that the Crown in that sense would function as the defendant. If judgment is obtained, compensation would be paid, and so on. In my experience, people who might consider that they have a just case after getting legal advice would be prepared to take on an action against another citizen, even though he is a police officer, but the mere mention of the Crown, even though it is explained by a solicitor, is enough to make them say, "What is the use of taking on the Government or the State?"

Bearing in mind the assurances just given by the Minister relating to the explanation by the member for Playford, I am now prepared to accept the amendment. It was my genuine concern, based on actual experience with constituents over the years, that led me to ask for the delay, which the Minister kindly permitted last week.

The Hon. W. A. RODDA: I thank the honourable member for his consideration. When the matter came before honourable members previously, the member for Playford could not be present, and I readily agreed to a deferral. I would hope that, if such a case as the honourable member for Mitchell raised arose, justice would be given to the person, whatever his station in life.

Motion carried.

CITY OF ADELAIDE DEVELOPMENT CONTROL ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 February. Page 3265.)

The Hon. R. G. PAYNE (Mitchell): When this matter was introduced, the second reading explanation was particularly explicit and explained the Bill very well. A number of amending clauses are directly consequential upon certain other clauses that make changes to the principal Act. This Bill refers to the development control position in Adelaide, which in 1976 was put in a separate category, under the Adelaide Planning Commission, due to the perspicacity and foresight of the Minister at that time, the Hon. Hugh Hudson. When the legislation was introduced then it was stated that, in a city as distinct from its environs, there was a need for greater flexibility in development control, applications for development, and so on, particularly in the city itself. Those people need every assistance from the council concerned, in this case the Adelaide City Council, so that plans may come to fruition.

There may also be a need for major projects, such as the construction of a large hotel, or some entirely new activity within the city area, that could even impinge on Government policy. Provision for these matters was made in the 1976 legislation. In approximately four years of its

operation, the legislation has proved to be quite sound, but a need has emerged for some small changes to be made to the Act.

In the second reading explanation, it was mentioned that there was a need to grant time for approvals for certain land uses for special events or associated with special needs. There may be once-up activities that may be related, in a few years time, to the celebrations in South Australia. One can foresee possibilities for applications covered by the amendments we are now considering. The council, as I understand it, in the present situation, regarding sections 24 and 25, believes that although it may impose conditions it is at least arguable that it is not possible by the imposition of conditions to limit the time during which a development may continue. Instances are suggested where the council or commission would wish to grant temporary approval to a development but not to grant it permanently. The Bill provides for that. The Opposition has no quarrel with that concept, and generally it supports what is contained in the Bill.

The example given in the second reading explanation is one that we can all readily appreciate. Special events, such as the Adelaide Festival of Arts, generate a number of temporary uses from tents to street cafes. Another instance is that a person may become ill and be unable to carry out the business affairs for which he or she may have approval from a particular location, and may be forced to operate from a different location.

Technically, that is in breach of the development approval that was received. Most of the amendments are in the category I have just outlined. This was designed in 1976 to be fairly flexible development control legislation, and the Bill makes it a little more flexible, to meet the needs that have emerged in 1981. When the legislation originally came in, the requirement for such approvals could not have been foreseen.

One of the more difficult areas in the legislation previously was in relation to the "cease and desist" provisions issued by the council. If the action required under the order was not taken by the person or the developer concerned, apparently it has been difficult, in test cases, to sheet home the requirement and to get the required result either in causing the activity to cease or in providing for restoration of the land concerned to the activity engaged in before the development. I understand that the amendment in the Bill purports to take care of that situation and to allow the council and the commission to be much more decisive in any order that may be issued.

Apparently, unnecessary delays have occurred in relation to the conference provisions because persons who wish to appear for the parties to the conference need to be separately approved by the tribunal. It is now proposed to insert a provision which presumably will make that somewhat simpler. Clause 10 seeks to amend section 29 with a provision that the party to a conference referred to in subsection (1) should be represented at the conference by a person of his choice. That is simpler than was the previous provision. Can the Minister say whether that means also the plural form? I take it that parties can be represented by more than one person.

I have contacted the Adelaide Planning Commission, because much of what is contained in the Bill concerns its activity, to find out whether it had been sufficiently consulted and whether it generally approved of the Bill, and also I have inquired whether the council was aware of and generally approved of the Bill. I am pleased to say that I understand that the council is happy with the provisions of the Bill, and that the Planning Commission is also apparently happy with it. I cannot say more than that because a new secretary, Mr. Gavin Lloyd-Jones, has only recently been appointed to the commission. He told me that he personally had not been connected with the consultations and discussions in relation to the Bill, but that the previous secretary had been, as far as he was aware, and that the commission as a whole was satisfied with the Bill.

Any other matter that needs to be covered can be dealt with in Committee, and I indicate the Opposition's approval of the Bill.

The Hon. D. C. WOTTON (Minister of Planning): I thank the honourable member for the support of the Opposition for the Bill. The Government is pleased with the legislation, which has been recognised in this and in other States for what it is achieving. As the member for Mitchell has said, small changes need to be made, and the Government is anxious that this should happen in one batch rather than piecemeal. I know that the commission and the council are anxious to have the amendments brought down as soon as possible.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—"Approval of development."

The Hon. R. G. PAYNE: This clause seeks to amend section 23 of the principal Act by substituting new subsections (2) and (3). Can the Minister indicate whether the provisions of new subsection (2) relate to the difficulties that previously existed in establishing that there had been non-compliance with an approval order and whether, in his opinion, the penalty of $1 000 would be sufficient in relation to some development activity that might be taking place in a large project completely altering the land use concerned?

The Hon. D. C. WOTTON: The effect of clause 5 is to make it an offence to fail to comply with the conditions. We have looked at the penalties provided, which are the same as those provided in relation to offences when development is undertaken without approval. I do not think there is any problem in that area.

The Hon. R. G. PAYNE: New subsection (3) refers to the situation where a conviction is recorded because of failure by the developer to carry out the requirements laid down. It is my understanding that, in the past, there have been major moves away from the requirements of an approval that had been given to a developer leading to complete disruption in relation to the land.

An example that comes to mind is the removal of fine trees that might have been specifically required in the development approval to be saved. They could be accidentally knocked down. The contractor in such a case will obviously find it difficult to restore the land to its original condition. It would be hard to put the trees back. I take it that the court would consider that the trees could not be put back. Similarly, a small building of historical value may be demolished. I take it that the court would decide an alternative order, such as a requirement to landscape. If the court had that discretion, I would be satisfied.

The Hon. D. C. WOTTON: That is exactly right. As the honourable member said, there is a need for some flexibility in these matters, and new subsection (3) enables the court, when convicting a person of an offence under subsection (1) or subsection (2), to order that person to comply with a condition to which approval was subject. In the example cited, the developer would be required to plant trees if original trees were removed. The court has flexibility.

Clause passed.

Clause 6 passed.

Clause 7—"Exceptions."

The Hon. R. G. PAYNE: This clause amends section 25 of the principal Act by substituting a new subsection (2). I take it that, if a short term is involved, a council would be able to effect the requirement, and consent of the commission would not be required.

The Hon. D. C. WOTTON: The council will now be able to grant a section 25 approval for a limited period without having to seek the commission's concurrence, provided the approval granted is for less than six months. Both the council and the commission have requested that provision in order to prevent the consumption of the commission's time in dealing with relatively trivial matters which are of minimal significance and which are properly the council's province.

The Hon. R. G. PAYNE: I take it that the commission would not be involved if the approval was for less than six months and if approval was for temporary use, with the restoration requirement involved.

The Hon. D. C. WOTTON: I can give that assurance.

Clause passed.

Remaining clauses (8 to 12) and title passed.

The Hon. D. C. WOTTON (Minister of Planning): I move:

That this Bill be now read a third time.

The Hon. R. G. PAYNE (Mitchell): The Bill, as it stands in the third reading stage, indicates how well the parent legislation was drawn in 1976. The Hon. Hugh Hudson was the Minister involved with that Bill and, although four years have passed since its introduction, the Bill has been amended in only a few places relating to few areas in the principal Act. This shows that the Hon. Mr. Hudson deserves great credit.

Bill read a third time and passed.

KANGARILLA TEMPERANCE HALL (DISCHARGE OF TRUSTS) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 3484.)

Mr. LYNN ARNOLD (Salisbury): The Opposition supports this Bill, the title of which is almost longer than its contents. One point that must be made is whether the present processes of Parliament are the most appropriate avenues to deal with such legislation. If one reads *Hansard* in relation to the passage of this Bill, one finds that the Bill has already gone through a fair degree of work in various places. The Bill, on its introduction in another place, was referred to a Select Committee, which met perhaps twice. The committee reported to the Legislative Council, which considered the report and passed the Bill without amendment, and it has now come to this place. Time has been taken up not only in the other place but also here today and at Select Committee meetings. One could not say that there was anything wrong with that type of operation in regard to a great many measures.

This was a hybrid Bill and had to go to a Select Committee. However, a Bill such as this, which has particular application to one set of events in a limited area, with doubtless benefit to that community but not much wider benefit, could perhaps be dealt with by other means in the forms of Parliament.

The Bill enables the transfer of land and the temperance hall at Kangarilla to the local council. This will enable the council to divest itself of the vacant land and use the money for community services in the area. The community hall can also be considered as an asset of the local council. This action has become necessary because the hall, as the title of the Bill suggests, was initially a temperance hall and was not council property. Its history, and the history of ownership of the land upon which the hall is sited as well as of the adjacent block, can be traced back to the last century. There seems to have been some loss of information in transit over the years as to exactly who owned the land, who held the trusts, and what could be done with the land, hence the need for this Bill to clarify the situation.

The Hon. M. M. Wilson: It's a bit like the Wanbi to Yinkanie railway.

Mr. LYNN ARNOLD: I may mention that later in the context of the Bill.

The DEPUTY SPEAKER: Order! I hope the honourable member will relate his remarks to the contents of the Bill.

Mr. LYNN ARNOLD: The question is that this is a procedural matter which has had to be implemented to make sure that the local community can make good use of the hall, and can divest itself of the land which is otherwise not being used and use those funds for community purposes. Once this is done, this legislation has no further effect; in the strictest sense of the term it is a Bill of restricted application, or a private Bill, as I suppose it will be finally listed.

In the forms of the House are such things as the Joint Committee on Subordinate Legislation, which oversights matters of regulations that come from councils, district councils and so on, and one wonders whether or not we ought to have something similar for matters such as this matter so that they could be dealt with by a committee and a recommendation made to this House, laid on the table so that objection could be made to it if such objections were raised, and otherwise would pass without taking the time of this place or another place, or indeed the time of a Select Committee and the subsequent use of staff time that must be involved. The member for Norwood feels very strongly about this issue and he has raised this point before, namely, that we could develop procedures which can expedite the proceedings of the House so that we can attend to matters of substance, of a general nature over the whole State, rather than take up time on matters of this nature. I repeat the point that I am not in any way decrying the importance of the legislation to the Kangarilla community. However, I do feel that we need not have had a Select Committee discussion in another place, and discussion in this place on this matter.

The way in which the community will now gain an asset which will be of greater use to that community is to be commended, and one hopes that those people will be able to take full advantage of it and that the sale of the land will in fact provide it with sufficient funds to maintain the hall, and perhaps add to its facilities. I would be interested to see exactly what has been able to be achieved, if I ever travel through that area.

The Minister mentioned the Wanbi to Yinkanie railway, and I suppose one could classify that as much the same type of limited matter, the same type of Bill of restricted application which should be able to be dealt with more easily. With those few comments that I hope will be borne in mind by the Parliament, I indicate that the Opposition supports the Bill, and I certainly hope it has a speedy passage through this House so that the community of Kangarilla can receive the benefit of this clarification of some confusion that has existed for many years.

The Hon. D. J. HOPGOOD (Baudin): The Opposition supports this measure, as my colleague has said. I do not want to overly detain the Parliament in relation to what,

after all, is not the most grave matter that has ever been brought before us. I want to echo one or two things that my colleague has already canvassed, as I have been involved in this sort of legislation personally and I know that it is really a sledgehammer to crack a nut. My personal involvement in a similar piece of legislation, which involved the transfer from a trust to local government, occurred in relation to the Reynella oval, which of course is now in the electorate of the member for Mawson. I was the local member for that area before the change of boundaries at the 1977 State election.

A public meeting had been held in Reynella in 1967 at which it had been agreed unanimously that the trust should be done away with. There were three octogenarian gentlemen who were the remaining trustees and who no longer had any active interest in the oval. The city of Noarlunga quite properly felt that it could not put any money into the development of this important recreation area until it had the title to the land. However, once this resolution had been carried the Noarlunga council asked its solicitors to look into the matter, and the advice received was that there was no way, under the normal process of law, that the trust could be destroyed.

I was invited to go along to a meeting of a committee which was one of the groups using the area, and I was asked for my opinion on the matter. At the time I said that I did not have a clue what they could do about it. One morning while I was shaving the thought came to me that if a Parliamentarian does not legislate what else is he here for? I then approached the then Attorney-General, Mr. King, who indicated that, certainly it would be possible to do away with the trust and transfer the title of the land to the City of Noarlunga by a simple Bill to be put before the House. However, he pointed out (and this is the additional point I wish to canvass that I do not think my colleague covered) that it would be necessary for it to be a Government measure because, were it not, then the sponsors of the Bill would have to pay the cost of the passage of the legislation through the House.

So, that is another problem that one must overcome; somehow the matter has to be fitted in to the general scheme of Government legislation. At present we are not being met with a flood of Bills, as all members know, but that has not always been the case, certainly during the time that I have been in this House. Generally, we have been very busy with legislation. However, I make the point that one cannot simply shunt a proposal before the Parliament simply because a group in the community wants something to happen; one must obtain time for debate from the Government of the day, and, of course, it has been possible to get this Bill in.

I assume that at some time fairly soon it will be necessary for similar legislation to be introduced in respect of the famous John Knox property at Morphett Vale, for which there is no title at all, because that property was set up before the Torrens Title system was introduced, and this has been a matter of considerable dispute, even before the setting up of the Uniting Church. I understand that it is a property, which under the vote that was taken for the development of the Uniting Church, will remain with the Continuing Presbyterians, and yet there is the problem that there is simply no title which can be vested in anybody. Therefore, it will be necessary for Parliament at some stage to legislate to create a title to that land, before possibly we then proceed to determine in whom that title should be vested.

I would agree entirely with my colleague that there should be machinery which will enable these matters to be resolved without their having to run the full gamut of the Parliamentary process. With those remarks I support the Bill.

Bill read a second time.

Clauses 1 to 3 and title passed.

The Hon. H. ALLISON (Minister of Education): I move:

That this Bill be now read a third time.

In doing so I acknowledge the interesting contribution which members of the Opposition have made to this debate. I think it is one of the ironies of life that during the past two days we have been dealing with matters emerging from Select Committees, one of them the very momentous Bill dealing with that substantial portion of South Australia, the Pitjantjatjara North-West Reserve, and the second dealing with this very minor part of South Australia in size, but nevertheless very important for the local residents who have been intimately involved with the hall over many years. Because of a statutory demand, both of them have had to be put before a Select Committee. It does seem ludicrous that issues such as this should have to go through such a procedure.

Of course, when any legislation deals with a specific section of a community, small or large, rather than the South Australian community as a whole, a Select Committee simply is the order of the day and there is no way out of that. Probably the matter can be referred quite quickly to the statutory reform group in South Australia, and we will see whether any improvement to the legislation can be made to streamline through Parliament matters such as this. I thank members for their constructive suggestions.

Bill read a third time and passed.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 26 February. Page 3265.)

The Hon. J. D. WRIGHT (Adelaide): The Opposition supports the Bill. As I understand it from the Minister's second reading explanation, the problem is that there is a need, in identifying proof for the purpose of prosecutions, to delete the words "by comparison with an accurate speedometer". It is my understanding that certain charges have been dismissed because it has been difficult to establish that the speedometer was accurate in the first instance. I wonder whether the Minister could reconsider a small point.

I do not want to oppose the Bill because quite clearly it is difficult to obtain convictions. Over the years, two or three amendments have been made in an attempt to clarify the situation in order to help the magistrate reach a decision. If one gets a reasonably clever lawyer, it is not difficult to have a case thrown into some sort of confusion. Quite obviously that has occurred, and instances have been recorded in the press. In no way is the Opposition opposing the Minister in his efforts to ensure that in future the magistrate will have a much easier task in dealing with lawful arguments in regard to whether or not a particular speedometer, when comparison was taken with radar, was in fact accurate. Taking out the words "by comparison with an accurate speedometer" should achieve that objective.

However, it seems to me that the same purpose could be achieved, while still having some sort of comparison made with a speedometer, by leaving out the word "accurate" which would then make it "by comparison with a speedometer". It seems to me, not being a lawyer, not having any experience in the courts and not knowing really how judgments are determined, it would be reasonable if the clause read "by comparison with a speedometer". I think the same purpose as the Minister is trying to achieve

could be attained by leaving out the word "accurate". I do not believe a lawyer would then have much chance of successfully avoiding a conviction.

The Minister has probably had Crown Law advice which I am not able to get in the circumstances, so I ask him to comment on the point I have made. As I understand it, the clause will finally read:

> A document produced by the prosecution purporting to be signed by the Commissioner of Police, or by a superintendent or inspector of police, and purporting to certify that any traffic speed analyser specified therein had been tested on a day mentioned therein and was shown by the test to be accurate to the extent indicated in the document, shall in the absence of proof to the contrary be proof of the facts certified that the traffic speed analyser was accurate to the extent on that day it was so tested.

That is how the clause will read, leaving out the six words in the amendment.

I do not think much more can be said about this; the Minister explained it well in this second reading explanation. I do not believe that, when cases involve traffic infringements that could cause a nasty accident, because of some technicality a lawyer should be able to find a way around an Act—and we know to a large extent that is a lawyer's job. It seems to me that the Bill tightens up the provision, so that irrespective of the circumstances a magistrate hearing the case would be able to give some definite ruling as to that situation. I ask the Minister whether deleting the word "accurate" would have the same effect as what the Minister is talking about.

The second part of the Bill deals with parking offences. A similar provision was recently inserted in the Local Government Act, and the Opposition supported it at that time. We have had no complaints about it, so we support the inclusion of that provision in this Bill.

The Hon. M. M. WILSON (Minister of Transport): I appreciate the remarks of the Deputy Leader and I thank the Opposition for supporting the Bill. In fact, I probably agree with the Deputy Leader that by leaving out the word "accurate" it may be possible to get the same effect, but I am advised by Crown Law and by Parliamentary Counsel that this is the better way to do it. I am sure that the Deputy Leader would agree with me that neither he nor I would be experts—

The Hon. J. D. Wright: I am not claiming to be an expert.

The Hon. M. M. WILSON: I realise that, and I am not arguing the point either, but we are not experts in the drafting of Bills, I think we have to accept the advice of our officers. I want to make quite clear exactly what will happen if these words are removed. The radar, that is, the traffic analyser, will be tested against a police vehicle which, under the new clause, will provide:

> . . . specified therein had been tested on a day mentioned therein and was shown by the test to be accurate to the extent indicated in the document.

That means that the particular speedometer on the police car, against which the radar is tested, will not have to be accurate in terms of how the magistrate read it when the case was heard in the Magistrates Court, and I refer to the cases of *Jamieson v. Con* and *Barton v. Fuss*. That would mean that, if the police car's speedometer was inaccurate by, say, two kilometres an hour over 60 kilometres, as long as that inaccuracy was known and verified then the radar could be adjusted to cater for that inaccuracy. Under the present provisions, the magistrate held that, having regard to the words "accurate speedometer", the word "accurate" meant, amongst other things, "precise".

We all know that speedometers vary considerably. If the police car speedometer was "inaccurate" to the tune of 2 km/h over 60 km/h, or 3 km/h or less over 100 kilometres an hour, that would not stand up as a test, because it does not comply with the definition of the word "accurate". It is a very complex issue, but the Deputy Leader obviously has a full grasp of it. In effect, that is all the Bill does. It allows for a comparison with a police car's speedometer which has been tested and certified to an accuracy. If it is 2 km/h out, the radar can be adjusted for that inaccuracy. As the Deputy Leader mentioned, the second is an evidentiary procedure, which mirrors that in the Local Government Act. As so often happens between the Local Government Act and the Road Traffic Act, it is necessary to mirror legislation. I think that speaks for itself.

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

HAIRDRESSERS REGISTRATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 March. Page 3365.)

The Hon. J. D. WRIGHT (Deputy Leader of the Opposition): I could embarrass the Minister, who is not in the House, by merely stating that I support the Bill, because there is nothing in the legislation. However, I will not do that; I will say a few words to give him an opportunity to get here. The Bill puts into legislation the effect of what has happened for many years, if not since time immemorial. It tidies up, for the first time, the correctness of the attitude of the Hairdressers Board in providing lesser fees for employees than for owners of premises. During my period as Minister there was never any difficulty about this. The Hairdressers Board is an autonomous organisation which has the right to determine its own fees, to charge whatever it likes to its hairdressing members, as well as its employee members. I have never been aware of any difficulty about that.

The Minister, on this occasion, is indemnifying the Hairdressers Board in being able to make that sort of decision. It is probably, to a large extent, legislation for legislation's sake. I do not think it is needed, nor has it been needed in the past. It has worked well as an agreed arrangement. The board has had the right, under different Chairmen and different members, to set the fees it thinks are required and acceptable to the membership.

The Hon. D. C. Brown: I will tell you the small problem.

The Hon. J. D. WRIGHT: The Minister has said there is a problem, but he has not mentioned that in his second reading explanation. I support the Bill, because it supports what has happened for a long time, but I do not believe that to be necessary. The Minister has not said in his second reading explanation what the problem is. He now indicates that there is a small problem that needs to be tidied up. I do not want to oppose the legislation. When we were in Government, we supported the practice as a proper one. The board ought to have the right, like any organisation, to determine its own fees. It must be able to decide how it allocates those charges, and whether it thinks that particular members of the Hairdressers Association are in the financial position to pay more than others is purely its prerogative. Irrespective of the small problem about which the Minister will tell us, I am sure that the legislation will not work any better than it has in the past. We support the Bill.

Mr. O'NEILL (Florey): I support the Bill. I thought the amendments related to fees charged for the registration of

hairdressers and to different fee scales being introduced in respect of master hairdressers and employees. If I am correct, I agree with that. I have, from time to time, had contact with people in the hairdressing field who were concerned that the payment of a registration fee by small operators or by employees was rather onerous. It is well known, in some areas of the trade, that hairdressing is run by companies, and whilst one gets the impression, from time to time, that one is going to a self-employed hairdresser, quite often that is not the case. They are employees of a company. They may be employees of people who know nothing about hairdressing. But it is fair that the employer be required to pay a larger fee than a single operator, and particularly an employee.

The matter of hairdressing generally, especially as it relates to the larger establishments, has attracted the attention of the women's organisation at the United Trades and Labor Council, because allegations have been made from time to time about sexual harassment in the trade. I think every member in this place would agree that such practices should be kept out of the industry.

The requirements of registration and the policing of the industry are desirable features. If this Bill goes some small way towards tidying up some of the existing anomalies and making happier small business people and the employees in the industry, then, along with my colleagues, I am prepared to support it. I understand that a scale of fees at present applies. This is set out in Form F, which states in part:

THE SECOND SCHEDULE
FEES PAYABLE TO THE BOARD

	$
Upon application for registration under section 19 (1) of the Act by any applicant	10
For any certificate of registration to any applicant for registration under section 19 (1) of the Act	3
For inspection of register issued in lieu of lost or destroyed original certificate or for every duplicate certificate of registration	3
For inspection of register, per day	1

For copy of the oral evidence given before the board upon any inquiry:

(a) If application is made for copy of evidence before it is given, 20c per folio of 72 words (carbon copy); 20c per folio of 72 words for each carbon copy after the said carbon copy.

(b) If the evidence is taken down in shorthand in the first instance and application is made for copy of evidence before the shorthand writer transcribes his notes, 20c per folio of 72 words (carbon copy); 10c per folio of 72 words for each carbon copy after the said carbon copy; if such application is made after the shorthand writer has transcribed his notes, 25c per folio of 72 words, 15c per folio of 72 words for each carbon copy extra.

I understand from the previous speaker that there was some reference to fees for members of the board, and I agree with the remarks he made in relation to that proposition. I would not argue with that at all. I believe that the Bill will improve the existing legislation and, as others wish to speak on the Bill, I shall curtail my remarks.

Mr. PETERSON (Semaphore): The purpose of the Bill is to fix varying annual registration fees for registered hairdressers, and I wish to comment on the collection of those fees and the difficulty people have experienced since the legislation was introduced to provide for registration and the payment of fees by hairdressers. Under the previous legislation, registration was dependent on certain qualifications, but that provision was overlooked by many people, and that has caused problems.

I should like to repeat a comment made today by the Minister of Agriculture, and to build on that comment as a reason for my speaking in this debate. In a Ministerial statement today, the Minister said that the Government recognised that every new legislative initiative has teething problems. Yesterday, another member in this House said something similar. I think perhaps you said it, Mr. Deputy Speaker, in relation to the Pitjantjatjara legislation. However, it was said in this Chamber that we can expect problems with new legislation.

Previously, a person could operate as a barber, but, following the introduction of the relevant legislation, it was necessary for that person to become a registered hairdresser. Section 19 of the Hairdressers Registration Act provides in part:

19. (1) Any person who applies to be registered under this Act in respect of any prescribed class or classes of hairdressing shall be entitled to be so registered if the board is satisfied—

(a) that the applicant holds the prescribed qualifications in respect of the relevant class, or classes of hairdressing;

(b) that the applicant has other qualifications or experience such as to justify his registration under this Act in respect of the relevant class, or classes of hairdressing;
or

(c) that the applicant was carrying on the practice of hairdressing (being hairdressing of the relevant class or classes) in a part of the State on the date on which that part of the State became a prescribed area, and his application for registration was made within six months of that date.

That is how the problem has arisen. A case has been brought to my attention in which a man's livelihood is at risk, and I do not think that that was the intention of the legislation; on the contrary, the intention was to protect the qualifications of people coming into the industry. In September 1978, speaking in the debate when amending legislation was introduced, the then Minister of Labour and Industry, the Hon. J. D. Wright stated:

> In order to protect the livelihood of those persons currently carrying on business as hairdressers, although not registered as such, it is intended that the new compulsory registration provision will come into effect six months after proclamation.

The then Minister was saying that the legislation was there not to get people out of the industry but to protect them, but this has not been done because of the lapse of time.

A case has been brought to my attention of a 50-year-old European migrant barber who is in great difficulty. Although he was a qualified barber, his qualifications have not been recognised by the local authority. He has operated for 16 years on the same site, and since he has been there for that period of time, in the same area, dealing with the same customers, surely he would meet the requirements of the Act. Like many other people, I am sure, he did not see the notice.

This man approached me, and on his behalf I made representations to the Minister and the board, but to no avail. At the age of 50 years, he was forced to return to school to retrain, and I do not believe that any honourable member would like to have to do that. Obviously, he had not been to school for 30 years, and he has some fear in regard to his ability to cope. This man is a barber, but he must now learn subjects for examination, including hair dyeing, tinting, shampooing, blow waving and body waving, which he has never had to do in his professional life.

The real anomaly in the situation is that, if he lived 10 miles from where he does live in what is regarded as a country area he would be safe, and, if he had registered in time, there would have been no problem. So, it seems that an extreme penalty is placed on people like this man because they were unfortunate enough to miss the advertisement in the newspaper. I recognise that ignorance is no excuse in law, but some compassion should be shown. Our function as Parliamentarians is to look after people, not to make laws to cause difficulties. Those who missed the advertisement should be considered. There will be no earth-shattering change to the State. If the Minister was here, I would ask him to consider the plight of these people and perhaps allow some concession.

Mr. KENEALLY (Stuart): I am compelled to enter this debate because I have noticed over the years that important Bills are often passed without being properly considered, although I do not say that that has necessarily occurred in regard to this Bill. I commend the member for Florey for his contribution. You, Mr. Speaker, will recall that not so many years ago the previous member for Florey, Mr. Charles Wells, spoke to the Swine Compensation Act Amendment Bill, and some people wondered why he addressed himself to such a subject. He pointed out that he liked pork, and, being a trade union official for most of his life, he believed that any matter dealing with compensation was worthy of his attention and, therefore, it was appropriate that he should speak to that Bill.

Every now and again I have a hair cut, and, as I consistently pay more for less than does almost any other member in the House, I have a vital interest in this Bill, as do some members opposite on the front bench. I do not possess the steely grey dignified hair of the Deputy Premier; I have more the style of the Minister of Fisheries. At least that Minister and I have not yet been required to adopt the practice of one of the honourable gentlemen on the front bench who has a most incredible head of hair, which surprises those members who have been in the House for more than 10 years and who can remember what he looked like when he first came here. I point out to the Deputy Premier that, in terms of effort, I pay more per individual haircut than any other member in the Chamber or than anyone else who was in the Chamber when I made the comment. The situation has been changed, and I am pleased to welcome the Minister of Environment into the Parliament.

There seems to be a certain degree of levity in this debate, and I do not wish to be charged as being responsible for that, because this is a serious matter. I have taken great pains to study the explanation of the Bill given by the Minister who introduced it, and I have studied each clause of the Bill. I am at a loss to make a judgment as to whether clause 1 or clause 2 is the most important. Those two clauses are certainly of equal importance. As the education spokesman pointed out, this would hardly be a Bill if it had neither of those clauses.

The Bill intends to clarify a possible anomaly that exists within the principal Act. I notice from information provided to the House by the Minister that the Hairdressers Board has not yet collected any annual fees this year, as it is awaiting the amendment to the Act. That places pressure on members of this House to ensure that there is no unnecessary delay in the deliberations. I am most anxious that any member who speaks to this Bill should concern himself with relevant matters and not make irrelevant contributions, as has been the wont of some honourable members over the years. I have not been guilty of that kind of thing, and I do not intend to make an irrelevant contribution on this occasion.

Mr. Oswald: Are you going to sit down?

Mr. KENEALLY: I would be unhappy if the interjection from the other side was made in other than jest. Legislation that may not appear to be of great importance may have dramatic effects on those for whom it is designed. This Bill affects the principal hairdresser and employees to the extent that it will increase registration fees—that is, if the legality of the existing Act is not questioned. That is why the Bill has been introduced. I support the Bill, and I trust that the Minister will see fit to answer the good points that have been raised by previous speakers and by me, and if he is not in the Chamber, I am sure that his steely haired compatriot on the front bench will do so. I support the Bill.

The Hon. D. J. HOPGOOD (Baudin): This is a serious measure that relates, in part, to the changed economic circumstances that have faced hairdressers in recent years. I recall that, during the year in which I lived at Whyalla, I had to queue up at the hairdressers. The local hairdresser told me that he was on a pretty good thing: he never had any bad debts because he got cash in hand, and he could not handle the flow of business.

An honourable member: And then Mr. Howard got his chop.

The Hon. D. J. HOPGOOD: Mr. Howard's predecessor no doubt did reasonably well out of this gentleman, although I am aware that maybe the Deputy Premier is referring to the fact that people who do not have to bother about receipts and that sort of thing can sometimes make their own arrangements. Not long after that, what happened is that men stopped having their hair cut and we saw a drastic decline in the number of establishments available.

The Hon. E. R. Goldsworthy interjecting:

The SPEAKER: Order!

The Hon. D. J. HOPGOOD: As a matter of fact, the Deputy Premier will recall that for some years I endeavoured, almost single handedly, to keep the industry going, because I sported a crew cut during my first four or five years in this Chamber, at a time when already the locks of the Deputy Premier were stealing down below his earlobes. In recent years perhaps I have grown my hair a little longer, but it was not the likes of me that nearly sent most of the hairdressers into bankruptcy.

There was a period when hairdressing fees were under price control. I can recall attending a public meeting with an officer of the Prices Commission during which a question was raised as to the very high level of hairdressing fees, as they were at that time. The officer from the Prices Commission was asked just what determined the level of the fees, the price one had to pay. The answer that that gentleman gave was that he assumed that the commission looked at what would be a living wage for the hairdresser. I can recall that that concerned me a little, because what it suggested was that the Prices Commission was in fact acting as the wage fixing tribunal for that industry, and that was never the intention of the commission. I guess that is one of the reasons why the Government of which I was a part finally decided to take this matter out of the ambit of the Prices Commission.

This is apparently one of those areas in which there are not large establishments, in which there is a direct cash relationship between a customer and the person who is providing the service, and in which free market forces should be allowed to operate. I guess that the parent Act that we are amending is a modification of those free market forces and I imagine that the Liberal Government, or my own Party, if it was in Government, would be in

trouble with this industry if we tried to repeal that legislation. It is important that there be flexibility in the way in which the legislation is applied. It seems to me that this amendment preserves that degree of flexibility to the Government and to the industry. For that reason I support the Bill.

The Hon. D. C. BROWN (Minister of Industrial Affairs): I thank members for what has been a stimulating and vital debate, one which has taken some time but which I think was well worth the time of the House. I particularly appreciate the sorts of comments of the member for Baudin and I think also of the member for Stuart.

The Hon. E. R. Goldsworthy: He needs Ma Evans badly.

The Hon. D. C. BROWN: I realise that members of Parliament cannot promote private products, but I did note that some of Ma Evans customers are very pleased with the results, and I suggest that the honourable member might at least try at least some herbal treatment.

The SPEAKER: Order! Can the honourable Minister tell me to which clause of the Bill he is referring.

The Hon. D. C. BROWN: The short title. The Deputy Leader has raised the point as to why this Bill has been brought in. There is one fundamental reason. As he would appreciate, as a former Minister, in order to alter fees for an award like this it is necessary to pass regulations. Before Executive Council can consider those regulations, it is necessary to get a certificate of validation from the Crown Solicitor. Unfortunately, there has been a change of mind by the Crown Solicitor. Although the Crown Solicitor prior to 1978 had issued such a certificate, following the amendments in 1978 the Crown Solicitor decided that no longer could he issue such a certificate so that there could be a differential between the two classes involved—the employee and the owner or the proprietor of the hairdressing salon. That is the reason for the change; apparently when the amendment was made in 1978 it altered the legality of setting a differential rate and we are now trying to overcome that. I simply reinforce what the Deputy Leader said. We are carrying on an existing practice, but we need to make this amendment so that we can carry it on on a legal basis. I thank members for their contribution to the debate.

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

SELECT COMMITTEE ON LOCAL GOVERNMENT BOUNDARIES

A message was received from the Legislative Council requesting the concurrence of the House of Assembly to the Address recommended by the Select Committee on Local Government Boundaries of the City of Port Lincoln.

ELECTORAL ACT AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 3479).

Mr. BANNON (Leader of the Opposition): The Bill has had a somewhat chequered career. Indeed, it was not until this afternoon after Question Time that we were at all sure precisely what this House would find in the Bill, which was considered at considerable length in another place into the early hours of this morning. That has caused considerable difficulties in the consideration of this Bill. The Government has urged the Opposition to consider it as expeditiously as possible, and we are certainly attempting to oblige. I point out that the second reading explanation was circulated to us only at the end of Question Time. It was inserted by consent in *Hansard* without being read.

We have only just managed to get a copy of the printed Bill, and unfortunately are conducting this debate in the absence of comprehensive *Hansard* reportage of the Legislative Council debates. All of this means that, with a measure of this size, representing in the words of the Attorney-General and the Premier "a most comprehensive review of the Electoral Act", we are really operating to a certain extent in the dark, and that is a pity because the measure itself is important.

In fact, any electoral Bill is important because it is the basis on which the Government of a State is determined; it is the basis on which the democratic will of the people is determined. So the provisions of an electoral Bill are obviously fundamental to our whole system of Government and to democracy itself. For the House of Assembly to be forced to grapple with this Bill with the notice and with the lack of information that we have is, I believe, a poor indictment of the Government's organisation of its programme. It is made even more—

The Hon. E. R. Goldsworthy: We will deal with the other one, if you like.

Mr. BANNON: The Deputy Premier interjects. The understanding was that this debate would commence after tea. We have accommodated the Government by bringing it on an hour before tea. I am not complaining about the situation in that respect. We have reached an agreement with the Government and we are happy to oblige it. I am just saying that we are debating this Bill in this way without the full knowledge and information that we should have before us, and I do not think the Deputy Premier can deny that. We are not quibbling over half an hour here or 10 minutes there; we are quibbling over a matter of some weeks consideration of the measure, particularly when one bears in mind that the most fundamental changes that are made in this Bill, those that affect voting methods for the Upper House, are not the same as those the Government introduced and had debated in the Legislative Council at first instance. They differ substantially from it as a result of amendments that were made in another place.

It is not as if the measure that we have before us is the result of long and mature consideration by even the Government. What we have before us has come about after a hasty U-turn on the part of the Attorney-General in another place, who, faced with the possibility of the total failure of this Bill because there were so many different views, not only from the Opposition and the Australian Democrats but also within his own ranks, was forced to pull the Bill back and accept amendments which differ fundamentally from the measure as first introduced.

Because of that and because of the complexity of those amendments it would have been useful indeed to have at our disposal the debates in another place as we embark on this debate, but unfortunately we do not have them. However, I hope the principles are clear enough to allow this debate to proceed, and for it to be given the mature consideration that such an important measure requires. I will not deal at length with those provisions in the Bill which result from experience gained at the last election, in particular—those problems which were identified in the Norwood Court of Disputed Returns. The member for Norwood, who was of course a principal party in that Court of Disputed Returns case, probably is better informed on the particular points and the reforms that are needed to overcome the anomalies and the poor electoral practices that were revealed by that Court of Disputed Returns, and he will deal with these things in some detail,

as he has the qualifications to do so.

I see my role as talking specifically about the more fundamental changes to the voting system. I have mentioned that the Premier said that this Bill results from a most comprehensive review of the Electoral Act. I suggest that the review did not go far enough, and indeed its comprehensive nature must be called in doubt when one looks at the chops and changes made by the Government in another place. The review certainly seems to be only a partial one. I go further and suggest that, if we are dealing with electoral Acts, bearing in mind that they are fundamental to the way in which democracy operates in our community, one looks to electoral Acts to see whether they contain reforms or improvements on the current system. Far too often electoral Acts in the past have in fact done the opposite; they have been aimed at entrenching particular interest groups or redirecting voting patterns or, even more cynically and deliberately, preserving the Government of the day in power.

I think we can be fairly proud of the electoral system that South Australia has devised over the past few years. I would say that it is largely the result of a bipartisan agreement about the need for electoral reform. It is a well-known fact that in the late 1960's and early 1970's the case for electoral reform in South Australia became the most compelling political issue of the day, and whether former Premier Steele Hall was throwing away Party advantage because of some principled view of the way in which democracy should operate in this State or whether he simply, looking ahead, realised that our whole system would break down in possible social disruption unless reforms were made, whatever his motives, it is certainly true that the Bills he introduced and the agreements that were reached in the course of long and tortuous Parliamentary debate have resulted in a vastly improved electoral system, many features of which are the envy of the rest of Australia and could be seen as well up with the most advanced democratic practices in the world.

That is as it should be, because South Australia at its foundation led the world in electoral reform. The secret ballot, which is known in many parts of the United States as the "South Australian ballot", is a good illustration of that. That electoral reform and that pioneering attempt to let the voice of the people be heard unencumbered was a feature of South Australia in the last century. It withered and died during this century until the late 1960's and early 1970's when reform once again emerged, largely as a result of the persistent work by the Opposition and most notably by former Premier Dunstan to make it an issue about which people cared. Therefore, we look to any amending Bill introduced by a Government in this State as one that will improve and advance the process of democracy, that will ensure not narrow partisan advantage but the ability for ordinary people in our community to express their preferences as to which Party should be the Government of the day.

Unfortunately, too much of this Bill is designed to give narrow partisan advantage. There is little in the Bill which embraces some of the major reforms of the electoral law which have occurred in other Western democracies in recent years. I think most notably one must criticise strongly indeed the proposal to scrap optional preferential voting and the list system for the Legislative Council because the net effect will be to disfranchise tens of thousands of South Australians—the creation of informal votes out of votes, whereby people clearly expressed a view about who should govern in this State. That is the measuring stick we must apply to this Bill. Any system must be as simple as possible to ensure that there is a maximisation of formal votes. Any complications, any strange quirks or rules which invalidate votes, will result in people being disfranchised. The proposals to do away with optional preferential voting and with the list system will achieve just that. They will reduce the number of formal votes and disfranchise South Australian voters.

Optional preferential voting is very widely supported in the community. It was even noted that the Australian Democrats, through Senator-elect Haines, expressed support for this. A comprehensive review of the Act, we would suggest, should not result in optional preferential voting for the Council being abolished, but rather should extend to House of Assembly elections.

Mr. Blacker: Rubbish!

Mr. BANNON: The member for Flinders says "Rubbish!" I hope that he really considers deeply some of the figures and some of the voting facts that I will mention later. We will see that even in his electorate there is a number of people, no doubt wishing to vote for him, who are denied that vote because of the compulsory preference system. It is a great pity that those people are denied that vote.

Let us go further, and this relates to the list system itself. We have had, we are told, a most comprehensive review. Yet, there is no proposal in the Bill to recognise the fact of political life in this country for the last 80 to 100 years that we are governed in a Party system, that the Westminster Party system is what operates in this country in all States and at the national level. Why is there no proposal for the political Party affiliations of candidates to be printed on ballot-papers?

Many Western democracies have introduced this. They are aware of electors' basic interests in supporting Parties, particularly for an Upper Chamber. One could argue, on a single-member constituency basis, that the individual member has a personal following and a personal attraction that tends to negate the Party effect. Yet, when one analyses election results, one finds that even amongst the most popular of local members, those who can command obviously a personal direct following for themselves as individuals, the effect does not go much above about 5 or 6 per cent.

So, the facts of life are that, even with the most active, able and popular member, by and large the people who elect him are electing his Party and not him. Party is a fact of life and a fact of affiliation. How much more so at the level of second Chamber, on a State-wide electoral basis, where many of the names of the individual legislators are not known to people, where there has been no personal campaigning by door-knocking or letter-boxing. In those instances, people are voting for Parties. Do they want the Liberal Party; do they prefer the Labor Party; do they like the Democrats?

Individuals are not precluded from standing. Their names are on the ballot-paper and a choice can be exercised in respect of them if people so wish. But, the overwhelming majority of people vote for a Party preference. It is a fact of life which ought to be recognised in our Electoral Act, because by so recognising it we will be making it easy for people to indicate the preference of Government they wish.

I mentioned that this has been done in a number of other countries. I name some with similar democracies to ours. In Canada, Party names appear on ballot-papers, and similarly in France, New Zealand and Norway. In the United Kingdom there is the description of both the occupation and the political Party of the candidate. That is a reform that a comprehensive review should have introduced. Yet, it is not in the Bill.

Another question also relates very much to the Party system—the question of financing of political campaigns,

one of the chief areas of abuse. One of the chief inequalities in our system has arisen from the way in which political Parties must raise their funds in order to promote and operate their campaigns. Many Western democracies have done a great deal to bring into the light of day the financing of politics.

There are two aspects of this. Stage 1 is to disclose the source of funds for political Parties, and to require it. Stage 2 is to control it totally in a way that is done in the United States, for example, by having the financing of political Party campaigns controlled and paid for from the public purse. Why cannot Australian electors benefit from laws which limit the size of electoral expenditures by Parties and candidates, limit the size of political donations, provide for the disclosure of the sources of donations, or provide for some funding of the political process from general revenue? This is done in the United States, the United Kingdom, Canada, Europe and Scandinavia. It is a democratic reform that ought to be made.

The Hon. D. O. Tonkin: Too little, too late?

Mr. BANNON: The Premier is now reciting the motto of his Government, but I suspect that even that does not go far enough in this instance. I do not want to go at length into the question of financing, but I would have thought that a Bill aimed at comprehensively reviewing our Electoral Act could have dealt with that. The Opposition wants a Select Committee. It is a complex problem, as I imagine the member for Mawson would concede. In New South Wales a Select Committee was established to look at it, and the Opposition wants a Select Committee to examine any proposed new laws on financing politics. An all-Party committee would be most appropriate; indeed, we hope before this Parliament has expired to introduce such a measure.

Another reform that ought to occur—why does this Bill not include a clause to introduce a draw for positions on the House of Assembly ballot-papers? There is a draw for Legislative Council positions. That does not depend on the tyranny of the alphabet. It is a random situation, recognising that there are advantages in being at the head of the ballot-paper. Why is this not made uniform? In most cases, somebody whose name starts with A or B, like myself, is at an advantage. Somebody like the Premier, or my deputy, is at a disadvantage. This does not worry me or the Premier because we happen to be in seats with a fairly substantial majority, but why should a marginal seat result be determined by the letter with which your name starts, rather than by any other factors? If there is a donkey vote effect, and it is clearly demonstrated that there is, the person who gets the benefit of it should be chosen at random, and not purely because his name happens to start with the right initial.

Mr. Schmidt: What is the percentage? It is very small.

Mr. BANNON: It varies, but it can be as much as 2 or 3 per cent. I cannot give him a precise figure for Mawson, but it would probably be about 1.5 to 2 per cent.

The Hon. D. J. Hopgood: Federal Kingston.

Mr. BANNON: As my colleague interjects, the Federal seat of Kingston remains in Liberal Party hands because of that particular donkey-vote effect.

Mr. Schmidt: Using your argument, Mawson should have remained in the hands of my predecessor.

The SPEAKER: Order! The honourable member for Mawson will have an opportunity to take part in the debate in his own allotted time.

Mr. BANNON: I suggest that the fact that a person is called Chapman rather than Gunn should not be the determinant, that both Mr. Chapman and Mr. Gunn in that case should have had the luck of the draw, and it should not have been fixed because of their initial.

We recall the ludicrous extreme (and I do not know whether the member for Mawson is aware of this) in the Senate system in the 1940's, where it was decided on the alphabetical order of the Party candidates selected, and "A" and "B" predominated. It was almost a qualification to get Party endorsement to have a name with an initial letter occurring early in the alphabet. That is a ludicrous situation. We draw lots in the Upper House, and we should do so in the Lower House.

The Minister has stated in the second reading explanation that earlier closing of booths will speed up the availability of election results. That is true, and it is a good thing, but the move away from optional preferential voting to full preferential voting will have the opposite effect. If we complicate the system, we will ensure that the counting time is longer. Such reforms work against one another.

So, we come to the fundamental problem of the Bill. Its effect will be to effectively disfranchise tens of thousands of voters who have a clear idea of what they want to do and who they want to get into Government but who, because of the complications of the system or a slip or an error, or because of a handicap or disability, fail to complete the complicated ballot-paper in the complicated way the Bill will demand. The present Legislative Council system maximises first preference votes by keeping down informal votes. Any electoral system must give a higher priority to maximising the number of valid first preference votes than to sorting out the balance of second and later preferences, yet this Bill is all about the latter but not about the former.

The first question the voter is attempting to answer in the booth as he takes his ballot-paper is who he wants in Government. The argument about preferences is something down the line. The system must attempt to maximise first preference votes. The present Legislative Council system does it. Let us look at the figures in the 1979 election. The number of informal votes for the House of Assembly was 34 114, while for the Legislative Council the number was 33 637, meaning that the Legislative Council informal vote was less than that of the House of Assembly across the State. That is probably without precedent for an Australian Upper House, and it is extremely commendable. It reinforces our proposition that optional preference should be allowed for the Lower House as well.

Let us make something clear about the philosophy of optional preferences. It is not denying people the ability to express a preference if they want to do so. That right is there, and those preferences will be counted. However, it says to people who do not wish to indicate a preference, who may have a repugnance to putting any sort of preferential vote to particular Parties or candidates, that they can indicate a desire not to do so and still have a formal vote, a valid vote. A person who, morally or philosophically, cannot bring himself to exercise a preference down the line for a communist or fascist Party or for a particular candidate should not have his vote declared invalid. If he wants to express a preference, let him do so and let the preference be counted, but he should not be forced to do so.

The other person who is disadvantaged I have already referred to. That is the person who, for whatever reason, is unable to fill out a complicated ballot-paper but who has a clear idea of who he wants to govern. Because of the requirements of compulsory preferential voting, that person is not able to register a formal vote, despite clarity on the surface regarding the vote and the intention in relation to a first preference.

The Liberals prefer the Senate voting system, but let us look at the impact of that system. The Bill is modelled, we are told, on the New South Wales system, which in turn

derives from the Senate system. At the 1980 election in South Australia, 70 366 voters had their Senate vote declared informal; that was 8·7 per cent of the electorate, or more than one person in 12—a very high number indeed. This result was produced by a ballot-paper containing 27 names fewer than the Legislative Council ballot-paper contained in 1979. I repeat that, in 1979, 33 637 persons voted informally for the Legislative Council, a lower number than for the Assembly. There were 28 candidates listed on that ballot-paper. In the Senate election, 70 366 voters voted informally. The Senate system clearly is not enfranchising the maximum number of voters.

Mr. Millhouse: But it was your crowd who brought it in in New South Wales.

Mr. BANNON: I am talking about the Senate system at this point.

Mr. Millhouse: We had to remind the Government of that in the other place.

The SPEAKER: Order!

Mr. BANNON: I will come to that in a moment.

Mr. Millhouse: Why don't you—

The SPEAKER: Order! I indicate to the honourable member for Mitcham that, although he has just entered the Chamber, I do not intend to give him the opportunity to make up for lost time, by way of interjection.

Mr. Millhouse: You always have before, Sir.

The SPEAKER: Order!

Mr. BANNON: I think the question of disfranchising people deserves more serious attention from the member for Mitcham. I thought his Party prided itself on being founded under the banner of electoral reform, and that its continued existence derives as much from the argument about electoral reform as from anything else. I hope he will listen more carefully to the point I am making, which is aimed at maximising the ability of people to vote properly. Many voters do not know that their votes have been wasted. They leave the booth believing that their votes will be counted. They would be amazed if they discovered that that was not the case. The other aspect relates to a matter on which the ugly question of partisan advantage which rears its head.

The Hon. D. O. Tonkin: From you!

Mr. BANNON: Let those who listen be the judge as to whether it is partisan advantage to the Labor Party or whether it is not. I think I have established that there is a strong principle behind the question of optional preferential voting. If that is conceded, one asks why the present system is being changed. The answer lies in the fact that those people who, under a compulsory preferential system, are not able to express a preference are not spread uniformly throughout the community but are concentrated in certain suburbs. They are not those suburbs with the best educational and other facilities, but those that perhaps once and not so frequently or so fashionably these days were called working class suburbs.

The Senate informal vote was 8·7 per cent over the State, but let us look at these startling figures calculated by polling places in 1980. In Port Adelaide, the figure was 17·4 per cent; Angle Park, 16 per cent; Royal Park 15·4 per cent; Ethelton, 15·1 per cent; Brompton, 14·7 per cent; and Woodville Gardens, 14·6 per cent. Clearly, in a large section of the metropolitan area it is not one in 12 but one in six Senate votes that are wasted, not because the people in that area, in a cavalier fashion, wish to waste their votes and do not care about the Government or democracy. On the contrary, it is because of the people in those suburbs and the problems they have with the compulsory preferential system. The more complicated we make the ballot-paper, the more difficult it is to make a valid first preference and the more people we disfranchise. The high informal votes occur in suburbs with concentrations of migrants and pensioners. In the case of pensioners, for example, I can think of the difficulty faced by people with eyesight problems in completing complicated ballot-papers.

Honourable members must remember that it is not an answer to say that the polling clerks or their assistants are able to help those people to fill out ballot-papers, because most of these people place their votes in the ballot-box believing them to be valid. They do not believe that they need assistance, but the complications of the system mean that they do. These people will be hardest hit by this Bill, because the existing system has maximised valid votes. We will see a rise in informal votes as a result of the complications introduced, and that rise in informal votes will be concentrated more heavily in the areas where the Liberal Party does not see itself as having any great political advantage.

I will now deal with the list system. The Liberal Party attempts to justify the abolition of the list system by claiming that people want to vote for a person and not a Party. I have already dealt with that in general terms. There is absolutely no evidence of that. The evidence is completely to the contrary. By and large, the overwhelming majority of people wish to vote for a Party, because they recognise the realities of our Party system. It is ironic, incidentally, that the Government, which has suddenly discovered this concept of votes for the individual, nonetheless campaigns as a political Party and issues how-to-vote cards, Party labels, and so on. At the time of election the Liberal Party accepts the realities of the Party system and the fact that people have Party affiliations and vote for Parties, yet in this House the Government piously talks about individual votes and voting for individuals.

At present, candidates enjoying the support of a major Party are placed on the list in order of support. It is not as if individuals are precluded, because Party membership is open to them as well as Party endorsement. Candidates from other than Parties can be supported, individually of course, as they are ungrouped.

Let us consider the New South Wales system that we are told is being copied in this Bill because people need to vote for a person. That is what gives the New South Wales system greater merit over the list system that applies at present. How many people in New South Wales took advantage of this right to vote for individuals? In 1978, at the last election, few electors departed from Party how-to-vote cards and supported individual candidates. Some 98·4 per cent of Liberal supporters voted "1" for the first person on the ticket. They could have voted for anyone else, but an overwhelming majority voted that way.

This Bill will benefit less than 2 per cent of those Liberal supporters. Some 98·2 per cent of Labor supporters chose the first person on the ticket—again, less than 2 per cent wanted to vote for individual candidates and not in accordance with the Party's choice. The need to vote for individuals must be kept in balance. We must set that right and ability to vote for an individual against an ability to lodge a formal vote.

The Hon. D. O. Tonkin: It's the socialist point of view—regimentation.

Mr. BANNON: I would be proud to call the system socialist if it provides that all persons, whatever their status, wealth or learning, have a right to express a view on the Government that they wish to be in charge of their destiny. That is the socialist principle, and that is what we are trying to enforce here.

This move to adopt the New South Wales Legislative Council system will disfranchise people. The New South

Wales Legislative Council informal votes were almost double the number of Legislative Assembly informal votes at the 1978 election. In South Australia, the House of Assembly informal vote was 4·44 per cent in 1979. On the basis of the New South Wales experience, this figure could almost be doubled for the Legislative Council under the new system, and we would be looking at informal votes of about 7 per cent. That extra 3 or 4 per cent of people do not want to vote informal. They are not expressing their rejection of the system or a desire not to express a choice: they are people who want to vote and believe that they have voted for a Government of their choice. Why deny them that right? It is outrageous to amend the Act to do so.

We know by analysis the factors that are associated with informal voting. I have already mentioned that informal votes are high in suburbs with high levels of migrants and senior citizens. While both New South Wales and this State have similar proportions of the latter, South Australia has, proportionately, substantially more migrants. At the last census, 23·6 per cent of South Australia's population was overseas born, compared with only 19·3 per cent in New South Wales, so there is a large proportionate difference. Anything that complicates the process of voting rather than simplifying it is to be resisted, and that is why we oppose the Bill.

It is nonsense for the Government to suggest that, because electors have to vote for only 11 candidates and not express preferences for all candidates on the ballot-paper, the number of informal votes will be kept down. Anyone who has scrutineered at Senate elections will know that this is not true. It is very common for Senate votes to bear simply a number "1", and those votes are informal. A similar expression of opinion (and I continue to say positively that it is a valid expression of opinion) under our present system would be counted as a formal vote. Votes like these, together with ballot-papers bearing up to about five numbers, account for a very large share of informal ballot-papers. So, let us return to the basic principal.

There are many matters of detail in this Bill that the Opposition supports, but we will oppose strongly any attempt to turn back the clock on a system of democratic reform in this country. Any attempt to disfranchise people in this community should be resisted and, as a result of the abolition of optional preference voting and the list system, people will effectively be disfranchised. It is quite shameful that the Government is introducing a Bill that will do that.

Mr. TRAINER (Ascot Park): There is an old saying going back to the time of Troy: "Beware of Greeks bearing gifts", to which I could add a more modern parallel: "Beware of Liberals introducing electoral Bills". The Liberal Party's record in this area is not exactly a shining one. Honourable members may remember the statements that have been made in the past by a member in another Chamber in regard to the permanent will of the people as expressed in the Legislative Council.

Mr. Millhouse: I think he has repented of that now.

Mr. TRAINER: Well, he seems to twist and turn and hang in the breeze for a while.

Mr. Millhouse: Oh, call it repentence.

Mr. TRAINER: If so, it is the most amazing since the road to Damascus. We can recall how for decades the Legislative Council was split on the basis of 16 for the Liberals and four for the Labor Party, even though during that period the Labor Party had the majority support of the people in South Australia. We can also recall the way in which for decades the gerrymander operated in this State. The most outrageous example was in 1968, when the Dunstan Government, with a vote of approximately 53 per cent, was put on to the Opposition benches and the Liberal Party, with 43 per cent of the popular vote, was installed in office. The Party opposite, which is introducing this Bill, is the same Party that supports the Bjelke-Petersen gerrymander in Queensland and the Court gerrymander in Western Australia, and which was responsible for some of the rorts connected with the elections of 1975 and 1977 federally.

The Government is deceptive with its introduction of this Bill. For example, we are told that it represents substantially the New South Wales system, but there are some marked differences between the Bill that has been introduced and the Act that was passed in New South Wales; but I will comment on that later. We are told that the Bill is a comprehensive electoral reform Bill, but, as the Leader has pointed out, there are many anomalies in the system that still remain to be corrected. It is very difficult to comment without having a copy of the Bill before me, but I understand that it does not correct the anomolies in regard to double dissolutions providing for six-year and three-year terms. As the Leader has pointed out, the Bill does not introduce optional preferential voting to the House of Assembly, where it should be introduced. It does nothing to introduce into the House of Assembly arrangements for candidates to be arranged on the ballot-paper by lot rather than alphabetically, with all the bias that can ensue from that.

A short while ago I did a bit of quick research on the lexicographical bias that has gone into the composition of this House. If one looks at a list of the 47 members of this Chamber, it is quite amazing to find that six of them have names starting with "A"—quite coincidental, of course! It has nothing to do with lexicographical bias that has allowed some people to move up a few notches above everyone else throughout life. I can remember in the classroom—

The Hon. D. O. Tonkin: Tell us who—

Mr. TRAINER: The honourable member who has just spoken is suffering from the same lexicographical bias that I do, because he also has a name starting with "T". I found that another six names started with "B", one of which is my Leader, who suffers from the lexicographical advantage I have pointed out. There were three with names starting with "C". I am not casting aspersions on those members whose names begin with a letter in the first half of the alphabet, but I am merely pointing out that this fortuitous chance can give them an advantage which might not otherwise be merited.

Members interjecting:

The SPEAKER: Order!

Mr. TRAINER: I would not want to insert any comment in *Hansard* that would not be worthy of gracing its pages. With your leave, Sir, is it permissible for me to refer to members by name in this connection?

The SPEAKER: Yes, that is quite legitimate.

Mr. TRAINER: In this House there are members by the name of Abbott, Adamson, Allison, two Arnolds, and an Ashenden—six names beginning with "A". There are six names beginning with "B", namely, Bannon, Becker, Billard, Blacker, and two Browns. There are three starting with "C" namely, Chapman, Corcoran and Crafter. Those 15 members together constitute approximately one-third of the number of members of this Chamber, even though people with surnames beginning with those letters would not constitute the same percentage of the population. It is difficult to have at one's fingertips information as to what proportion of the population have names starting with A, B, C, and so on, but I quickly referred to a telephone

directory as a rough guide. I know that it is not a precise guide, of course, because, for example, a number of firms use the letters AAA, etc., and also there are firms that are listed under A because the firm's name is prefaced by "Australia". I found that 30 pages (or 4 per cent) were used for names starting with the letter "A", 8·3 per cent (or 62 pages) for "B", and 7·6 per cent (or 57 pages) for "C". The first three letters of the alphabet account for 149 pages, or 20 per cent of the names in the phone book.

The Hon. D. O. Tonkin: Do you wish to move an amendment to correct that anomaly?

Mr. TRAINER: That could be done in the Committee stage, Sir.

The Hon. D. O. Tonkin: Are you advocating that we limit to two the number of people whose names start with "A"?

Mr. TRAINER: I think so, provided the two happen to be Arnold, Lynn, and Abbott, Roy. That was not the amendment I was suggesting. What I am suggesting is that this is not a comprehensive Bill, because it does not introduce (and this is one minor example of the way the Bill falls down) into the House of Assembly elections the allocation of names on the ballot-paper by lot rather than by lexicographical chance. It is also not comprehensive, because it does not provide for fully optional preferential voting in either the House of Assembly or the Legislative Council.

A philosophical approach is sometimes taken by commentators on the matter of compulsion and the degree of voluntarism applicable to voting. They make statements such as "Well, we have compulsory voting; why not compulsory allocation of preferences?" We do not have compulsory voting; we have a compulsory turn-out, whereby people are obliged to present themselves at the polling booth. However, they are not then compelled to vote for any candidate unless they wish their votes to be counted. This is where the difficulty comes in, namely, that people may wish their votes to be counted but they may not wish to allocate their preferences to every candidate listed on the ballot paper.

Mr. Schmidt: You were quoting Dean Jaensch, of course?

Mr. TRAINER: I was not directly quoting Dean Jaensch, but he is one of the commentators who has expressed that opinion. An article by Murray Goot, which appeared in the journal *Politics* stated, in part:

> Much of the concern, symbolic and material, about compulsory voting misses the point. Those who defend the *status quo* are correct in pointing out that the system of "compulsory voting" does not necessarily force anyone to stand up and be counted. What they overlook is that electors who *want* to be counted are obliged to express a "preference" for each and every candidate, be they flat-earthers or fascists. An entirely optional preferential system with turnout still compulsory may, in principle, be freer than a system in which turnout is not compulsory but preferential voting is.

An example that a commentator mentions in the article following on from that is one as follows:

> The Nazis ran in the A.C.T. 1970 Federal by-election. A Jewish lady protested that she would be compelled to indicate a preference, even though the least, for a Nazi.

Other people have encountered similar difficulty with being told by how-to-vote cards that they must vote for a particular candidate, even if that vote is seventh out of eight or sixth out of seven, or whatever. Some people do not wish to put a communist candidate on their paper even if such a candidate is listed as seventh out of seven, nor a Nazi candidate even if that candidate is listed eighth out of eight. Fortunately, because of the provisions in the existing Act, if a voter leaves the last square blank it is probable that the vote will still be counted. If, however, there are, say, two or three candidates that a voter wishes to leave out (and this particularly applies with large elections such as those applying to the Legislative Council and the Senate), then the vote is ruled invalid.

The Hon. D. O. Tonkin: They can do that in the Senate.

Mr. TRAINER: I will come to that later. Part of the problem lies in the general philosophy that is expressed by the Liberal Party. Many members opposite here, and particularly those on the other side in the other place, have implicit in their philosophies that when people go into the voting booth to express their preference, what they are doing is sitting for an exam. A person must sit down with a pencil and fill out a piece of paper correctly. If you do not pass the exam, then your vote is not going to be counted. It almost seems that the process is made as difficult as possible so that only certain citizens, those considered most worthy, are able to exercise their franchise. Possibly the attitudes of some of the more Neanderthal members on the other side in the past might well be those of P.E.B. examiners, because they could have great glee in failing a large proportion of the population if they could not come up to scratch in applying pen to paper in the polling booth.

Instead, our attitude should be that people in the community have voting intentions and, although they may be rather inarticulate in their way of expressing those intentions, what the voting system should do is go out of its way to make it possible for these people to express a formal vote, no matter how illiterate that person is, no matter how frail is the hand which is holding the pen, no matter how poor their eyesight may be, and no matter what their difficulty is with the English language.

Mr. TRAINER: Before the adjournment, I was commenting on how this Bill was just another illustration of Liberal Party deviousness in electoral matters. It is not the New South Wales Act being introduced in this Bill; it is substantially different. It is not a comprehensive review of the electoral system. It does not include fully optional preferential voting either for the Council or the Assembly. I also said it has not done anything to overcome the alphabetical bias that exists in the normal layout of the ballot-paper for the House of Assembly which, unlike that for the Upper House, is apportioned in alphabetical order rather than by lot.

During the break I went to the library just to look up a couple of details I did not have time for earlier on in relation to this lexicographical bias. In a thesis by a gentleman called Partridge, at page 94, I came across a very interesting reference and I would like to quote from a Dr. Frank Louat, who was a prominent member of the United Australia Party some time ago. This was at around the time when, under an earlier election system for the Australian Senate, there was a lexicographical bias that was far more extreme than exists there now. In 1937, the lexicographically unbeatable New South Wales Labor Team of Armour, Armstrong, Arthur and Ashby was elected, winning all four Senate seats for their State. Commenting on the fact that 31 of the 36 Senators at the time had initials in the first half of the alphabet, Dr. Louat said:

> The elector of course is compelled to vote.

As pointed out earlier, that is not strictly true. He is compelled to turn out, to go to the polling booth but not necessarily to cast a valid vote. Dr. Louat continues:

> He enters the polling booth and is confronted with a long ballot-paper. He sees before him a tedious list of names. He is puzzled, rather bored and anxious to get the thing over.

Accordingly, he deals with the voting paper on the same lines as his breakfast egg of an hour or two before—he starts at the top and works down.

The SPEAKER: I ask the honourable members to please reduce the degree of audible comment.

Mr. TRAINER: That same alphabetical or lexicographical bias was referred to in an article in the December edition of the Labor *Herald*, drawing on an article which had appeared earlier in the *Australian* contributed by Barry Cohen, M.H.R., and referring to the donkey vote which was described as a vote by people who simply number the squares down the ballot-paper irrespective of who the candidates are. It is thought that this donkey vote is worth up to 2 per cent. Mr. Cohen says that, if this is so, it clinched victory for the anti-Labor Parties in 12 seats (which he cited as Barton, Bendigo, Bowman, Calare, Canning, Casey, Herbert, Kingston, Northern Territory, Phillip, Riverina, and Wilmot), and for Labor in four.

The Hon. D. O. Tonkin: Have you noticed how many B's there are?

Mr. TRAINER: The lexicographical bias even seemed to extend to the names of the electorates. Most electorates are named after former Parliamentarians and many former Parliamentarians have got in there because of the lexicographical bias. I think the Premier, whose name begins with "T", should be supporting me on this issue, not trying to interject in that fashion. The bias carries right through to the names of the electorate.

The Hon. D. O. Tonkin: Did you note that "bias" starts with a "b"?

Mr. TRAINER: That is the sort of interjection I do appreciate. That is a worthwhile contribution, indeed.

Mr. Cohen believes that the coalition Parties were consciously taking advantage of this situation by selecting, for marginal seats, candidates whose names started with letters near the top of the alphabet. In view of the Premier's comments, he would appreciate that that includes names such as Bradfield, Birney, Bourchier, Bungey, Braithwaite, and Burr.

As Mr. Louat pointed out, it is not a difficult matter for people to fall into the trap of casting that donkey vote, 1 per cent or 2 per cent or whatever it is. I am certainly not likely to get the benefit of it, and neither is the Premier. In Ascot Park, the Labor candidate has never obtained the benefit of the donkey vote because since I replaced Geoff Virgo we have moved up the alphabet only two places from V to T.

Mr. Schmidt: That's a reverse donkey, isn't it?

Mr. TRAINER: That is presumed to exist, but I suspect it is of far smaller significance than the one that starts at the top of the ballot-paper. It is probably equivalent to the number who eat their eggs from the bottom up, as Dr. Louat would have put it.

Mr. Mathwin: It's got an attraction for the Chinese.

Mr. TRAINER: I am certain there are voters who are just as eccentric as the member for Glenelg. As well as the donkey vote, because of the complications of the system that has been in existence for so long, we get a very high informal vote. Common folklore sometimes has it that the informal vote is actually a deliberate vote cast by people as a protest. Since most members opposite, like members on this side, have at one time acted as scrutineers they will know that that is not true. Most informal votes are votes cast with the intention of them being formal votes, but because of errors the votes have become informal. That applies in the vast majority of cases. The more complicated the list is, the more likely that a mistake will occur. In the Senate, as has been pointed out earlier, this can vary from 10 to 20 per cent.

What this meant, for example in relation to the Senate election in 1977 in South Australia, was that 80 000 votes were wasted, as they were informal. They ended up being wasted, even though the person who cast that vote was more than likely by a factor of 10 to one, intending to cast a valid vote. In other words, a number of people equivalent to an entire Federal electorate of 80 000 voted informal. The more complicated the system the more likely that is to occur. I suspect, as the Leader has pointed out earlier, that the Liberal Party chooses to keep the voting system as complex as possible with just that in mind, hoping that the people who are more likely to make mistakes are more likely to be Labor voters, the sort of people whom we defend.

Mr. Lewis: You believe that?

Mr. TRAINER: I do indeed. The Leader spoke on this matter at some length earlier, and gave examples of the sort of people the Labor Party exists to defend, the sort of people most likely to be disfranchised by complex voting systems. The Hon. Mr. Blevins in the other Chamber last night gave an excellent speech enumerating the various categories of people who fall into that category.

Mr. Mathwin: How do you feel about compulsory voting?

Mr. TRAINER: As I said earlier we do not have compulsory voting; we have a compulsory turn-out whereby people are obliged to present themselves at the polling booth but they are not obliged to cast a valid vote. However, if they do wish to cast a valid vote the system should be designed so that they can do so and they should not be prevented by mistakes that are not intentional. We should design the systems in the same way as we should design our social structures—to protect the weak. There seems implicit in the attitude of members opposite a belief that those who make mistakes in voting do not deserve a vote, in the same way as those who do not make it in society, and become wealthy, do not deserve to be full members of the community. Yet those members of the community who need our protection most are the ones who most need to be able to cast a valid vote to attain that protection. Lord Acton says:

> The men who pay wages ought not to be the political masters of those who earn them, for laws should be adapted to those who have the heaviest stake in the country.

The traditional view of the Liberal Party, particularly as expressed in the other House, is that those who have the heaviest stake in the country are those who have the biggest investment. Lord Acton's view was different. He said that those who have the heaviest stake in the country are the poor, because for them "misgovernment means not mortified pride or stinted luxury, but want and pain and degradation, and risk to their own lives and to their children's souls."

When the country is misgoverned it is not the rich who suffer; they are inconvenienced, but it is the poor who really suffer. The poor, those who are illiterate, functionally illiterate and so on, the ones who have difficulty in passing a valid vote are the ones who suffer most under this Government and who should therefore be given every opportunity to have their say in the Government of their country. Members opposite have no sense of shame if they seek to take advantage of the weakness of illiterates or those others who have difficulty in casting a valid vote.

The degree of illiteracy is far wider than people seem to realise. The Premier, who is just walking out of the Chamber, should be aware, because of his former profession, of the number of people in the community who have visual defects and who are likely to cast a vote because of those defects. I refer now to two or three articles I uncovered during the tea break. One from 18

June 1980 states that 10 per cent of Australia's non-migrant adults were found to be illiterate in a recent Sydney study.

Mr. O'Neill: You've got a racist Minister of Aboriginal Affairs who has been brow-beating the Aborigines this afternoon.

The DEPUTY SPEAKER: Order! I suggest to the honourable member for Florey that his comments are getting close to being unparliamentary. I will not permit him to impute improper motives to any member, or he will not be here to hear the rest of the debate.

Mr. TRAINER: Another article was headed "Did you know that in South Australia today 50 000 adults can't read or write?". That appeared on 3 August last year. That 50 000 people is the equivalent of three State electorates. Another article appeared on 24 June 1979, and was headed "Adelaide's illiterates who hush it all up". That article referred to the pride of many illiterate people. They are a hidden section of the community. They do not flaunt their illiteracy; they tend to conceal it.

An honourable member: The Chief Secretary does.

Mr. TRAINER: There are exceptions to this rule on the front bench opposite, but in general they do not flaunt their illiteracy. For instance, one young man mentioned in the article continually kept his "injured" hand in a bandage so no-one at work would guess that he could not write.

In a relatively simple election the informal vote can be quite low, perhaps as low as 2 or 3 per cent, which might not seem a lot, but those votes can be decisive in close seats, if they are cast as valid votes. As the number of names on the ballot-paper increases, the chance of voters making a mistake increases, too. In 1974, the Senate ticket in New South Wales had a total of 73 names on it, so that electors had to fill in from one to 73 without making a mistake and without missing a number.

Mr. Lewis: You are wrong; it was one to 72.

Mr. TRAINER: It was one to 72, because an exemption is granted in the case of the last square. Before the member for Mallee starts calling out he should bear in mind why that ballot-paper had 73 names on it—because of the chicanery practised by people on his side of the political spectrum. Nearly a quarter of the 73 Senate candidates in New South Wales came from the Bankstown area. An article which appeared in the *National Times* of 6 May referred to the matter as the "Bankstown rash". Those candidates were put up by a group in the area for the deliberate purpose of deceiving Labor voters out of a valid vote. The article states:

> The group expects that the effect of the large number of candidates will be to increase the number of Labor voters who will vote informally in the Senate election. Prime movers in the group are Mr. Douglas Burleigh Carruthers, former Bankstown Mayor and Mr. Russell Grahame Duncan, a Bankstown solicitor and an alderman on the Bankstown Council.

Each of those candidates apparently had his $200 deposit paid for him. The result was that the informal vote in New South Wales in that Senate election in 1974 was close to 20 per cent, nearly one person in five. As originally designed by the people behind the scheme, the majority of those votes wasted were Labor votes. As a result, the Labor Party in New South Wales in 1974 did not get the sixth Senate seat of the 10 in New South Wales. Because of that, the disgraceful events of October and November 1975 became possible. That was a cheap price that those people paid, 19 candidates at $200 each to stack the ballot-paper and as a result everything that happened in 1975 that was a blot on the political history of this nation was made possible. That was a cheap price to pay, $3 800.

Members interjecting:

The DEPUTY SPEAKER: Order! There are far too many interjections. The member for Ascot Park has the floor.

Mr. TRAINER: The Bill being introduced is not the same as the New South Wales Act, because the number of candidates required to have numbers put alongside their names has been altered. In New South Wales, 15 candidates have to be elected, yet electors have to put down only two-thirds of that number of names. The reason for that is that most of the political Parties in New South Wales, even in their wildest dreams, cannot win more than 10 of the 15 vacancies. As a result, political parties put forward a list or slate of 10 candidates, and electors only have to put down the numbers 1 to 10, the size of the slate.

I submit that it would be far more appropriate had this Bill contained a requirement that electors had to put down only the numbers from 1 to 7, which is the normal size slate that each of the two major political Parties in this State put up for the Legislative Council. I prefer the list system in terms of pure simplicity, but it is still relatively simple for a person to put down 1 to 7 in a vertical column alongside a complete slate of candidates. Some of them will then forget to move across to another column to put down 8, 9, 10 and 11 to fulfil the requirement for 11 candidates to be numbered off, and for a group to which they do not want to give their vote, anyway. This is a deceptive Bill, and I condemn the Government for introducing it.

Mr. McRAE (Playford): I totally oppose this measure. The reason I do so is that there is no way that I will be moved from the traditional stand of the Labor Party from as far back as Kingston in 1896 for the total abolition of the Legislative Council. It is an absolute blot on the whole Parliamentary system in this State that we need a Legislative Council at all. I know, Sir, that you, as Deputy Speaker of the democratic House, will be heavily swayed by the arguments that I am putting before you.

Mr. Russack: Are they better off in Queensland without a Legislative Council?

Mr. McRAE: I will not break the rule of the Chair by responding.

Mr. Russack: You can't answer me.

Mr. McRAE: Sir, I have been angered now by the statement of your Deputy that I cannot answer the interjection, so I will answer if, of course, you do not object.

We know, or most of us know (there are some newcomers to the Parliament who might not know) that the whole history of South Australian politics from the inception has been to get democracy working in this State. We know the work that has been done by the ordinary working people of this State to get rid of the people in that other place. We know that, every time a democratic, reasonable, just and equitable proposal has been put before those other people in that other place, it has been defeated—unless of course, they could step sideways and backwards for a temporary strategic manoeuvre.

There is no way on earth that I am going to accept that situation. I am a person who believes in the policy of the Australian Labor Party, which is the total abolition of the Legislative Council in this State. There is no justification whatever for its existence, and what we have here tonight is another tinkering device, part of a whole history of tinkering devices to keep that unnecessary organisation in existence. Your colleague, Sir, from Goyder asked what reason I had. I have a very good reason, because if I needed to I could recount the measures, time after time, for almost the last century in which progressives in this

place have attempted to put reasonable, just and equitable measures before that intolerable other place, only to have them defeated.

I am not terribly happy to have a bear sitting above me, ready to smash me with his claws, and I am none too happy simply to say that we have torn out some of the necessary items of the bear, such as the claws. Your colleague from Goyder, Sir, having been in the other place—

Mr. Russack: I have had the experience.

Mr. McRAE: —has had the experience, and he will remember the troglodytes who used to dwell in that place.

Mr. Russack: That is only your impression.

Mr. McRAE: It is not just my impression. It is also the honourable member's impression, because he would well remember the troglodytes who used to inhabit that place—

Mr. O'Neill: And he got out of it.

Mr. McRAE: —and he was very happy to leave. I am certain of that. I would be delighted if he would only reply to some of the remarks I am making. In this country, South Australia is regarded by most people as being an enlightened State—and so it is. In this country, South Australia is regarded as being a very fair and equitable State—and so it is, in most respects.

The Hon. D. O. Tonkin: There's only one fault, and that's the present Upper House voting system.

Mr. McRAE: I am trying not to answer the Premier's interjections; I am struggling not to answer at the moment. I want to point to a few examples over the past few years before I go back to Kingston, who had it all in 1896, who was able to spell it all out, and it is as relevant today as it was then. Does the House realise that, of the various politicians in Australia, Joh Bjelke-Petersen would be the most conservative? Even you, Mr. Deputy Speaker, would agree with that, I am sure, although I dare not ask you to comment, under Standing Orders. After that, Sir Charles Court would be regarded, I think, as the next most conservative, and then, in straight order, I suggest Richard Hamer, Wran, Lowe, and then the Premier.

The Hon. D. O. Tonkin: I'm enormously flattered.

Mr. McRAE: I hoped the Premier would be flattered, because that is the situation. Does the House realise that in this State, as early as the 1890's, the right of the worker, the dignity of the worker was promulgated?

Members interjecting:

Mr. McRAE: I am not going to worry about those interjections any more.

The DEPUTY SPEAKER: Order! There are too many interjections. The Chair has endeavoured to be fairly tolerant, but there are far too many interjections, and I suggest that the honourable member for Playford should be permitted to continue without interruption.

Mr. O'NEILL: On a point of order, Sir, I would like to place on record that I think the Chair has been most benevolent.

The DEPUTY SPEAKER: Order! Has the honourable member a point of order?

Mr. O'NEILL: I think the Chair has been very benevolent.

The DEPUTY SPEAKER: Unfortunately, that is not a point of order. I suggest that the honourable member should not attempt to raise a point of order so that he can make comments that are completely out of order.

Mr. McRAE: This State, which has led the world, and led the country, in so many ways, is now like a peasant trying to drag up the crumbs from the table in so many things, and one of the things that I point to immediately, which is to the everlasting disgrace of the Upper House, is the matter of workers compensation. You would know, Sir, because your electorate has in it so many workers who are involved in dangerous procedures—

The DEPUTY SPEAKER: Order! I suggest that the honourable member for Playford should link up his remarks. He is getting a little wide of the measure before the House.

Mr. McRAE: With great respect, Sir, we are talking about the voting procedures in relation to the Legislative Council, and I am saying that there should not be a Legislative Council at all. Surely that must be within the purview of the Bill. I am saying that your constituents, Sir, will well remember, as do mine, that in this State workers have a limit of an $18 000 maximum for compensation, while in every other State of the Commonwealth the maximum is no less than $32 000. I want to know why that came about. I know the answer, and so do you, Sir. Those troglodytes in the Upper House destroyed every effort that we made from 1973 to increase that amount; 1973 was the year of the last successful amendment.

The real situation is that, because of those people in the Upper House, workers in this State are being treated like peasants. It is just as real as though they were in the southern part of Italy, compared with the rest of Europe. It is just as real as though they were in the Basque part of Spain, as against the rest of Spain. The reality of the matter is that workers in this State have a maximum of $18 000, while workers in the rest of the Commonwealth—

The DEPUTY SPEAKER: Order! The Chair has been most tolerant with the honourable member for Playford, but I ask him now to relate his comments to the Bill before the House. I have endeavoured to allow him to continue in this strain hoping that he can link up his remarks. I suggest that he should do that, otherwise I must ask him not to continue in that way.

Mr. McRAE: I will, immediately. Even Joh Bjelke-Petersen has provided for double the amount that I have been talking about. Even Sir Charles Court has provided for double the amount that I have been talking about, and that very nice fellow, Richard Hamer, has provided for something similar. I can recall a remark by Sir Winston Churchill, who I did not particularly like, when he said of Attlee that he was a very modest man, with every reason to be modest.

This State, which led the world in some of the legislation introduced in the early 1970's, has now reduced its workers to being peasants. That is because of the very existence of that place, and that is a disgrace. I will not accept it. I now refer to what Kingston said in 1896. He viewed the other House as a total disgrace in the whole purview of Australian politics at that time. Kingston, after the Federation of the Australian colonies into the new Commonwealth of Australia, pursued the same attitude, and so he should have, because Upper Houses throughout Australia are a disgrace to our democratic process. The member for Goyder said by interjection that the House that he once graced was a fine House. I totally deny that.

In Queensland, the Upper House was removed totally in 1922, and I am sure that the member for Baudin, who is far more experienced in these matters than I am, will deal with that in due course. Reference has been made to New South Wales, where a dirty deal was done to salvage another dirty deal. If I become unpopular for saying that, so be it. I have said the same thing before, and I have been unpopular before. Let me be unpopular. Do you, Mr. Deputy Speaker, realise the bias that has been prevalent in the country districts of Victoria. As a member of the Liberal Party, you, Sir, would not know that, but you must know it from your associates in the Country Party, the National Party, or whatever it calls itself at the moment. The whole deal is so crooked, tangled, convoluted, and so much against equity and good conscience and everything

else that it is a disgrace.

We know that even Sir Charles Court was once caught (if I may make a pun) at a Constitutional Convention when he was dealing with the situation of a by-election or a general election in which there were two candidates. One candidate was a man called Bridge, and I think he was the A.L.P. candidate; the other was called Ridge, who I think was the Country Party candidate in the Kimberleys. The slogan that was running around was: "Put a bridge over ridge." It so happened that, in that context, Sir Charles spoke at the Constitutional Convention and, in effect, admitted that the whole area was a front to get another four seats for his supporters. He did not care particularly whether they were Liberal Party, National Party, Country Party, or whatever, as long as they were not A.L.P.

Throughout the history of this country, I can well understand why each of the colonies, or in the case of South Australia the province, had to have, to begin with, some kind of Legislative Council, but I am amazed that even such a backward province as Queensland could have made in 1922, the objective decision to get rid of the whole pack in the Upper House. It was recognised there, as Kingston recognised in the early years of this century and as all of us recognise now, that it is a useless situation. If they try to justify themselves as being a House of Review, I say they are not justifying themselves at all. In the time I have been here, that House has never been a House of Review: it has merely been a House carrying out the views of its own Party. Members of that House have never, on a particular issue, crossed the floor so as to defeat the Government of the day.

The Hon. W. E. Chapman: Look, you do something for me. Just keep Chatterton as shadow Minister.

The DEPUTY SPEAKER: Order! I suggest the member for Playford be given the opportunity to continue, even though he is not relating his remarks to the Bill.

Mr. McRAE: I have related my remarks to the Bill all the way, because I believe that there should not be a Legislative Council. It is ridiculous. I can understand the constitutional terms of the argument that is put for the need for a Senate, particularly in regard to the fact that small States like South Australia and Tasmania, in certain circumstances, need constitutional protection. In rare circumstances has that occurred, and I have no doubt that the member for Baudin will support that comment. It has occurred, so I can understand the need for a Senate. However, I simply cannot understand any more than the illustrious Kingston could understand (and I do not put myself in his shoes or align myself to his grandeur in any way) why any State Parliament, after the passing of the Commonwealth Constitution, required an Upper House.

The Hon. W. E. Chapman: Really!

Mr. McRAE: The Minister gives me a very good opportunity to deal with this aspect. I can understand this need only in terms of power. The Minister will know very well that his Party, its predecessor (and his Party has changed its name in the time I have been here) and the Minister's allied Parties has made use of that other place to keep up the standard of the landowners, keep down and depress the opportunities of the wage earners and keep down and suppress the community welfare, education, workers compensation, health and everything else of the ordinary citizen of this State. The Minister is not laughing now, because he knows that is true. He also knows that South Australia is regarded with absolute laughter in regard to one of the areas I have mentioned, namely, workers compensation. Does the Minister understand that South Australia is the laughing stock of Australia in that regard?

The DEPUTY SPEAKER: Order! I suggest that the member for Playford should not refer to workers compensation or the workers unless he links his remarks strictly to the Bill. I have been most generous in my interpretation, but I am afraid I will have to enforce Standing Orders if the honourable member continues to transgress.

Mr. McRAE: Well, Mr. Deputy Speaker, you know that I would not dissent from any ruling that you gave. Since 1973, the Upper House has continually refused any attempt to upgrade the Workers Compensation Act, and the workers of South Australia are caught with a figure of $18 000 in payments, whereas even the workers of that primitive State of Queensland and the equally primitive State of Western Australia receive $23 000 or more.

How are the members on the Government side going to support that? The only way they can do so is by supporting the Upper House, and it was the Upper House which brought that situation about. So, it can be seen that I am not particularly enamoured of the Upper House, and I never have been.

With regard to the Bill before us, it seemed that I should align myself with the remarks of the member for Ascot Park. I say that because I feel very angry about the whole situation concerning the Upper House, which I do not think should be there at all. We know very well that every time a Bill goes to those troglodytes up there they emasculate the thing; they will tear down the ordinary living standards of South Australians and attempt to make us look like peasants, which they have successfully done.

The DEPUTY SPEAKER: Order! I suggest to the honourable member that he confine his remarks to the Bill before the Chair. I have warned him on three occasions that he must not refer to matters which are not in the Bill.

Mr. McRAE: I am sorry, Sir, but have you warned me formally?

The DEPUTY SPEAKER: I suggest that the honourable member continue his speech and the Chair will determine what course of action it will take if he continues on the line which he has done for the last 20 minutes he has been speaking.

Mr. McRAE: I will not be pushed into a position of dissent against you, Sir, unless you have some wild aberration, and I am sure you would not have that. I should make it clear that the abolition of the Upper House has been on the Labor Party's platform for 54 years. Even in 1894 it was one of the main issues of Labor policy, and throughout the history of this State and many other States, the leading spokesmen for the Labor Party have maintained that policy. I will not tolerate a situation in which I am put with a group which has a watered down policy. I am an abolitionist, and I will stay that way because I can see no justification whatsoever for the other place. I have never seen one good thing it has done. All the major initiatives both of my own Party when it was in power and of the Government Party have come from this place; they have not come from the other place. I know that the Premier, who has just entered this place yet again, would agree with me that in terms of initiating legislation the main thrust must come from this House and that the whole nonsense of the other place being a place of review is just that—nonsense, a waste of the public purse and a pestilence on the whole population.

The Hon. D. J. HOPGOOD (Baudin): It is a great pity that the Premier was not in this place to hear the whole of my colleague's speech, because that was the gravamen of his remarks, and it is extraordinary that he had to send one of his junior Ministers, as I heard that Minister describe himself earlier this evening, in here to hold the fort for him, particularly as the measure is rather major. There we

go, the Premier is treating the Parliament with complete contempt. We had no Minister here at all for about 20 minutes, and then finally the Minister of Agriculture came in, and he is stuck here now because the Premier is treating us with contempt.

The DEPUTY SPEAKER: Order! The member for Baudin, as a person who has held Ministerial rank, would be perfectly aware that it is not a requirement that Ministers remain in the House at all times, or at any time. So, I ask him not to refer to that matter.

The Hon. D. J. HOPGOOD: I realise it has nothing to do with the Bill before us, but it was a practice of the previous Government of which I was a part to provide at least one Minister in the Chamber, out of courtesy to the rest of the members of the House.

I want to confine my remarks purely to the matters which affect changes to the Legislative Council voting procedure, although I am aware that this Bill deals with other matters as well. Although, of course, I am not in a position to refer to this in any detail, I find it interesting that although this Bill has already been through the other place, which received the spirited censure of my colleague a few moments ago, we now have before us quite a thick wad of Government amendments. I am not in a position to discuss the content of those amendments, because it is outside Standing Orders to do so, but it is rather extraordinary. I simply want to comment on the procedure that we are following here. I refer to the fact that the Government has waited for the measure to go right through the other place (and I believe the Legislative Council debated it until 5 o'clock this morning) and then it comes in here before Government amendments are moved. I find that extraordinary.

With regard to the change in the voting procedure for the Legislative Council, two important changes occur. There are other subordinate matters, but two important changes occur. First, the Bill if it passes into law will allow for an individual as well as a Party preference to be expressed in voting. Secondly, the Bill replaces the system of optional preferential voting with a system which prescribes in one important particular respect how one shall vote on pain of invalidity if one transgresses.

The DEPUTY SPEAKER: Order! For the benefit of the member for Baudin, it is my understanding that the amendments which have been provided are now part of the Bill, and the honourable member is quite in order to refer to the Bill as amended in the other place.

The Hon. D. J. HOPGOOD: Thank you for your assistance, Sir, but I do not intend to refer to the amendments, because I want to stick to the main principle of the Bill, and I am sure I will have more than enough to say on those matters to occupy my time. Honourable members will be aware from examining the second reading explanation just exactly what that important particular is—it is necessary for a person to mark preferences from 1 to 11 for a vote to be valid. Whatever we might think of those two principles, it seems to me that they are in conflict with each other. On the one hand the Government is showing a tender solicitude for that, say, 5 per cent of people who may wish to exercise a preference other than a Party preference, yet on the other hand what it is doing is denying another part of the electorate what it wants to do, which may well be to indicate preference for the candidates of a particular Party, but not go further than that.

Mr. Lewis: Nonsense!

The Hon. D. J. HOPGOOD: That is perfectly true. If my Party at the next State election endorses seven candidates for the Legislative Council, it will be necessary for the people who want to vote for us to indicate some preferences for candidates of other Parties in order for their votes to be valid. That is the thing to which I object.

On the one hand, the Government is showing some tender solicitude for perhaps 5 per cent of the people who do not want to show a Party preference but want to vote for certain individuals, perhaps No. 3 on the Liberal ticket and No. 5 on the Labor ticket, and on the other hand what it is doing is denying people the right to perhaps limit their preference to just one, two or three candidates. That is what the honourable member's Party is doing. They think they are broadening the options available to people in one particular.

Mr. Lewis: Yes, we are.

The Hon. D. J. HOPGOOD: They may be in relation to one matter, but they are certainly denying this range of options in another matter.

Mr. Lewis: But your Leader said people only vote for Parties. You seem to be—

The Hon. D. J. HOPGOOD: No, I am not. The Leader indicated that there could be perhaps 5 per cent of people who may wish to express a preference for other than just the major political Parties. He quoted figures from Senate elections to show that that was the case. What the Leader was saying was that for the most part people vote for Parties and that the old system took account of that. What I am saying is that the Government is being perfectly inconsistent in trying to go beyond that and yet at the same time limiting the options available to people in the way in which they express their preferences. What I ask the Premier and what I ask his assistant on the back bench is this: what is wrong with optional preferential voting? If a person simply wants to place the figure "1" in the square alongside one candidate and leave it at that, what is wrong with that?

Mr. Lewis: What about the other—

The SPEAKER: Order! I suggest that the member for Mallee allow the member for Baudin to continue his remarks.

The Hon. D. J. HOPGOOD: I have had a good deal of experience with this through scrutineering from time to time. I have always thought it a great pity that when one is scrutineering from time to time one comes upon a ballot-paper where a person has expressed a clear preference, and you can make sense of what that person has done, yet you have to rule it out because the person has not exactly followed the letter of the Electoral Act. If the voter does what I did in the Southern by-election quite deliberately in 1971, 1972 or whenever it was (that is, put No. 2 alongside Mr. Martin Cameron and No. 3 alongside the C.P. candidate), clearly one can make no sense of such a vote. That is a deliberate intention to vote informally because my Party was not running a candidate, and there is no way in which that sort of vote can be counted. On the other hand, had there been, say, three candidates and I have voted alongside one candidate and then not exercised my right to put a "2" or "3", or just a "2", I would still be expressing an intention. It would be possible for the vote to be included in the count. All it would mean is that, if my candidate finished up third, I would have given away my right to have my vote further counted when the allocation of preferences was given. What is wrong with that? Is that not my right? Why should I be denied that right?

In the Senate system, of course, that becomes even more likely, as shown by individual ballots. I can recall once seeing a ballot-paper on which a person had to mark from about 1 to 32, or something, and there were two communist candidates on the ballot-paper. This person went 1, 2, 3 (I think they were for Labor) and so on across the paper. Opposite Nos. 28 and 29 there were two crosses, and then the numbering continued. Suppose the

last number down was 27, and the paper then went on 28 and 29, those crosses were in there. In any event, clear intention had been expressed. You could make sense of the way in which the vote had been exercised, yet it was invalid because it had not followed the letter of the Electoral Act.

What are the advantages of optional preferential voting as opposed on the other hand to plurality voting, or first past the post, or secondly, a requirement for full or partial setting out of preferences? First, I do not want to canvass the relative merits of the preferential system or its variants with plurality voting. I do not really see how you can. I think that is partly a matter of what one might call taste, or often a matter of deals between Parties—Party advantage. There is no doubt that the preferential system was introduced for Federal elections by Billy Hughes as a deal with the nascent Country Party. The Country Party had developed during the First World War. It was starting to take votes from the Liberal Party in triangular contests in country electorates which in a couple of cases had the effect of the Labor Party winning that contest.

Hughes was faced with two, or I suppose three, alternatives. One was that he could have just toughed it out, fought it out with the Country Party, which is what Sir Henry Barwell tried to do in South Australia and lost the 1924 election as a consequence, or he could have come to some sort of electoral arrangement or pact (mutual immunity) with the Country Party, which is what Barwell's successor, Sir Richard Butler the younger, did in 1927 in South Australia and won as a consequence. Or thirdly, he could have changed the Electoral Act to provide for preferential voting, which meant that triangular contests could go on with the preferences of the two anti-Labor Parties being transferred to the greater of the two and given him a better chance of winning those contests. That was why that system was introduced at Federal level. Nor is there any doubt that was the reason why that system was introduced in South Australia before the 1930 State election.

People from the United Kingdom and the United States view this whole thing with some bemusement. They see nothing wrong with the plurality system of voting which exists in their countries. I think it is very difficult to adjudicate between those two systems. In any event, that is not really at issue here. I make the point that the system from which we are moving had elements of plurality in it. When the Hon. Mr. DeGaris in another place uses words like mathematical gerrymander, all he is really saying is that he objects to those plurality elements which are in the current legislation, not the Bill before us at present. So be it. He can talk about that if he likes. I do not think it is a demonstrative case so far as the honourable member in that other place is concerned. I think he would have a great deal of trouble convincing people from the United Kingdom and the United States that plurality voting is so wrong.

This Bill, for good or ill, moves us to a preferential system. I am realistic enough to know that this Government is hell bent on a preferential system, and I therefore simply make the modest plea that what should happen is that true optional preferential voting should entail rather than there being a statutory requirement that a certain number of preferences have to be indicated. That is really what this is all about.

I think that all honourable members opposite are a little bemused at the suspicion with which the people in South Australia have viewed the introduction of this measure. All I can say is they have only their predecessors to blame in relation to this matter. There have been three famous, or perhaps I should say infamous, occasions in the history of the development of the Electoral Act in this State when obnoxious gerrymanders have been introduced or attempted to be introduced by Liberal Administrations. The first was in 1913, when the Peake Government did just that thing in relation to multi-number electorates. The weighting of the country electorate was such as to give a great advantage to the anti-Labor forces.

The second case was in 1936, although the amendments first applied to the 1938 State election, when the old multi-member system was changed to a single-member system, but in the process the weighting of the country vote was even more firmly entrenched. The third occasion was the abortive attempt by the Playford Administration, I think in 1962, to further alter the system. Demographic change, the movement of population into what were seen as fringe electorates, such as Glenelg and Tea Tree Gully, was reducing the disadvantage the Labor Party had suffered, and there was every chance that Labor might be able to get up.

That is what happened in 1965, and the Playford Administration raced in a measure, which would have made it much more difficult for the Labor Party to win, by again further entrenching the weight of the country vote. That measure failed because the Liberal Party by then lacked the means to get a constitutional majority on the floor of the Chamber. I believe the late Mr. Sam Lawn was not present in the House at the time (he was an Opposition member), and that it was not possible for the casting vote to be applied which would have given that Government a constitutional majority.

On three occasions what are seen as blatant gerrymanders (or playmanders, to use the Blewett and Jaensch designation) were attempted by the Liberal Party for the Lower House: in 1913, 1936, and 1962. On two occasions they were successful in being able to so rig the electorates; on the third occasion they were prevented from so doing. When the honourable gentleman from another place to whom I have referred previously talks about mathematical gerrymanders, and so on, it is not surprising that people are understandably somewhat cynical in their response and that they view with some suspicion the measure now before us.

Let me remind members that the previous system provided in large measure that, where a Party got a certain percentage of the popular vote, it got something fairly close to that percentage of the seats in the Legislative Council. That is exactly what the proportional representation system is designed to do. It is true that preferences were not counted out fully, but the member for Mallee then has to take issue with those people who ask what is wrong with the plurality situation.

Mr. Lewis: Chris Sumner wouldn't be there now.

The Hon. D. J. HOPGOOD: There we go! It is simply a matter of the plurality system. We could look at the very many years in which there was first past the post in most of the States in Australia.

The Hon. W. E. Chapman: Is that what you want?

The Hon. D. J. HOPGOOD: That is exactly what the previous measure did, and the Labor Party had no objection to that previous legislation; it introduced it. Since this Government is hell bent on doing away with that simple system and bringing in some means whereby preferences are counted out, I ask that it should be prepared to give free rein to the wishes of the individual elector and allow him or her to cast a valid vote, provided that the vote can be made sense of, and provided that the intention of the voter is clear. What is wrong with that?

The member for Mallee believes that electors should be allowed to vote for an individual, and that is the other principle which is embodied in this legislation. Why should

he not also believe that we should allow the individual elector to exercise his full option, including not wanting to go beyond a certain number in ordering his preferences, if he does not wish to do so?

Mr. Lewis interjecting:

The Hon. D. J. HOPGOOD: That is completely irrelevant. If the individual voter does not want—

Mr. Lewis: What sort of a cricket team—

The Hon. D. J. HOPGOOD: The honourable member is stupid in that sort of comment. Could we please get back to the principle that we are trying to embody here? It is true that, if the voter chooses not to indicate preferences to the extent that is allowed to him under the Act, he is probably limiting his power as a voter. He is not taking advantage of all the privileges or rights voted to him in the legislation. But surely that is his privilege, just as in the Lower House, if a person would prefer not to have his vote being involved when it comes to the distribution of preferences—if a person who votes for a National Country Party candidate in a seat where the Country Party runs third would prefer not to have any choice then in the contest between the other two candidates—why should he be forced to do it?

Furthermore, we get the absurd situation in the Lower House set-up where often a person has his vote ruled invalid because he has voted for only one candidate, when in fact those missing preferences were never going to be distributed anyway. Since I turned 21, I have voted for the A.L.P. on every occasion on which I have gone to the polls. On not one occasion in a Lower House ballot have my preferences been distributed, because the person for whom I have voted on every occasion has been first or second. I started with Mr. Jack Jennings, who was a distinguished member of this place for many years, and went right through to the most recent person I voted for, Dr. Gun, at the last Federal election. Happily, in most cases, they were first, but whether first or second the preferences were never taken into account because, under that system, preferences are not taken into account until the candidate is eliminated from the count. The Labor candidate has always been one of the last to go.

There are situations in which the Labor preferences may be counted, and optional preferential voting allows the Labor voter to take advantage of that if he wishes. But what is the sense of requiring a person to indicate a preference when in most cases one knows in advance that they will never be examined? The only reason why they will be examined is to ensure that the person has cast a valid vote. It is an empty exercise.

Mr. Lewis: It's called exercising responsibility.

The Hon. D. J. HOPGOOD: Of course it is exercising responsibility, and people should do that, but why should we require of them that they have to exercise that responsibility if they want to exercise only a part of it? If in their wisdom they want to vote only for the member for Rocky River, for instance, and they are not particularly concerned about who runs second, third, or fourth at the poll, why should that vote not be valid, no matter how ill considered it might be?

Mr. Mathwin: Why not have voluntary voting, for unions and all?

The DEPUTY SPEAKER: Order!

The Hon. D. J. HOPGOOD: I will ignore the ridiculous interjection from the member for Glenelg, who knows that we do not have compulsory voting; we have compulsory turn-out, which is an entirely different thing. I accept the reality, first, that this Bill will emerge from the legislative process with a system which does allow for the indication of individual as well as Party preferences. I do not think there is very much in that either way, but that is what will happen, and I am not going to cavil about that. Secondly, I accept the inevitability that some form of preferential voting will emerge from the process. I simply ask the Liberal Party to put its own principles into effect and provide for optional preferential voting in the full sense of that term.

Mr. CRAFTER (Norwood): The Opposition regards this Bill as vital, because members on this side are regarded by a wide majority of people in the State as the custodians of proper electoral laws. The record of the Labor Party in this State is admirable indeed. To our credit, we have brought the ability of people to vote for the composition of the Legislative Council into the twentieth century from the eighteenth century. If it had not been for the efforts of many members of the Labor Party over a long period in involving the electors of this State in an educational programme, that reform would not have been achieved. It was a popular reform and was appreciated by the people. On many occasions, we have heard—

Mr. Mathwin: You will tell us that you gave women the vote, next.

The DEPUTY SPEAKER: Order!

Mr. CRAFTER: I will refrain from answering the more stupid interjections. If the people of this State are to be bound by the laws passed in this House, they have a basic right to have their vote counted by those who represent them in this place and in the other Chamber.

Mr. Lewis: If they want it counted.

Mr. CRAFTER: That is precisely the fundamental point. As speakers before me have said, the issue is whether a group of people in our community will be disfranchised and will find it much harder to have their vote counted in Legislative Council elections.

I wish to refer to the aspects of this Bill that apply to the Court of Disputed Returns that arose from the Norwood by-election. I am disappointed that the Government has seen fit to introduce some reforms that were recommended by the judge in his decision but has chosen to ignore other matters that represent glaring errors, which are in need of reform. The Government has also overlooked some of the obvious inadequacies of our electoral laws.

Many provisions will advantage the Government Party and disadvantage Opposition Parties. The Bill picks the eyes out of a judicial decision and the conduct of elections. This Court of Disputed Returns was probably the widest review that has been conducted into an election in any State of Australia. It is an important judgment, and I understand that all States and the Commonwealth have examined that judgment very carefully. Many reforms will come from that judgment, and no doubt they will benefit Australian electors.

The Government has chosen not to reform some areas. One of the fundamental issues raised by the Court of Disputed Returns in the Norwood by-election was the matter of advertising. On this occasion, the Government has, as on previous occasions, and, as other like Governments have done, chosen to ignore the subject of political advertising, which is very much in need of reform. Ethical standards must be established by Statute to ensure that there is fair—

Mr. LEWIS: I rise on a point of order. I ask you, Mr. Acting Speaker, to rule whether this subject matter that is being cavassed by the member for Norwood is relevant to the Bill. I do not see anything in the Bill that refers to advertisements at election time. I thought we were debating the voting system by which members of the Upper House are elected.

The ACTING SPEAKER (Mr. Russack): I do not

uphold the point of order, because the debate so far has been fairly broad, but I admit that, during some of the debate, members have canvassed matters that are far away from the Bill. As I call on the member for Norwood, I ask him to relate his remarks to the Bill.

Mr. CRAFTER: Thank you, Mr. Acting Speaker. I am saying that certain reforms are not contained in the Bill. However, they are contained in the principal Act and are totally ineffective. I criticise the Bill for not dealing with these matters. Funding of elections must be attended to, but this matter is not referred to in the Bill. Moves are being made throughout the Western world by Parliaments to amend laws so that there is fair play in funding elections.

Mr. Lewis: Name the countries.

Mr. CRAFTER: The United States is one country. The honourable member may like to reflect on the recent Presidential election there. The matter of postal voting is referred to in the Bill, but is inadequately attended to. This area is open to a great deal of abuse and is in need of much more reform than is contained in this measure. Similarly, section 110a voting, as it is more commonly known, should be reformed. Some of the reforms contained in the Bill do not go far enough.

The system of electoral visitors has been a worthwhile and important innovation in the principal Act. This was introduced a few years ago. This area needs to be reviewed; it relates directly to a number of measures contained in the Bill, yet it is not attended to. My criticism may be attended to administratively, but I would prefer to see that Government undertakings are given legislatively to ensure that electoral visitors comply with the spirit of the present Act. Visitors should go to more institutions. This matter causes concern in the community, because old people are manipulated or hassled.

Mr. Lewis: By Labor Party activists.

Mr. CRAFTER: The honourable member may be interested to know that Labor Party people are refused entry to many such institutions.

Mr. Lewis: And the Liberal Party also.

Mr. CRAFTER: I beg to differ.

Mr. Lewis: I can name the institutions.

Mr. CRAFTER: If ever there was a need for a proper inquiry into the conduct of elections, it is in the area of absent voters, because the practice has become more prevalent in recent times.

Other matters must be attended to, including issues to which the member for Albert Park referred in another context, for example, the drawing of positions on the ballot-paper by lot and the inclusion of ethnic how-to-vote cards in ballot booths so that people who are disadvantaged by reason of language may have an equal opportunity to vote for the candidate and the Party of their choice. Further, I believe that the role of the scrutineers at elections is not clear and must be explained. The Act is quite inconsistent in where scrutineers can play a part in the proper conduct of elections and where they can play their umpiring objective role and where they cannot. These are a number of matters that need to be attended to which have not been adequately attended to in this measure before us.

I refer to the provision in the Bill which relates to the rolls being bound and frozen for a period of six months when a Court of Disputed Returns occurs as a result of an election. I believe this is a most unfair principle to embody in the legislation. I refer members to the judgment of the Court of Disputed Returns. The evidence in the judgment of the Electoral Commissioners from both the State and Commonwealth Electoral Commissions indicates that in the Norwood electorate in the period of some five months prior to the September 1979 general election some 2 470 names were removed from the roll in that district. It is known that many of those names were removed in error. In fact, the evidence before the court showed that there were literally hundreds of people coming to the polling booths asking whether they could vote, and many of those people were told by polling staff that there was no need for them to vote. Many of them were turned away without completing a section 110a vote. There was an extraordinarily high number of section 110a votes: over 1 000 were recorded at that election. However, few of those people were able to have their votes included in the election. It can be concluded that if about 2 500 names were removed from the roll in a period of some 5½ months and in electorates where there is a high turnover of population, in a period of say, six months there could be up to 5 000 or 6 000 people who would be so disfranchised if this rule was to apply, and so some 30 per cent or 40 per cent of numbers of eligible electors could be disfranchised by the application of this rule.

It is most unlikely, because of provisions contained in other sections of this amending legislation, that the period referred to in clause 56 would ever exceed six months, because the legislation, in a very surreptitious way, intends to oust the jurisdiction of the court to allow for the amendment of the petition. So we find that there will be a very undesirable frustration of the expression of the will of the people in an electorate, at a subsequent election called as a result of a finding of a Court of Disputed Returns. While I can understand some concern in the community on this matter, I think the legislation goes too far and does not achieve what its authors have aimed for. I would have thought that a period of three or four months would be a much more reasonable approach to this matter than a period of six months which, after all, is one-sixth of a Government's total term. I believe that a subsequent election in those circumstances would not be an expression of the will of people who are electing people to represent them for the period ahead, usually for a period of some 2½ years. In that way this provision is making a mockery of our electoral system.

I refer to the provision in the Bill which, I contend, ousts the jurisdiction of the Supreme Court to have the petition amended. There is a very practical problem here, and that is in the collection of evidence and the petitioner must seek discovery of ballot-papers and other information from time to time so that he can accurately see what happened on polling day. A petitioner can be given information from all sorts of sources and he must be able to verify that to the satisfaction of the court. The requirement that any attempt to extend the period for lodging the petition be limited to 28 days, and they be provided only in special circumstances is an attack on the judicial system.

The experience with the Court of Disputed Returns in Norwood was such that there was very strict judicial control of the ability to obtain discovery, but that discovery was conducted properly and it did reveal many deficiencies in the conduct of the election. Where such evidence is obtained which may in fact change the result of an election if the matter is brought before a Court of Disputed Returns, then that procedure should apply. The effect of this law would be to circumvent that discovery process and the presentation to the court of evidence which may in fact overturn the result of an election. I find that this Bill is very deficient in that area. I believe to oust the jurisdiction of the Supreme Court in that way is most undesirable.

The other area that I believe needs a good deal of attention arising out of the Court of Disputed Returns is

the matter of postal votes. An attempt should be made in the legislation to address itself to some of the problems which arose in Norwood and which no doubt occur in all electorates with respect to official errors. Ballot-papers were received in the electorate for which I was a candidate that were for the wrong district; ballot-papers had the wrong names of candidates on them, and some of the ballot-papers had the Hon. Mr. Milne and the Hon. Mr. DeGaris mentioned on them, and many other people were included among the candidates for the seat that I was contesting.

On a number of ballot-papers there was an incorrect order of candidates, and that was another matter which came under judicial notice, which was commented on but which is not attended to in this legislation. In a number of other ballot-papers the Parties of the candidates were written in and it can be concluded that there was a fair chance that these errors were official errors. I cannot see anywhere in this measure any indication that these problems are being attended to. The judge found in that case that there was a duty on officers to provide correct information to electors when they were postal voting.

There are many deficiencies in this measure before us, and I have attempted to outline some of these deficiencies. It is disappointing that, there having been a judicial review of many aspects of the Electoral Act and a subsequent inquiry having been called at the initiation of the Premier into the most recent election in this State, the Norwood by-election, matters raised in these reviews have not been introduced in this legislation. This was the opportunity for many of these matters to be attended to, and as the Government is now in mid-term it would have afforded a suitable time for the electorate, the political Parties and the candidates to address themselves to these changes. However, this opportunity has been lost and the strength of our democracy and our electoral system is the worse for it.

Mr. SCHMIDT (Mawson): We have had a rather wonderful example from members opposite this evening of how to set up a camouflage screen. The Leader of the Opposition got up first of all and spoke about a number of matters. First of all, he was trying to hide the fact that under the old system, what we call the closed block list system, it is quite conceivable that the Opposition could hide its extreme left wing representatives, because, as they strongly espouse, as did the member for Baudin, what the Opposition is trying to do by this change in legislation is in effect to take away the identity of the individual. That is why the Labor Party introduced the system in the first place in 1975, although the legislation was not passed until 1976. Under the block system, the voter no longer had to refer to the individual in that block but merely had to vote for the Party which suited him in that instance.

Mr. Mathwin: They were hiding.

Mr. SCHMIDT: That is right. We all know how they would very much like that to have occurred. We heard some honourable members this evening say how the system we now have has been in operation for only a couple of elections. The member for Playford alluded very strongly to why they would like to see it continue, namely, that the ultimate goal and the policy of the A.L.P. is to abolish the Upper House. In order to do that, they would have a wonderful system devised so that people could be hoodwinked long enough to allow the Upper House to gain a majority of members of the A.L.P., and that would suit them in their endeavours to abolish the Upper House system altogether. Naturally enough they wanted very much to keep that system going.

We also know from recent history that in New South Wales they also endeavoured to introduce a very similar system. The backlash there was so immense that Mr. Wran was forced to set up a Select Committee. We know the outcome of that Select Committee. The results were that that State has adopted a better system which allows for the voter to vote for an individual person rather than for one block Party. This way the individual has the ability not to vote for a left wing radical if he does not wish to do so, and he can choose to vote for more moderate people.

Members interjecting:

The SPEAKER: Order! The member for Mawson has the call.

Mr. SCHMIDT: Thank you, Mr. Speaker. The Select Committee brought over certain people as witnesses, and amongst those witnesses were two notable political scientists from South Australia, namely, Dean Jaensch and Neal Blewett. Both of those persons alluded to the fact that they were not (and I stress "they were not") in favour of the block voting system that was introduced by Mr. Dunstan when he was in power. The reason why they did not want that was basically what I pointed out before—that it denies the democratic process which the Opposition here is endeavouring so hard to promote. They are saying, "We are going to look after democracy; therefore, we will deny democracy by bringing in a block system which disallows you the ability to vote for the person you wish. You will vote for one Party, and that is us." That was their hope, but it backfired on them, because we have not seen the A.L.P. gain the Upper House majority at this point in time.

One member opposite also referred to the fact that the Upper House was always denied the right to have more representation from those people who are of the same political persuasion as they are. If we think back to the 1975 Federal election, when really, if at any time the A.L.P. was going to gain any support at all, one would have thought that they would gain more support in the Upper House than in the Senate. What happened? People were so dead scared that if Mr. Whitlam was re-elected he may have total control. It will be noted that support for the Liberal Party increased in the Senate vote, particularly in this State. Members opposite were quite surprised to see that the Liberal Party in South Australia in 1975 gained three members in the Senate whereas the Labor Party did not gain the full numbers that it anticipated. We had exactly the same thing happen when Mr. Whitlam—

Mr. Langley: What are you talking about?

Mr. SCHMIDT: I am referring to the fact that the Opposition policy is to abolish the Upper House, and that is why the Opposition does not want any change to the electoral system in this State, which allows people the full democratic right to vote for whom they wish, rather than vote for one block Party. As I have said, that one block Party has the policy of abolishing the Upper House.

We saw exactly the same thing occur in 1975, when Mr. Whitlam again tried to espouse the policy that he wished to get rid of the Upper House and tried to engineer to get more members into the Senate. Of course, he was outfoxed, as we all know, by Joh Bjelke-Petersen, who did not allow this to occur.

Mr. Trainer: Who took advantage of a man dying in 1975?

Mr. SCHMIDT: We know that the system survives in Australia that, if somebody dies, a person from the same Party is elected, and a member from the A.L.P. was chosen for that Senate seat. It was not the person the A.L.P. wanted—that was the problem, but it was still a member from the A.L.P. Let us not get into this tripe about playing on someone's death.

Also, the Leader earlier this evening was trying to

camouflage this whole business of electoral reform by asking why this Bill did not contain some changes to the Lower House voting. Our eminent political scientist over there, the member for Ascot Park, uses as his scientific proof a telephone directory. We know that would not gain much support from other political scientists, who tend to do their work more thoroughly. We note from his comments about using a telephone directory to try to prove his point that it was merely some jocularity brought into the debate. We had the same from the member for Playford, who was told repeatedly to get back to the subject matter, and every time he was told to do that he sat down and laughed to his colleagues behind him. That is how seriously our so-called social democrats opposite treat this whole matter. They speak about the fact that they want democratic systems introduced into this place, yet all they can do is treat this whole thing in a jocular manner. That shows how sincere they are. It is an example of supreme hypocrisy. They are not concerned about a democratic system at all; they are merely concerned with political expediency.

Let us refer to one Joan Rydon, in *Australian Politics*. She also speaks about the changing of electoral systems for political expediency. I raised that especially for members opposite, who should not be deluded into thinking that their wonderful forebear, Don Dunstan, introduced the system we now have operating as being the be-all and end-all in democratic systems. Nobody accepts that, particularly political scientists. They all disregard it as being, if anything, anti-democratic. So, it is about time we got away from that anti-democratic system of the block vote and allowed people to vote across the system and choose whom they so desire.

The other thing the Opposition tried to bring up is the disfranchisement of the voter. They will note in the new electoral system that the voter needs to count only the first 11 positions. If that is what we require for the Upper House here, we give only 11 numbers. The voting system in New South Wales also incorporates a safety factor which is called the formal until informal system. What that does is allow the fact that the preferences will be taken as valid up until the point that the person makes a mistake in the numbering system. From the point at which the mistake is made, the preferences are not counted, but the preferences prior to that mistake are legitimate. Therefore, nobody is being disfranchised as alleged by the Opposition.

The other thing to which members opposite made no reference was that we are endeavouring to overcome some of the other anomalies, namely (and they all experienced this in the last election), that, where you allow some rather obscure persons to set up fictitious names such as Screw The Taxpayer to try to confuse the electorate, under this Bill that sort of thing will be abolished. People will not be allowed to put themselves up under some bogus name and, therefore, try to make a mockery of the whole electoral system. That is something to which members opposite have not given consideration.

The A.L.P. will certainly be against this, but if members opposite care to read the minutes of the Select Committee held in New South Wales and the notes of Dean Jaensch and Neal Blewett they will see that both of those eminent political scientists are in support of the preferential system, because what it does is give support to the minor Parties. Naturally, the A.L.P. would not want people to have their say via a minority Party. The member for Baudin would know only too well that in the last election there was a strong reaction in his electorate towards a minority Party. This is where this system upholds the democratic process, because it allows people at election time to express dissatisfaction with the Government of the day. They can do that by nominating for a minority Party. If we went for an optional system as introduced by the A.L.P., which members opposite wish to uphold, we would deny the minority Parties this opportunity of becoming a sounding board or sounding a protest for the time they are elected, if they are lucky enough to be elected. Neal Blewett is dead against the idea of first past the post which, again, we know is the policy of the A.L.P., yet we have one of their own shadow members—

Mr. Trainer: You're wrong.

Mr. SCHMIDT: If the honourable member cares to read the minutes of the Select Committee in New South Wales, he will see for himself that Neal Blewett says that he is opposed to first past the post.

Mr. Trainer: So he should be; he is an A.L.P. member, and it is not in our policy.

The SPEAKER: Order! I ask the honourable member for Ascot Park to contain himself.

Mr. SCHMIDT: We have some rather dogged people over the other side. Neal Blewett is against first past the post, and that is basically why the Opposition, through the block voting system and the optional preferential system, wanted that to be retained, because basically the optional preferential system, under which the person has to put down only one vote, is in effect paramount to first past the post. If members opposite care to analyse that, what they are doing is allowing the promotion of the Party, not the individual. You can entice the people to vote for one block only, and hence you are, in a sense, espousing first past the post. Even the honourable member's own colleagues are not unanimous on that point.

The other thing I find disturbing in the comments from members opposite tonight is that what they have done is rely on past history to try to paint the Liberal Party as a black or bogus body by referring to gerrymanders in the past. Most members tonight have referred in some form or other to a gerrymander. If one reads Neal Blewett's comments, he said that we in Australia tend to use the word gerrymander very loosely.

Mr. O'NEILL: I rise on a point of order, Mr. Speaker. The honourable member referred to a member of the House of Representatives as "Neal Blewett": he is the honourable member for Bonython.

The SPEAKER: I uphold the point of order. It is necessary, whether it be a State or Federal House, to give any member his due title.

Mr. SCHMIDT: On another point of order, Mr. Speaker. I was not referring to the sitting member. At that time he was a witness before a Select Committee in New South Wales. At that time his name was Neal Blewett (a political scientist), and I referred to him as such when he was before that Special Committee.

The SPEAKER: The honourable member may continue.

Mr. SCHMIDT: We were talking about gerrymanders. For the benefit of the member for Florey, who may have misunderstood what I said before, I was referring to evidence given before the Select Committee in New South Wales when the then political scientist Neal Blewett was speaking, not the now member for Bonython. He said, then, that the word "gerrymander" is used very loosely. There has been a good example of that here tonight from members opposite. What they have not mentioned is that political reform came into this State through one Steele Hall, who was so concerned about the democratic system that, in effect, it went against him and he lost office at the very next election. He was prepared to bring into this State a democratic system which would allow, as closely as possible, one vote one value. We are talking about electoral reforms now; we are not talking about the past. If

members opposite want to look at gerrymanders, they want to look at Queensland, where prior to Mr. Bjelke Petersen getting in the A.L.P. held Queensland under a gerrymander for 20-odd years, so let them not point the finger at gerrymanders.

Mr. LYNN ARNOLD secured the adjournment of the debate.

NATIONAL COMPANIES AND SECURITIES COMMISSION (STATE PROVISIONS) BILL

Received from the Legislative Council and read a first time.

COMPANIES AND SECURITIES (INTERPRETATION AND MISCELLANEOUS PROVISIONS) (APPLICATION OF LAWS) BILL

Received from the Legislative Council and read a first time.

SECURITIES INDUSTRY (APPLICATION OF LAWS) BILL

Received from the Legislative Council and read a first time.

COMPANIES (ACQUISITION OF SHARES) (APPLICATION OF LAWS) BILL

Received from the Legislative Council and read a first time.

SITTINGS AND BUSINESS

The Hon. E. R. GOLDSWORTHY (Deputy Premier): I move:

That the time for moving the adjournment of the House be extended beyond 10 p.m.

Motion carried.

NATIONAL COMPANIES AND SECURITIES COMMISSION (STATE PROVISIONS) BILL

COMPANIES AND SECURITIES (INTERPRETATION AND MISCELLANEOUS PROVISIONS) (APPLICATION OF LAWS) BILL

SECURITIES INDUSTRY (APPLICATION OF LAWS) BILL

COMPANIES (ACQUISITION OF SHARES) (APPLICATION OF LAWS) BILL

The Hon. H. ALLISON (Minister of Education): I move:

That Standing Orders be so far suspended as to enable, forthwith, in relation to the National Companies and Securities Commission (State Provisions) Bill, the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Bill, the Securities Industry (Application of Laws) Bill and the Companies (Acquisition of Shares) (Application of Laws) Bill—

(*a*) one motion to be moved and one question be put in regard to, respectively, the second readings, the Committee's report stage and the third readings of the Bills together; and

(*b*) the Bills to be considered in one Committee of the Whole.

Motion carried.

The Hon. H. ALLISON: I move:

That these Bills be now read a second time.

I seek leave to have the second reading explanations of the four Bills incorporated in *Hansard* without my reading them.

Leave granted.

National Companies and Securities Commission (State Provisions) Bill

Introduction

Today I am introducing the first of a number of Bills to give effect to this State's obligations under the Formal Agreement for co-operative companies and securities regulation. The legislation is the culmination of work which commenced in 1976. A major aim of the Scheme is to provide Australia with a uniform system of companies and securities regulation.

The four bills which comprise this package of legislation are:

1. The National Companies and Securities Commission (State Provisions) Bill, 1981.
2. The Companies (Acquisition of Shares) (Application of Laws) Bill, 1981.
3. The Securities Industry (Application of Laws) Bill, 1981.
4. The Companies and Securities (Interpretation and Miscellaneous Provisions) Application of Laws Bill, 1981.

Before dealing with each of the bills in turn, I will make some general remarks.

Most members of this House will be aware of the undesirable practices in the securities market which became apparent during the mining boom in the late sixties and early seventies. Many of these practices were documented in the Report of the Senate Select Commmmittee on Securities and Exchange on "Australian Securities Markets and their Regulation". This Committee, which was chaired by Senator Peter Rae, concluded that a national approach was necessary for the effective regulation of the securities market. This Government would endorse that conclusion.

The response of the Federal Government of the day was to introduce a national Corporations and Securities Industry Bill. Amongst other things, the Bill provided for the establishment of a National Companies and Securities Commission supported by Commonwealth legislation and Commonwealth administration.

After the change of Federal Government in 1975, the basic approach to the problem altered. In 1976 negotiations commenced with a view to the establishment of a co-operative scheme for the regulation of companies and the securities market. The concept underlying the scheme was that the Commonwealth and the States would co-operate in the establishment of a comprehensive Australia-wide scheme. On the 22nd December, 1978 the Formal Agreement was concluded by the Commonwealth and the States of New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania.

The Agreement contains the outline of a national scheme of regulation in the companies and securities area.

The scheme has four significant features:

1. A Ministerial Council, comprising the Commonwealth Minister for Business and Consumer Affairs and each of the six State Ministers responsible for Corporate Affairs. The Ministerial Council is to oversee and supervise companies and securities law throughout the area of the Scheme's operation.

2. A National Companies & Securities Commission established by the Commonwealth Parliament to administer companies and securities legislation in all participating States and territories.

3. A continuation of the existing role of State administrations. This role is to be maintained through delegation on the part of the N.C.S.C. In exercising its powers the National Commission shall have regard to the principle of the maximum development of a decentralised capacity to interpret and promulgate the uniform policy and administration of the Scheme. Thus, most of the functions of the N.C.S.C. under South Australian law will be delegated to the South Australian Corporate Affairs Commission.

4. A system of uniform legislation dealing with companies and securities extending throughout the entire area of the scheme's operation.

For some years representatives of the Commonwealth and each State Government have been meeting on a regular basis to settle the form of the Scheme legislation. Discussion has centred around the substantive legislation which is required to be passed by the Commonwealth Parliament to apply in the Australian Capital Territory. The Agreement provides that once the Commonwealth has passed Scheme legislation to apply in the Australian Capital Territory, then each participating State will introduce legislation into their own parliaments to apply the substantive provisions of the law applicable to the Australian Capital Territory. Under the terms of the Agreement, the Commonwealth is not free to amend its A.C.T. legislation without the approval of the Ministerial Council.

The National Companies & Securities Commission has been constituted under the Commonwealth National Companies & Securities Commission Act 1979. The five members are:

Mr. Leigh Masel (Chairman)—formerly a prominent Melbourne commercial solicitor.

Mr. John Coleman (Deputy Chairman)—formerly the Bursar of the Australian National University.

Mr. Antony Greenwood, formerly an Assistant Commissioner with the New South Wales Corporate Affairs Commission.

Mr. John Nosworthy, a prominent commercial solicitor from Brisbane.

Mr. John Uhrig, the Managing Director of Simpson Pope Ltd.

Messrs. Masel, Coleman and Greenwood are full-time Commissioners; Messrs. Nosworthy and Uhrig are part-time Commissioners.

The National Companies & Securities Commission is preparing to assume responsibility for the Scheme legislation in all six States and the Australian Capital Territory. Whilst the National Commission is designed to be the paramount administrative body in the area, two significant points should be made. Firstly, the N.C.S.C. is responsible to the Ministerial Council. The Ministerial Council will perform a function which is broadly equivalent to the function which is now performed by the Minister of Corporate Affairs in relation to the Corporate Affairs Commission. Secondly, most of the functions of the N.C.S.C. (particularly day to day functions) will be delegated by the N.C.S.C. to the State and Territory administrations.

The Scheme legislation is being introduced in two phases. Most of the legislation will be introduced as part of this first phase. The companies legislation will come in the second phase. The reason for the split is that there has been widespread demand for early introduction of legislation to regulate company take-overs. The Company (Take-overs) Act, 1980, is a response to this demand. The other pieces of scheme legislation which are being introduced in this first phase are necessary and desirable for the effective operation of the Take-overs legislation.

Essentially, the purpose of the N.C.S.C. (State Provisions) Bill is to enable the N.C.S.C. to function in South Australia.

As I previously indicated, the N.C.S.C. is to be entrusted with the administration of the law governing the acquisition of company shares and the securities industry. In addition, the considerable expertise and experience which has been established within the State offices, will be utilized. It has never been intended that the N.C.S.C. should carry out day to day functions. The role of the N.C.S.C. is seen as the central co-ordinating body of practices and procedure throughout all participating corporate affairs offices and the co-ordination of action where a national response to a particular problem is appropriate.

The N.C.S.C. is based in Melbourne. It is hoped that it will be a relatively small and efficient organisation. This is the intention of the parties to the Scheme.

Turning to the provisions of the legislation before the House, Parliamentary Counsel have prepared detailed notes explaining each clause. These have been distributed with copies of the Bill. I now propose to highlight some of the most significant provisions in this Bill.

Firstly, the provisions which empower the National Companies & Securities Commission to delegate any of its functions or powers to State authorities or officers are important. These provisions appear in clause 12. Clause 13 empowers State authorities or officers to perform or exercise any such functions or powers.

I reiterate that the Formal Agreement requires the Commission to ensure that its functions under South Australian law are carried out to the maximum extent practicable by the South Australian Corporate Affairs Commission. Therefore, most of the administration of the South Australian legislation will be carried out in Adelaide.

The second important category of provisions which I wish to discuss are those which impose rigid controls upon the staff of both the N.C.S.C. and the South Australian Corporate Affairs Commission in the course of administering the legislation.

Clause 15 of the Bill provides that an officer of the N.C.S.C. or the South Australian Corporate Affairs Commission shall not (except to the extent necessary to perform his official duties) divulge to any other person or make use of information which is acquired by him in the course of his duties. The penalty for any breach of this provision is $5 000 or imprisonment for one year or both. Clause 16 prohibits such a person from dealing in securities, or causing any other person to deal in securities if he comes into possession of market sensitive information in the course of his duty. He is also liable to compensate the person from whom he bought the securities or to whom he sold them. Clause 17 requires a person exercising a function or power of the N.C.S.C. to disclose any conflict of interest which arises in the course of his duties to the N.C.S.C.

Thirdly, there are detailed provisions (contained in clauses 6 to 11) which deal with the power of the N.C.S.C. to convene hearings and summons witnesses in appropri-

ate cases. These provisions of the Bill effectively mirror provisions of the Commonwealth National Companies & Securities Act, 1979. It is envisaged that the power to convene hearings may be used to obtain facts in pressing and urgent cases. For example, there may be a need to ascertain whether certain parties are acting in concert at the height of a takeover battle.

In conclusion, the N.C.S.C. (State Provisions) Bill, 1981 establishes a three-tiered structure for the administration of companies and securities law. At the top is the Ministerial Council, exercising overall supervision and control. Below the Ministerial Council is the National Companies & Securities Commission, exercising such powers as are conferred upon it by this Parliament and the parliaments of all other jurisdictions participating in the Scheme. The final element is the South Australian Corporate Affairs Commission, which will continue to carry out most of the administration of companies and securities law in this State.

The provisions of the National Companies and Securities Commission (State Provisions) Bill, 1981, are as follows:

Clause 1 and 2 are formal. Clause 3 defines certain terms used in the Bill and provides for other matters of interpretation. Subclause (5) provides that the Bill except for clauses 1, 2, 3, 4, 20 and 21 will be interpreted in accordance with the Companies and Securities (Interpretation and Miscellaneous Provision) (Application of Laws) Act, 1981. The excluded clauses will be interpreted in accordance with the Acts Interpretation Act, 1915-1980.

Clause 4 provides that in the performance of a function or power under an Act passed by the South Australian Parliament the Commission will be representing the Crown in right of South Australia. The Commission is established by the Commonwealth by means of the National Companies and Securities Commission Act 1979. Functions and powers will be bestowed upon it by the Companies (Acquisition of Shares) (Application of Laws) Act, 1981, the Securities Industry (Application of Laws) Act, 1981, and the Companies (Application of Laws) Act, 1981, which is still in the draft stage.

Clause 5 requires courts to take judicial notice of the common seal of the Commission and the signatures of members of the Commission. Clause 6 provides immunity from action for members of the Commission, legal practitioner, witnesses and members of the Ministerial Council acting in good faith and in the course of performing functions or exercising powers under the scheme.

Clause 7 provides for hearings before the Commission. Clause 8 allows a member of the Commission to summon a person to appear before the Commission to give evidence. Clause 10 provides remedies against a person who refuses to obey a summons under this clause.

Clause 9 provides for the manner in which proceedings before the Commission must be conducted and the representation of parties appearing before the Commission.

Clause 10 sets out the duties of witnesses appearing at a hearing before the Commission. Subclause (6) provides that failure to comply with the requirements of the clause is an offence punishable by a fine of $1 000 or imprisonment for 3 months. Subclauses (7) and (8) provide a procedure whereby the Supreme Court can order a person to fulfil his obligations under the clause and punish him for contempt if he does not.

Clause 11 makes it an offence to insult a member of the Commission, to interrupt a hearing of the Commission or to do anything else in the nature of contempt.

Clause 12 is a key provision of the Bill. The functions and powers of the Commission bestowed on it by the State Acts mentioned in the note to clause 4 will be performed by the South Australian Corporate Affairs Commission. This clause enables the Commission to delegate its functions and powers to the State Commission. The State Commission, being an incorporated body, must act through its employees. Subclause (4) allows it, as a delegate, to authorise other persons to perform functions and exercise powers delegated to it.

Clause 13 empowers authorities or officers of the State to perform or exercise functions or powers delegated to them or which they are authorised to perform or exercise under clause 12.

Clause 14 allows the Commission to direct a delegate in respect of the performance or exercise of the function or power delegated and allows a delegate to make a similar direction in respect of a function or power he has authorised to be performed.

Clause 15 imposes an obligation of secrecy on persons in relatio to information obtained by them in the course of performing functions or exercising powers on behalf of the Commission.

Clause 16 provides that a person who has information that is not generally available by reason of his performance or exercise of functions or powers on behalf of the Commission and which would affect the price of securities if it were generally available must not deal in or cause anyone else to deal in those securities. If a person contravenes subclause (1), subclause (2) makes him liable to compensate the other party to the transaction. The amount of the compensation will be the difference in the price actually negotiated and the price that would have applied if the information had been generally available.

Clause 17 provides that any person who has a private interest in a matter that he is dealing with on behalf of the Commission must disclose the interest to the Commission.

Clause 18 provides that certain certificates signed by or on behalf of the Ministerial Council will be *prima facie* evidence of the facts stated in those certificates.

Clause 19 requires copies of the report and financial statements of the Commission and a copy of the report of the Auditor-General of the Commonwealth to be laid before both Houses of State Parliament.

Clause 20 provides for rules to be made by the Supreme Court.

Clause 21 empowers the Governor to make regulations for the purpose of the Act.

The schedule sets out the formal agreement made between the Commonwealth and the States for the purpose of establishing the National Companies and Securities Scheme.

Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Bill

This Bill is also part of the Co-operative Companies and Securities Scheme. A detailed explanation of the scheme is contained in my Second Reading Speech on the introduction of the National Companies and Securities Commission (State Provisions) Bill, 1981.

It is intended that the Scheme legislation should be uniform throughout the area of the Scheme's operation. Accordingly, a special Interpretation Code has been enacted to ensure that the courts interpret the Scheme legislation in a uniform fashion in each State and Territory. The Bill applies the provisions of the Commonwealth Companies & Securities (Interpretation and Miscellaneous Provisions) Act, 1980. It also applies some provisions of the South Australian interpretation legislation. For technical reasons these provisions are desirable to facilitate the operation of the Scheme

legislation.

Parts I, II, IV and V are concerned with interpretation matters. Part III deals with the time for instituting criminal proceedings under the Scheme legislation and specifies appropriate procedures to be followed. Clause 13 of the Companies & Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Bill, 1981 brings into play certain provisions of the South Australian Acts Interpretation Act, 1915-1980 which enable South Australian rules on summary proceedings to apply to summary proceedings under the Scheme legislation in South Australia.

The provisions of the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Bill, 1981, are as follows:

Clauses 1 and 2 are formal.

Clause 3 defines certain terms used in the Bill. "The Commonwealth Act" is defined to mean the Companies and Securities (Interpretation and Miscellaneous Provisions) Act 1980 of the Commonwealth and includes any amendments to that Act made in the future.

Clause 4 specifies the Codes that are relevant Codes for the purposes of the Bill. The provisions of the Commonwealth Act having effect by reason of this Bill will apply to each relevant Code and will have effect only for the purpose of interpreting those Codes. They will not apply to any Act of the Parliament except the National Companies and Securities Commission (State Provisions) Act, 1981, which is expressly included by clause 5. In particular they will not apply for the purpose of interpreting this Bill, the Securities Industry (Application of Laws) Act, 1981, or the Companies (Acquisition of Shares) (Application of Laws) Act, 1981. The Acts Interpretation Act, 1915-1980, will apply to those Acts.

Clause 5 makes it clear that the provisions applied by this Bill will be used for the interpretation of the National Companies and Securities Commission (State Provisions) Act, 1981, notwithstanding that that Act is not a Code.

Clause 6 provides that the Crown will be bound. Clause 7 provides that provisions applying in the Australian Capital Territory for the purpose of the interpreting Ordinances of that territory apply for the interpretation of relevant Codes. The law that is applied is the law existing at the commencement of the Commonwealth Act and future amendments to that law will not be included. The laws do not apply in relation to matters for which there is express provision in this Bill or in a relevant Code. Paragraph *(b)* of clause 7 extends the operation of the clause to rules, regulations and by-laws.

Clause 8 applies the provisions of the Commonwealth Act as amended by schedule 1 as laws of South Australia. Schedule 1 alters the text of the Commonwealth Act so that the provisions make sense in their South Australian context. "The Commonwealth Act" is defined by clause 3 to include amendments to that Act passed in the future. These amendments, if and when they are made, will flow through automatically into South Australian law by reason of this clause. The position in each State will be the same and will enable uniformity of the law to be maintained in each jurisdiction. An amendment to the Commonwealth Act can only be made with the approval of the Ministerial Council. The Ministerial Council is constituted by a Federal Minister and a Minister representing each State. The first five sections of the Commonwealth Act are excluded by clause 8. Introductory provisions, adopted for the purposes of this State, are set out in schedule 2.

Clause 9 provides for the publication of the provisions of the Commonwealth Act as amended in the manner set out in the first schedule. The heading and sections set out in schedule 2 are to be included and the document may be cited as the Companies and Securities (Interpretation and Miscellaneous Provisions) (South Australia) Code. Subclause (3) provides that a copy of the Code is *prima facie* evidence of the provisions of the Commonwealth Act applying by reason of the Bill.

Clause 10 facilitates the publication of amendments to the Code as they occur from time to time. This provision will avoid the need to republish the entire document each time that an amendment is made. Clause 11 provides that references to the Code or a provision of the Code in any Act, regulation or other instrument is a reference to the provisions of the Commonwealth Act or the corresponding provision of that Act respectively.

Clause 12 allows the Governor with the approval of the Ministerial Council to make regulations amending schedule 1 so that the provisions of a future amendment to the Commonwealth Act can be varied appropriately for application in South Australia.

Clause 13 ensures that certain provisions of the Acts Interpretation Act, 1915-1980, apply to relevant codes. These provisions deal with recovery of fines, summary procedure for the prosecution of offences and some other indicental matters. There are no corresponding provisions in the Companies and Securities (Interpretation and Miscellaneous Provisions) (South Australia) Code. It is necessary to provide expressly that these provisions apply to codes because the Acts Interpretation Act, 1915-1980, applies then only to Acts of Parliament.

Schedule 1 provides that the Commonwealth Act applies with the alterations specified in the schedule. The reason for most of these alterations is obvious and needs no explanation. Clause 10 of the schedule replaces five sections of the Commonwealth Act. These sections deal with the effect of the repealing legislation on the previous and continued application of the law. They are transitional in nature and similar provisions are found in the Acts Interpretation Act, 1915-1980, relating to Acts of State Parliament. The provisions in the Commonwealth Act relate to the making and repealing of laws by means of Commonwealth Acts and because of this they are not easily translated to apply to codes which consist of provisions enacted by the Commonwealth Parliament applied in South Australia. The provisions have therefore been redrafted to apply directly to the State Codes.

Schedule 2 sets out the first five sections of the Companies and Securities (Interpretation and Miscellaneous Provisions) (South Australia) Code.

Securities Industry (Application of Laws) Bill

This Bill is a further component in the Co-operative Companies and Securities Scheme. A detailed explanation of the scheme is contained in my second reading speech on the introduction of the National Companies and Securities Commission (State Provisions) Bill, 1981.

This Bill will apply the substantive provisions of the Commonwealth Securities Industry Act, 1980. The substantive provisions of the Commonwealth Act provide the content of the Securities Industry Code. The Securtities Industry Code will supersede the South Australian Securities Industry Act, 1979. The purpose of the securities industry legislation is the protection of the investor in the securities market through a licensing system and varius requirements calling for the disclosure of material information. Also, it penalises the manipulation of the securities market through fraudulent or unfair conduct.

The existing Securities Industry Act, 1979, licenses stock exchanges and provides a mechanism for regulating the internal workings of stock exchanges. It licenses

people involved in the securities industry, including dealers in securities, investment advisers and their representatives. It provides for the establishment of fidelity funds by stock exchanges. It creates a number of criminal offences, mostly associated with "market rigging" and insider trading. The Securities Industry Code is firmly based on the foundation provided by the existing securities industry legislation. However, there have been technical amendments and a number of significant provisions have been added. The most significant changes introduced by the Securities Industry Code are:

1. *Expanded Market Surveillance Powers*—Sections 8 and 12 of the Securities Industry Code give the N.C.S.C. the authority to require the production of books and the disclosure of particular information by a wide range of persons. It is envisaged that these powers will frequently be used to ascertain when particular persons are acting in concert. This may be relevant for the purpose of enforcing the new Companies (Acquisition of Shares) Code or the Securities Industry Code itself.

2. *Admissibility of Evidence from Special Investigations*—There are a number of detailed provisions in the new Code which provide a basis for the admissibility of records of examination made in the course of special investigations as evidence in criminal or civil proceedings.

3. *Power to "Freeze" Trading in Securities*—Section 40 of the Code empowers the Commission to prohibit trading in particular securities where it forms the opinion that this action is necessary to protect persons buying or selling those securities or to protect the public interest. Such action can only be taken after notice has been given to the relevant stock exchange and the stock exchange declines to take action itself. Any corporation whose securities are affected by such an order is entitled to appeal forthwith to the Ministerial Council.

4. *Power of Court to Order Observance or Enforcement of Stock Exchange Rules*—Section 42 makes it clear that where a corporation is listed on the stock exchange then that corporation shall be under an obligation to comply with, observe and give effect to the listing rules of that stock exchange. The provision also empowers the Commission, the stock exchange or any person aggrieved to apply to the Court to restrain any person from breaching those rules.

5. *Availability of Injunction where Code Infringed*—Section 149 provides that where a person has engaged, is engaging or is proposing to engage in any conduct which constitutes or would constitute an offence against the Code, then the Supreme Court may grant an injunction restraining that person from engaging in the relevant conduct. This remedy is available to any person whose interests have been or would be affected by the conduct and to the N.C.S.C.

The provisions of the Securities Industry (Application of Laws) Bill, 1981, are as follows:

Clauses 1 and 2 are formal. Clause 3 sets out the arrangement of the Bill. Clause 4 defines certain terms used in the Bill. "The Commonwealth Act" means the Securities Industry Act 1980 of the Commonwealth. Subclause (2) provides that a reference in the Bill to a Commonwealth Act includes a reference to that Act as amended from time to time. Clause 5 provides that the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act, 1981, will apply for the interpretation of the provisions of the Commonwealth Act applying by reason of clause 6 of the Bill. These provisions when published in accordance with clause 10 of the Bill will be cited as the "Securities Industry (South Australia) Code".

Clause 6 applies the provisions of the Commonwealth Act, except the first 3 sections, as laws of South Australia. Preliminary provisions will, by virtue of schedule 4 precede the applied provisions when they are published as a Code pursuant to clause 10. Clause 10 provides that the Code may be cited as the "Securities Industry (South Australia) Code". The Commonwealth provisions will be applied with the amendments set out in schedule 1 and will be interpreted in accordance with the Companies and Secururities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act, 1981. This Bill however, when it has been enacted, will be interpreted in accordance with the Acts Interpretation Act, 1915-1980. By reason of clause 4 (2) the reference in clause 6 to the Commonwealth Act includes reference to future amendments of that Act. Future amendments of the Commonwealth Act require prior approval from the Ministerial Council and will apply automatically in South Australia by virtue of this clause. Clause 7 provides that regulations in force for the time being under the Commonwealth Act will apply in South Australia as regulations under the provisions of the Code. The regulations will apply with the amendments set out in schedule 2.

Clause 8 provides for the payment to the Corporate Affairs Commission of fees arising from the administration of the applied provisions. The services for which fees will be paid will be performed by the State Commission on behalf of the National Commission and it is part of the agreement between the States and the Commonwealth that the fees be paid to the States. Subclause (2) provides that the fee must be paid before a document is deemed to be lodged and subclause (3) provides that the National Commission (acting through the State Commission) must not supply a service that has been requested until the fee has been paid. The State Commission by subclause (5) may waive or reduce a fee or refund it in any particular case. The fees payable will be those in the schedule to regulations under the Securities Industry (Fees) Act 1980 of the Commonwealth amended in the manner set out in schedule 3 of the Bill.

Clause 9 deals with amendment of the regulations applying under the Code and the regulations applying under the Securities Industry (Fees) Act, 1980. Amending regulations must be initiated by the Commonwealth in accordance with the approval of the Ministerial Council. If the Commonwealth regulations are delayed for more than 6 months or are disallowed or subject to disallowance after 6 months the Governor may make the proposed amendments for the purpose of application in South Australia. Clause 10 provides for the publication of the Commonwealth provisions applied as law in South Australia by this Bill as amended by schedule 1. The document may be cited as the "Securities Industry (South Australia) Code" and by subclause (3) the Code shall be *prima facie* evidence of the provisions of the Commonwealth Act applying by reason of clause 6.

Clause 11 is a provision similar to clause 10 providing for the publication of the regulations under the Commonwealth Act that will apply in South Australia. The regulations may be cited as the "Securities Industry (South Australia) Regulations".

Clause 12 is a similar provision relating to the schedule of fees under the Securities Industry (Fees) Act 1980 of the Commonwealth. The document published under this clause will include the heading and provisions set out in schedule 6 and may be cited as the "Securities Industry (Fees) (South Australia) Regulations".

Clause 13 facilitates the publication of amendments to the Code, the regulations or the fees regulations as they

occur from time to time. This provision will avoid the need to republish the entire documents each time that an amendment is made.

Clause 14 makes it clear that a reference in an Act, regulation or other instrument to the Securities Industry (South Australia) Code is a reference to the provisions of the Commonwealth Act applying by reason of clause 6, and that a reference to a section of the Code is a reference to the corresponding provision of the Commonwealth Act. The clause makes similar provision in respect of the Securities Industry (South Australia) Regulations and the Securities Industry (Fees) (South Australia) Regulations.

Clause 15 provides for the amendment of schedules 1, 2 and 3 and clause 8 by regulation. Future amendments to the provisions of the Commonwealth Act and the Securities Industry (Fees) Act 1980 and to the regulations made under those Acts are likely to require alterations for the purpose of their application in South Australia. These alterations will be made by regulations, which have been approved by the Ministerial Council, and which amend schedules 1, 2 and 3 and clause 8 as required.

Clause 16 provides that the provisions of the Commonwealth Act applying by reason of clause 6 apply to the exclusion of the Securities Industry Act, 1979, and the Companies Act, 1962-1980. Subclause (2) enacts provisions that ensure that the operation of the Securities Industry (South Australia) Code will not affect the previous operation of the Securities Industry Act, 1979, or revive any law or matter not in force at the commencement of that Act. Provisions similar to these are found in the Acts Interpretation Act, 1915-1980, but it is necessary to make specific provision in this Bill to cater for the introduction of the Code.

Clause 17 is a general transitional provision ensuring that all things existing under the old Act continue under the new provisions unless it is made clear in the Bill or the Code that this is not intended.

Clause 18 provides that a reference in an Act or a document to a provision of the old Act will be construed as a reference to the corresponding provision in the Code.

Clause 19 provides for the continuation of proceedings by or against the State Commission to be continued by or against the National Commission under the Code.

Clause 20 preserves the power of the Minister to consent to proceedings instituted under the old Act after the Code has come into force.

Clause 21 provides for the continuation of registers, funds deposits and accounts kept under the old Act at the time of the commencement of the Code by deeming them to be kept under the corresponding provision of the Code.

Clause 22 provides for the continuation of an order of the Supreme Court made under section 12 of the old Act. This section enables the court, amongst other things to restrain a person from carrying on the business of dealing in securities, acting as an investment adviser, as a dealer's representative or an investment representative.

Clause 23 enables an investigation commenced under the old Act but not completed at the commencement of the Code to be continued under the Code.

Clause 24 provides for the continuation of licences in force under the old Act and deems a suspension of a licence under the old Act to be a suspension under the corresponding provision of the Code. A bond lodged under the old Act will have effect as a security under the Code but may be claimed against as a bond under the old Act as though the new Act has not been passed.

Clause 25 ensures that where, at the commencement of the code, a licence holder has not lodged a statement under section 44 of the old Act in respect of the whole or part of a year ending before the commencement of the Code he must lodge with the National Commission a statement under that section in respect of that period. Clause 26 provides that where a dealer has not lodged a profit and loss account or balance sheet as required by the old Act when the Code comes into force he must lodge those documents and an auditor's report with the National Commission.

Clause 27 provides for the payment of annual fees prescribed under the old Act in respect of a year that commenced before but finished after the commencement of the Code to be paid to the State Commission. Clause 28 ensures that orders made by the Supreme Court under the old Act restraining dealings with dealers' bank accounts shall be deemed to be orders made under the corresponding provision of the Code. Clause 29 provides for the continued holding of a deposit received by a stock exchange under section 81 of the old Act under the corresponding section of the Code.

Clause 30 requires stock exchanges to give to the National Commission audited balance sheets relating to deposits where the stock exchange had not given a report required under the old Act. Clause 31 requires the stock exchange to provide a balance sheet and audited accounts of its fidelity fund in accordance with its obligations under the old Act which have not been performed at the commencement of the Code. Clause 32 provides that amounts held in the fidelity fund of a stock exchange under the old Act will continue as part of the fidelity fund to be held under the Code.

Clause 33 provides that an order of the Supreme Court allowing a claim for compensation from a fidelity fund made under the old Act will continue as an order made under the corresponding section of the Code. Clause 34 provides for transitional matters in relation to the requirements of the old Act and the Code to keep records. Subclause 3 excludes from the operation of section 136 of the Code an accounting record relating to a period occurring at least 5 years from the commencement of the Code. Clause 35 provides penalties for failure to comply with certain transitional provisions.

Clause 36 gives the Supreme Court a general power to resolve any unforeseen difficulties that may arise in the transition to the new Code. Schedule 1 makes changes to the provisions of the Commonwealth Act that are necessary for their application in South Australia. Clause 18 of the schedule adds subsection (2) at the end of section 101 of the Code. This provision allows the Minister to exempt a stock exchange from the requirement to pay $100 000 into its fideltiy fund if it has entered into a contract of insurance for the sum to be paid into the fund if a claim is made against it. Clause 22 of the schedule adds new section 152 to the Code. This section allows the Governor to exempt a member of a stock exchange from compliance with the provisions of the Code relating to the keeping of trust accounts.

Schedules 2 and 3 make alterations to the regulations applying under the Code and the regulations applying under the Securities Industry (Fees) Act 1980 of the Commonwealth respectively for the purpose of their application in South Australia. Schedules 4, 5 and 6 provide the headings and introductory provisions for the Securities Industry (South Australia) Code, the Securities Industry (South Australia) Regulations and the Securities Industry (Fees) (South Australia) Regulations respectively.

Companies (Acquisition of Shares) (Application of Laws) Bill

This Bill is also part of the Companies and Securities Scheme. A detailed explanation of the scheme is contained in my second reading speech on the introduction of the National Companies and Securities Commission (State Provisions) Bill, 1981.

The primary purpose of this Bill is to apply the substantive provisions of the Commonwealth Companies (Acquisition of Shares) Act, 1980. This Bill applies the substantive provisions of the Commonwealth Act (as they are amended from time to time) as the law of South Australia. The draftsman has been forced to make some technical alterations to provisions of the A.C.T. legislation which are inappropriate in the South Australian context. For example, there are references in the Act to the A.C.T. Unclaimed Monies Ordinance. This Bill changes these to reference to the South Australian Unclaimed Moneys Act, 1891-1975.

The substantive provisions of the Commonwealth Companies (Acquisition of Shares) Act, 1980 are intended to be a code on the acquisition of company shares which will apply throughout the area of the Schemes operation.

The Companies (Acquisition of Shares) Code

The Companies (Acquisition of Shares) Code reflects a number of policy decisions which were taken by a meeting of the relevant Ministers at Maroochydore in May, 1978. Account has also been taken of submissions which have been made by the public in relation to the legislation. Drafts of the Code have been released twice for public exposure and each time the provisions have been revised.

The underlying policy behind the Companies (Acquisition of Shares) Code can be reduced to five basic principles:

1. An acquisition of shares which has the practical or potential effect of changing the control of a company must be treated as distinct from an everyday acquisition of shares.

2. Where a person wishes to gain control of the company through a takeover offer, he should be obliged to disclose his identity to the shareholders and directors of the target company.

3. Where a takeover offer is made, the shareholders and directors of the target company should have a reasonable time in which to consider the takeover offer.

4. The shareholders of a target company should have information before them which is sufficient to enable the shareholders to make a reasonably informed decision on the merits of the offer.

5. So far as practicable, each shareholder in a target company should have an equal opportunity to participate in any benefits offered by a person desiring to take over the company.

The Companies (Acquisition of Shares) Code is not concerned with small proprietary companies with less than 15 members. It takes effect where there is an acquisition of more than 20 per cent of the shares in other types of companies. The 20 per cent figure was chosen as one which represents the approximate point where a change in control occurs or is likely to occur in a public company. The Code prohibits the acquisition of more than 20 per cent of the shares in a company to which the Code applies unless that acquisition is conducted in one of three ways:

1. The acquisition is by means of a "creeping" takeover. That is, if the person acquiring the shares acquires no more than 3 per cent of the shares in the company (or 3 per cent of the shares in a relevant class of shares in the company) every 6 months.

2. The acquisition proceeds by way of a formal bid. The procedure for a formal bid is similar in many ways to the procedure laid down in Part VIB of the Companies Act, 1962-1980. However, the rules governing these bids have been tightened and are more detailed than the rules to be found in Part VIB.

3. The acquisition proceeds by way of a takeover announcement on the floor of a stock exchange. Under this procedure, a person wishing to acquire the shares makes an announcement on the floor of a stock exchange to the effect that he offers to purchase all the shares in a company (or in a relevant class) for a cash consideration.

There are a number of other exemptions set out in Section 12 of the Companies (Acquisition of Shares) Act, 1980. These exemptions apply to situations where it is not considered appropriate to apply the Code. In addition, the N.C.S.C. has a general power to exempt persons from the provisions of the Code.

Some examples of acquisitions which are exempted from the scope of the Code are:

(i) an acquisition of shares by will or by operation of law (Section 12(a)).

(ii) an acquisition pursuant to the issue of a prospectus under the companies legislation (subsections *(b)*, *(c)* and *(d)* of Section 12).

(iii) an acquisition of shares which occurs as the result of an acceptance of a takeover offer where the shares form part of consideration for the takeover offer (Section 12*(j)*).

(iv) an acquisition of shares which results from the exercise by a lender of his security (Section 12(l)).

(v) an acquisition of shares in the ordinary course of stock exchange trading by a person who has made a formal takeover bid for 100 per cent of the shares in a company or in a relevant (Subsections (3) and (4) of Section 13).

Procedure for a Formal Takeover Bid

The idea behind the formal bid procedure is that an offeror must make written offers to all eligible shareholders. This procedure must be used if the offeror wishes to acquire the shares outside the context of official stock exchange trading. The shareholder is to be provided with information material to the offer both by the offeror and by the directors of the target company. The formal bid procedure must be used if shareholders are to be offered any consideration other than cash. The rules governing this procedure are:

(a) The offeror must despatch offers in the prescribed form to all holders of shares in the company or in any relevant class. This written offer must be accompanied by a "Part A Statement" which contains detailed information about the terms of the offer, the offeror and other material.

(b) Any formal bid may be for less than 100 per cent of the shares in a company or in a relevant class of shares. However, if the number of acceptances exceeds the number of shares which the offeror wishes to acquire, the offeror must acquire an appropriate portion of the shares offered by each accepting shareholder. Therefore, the benefits of the bid will be shared on a pro rata basis amongst accepting shareholders.

(c) The target company must prepare a "Part B Statement". This contains the recommendations (if any) of the directors.

(d) Where the offeror is related to the target company, the directors of the target company are obliged to obtain an independent experts report on the offer and this must be circulated to the shareholders.

Procedure for a Takeover Announcement

This procedure can only be used if an offeror wishes to acquire 100 per cent of the shares in the company or a relevant class for cash consideration. Generally, an offeror will not be able to use this procedure unless his stake in the target company is less than 30 per cent at the time the bid is initiated. A takeover bid made in this manner would proceed as follows:

(a) The offeror will cause an announcement to be made on the floor of the home stock exchange of the target company to the effect that for a specified period the offeror's broker will be prepared to acquire any shares in the target company (or in the target class of shares) for a specified cash price.

(b) Acquisitions pursuant to the takeover announcement may only be effected at official meetings of a stock exchange and must be carried out through the ageny of a stockbroker who is a member of that stock exchange.

(c) The offeror must prepare a "Part C Statement" providing detailed material about the terms of the offer and the offeror. The offeror must despatch that statement to all shareholders in the target company or the target class.

(d) After the Part C Statement has been despatched, the target company must prepare a "Part D Statement" which will contain information about the target company and the directors' recommendations (if any).

(e) The offer made on the floor of the stock exchange may only be withdrawn in certain circumstances or with the approval of the Commission.

General Safeguards

The Companies (Acquisition of Shares) Code contains a number of general provisions applying to both types of takeover offer which are designed to curtail some abuses which have occurred in recent years. Some of the most significant of these safeguards are:

(1) Persons associated with the takeover bid can only make profit forecasts or statements as to valuation of assets which relate to companies connected with takeover bids where those forecasts or statements have been approved by the Commission. Moreover, the Commission can specify the manner in which they are to be used. (Sections 37 and 38).

(2) Offerors or other persons who hold 5 per cent or more of the shares subject to a takeover bid are obliged to provide daily details of their dealings in the target company shares (Section 39).

(3) Both civil and criminal liability is imposed where there are material mis-statements or omissions in statements which are despatched pursuant to the Code (Section 44).

(4) The Commission is empowered to declare an acquisition of shares made whilst a takeover bid is pending or any conduct that occurs in the course of a takeover bid to be "unacceptable conduct". (Section 60).

The Commission cannot make such a declaration unless it is satisfied that as a result of the acquisition of shares or the conduct:

(a) the shareholders and directors of the company did not know the identity of a person who proposed to acquire a substantial interest in the company;

(b) the shareholders and directors of a company did not have a reasonable time in which to consider a proposal under which a person would acquire a substantial interest in the company;

(c) the shareholders and directors of a company were not supplied with sufficient information to enable them to assess the merits of a proposal under which a person would acquire a substantial interest in a company; or

(d) the shareholders of a company did not have equal opportunities to participate in any benefit accruing to shareholders under a proposal under which a person would acquire a substantial interest in a company.

Where such a declaration is made, any resulting acquisition of shares is deemed to have been a contravention of the Code for the purposes of Section 45. Section 45 of the Code empowers the Commission or any other interested party to apply to the Supreme Court for damages or other appropriate orders where a person has contravened the Code. The Code makes specific provision for a person whose acquisition or conduct has been declared to be unacceptable to apply to the Supreme Court for a review of the Commission's decision.

The power of the Commission to declare conduct unacceptable was provided as a response to numerous submissions by members of the business community calling for the Commission to be given discretion and a degree of flexibility appropriate to a takeover situation.

The provisions of the Companies (Aquisition of Shares) (Application of Laws) Bill, 1981, are as follows:

Clauses 1 and 2 are formal.

Clause 3 defines certain terms used in the Bill. "The Commonwealth Act" is defined to mean the companies (Acquisition of Shares) Act 1980 of the Commonwealth. Subclause (2) provides that a reference in the Bill to a Commonwealth Act includes a reference to that Act as amended from time to time.

Clause 4 applies the provisions of the Commonwealth Act, except the first 5 sections, as laws of South Australia. Preliminary provisions will, by virtue of schedule 4 precede the applied provisions when they are published as a Code pursuant to clause 11. Clause 11 provides that the Code may be cited as the "Companies (Aquisition of Shares) (South Australia) Code". The Commonwealth provisions will be applied with the amendments set out in schedule 1 and will be interpreted in accordance with the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act, 1981. This Bill however, when it has been enacted, will be interpreted in accordance with the Acts Interpretation Act, 1915-1980. By reason of clause 3 (2) the reference in clause 4 to the Commonwealth Act includes reference to future amendments of that Act. Future amendments of the Commonwealth Act require prior approval from the Ministerial Council and will apply automatically in South Australia by virtue of this clause.

Clause 5 provides that the Code will form part of the Companies Act, 1962-1980, and will be read with it. Paragraph *(a)* of subclause (1) ensures that the new provisions exclude the operation of Part VIB of the Companies Act, 1962-1980, and the company Take-overs Act, 1980. Subclause (2) is a transitional provision that is similar to section 16 of the Acts Interpretation Act, 1915-1980. Section 16 of that Act does not apply in this case because Part VIB of the Companies Act, 1962-1980, and the Company Take-overs Act, 1980, are not repealed; their operation is simply excluded.

Clause 6 provides that regulations in force for the time being under the Commonwealth Act will apply in South Australia as regulations under the provisions of the Code. The regulations will apply with the amendments set out in

schedule 2.

Clause 7 incorporates the regulations applying in South Australia by reason of clause 6 into the regulations made under the Companies Act, 1962-1980.

Clause 8 is included in the Bill to ensure that the provisions introduced by clauses 5 and 7 into the Companies Act, 1962-1980, and into the regulations made under that Act respectively can work properly in those contexts. The provisions applied by the Commonwealth Act give powers and impose duties on the National Companies and Securities Commission where as the other parts of the Companies Act, 1962-1980, give powers and impose duties on the Corporate Affairs Commission established by the Act and on the Commission. Clause 8 overcomes this problem by altering the construction of relevant terms in relation to matters arising under the applied provisions.

Clause 9 provides for the payment to the Corporate Affairs Commission of fees arising from the administration of the applied provisions. The services for which fees will be paid will be performed by the State Commission on behalf of the National Commission and it is part of the agreement between the States and the Commonwealth that the fees be paid to the States. Subclause (2) provides that the fee must be paid before a document is deemed to be lodged and subclause (3) provides that the National Commission must not supply a service that has been requested until the fee has been paid. The State Commission will be supplying the service on behalf of the National Commission and by subclause (5) may waive or reduce a fee or refund it in any particular case. The fees payable will be those in the schedule to regulations under the Companies (Acquisition Of Shares—Fees) Act, 1980 of the Commonwealth amended in the manner set out in schedule 3 of the Bill.

Clause 10 deals with amendments of the regulations applying under the Code and the regulations applying under the Companies (Acquisition of Shares—Fees) Act, 1980. Amending regulations must be initiated by the Commonwealth in accordance with the approval of the Ministerial Council. If the Commonwealth regulations are delayed for more than 6 months or are disallowed or subject to disallowance after 6 months the Governor may make the proposed amendments for the purpose of application in South Australia.

Clause 11 provides for the publication of the Commonwealth provisions applied as law in South Australia by this Bill as amended by schedule 1. The document may be cited as the "Companies (Acquisition of Shares) (South Australia) Code" and by subclause (3) the Code shall be *prima facie* evidence of the provisions of the Commonwealth Act applying by reason of section 4.

Clause 12 is a provision similar to clause 11 providing for the publication of the regulations under the Commonwealth Act that will apply in South Australia. The regulations may be cited as the "Companies (Acquisition of Shares) (South Australia) Regulations".

Clause 13 is a similar provision relating to the schedule of fees under the Companies (Acquisition of Shares—Fees) Act 1980 of the Commonwealth. The document published under this clause will include the heading and provisions set out in schedule 6 and may be cited as the Companies (Acquisition of Shares—Fees) (South Australia) Regulations.

Clause 14 facilitates the publication of amendments to the Code, the regulations or the fees regulations as they occur from time to time. This provision will avoid the need to republish the entire document each time that an amendment is made.

Clause 15 makes it clear that a reference in an Act, regulation or other instrument to the Companies (Acquisition of Shares) (South Australia) Code is a reference to the provisions of the Commonwealth Act applying by reason of clause 4, and that a reference to a section of the Code is a reference to the corresponding provision of the Commonwealth Act. The clause makes similar provision in respect of the Companies (Acquisition of Shares) (South Australia) Regulations and the Companies (Acquisition of Shares—Fees) (South Australia) Regulations.

Clause 16 provides for the amendment of schedules 1, 2 and 3 and clause 9 by regulation. Future amendments to the provisions of the Commonwealth Act and the Companies (Acquisition of Shares—Fees) Act 1980 and to the regulations made under those Acts are likely to require alterations for the purpose of their application in South Australia. These alterations will be made by regulations, which have been approved by the Ministerial Council, and which amend schedules 1, 2 and 3 and clause 9 as required.

Clause 17 is a transitional provision providing for take-overs which have not been completed at the commencement of the new provisions. Subclause (1) deals with take-over offers made under Part VIB of the Companies Act, 1962-1980, and subclause (2) applies where offers were made under the Company Take-overs Act, 1980.

Clause 18 makes amendments to the Companies Act, 1962-1980, consequential on the commencement of the new provisions and their incorporation into that Act.

Schedules 1, 2 and 3 make alterations to the Commonwealth provisions, the regulations applying under those provisions and the regulations applying under the Companies (Acquisition of Shares—Fees) Act 1980 of the Commonwealth respectively for the purpose of their application in South Australia.

Schedules 4, 5 and 6 provide the headings and introductory provisions for the Companies (Acquisition of Shares) (South Australia) Code, the Companies (Acquisition of Shares) (South Australia) Regulations and the Companies (Acquisition of Shares—Fees) (South Australia) Regulations respectively.

Mr. McRAE (Playford): The position of the Opposition in relation to these cognate Bills is that there has been a very long period of time in which the several States of the Commonwealth and the Commonwealth Government have been considering a set of legislation in which the companies which operate inside the business community and those companies which offer securities upon the market can be controlled inside one uniform set of legislation. It was no secret that the Labor Party, when it was in office, was involved in negotiation with the several States of the Commonwealth and the Commonwealth to achieve exactly what is provided here tonight, except that there are certain amendments of a procedural kind which have been moved in the meantime.

I support all four Bills. In doing so, I make only one observation, which I hope that both sides of the House will recall. As the Constitution now stands, it is clear that the respective rights of the States and of the Commonwealth in relation to legislation are relatively clearly defined in terms of section 51 of the Commonwealth Constitution and in other sections of the Commonwealth of Australia Constitution Act, and, except in so far as it is so defined, the rights of the States are maintained unaltered. One of the strong arguments put in favour of uniform legislation is the obvious one that, if there can be a body of legislation which will bind all persons who are citizens of Australia, no matter where they reside, that is a desirable thing. Moreover, when it comes to company transactions and securities offered by those companies, and the various

activities of those companies in relation to the acquisition of shares of other companies, take-overs and so on, that is highly desirable. No-one can deny that.

On the other hand, it must be admitted that the way in which the procedure has been carried out, both by Labor Governments and by Liberal Governments, means that the situation has now been arrived at whereby in an indirect way the Parliaments of the States are being deprived of their residual authority. In case that sounds terribly legalistic, let me explain the situation. As it originally stood, if each of the State Houses was apprised of certain facts, and if each of them were minded to move appropriate legislation, then throughout the last 80 years it was possible to maintain uniform legislation throughout the Commonwealth, sometimes with the concurrence of the Commonwealth Parliament, and sometimes without it.

What has now happened is that in this instance a council of Ministers has been set up to provide guidelines, in effect, and, through their Governments, they have bound themselves to those guidelines so that it would be impossible, at least in the current situation, for members of the majority Parties in the Parliaments of the other States to do anything else but agree to the legislation which is put before us. It may be said that that is a good thing; it may be said also that it is a bad thing. All I want to say is that State Parliaments should be very careful indeed of the circumstances in which this prevails. The view that I take is, I suppose an intermediate one between a centralist and a States-righter. I have always maintained the position that, if we are to maintain freedom in the absence of a Bill of Rights, and that is the key thing, the way to do it is to separate power throughout the nation. Australia has been very successful in doing that to the disadvantage of various Governments over the years.

Members are being confronted with a *fait accompli*. They could deny this legislation, but if they did, South Australia would be the only State that had not accepted it, and to that extent the rights and powers of this Parliament and the scope of our constitution would be abbrogated. I am sure that you, Sir, as one who played a prominant role in the Australian Constitutional Convention over the years, will know that. I would not be surprised, although in this respect in no way do I claim to speak for the Opposition, and perhaps you, Sir, would not be surprised, if legislation similar to this does not occur in the future.

As it happens, the Bills before us are not unreasonable. Sadly, even if we believed that the legislation was unreasonable, there is not a great deal we could do about it, because our bargaining power in terms of companies and securities on the national market is so limited. We do not really have a great deal of choice.

Although my remarks will be brief, that does not indicate that the matter has not been properly researched by the A.L.P. On the contrary, the various Ministers who have been in charge of legislation of this kind, cognate or otherwise, over the years, have given it a great deal of consideration, and therefore I have the advantage of being able to speak on that basis, knowing the research that they put into this matter, and also knowing that I, quite removed from them, have investigated this matter in some depth. The study tour report that was tabled here the other day deals with issues of this kind.

I do not claim to be an expert on the companies and securities situation in this country, but some of my colleagues are experts in this field. They have investigated the matter and, while not being totally happy, nonetheless they agree to the realities of the agreement between the Council of Ministers and the realities of our economic situation. If we thought otherwise, notwithstanding such agreements and notwithstanding whatever difficulties we would face, we would have moved amendments. As it stands, I support all four Bills in their cognate form.

An honourable member: Hear, hear!

Mr. McRAE: I hope that members opposite are treating this matter seriously, because I am.

The Hon. E. R. Goldsworthy: You're making an excellent speech.

Mr. McRAE: I am pleased to hear the Deputy Premier say that. I hope that all members realise that this is a serious measure that will endure for many years to come. With those comments and reservations, I support the four Bills.

Bills read a second time and taken through Committee without amendment.

The Hon. H. ALLISON (Minister of Education): I move:

That these Bills be now read a third time.

Mr. McRAE (Playford): I would like to place on record the co-operation of the Opposition.

The Hon. E. R. GOLDSWORTHY (Deputy Premier): I want to formally place on record the Government's heartfelt thanks for this degree of co-operation, which is quite outstanding in Parliamentary history.

The SPEAKER: I would remind all honourable members that it is necessary to refer to the Bills as they leave the Committee.

Bills read a third time and passed.

ELECTORAL ACT AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 3509).

Mr. LYNN ARNOLD (Salisbury): The Bill is one of a long series of changes in legislation which has taken place over the past 12 years and which indeed has preoccupied the State, as many people are concerned about the way in which democracy is represented in the elected Houses of Parliament of this State. Over the time there have been various attitudes and opinions given by members opposite, and at times they have attempted to propose themselves as the exponents of true democracy in this State. Had that really been the case changes would have been made much earlier than they were made. There would not have had to be the constant running battle which has existed between this side and members of the present Government to try to effect the democratic will of the people in South Australia.

Nothing better represents this than the long struggle that has existed to change the voting system and the degree of representation in the Upper House. Much has been said about the Upper House over the years. It has been said it is vital, because it is a second House of Review. It has been said that the Upper House should be elected differently so that it is not a duplicate of the Lower House and does not therefore merely rubber stamp the decisions of the Lower House. Whether one wishes to argue that point or not, it hides what really took place for many years; it hides the fact that the mandate for the Upper House, the means of election for the Upper House, could in no way be called democratic. Behind that lack of democracy we had all the verbiage about its being a House of Review, where serious consideration was given to legislation, with no rubber stamping.

The Hon. D. J. Hopgood: The permanent will of the people.

Mr. LYNN ARNOLD: Yes. Let us look at what happened as recently as 1979. I believe (and I said this before the last State election) that there was a counter-proposition that could have been put as to whether or not

this State was facing an early election. It is true that we were facing an early election for the House of Assembly at that time, because the Parliament had some 15 months to run. However, the proposition I put at the time to people in my electorate was that it was not entirely an early election; it was in some regards an overdue election, because we had half of the members of the Legislative Council coming out for election, who had been elected in 1973, at that time, some six years out of time. Had the House of Assembly election gone the normal term, the re-election of that half of the Legislative Council would have been past the six years that we normally tend to think of the Upper House as serving.

Looked at another way, what that really meant is that the Parliament of this State in 1979, just prior to the election, was partly determined by a group of members who were elected six years prior to that, and not only that, but who were elected in circumstances very much undemocratic. The very fact that this Parliament changed the method of voting for the Upper House, the very fact that the other half, the more recent half of the members of the Upper House was voted by some other method indicates that we accepted that change was needed. At that time we were still having to labour under this half of the Council that was elected by an anachronistic system.

I did not hear very many people put that proposition and I felt that it should have been put more widely, because if indeed the Upper House is the House of Review that it is said to be, if it is the democratic House that people are saying it is, then it should have been given the opportunity as soon as possible to be that democratic House of Review. As we know, it could not have become such until there was a House of Assembly election, and the last House of Assembly election was the election when that undemocratic half of the Council had to be swept aside and replaced by one more democratically elected. Now we have a Legislative Council elected under legislation that was before this Parliament in the middle 1970's, and certainly no-one in this House can say that the system resulted in a less democratic Legislative Council than the one we had before. Under the previous system the voting balance was 16 to four. How could that possibly represent the true will of all the people of this State? When members make comments about democratising the Upper House, about improving the system, and all the attacks they are making about the amendments introduced in the mid 1970's, where were they when for years one Party out-represented another by four to one?

There have also been comments made about the list system, that it is undemocratic, that it does not give people the opportunity to vote for certain individuals, that it denies them the right of selecting one candidate of a Party and saying that that person is their preference from a Party. Of course, the list system in one form or another does exist in other countries. We are not unique in this. It exists in certain aspects of the Federal Republic of Germany. One votes for a Party, and when the Party has tallied all its votes it can then draw from its list the candidate who will be elected according to the number of votes it has achieved. What is so wrong with that system? There would be something wrong if in fact we could legitimately contend that people are basically voting for individuals, that they are selecting a person, as opposed to a Party.

It may well be true that some people do indeed vote for the individual. It may be true that there is a certain per cent in South Australia who vote for a Labor member because of who he or she is, but who in other circumstances might vote for another Party. I believe that the evidence shows that quite clearly the overwhelming majority of people vote for a Party and not for the individual. The difference between the Upper House votes and the Lower House votes for the Parties indicates at most an 8 per cent difference in some seats, and it is very rare that it gets as high as that. In most cases, fewer than 3 per cent in any one district vote more for one person in a Party than they vote for that same Party in the Upper House.

We know that when surveys are done asking people to name members of Parliament we very often find that there is a high proportion who are unable to name their local member, yet if you asked them what was their political persuasion and for whom they voted at an election, the overwhelming majority would name a Party. They would say they voted Labor, Liberal or whatever, because they have in mind a series of policies or attitudes held by a certain political group that they support. It is for that that I contend most people in fact vote, not for the individual who chooses to represent that Party.

For that reason when the list system came into being people were given the opportunity of voting for a Party, asking, "For whom do you cast your vote, for whose philosophies? Whose attitudes do you feel more truly represent those you wish to hold?" So the list system gives the opportunity for people to say that they want to vote for a certain set of attitudes and policies, and the Party has chosen candidates who will indeed represent that Party in the Parliament.

To suggest that people in fact vote for individuals is made even more incongruous, even more nonsensical, when one talks about a preferential system for a series of individuals when the numbers may get up to 72, as has happened in some Senate elections. What is really being said there is that, by forcing the elector to place numbers alongside each one of those individuals, he or she is having to rank on the ballot-paper his or her preference about the qualities of those individuals. How can it possibly be that the elector will know, for example, in that notorious New South Wales Senate election, all the characteristics of 72 people to be able to rank them in some distinct order? Even in the situation proposed in the Bill of 11 names, how many people would honestly say that the average elector of this State would know so much about all the candidates who stand to be able to say I have 11 whom I can safely choose and the rest I can safely reject out of that 11?

While turning to the question of optional preferential voting or the matter of voting up to a certain number, full preferential voting also needs to be touched upon. I personally think optional preferential voting is the best system. I believe people should be given the opportunity to say, "I have one vote I want to make, and I do not want to have to make another choice. That is the choice I want, and if I do not get that choice then I do not want to have any other choices." However, if a person does indeed wish to make another choice and have a second vote, I believe optional preferential voting allows for that to happen. What we have here is a situation in which people will be required to vote for 11 people on the ballot-paper in some form or another. They will be required to place numbers next to them. Admittedly, there are provisions in the Bill to take account of mistakes that are not intentional.

However, basically what it means, given that all major Parties will preselect seven candidates for the Legislative Council, is that a person will be required to express a preference for four people from another Party, other than the one of his initial choice. When I vote at the next State Legislative Council election I, for one, will object to the fact that I wil have to cast 11 votes and I will have to choose four other people, after I have given my first seven

preferences to the Labor Party, because I will state then, as I would state now, were an election held now, that I want my vote to go to the Labor Party to have it elected into the Upper House. I do not want to cast a vote for another Party because I do not adhere to its philosophies and attitudes. This system will force me to do that. This system will require me to register four other preferences.

It is totaly nonsensical, certainly in the compulsory preferential system, to force people to put numbers alongside every candidate, because one is still being forced to indicate a preference when one may feel that one does not have any regard for a candidate at all. Even the very act of putting the last number of the ballot-paper is an act of showing some degree of preference for that candidate. Clearly in the situation we are facing in this State, where in the case of lots of candidates many of the preferences never get counted, what is so unreasonable about giving people the opportunity to have optional preferential voting, whereby they can cast those votes to which they really feel committed, and not force them to cast votes to which they have absolutely no committment at all?

Mr. Mathwin: Why force them to vote? Why not make voting voluntary?

Mr. LYNN ARNOLD: I have touched on that matter before. If the honourable member wishes to raise that question again, I will certainly recite my opinions once more on this matter, because I believe compulsory voting is an essential feature of democracy in this country.

Mr. Mathwin: Democracy?

Mr. LYNN ARNOLD: My reason is as follows, and you will forgive me, Sir, if I momentarily digress to help construct the argument. In this country we are governed by Governments. Governments raise funds through taxes. We all accept the proposition that we will be governed by Governments; we accept the proposition that Governments must spend money; therefore, I believe we accept the proposition that Governments have to raise money, and that therefore we have tax in one form or another. It would be totally wrong to suggest that tax should be voluntary, for example. This is one situation in which there has to be a degree of compulsion to give us the democratic State we live in, because if we had a voluntary tax system the Government would not be able to collect the revenue it needed to provide the services and to maintain the order of society that we want. So we accept the compulsion in that regard as being legitimate.

Likewise, with regard to voting I put the proposition that compulsion is needed to protect the very basis of the democratic society we live in. Were we not to have compulsory voting, the situation could well exist where extremist minorities of the far left or far right could manipulate the situation and achieve undue influence in representation in the Parliament of the land. That could be a real threat to the democratic system, as we know it. Is it not reasonable to suggest that every person has an obligation to cast a vote to give an affirmation of their belief in the democratic system?

Mr. Mathwin: Why are we the only country, except for about five others, that has compulsory voting?

Mr. LYNN ARNOLD: If one operates on what the majority of countries do, there are quite a few things in which we would be regressing. Australia has quite a few things that many other countries do not have. We do not operate on what the majority of countries in the world have; we operate on what we believe is the system that is going to achieve the best results for us.

One of the things that always seems to occur in political campaigning in other countries where voting is not compulsory is that much of the time of the Parties that contest elections is spent trying to get people out to vote, not to consider the issues, or the the policies, but just to put to them to come out and vote, and all the energy goes in that direction. I believe that the purpose and function of political Parties is to put forward policies, attitudes and opinions to people to decide on; they should not have to spend all their time convincing them to vote. I believe we have in this country the example of the low turn-out in local government elections to indicate what might happen if we did not have compulsory voting. Could anyone suggest that a system whereby a minority in the country elects the Government of the country could be considered fair?

If people want to cast a vote against all the Parties, feeling that all the Parties do not in fact represent anything near what they wish—

Mr. Mathwin interjecting:

The SPEAKER: Order! I am sure the honourable member for Glenelg will make a fine speech when he is called. The honourable member for Salisbury, has the call.

Mr. LYNN ARNOLD: Thank you, Sir. Although there might be many others who share that opinion, I will listen with interest to the member for Glenelg.

The SPEAKER: Order! I ask the honourable member not to reflect upon the decision of the Chair.

Mr. LYNN ARNOLD: In no way, Sir; I would not do that. It is surely right to accept that we have an obligation, and in as much as we have an obligation to pay tax to fund the services of Government, we have an obligation to vote to protect the system of Government to which we adhere in this State and in this country. To suggest that we should go back to non-compulsory voting opens us up to the dangers of extremist groups having undue influence in the Parliament of this land.

The question of preferential voting brings with it another matter, and that is the complexity of the system. What is the voting system really designed to do? Is it designed to provide the voters with an intriguing mathematical exercise, or a puzzle or a maze that is as difficult to complete as is the *Times* cryptic crossword, or is it designed to be a vehicle by which the elector can express an opinion and participate in the formation of the Parliament of this State or country? I think we must accept that it is the latter. Therefore, surely it behoves us at all times to look at those areas where complexity is undue and unnecessary, and in fact is hindering the expression of the people.

I know from evidence in my own electorate, seeing the informal votes that appear for the various Houses of Parliament—the State House of Assembly, the State Legislative Council, the Senate, or the House of Representatives—that there are wide differences in the level of informal voting. The Senate figures, for example, show very high informal votes in my area, as I am sure they do in many other areas. I do not believe anyone could put to me the proposition that people in my area are saying that they do not like the Senate candidates in greater numbers than a similar body of people in the Lower House. I do not believe that it means disaffection with the Senate. I believe that complexity has made it impossible for them to cast the vote, that they have become victims of the complexity of the system.

The system that we have had for the Legislative Council sought to remove some of those complexities, and it was heartening to me and to others in my area to see that so many votes that previously had been wasted by complexity in electoral systems were being saved in the counting of votes for the Legislative Council in my area and many others. Any true democrat is concerned to save votes and to make sure that as few votes as possible are lost. Anyone who seeks to make the system more complex must answer

this question: how is that going to improve the democratic representation when it will increase the informal vote?

To deny one person out of 10 expression cannot be considered fair and just. It is denying them. When I have been scrutineering on election nights (and I have had this confirmed by others who have been scrutineers), many ballot-papers thrown on to the informal pile are brave attempts to cast a vote, attempts to express an opinion about which candidates were wanted in that area. For one reason or another, due to the complexity of the system, they have lost out. I go so far as to contend that, under the optional preferential system, if a person expresses one preference only he should be entitled to put a cross there to indicate that. It is obvious that the cross would be on the name of the one he wanted. That is what happens in local government elections. As I mentioned in this House last year when we were debating amendments to the Local Government Act, it is confusing to have a cross system in one and a number system in the other. We must rationalise the two.

Mr. Mathwin: But you must admit that it is fairer to give preferences.

Mr. LYNN ARNOLD: It is fairer to give preferences, but where someone wants to give only one preference, I think it is academic whether that is done with a number or a cross. On the whole, I would generally support the optional preferential system, because some people legitimately want to give preferences to a second or third choice.

Mr. Mathwin: I am like that. I would not mind your getting in if I did.

Mr. LYNN ARNOLD: That is very generous. One of the features I am worried about is that, in an endeavour to improve the electoral system, or apparently to do so, we have had no mention made of the electoral boundaries for the House of Assembly. This must be part and parcel of the degree to which Parliament at this level expresses the will of the people.

The Hon. D. O. Tonkin: I think you will find that it is in another Act.

Mr. LYNN ARNOLD: I am not disputing that, but it is part and parcel of the attempt to make sure that the will of the people as a whole is represented in this Parliament. I make the plea that there are certain electorates, one of which is mine, very much over size in numbers, making it difficult for members to give the same degree of representation as other members can given when they represent smaller electorates. This is something that would be felt on both sides of the House, and I hope that some attention will be given to it by the Government in due course.

In reading through the Bill, I find that there are a couple of areas that have been commented on by other members, and I will not cover them again, because I endorse the comments made on this side of the House. I would like to mention two other points. One is the question of electoral rolls. It has been mentioned that, where a court of disputed returns has deemed that another election should be held, the old roll should be used. That statement was made in the second reading explaining that it is a re-run, not a by-election. I concede the point made there, but I would ask what provision there is for changing the rolls if the court of disputed returns has held that the rolls were not an adequate representation of the people in the electorate on the former polling date. Surely in that situation, if that was one the bases of the court's finding, there must be a new roll; otherwise, the re-run election would be run on the same false premise as was the first.

I cannot see where in the Act that is provided for, but I hope it is and that, when he replies, the Minister will indicate where it is provided.

Another feature that interests me is the question of the calling of a by-election for casual vacancies or through the calling of a new election in a district by a court of disputed returns. The Bill and principal Act provide that the Speaker of the House of Assembly, if he is within the State, shall issue a writ after giving two clear days notice, but what is the provision for an alternative person being empowered to do that if the Speaker is out of the State? On occasions, the Speaker has been out of the State. You, Sir, were out of the State on a very important trip last year: what would have happened if a by-election had been necessary and it had not been possible for you to return to the State in a short period? What provision is there for an alternative person to issue that writ?

In regard to clause 15, at present the roll indicates all those listed to vote in a certain area. They are numbered as their name appears alphabetically, and the final number is the total number on the roll for the district. Perhaps the numbering system could be changed so that each elector would have one number on first enrolment in the district and would maintain that number in that district, so that a person, checking back on old rolls in regard to movements of people and the level of volatility, would not find it so difficult, because one could use base numbers rather than a number that changes for each elector on every new roll.

The issue of electoral reform in this State has been very thorny. For members opposite to suggest that the Labor Party has not been in the forefront and vitally concerned with democracy in this State is to misread history. The member for Mawson has suggested that we fall short of serious consideration of electoral reform, which indicates that he knowns nothing at all of what has taken place in the previous 10, 20 or 30 years. I hope that the changes that are before us will not be the end, because some of these issues should be reconsidered by Parliament in years to come. I make one final plea. I believe that optional preferential voting is the most democratic form of voting, the one that gives the voter the choice in the widest possible way. Likewise, the list system, as it has been berated by members, was not the *bete noir,* as has been suggested; it still has its part to play in the democratic system of selecting candidates to represent the electors in Parliament.

Mr. GUNN (Eyre): I am pleased to be able to comment on this Bill. The contributions of the member for Salisbury and of other members who profess to be such great democrats have been interesting. They have opposed what is putting into effect a fair and just system of electing people to the Legislative Council. I recall the debates that took place in this Parliament when the system was changed. The architect of that legislation was the former member for Brighton, Mr. Hudson. That legislation was deliberately designed to prevent minority Parties having the opportunity to have any effect at election time. Anyone who read that legislation or who was involved in it realised that that was its intention. It was intended to disfranchise fairly large portions of the South Australian population. At that time, the Labor Party believed that those minority groups were more likely to give their second preferences to the Liberal side of politics than to the Labor side, so a very cunning scheme was devised to disfranchise those people. Now they are fighting tooth and nail—

Mr. Lynn Arnold: What—

Mr. GUNN: I am not concerned about what those members had to say, because they were attempting to pull the wool over the eyes of the people of South Australia.

Mr. Lynn Arnold: It did not disfranchise the minority Parties.

Mr. GUNN: If the votes are not counted, that is disfranchising. The honourable member spoke at great length but unfortunately said little of substance. He had a lot to say about the democratic system, as did his colleagues. Surely, in a democracy, it is the right of an elector to vote for the candidate of his choice, not for a Party. The Constitution does not recognise Parties. One of the basic elements of democracy is that, when a person goes into a polling booth, he should be able to vote for the person for whom he wants to vote. That has been universally recognised. The list system was devised to recognise Parties. We know why the Labor Party wants to keep the list system.

Mr. Trainer: Because it is simple.

Mr. GUNN: We know that the honourable member is a simple soul.

Mr. TRAINER: I rise on a point of order. I object to the words "simple soul", as used to describe me by the member for Eyre, and I ask that they be withdrawn.

The SPEAKER: The honourable member for Ascot Park has complained about the words used by the member for Eyre. I ask the member for Eyre whether he will withdraw those words.

Mr. GUNN: With deference to you, Mr. Speaker, I am very pleased to withdraw those words. I thought that they represented a sign of endearment to the honourable gentleman. However, I will continue with what I was saying. It is important that the people of this State are aware why the Labor Party wants to retain the list system. We know that over a long period the Labor Party has rewarded some of its staunch supporters and servants of the Party even though a number of them have been quite unacceptable to the majority of the people of this State. We saw a classic example of this in the District of Semaphore, in which the Labor Party ran one of those people and thought that, no matter what people thought, they would vote according to the card. With the list system, the Party can place people one, two and three and just about guarantee that they will be elected. However, when people have the opportunity to vote for individuals, a large percentage would not vote for certain individuals.

The Hon. D. O. Tonkin: What if Mr. Apap had won?

Mr. O'Neill: DeGaris has never been elected in his life.

Mr. GUNN: Mr. Apap has never been democratically elected to anything. One could talk about the history of how Mr. Apap was elected in his union, and even about how Mr. Scott was elected to the Amalgamated Metal Workers Union on less than 5 per cent of the vote. The democrats opposite should listen to this.

Members interjecting:

The SPEAKER: Order! The member for Eyre has the floor.

Mr. GUNN: Thank you, Mr. Speaker. I do not need the assistance of my friends opposite. It has been interesting to listen to what they have had to say—these so-called democrats, these supporters of the list system of voting. They do not even put their views into effect in their own organisation. I would now like to quote from the document that I have in my hand.

Mr. Whitten: Quote it right.

Mr. GUNN: I know it is a little red book.

Mr. O'Neill: Did you pay for it or did you steal it?

Mr. GUNN: I obtained this copy from the very efficient library in this building. On page 20, the publication of the Australian Labor Party (South Australian Branch), Rules and Standing Orders as amended to August 1980, states:

> *(h)* Subject to paragraphs *(a)* and *(b)* hereof all elections conducted by Convention shall be determined by the preferential system.

We have listened for hours tonight to Labor Party members in this place opposing the preferential system of voting, yet it is provided for in their book.

Mr. Trainer: Who opposed the preferential system of voting?

Mr. GUNN: The member for Ascot Park did.

Mr. Trainer: I did not.

Mr. GUNN: It is also stated:

> State Council elections to the A.L.P.: The system of preferential voting shall be used in all elections conducted by the State Council.

That statement is in the platform of the Labor Party, yet here we have these hypocrites. Let us see how these new-found democrats, who go about professing one vote one value, just like saying one man one job, go about conducting elections.

Members interjecting:

The SPEAKER: Order! The member for Eyre has the floor.

Mr. GUNN: We have had to listen to a great deal of nonsense from members opposite. I know that they do not like to be reminded of these facts, but they should be drawn to their attention. That publication also states:

> The card vote of each union delegate shall be counted in proportion to the number of affiliated members such delegate represents.

So these people who believe in one vote one value, union secretaries like the member for Florey and others, stand up with 10 000 or 15 000 votes each time they vote. That is a one vote one value, Labor Party style. What a band of hypocrites they are. The booklet also states:

> Union affiliation: numbers will total not less than as near as possible to 75 per cent of the total number of union and sub-branch card votes.

That means that the unions have 75 per cent of the votes at conventions. That is the Labor Party's democratic system!

Mr. Abbott: Tell us about your system and your rules.

Mr. GUNN: I would be delighted to enlighten members opposite about how members on this side are preselected, because it is a fair and democratic system. The delegates have one vote each; they do not have 10 000 or 15 000. I am sorry that the member for Playford has left the Chamber.

Mr. O'Neill: Tell us how Steele Hall rubbed your noses in it.

The SPEAKER: Order! the member for Eyre has the call.

Mr. GUNN: I am pleased about the assistance that members opposite are trying to give me.

Mr. McRae: I did not leave the Chamber.

Mr. GUNN: I am sorry if I in any way misrepresented the member for Playford. This evening the member for Playford made a speech which unfortunately did not relate very much to the matter before the House. It is fairly obvious that there is some sort of contest taking place between members on the other side, because the member for Playford decided on this occasion to throw his hat in with the left wing of the Labour Party. We had a speech which was uncharacteristic. He went on at length about the wickedness of the Legislative Council. He must be a few feet behind the member for Elizabeth, and is trying to align himself with the left wing to get third berth on the front bench. It was uncharacteristic of the member for Playford to go on at such length about the undemocratic system. He is a person who has said in this place that he describes himself as a social democrat, and I thought that as a reasonable person he would have believed that when one is making important decisions affecting the people of a State or nation one would be prepared not to rush things, but would make sure that reason prevails.

Mr. McRae: You are talking about rushing!

The SPEAKER: Order!

Mr. GUNN: I thought that the honourable member would be prepared to have a second opinion, which is the whole principle of an Upper House. However, it is obvious what he wants and what his colleagues want (because unfortunately for them they are bound by what is printed in the book, no matter what they think). I thought we were elected into this place to represent people. Once they get their instructions, they have to carry them out.

Mr. PLUNKETT: On a point or order, Mr. Speaker. I have listened to the debate very carefully tonight, and many members on this side have been told they have been wandering away from the debate. I would like to ask what the member for Eyre's comments have got to do with the debate.

The SPEAKER: Order! There is no point of order, but I invite all members of the House to make sure that in their contributions they are speaking to the clauses of the Bill before the House.

Mr. GUNN: Thank you, Mr. Speaker. I am trying very hard to stay close to the substance of the Bill, because I believe it is an important measure—and an enlightened step from which the Government should be congratulated.

The SPEAKER: Can the honourable member identify the clause to which he is speaking?

Mr. GUNN: I was about to refer to those sections dealing with the Legislative Council, Sir, and I refer you to clause 50. I want to refresh the memories of members opposite on the benefits that will flow from this legislation. We are all aware that the Hon. Mr. Sumner, who is the Leader of the Labor Party in another place, would not have been elected if this system, which is more democratic than that which has been in operation, had applied previously. He would not have been elected, because a large number of votes which would have gone to the Liberal Party were not counted. We know why he feels so guilty and why he has talked at some length about his election to that place—because he knows that he denied a member of the Liberal Party the right to be there.

We heard the contribution from the member for Salisbury, who spoke about the great virtues of compulsory voting and the various other electoral aims that he has. It is interesting that members of the Labor Party have not addressed themselves to the other matters in this Bill in relation to bringing back the time of the close of polling from 8 o'clock to 6 o'clock, which I think is a sensible proposition.

As the member for Glenelg pointed out to me a few moments ago, the ultimate aim of the Labor Party is to have a unicameral Parliamentary system in this State. The member for Playford was very careful when he was talking about the Senate, because he knows very well that the Australian public at large will not accept and have never accepted that the Senate should be abolished. It has been part of the Labor Party's platform, and some of the more astute members of that Party, one of whom I think is the Premier of New South Wales, indicated on one occasion that that part of the political platform has cost them seats in the Senate, so they are trying to back off that, but they are now hanging their hat on the position of State Upper Houses.

The member for Playford mentioned the enlightened step taken in 1922 by the Labor Party in Queensland when it abolished the Legislative Council. That was one of the most disgraceful courses of action which any political Party could have been involved in. A referendum was held and defeated; it was an appointed House which the Party filled up with its cronies. When a Bill was passed, the Governor refused to sign it, so they waited until he went on holidays, put in one of their cronies as Lieutenant-Governor, and he signed it. That is the history of the Legislative Council in Queensland. It is my view that the people of Queensland would be better off today if they had an Upper House. I hope that the Liberal Party in Queensland takes steps to have the Upper House reconstituted. It is no good members opposite blaming Joh Bjelke-Petersen for his gerrymander. That was nothing compared to what their friends did for the 40 years in Queensland in which they governed on a gerrymander. The Labor Party is loud in its criticism of people from this side, but we are only amateurs when one looks at their track record in these things.

I believe the Government should be commended for brining this legislation forward. It is the final step in making the Legislative Council a fully democratic House. It will allow the people of this State the right to elect people in their own right, which should be fundamental in any democratic system. If the list system applied in the Senate, a number of people who have been democratically elected would not be in that House, and that would be an unfortunate thing, even though on many occasions the courses of action they have taken have not pleased me.

If Labor Party members were true democrats they would support this measure wholeheartedly. I look forward to the passage of this Bill. I believe that the people of South Australia will appreciate and strongly support it by returning a full quota of Liberal candidates to the Legislative Council at the next State election.

Mr. BLACKER (Flinders): I support this Bill because it makes a number of moves to amend the present Electoral Act, moves that I believe are in the right direction. The smaller issues involved in this Bill are that, first, it clarifies the position where ballot-papers are sometimes found in the waste paper basket. I think that many members would have had the experience of being a scrutineer at a poll from time to time and, almost invariably, it appears, there are one or two ballot-papers unaccounted for. Usually, they can be found in the waste paper basket. It seems to be a regular happening. People voting perhaps get mixed up and put their scrap paper in the ballot box and their ballot-paper in the scrap bin. That is a situation which, to my mind, needed to be clarified, because immediately a ballot-paper is not placed in the sealed container it should become informal, in my opinion, and should not be re-admitted to the count, because of the possibility of its being interfered with before it got to the ballot-box. There are many ways in which a ballot-paper could get into the waste paper bin by devious means, and the risk of readmitting such a ballot-paper to the count is too great to be accepted. I think that the onus falls back on the voter to make sure that he gets his paper into the correct ballot box. That is an aspect of this Bill that I believe is correct.

Under this Bill, when a Court of Disputed Returns orders a new election the same roles will be used for that election. There is a statutory limitation of a six-month period before a new roll can be issued. I think this is fair, because a re-election is a re-run of an election that took place on the original date. In my opinion, new admissions to the roll should not be admitted in those circumstances because, had all other factors been equal, another election would not have taken place. Therefore, it would be inappropriate to have the re-election using new numbers of voters.

Another aspect dealt with in the Bill is the time of closing of the polls. Some people might argue against this alteration in the time the polls are to open, but I believe 10 hours is a sufficient time. It has been traditional that the polls have been open from 8 a.m. to 8 p.m. It also seems to

have been traditional that many people have attended sporting functions and then voted on their way home to their farm or residential property. Their may be some difficulties because of the change of the times, but this time period is being used in the other States. I do not think this change is of such importance that it should create any real problems. I think it is a good idea. Also, the counting of the votes will come through at an earlier time. If the two hours is taken into account when one considers the number of people involved in manning the polls, it will amount to a tremendous saving to the Electoral Commissioner and to the State, because it will reduce the present cost of running elections, which is quite exorbitant.

I turn now to the ability of the Electoral Commissioner to reject nomination. I believe that this is a wise move. We have had names such as "Suzy Creamcheese" put forward by candidates for an election. At present, candidates are able to change their names so that they can start at the head of the poll. They do this by calling themselves Allen or Aren, which enables them to be at the head of the poll and perhaps collect on the donkey vote. This measure will stop that sort of operation. More importantly, it stops the frivolous aspects. Two names that have been used are "Suzy Creamcheese", and "Screw the Taxpayer", which are the types of names that should be kept out of our system. Names like that make a mockery of the electoral system. I think that any act which sets about making a mockery of our electoral system, particularly in that way, should be condemned by every member of the House.

This Bill broadens the Act to enable the Electoral Commissioner to conduct, with approval of the Minister, elections which do not take place under the Electoral Act, on behalf of various semi-governmental and non-governmental bodies. This includes associations of employers and employees, where their rules allow this to occur. I think it is fair comment that more and more people are looking to this independent body to conduct the elections in a fair and proper manner, thereby removing any doubt about the conduct of elections within these organisations because elections run by the Electoral Office are considered above reproach.

The issue of prime concern to every member of this House, and obviously the issue which will cause the greatest amount of debate is the system of voting for the Legislative Council. When earlier debates were before this Parliament and the present list system was introduced I spoke on most occasions. I expressed strong opposition to it. I think the record will show that two other persons and myself were the only ones to oppose the list system to the extent of trying to introduce Senate-type voting at the initial stage. That is on record and I am proud of the fact that three people in this House were prepared at that time to at least try an alternative system.

Both the Government of that time, the majority Party, and the Opposition chose to support that system. I think that that vote has been regretted, particularly by the then Opposition, the Liberal Party, because some 12 months or so later it, in turn, introduced an amendment in an endeavour to introduce Senate-type voting for the Legislative Council. The Bill does not provide for Senate-type voting in the true sense, but for all intents and purposes it has a similar effect. The difference is that the voter only needs to nominate or list the number of candidates required for that election. For a normal Legislative Council election, where half the candidates are due for re-election, it will only be necessary for 11 candidates to be nominated on the voter's ballot-paper. In the event of a double dissolution it will be necessary for 22 candidates to be nominated.

There is an interesting aspect to this. We had voluntary voting at the past two Legislative Council elections. We also had the right of optional preferences in that list system. I note that both of the major Parties, in fact I think just about every political Party, advocated that all preferences should be noted on the voting paper.

I suspect that this was an education process or represented a fear by the political Parties concerned that, if they advocated only a partial vote, it could severely jeopardise the compulsory vote and the full preference system as it operated in the House of Assembly. So, we had two systems that were quite difficult, but all political Parties were advocating placing preferences all the way down the line, because they could not afford to have their House of Assembly vote spoilt in that way.

This provision appears to be a compromise between those two systems in terms of advocating a full vote. Whilst the full preferential system applies in the House of Assembly, I think probably all political Parties will still advocate placing numbers in every square, because both major Parties and all other Parties will be after every vote they can get, and they cannot afford, through a confusion of the two systems, to lose votes in the House of Assembly.

When he opened this debate, the Leader of the Opposition intrigued me with some of his comments, and I cannot agree that all of his statements were correct. He said that the more complicated the preferences, the more informal votes. If we look at the record we will find that that is quite untrue. If we look at our recent elections, we will find that the more candidates who were in the House of Assembly elections, the more deliberate has been the vote and the fewer informal votes have been recorded. Where it is necessary for constituents to consider a vote, they consider it properly. They do not go haphazardly into a polling booth and put a mark in the square. If we were to go through every one of the 47 House of Assembly electorates, we would find that the electorates which are the safest seats, where the candidate is elected in a very safe manner (with 65 per cent or more), are the seats with the highest percentage of informal votes. So, I think it is an untruth, as outlined by the Leader of the Opposition, to say that the more complicated the preferences, the more informal the votes. Facts do not substantiate his statement.

The Leader also said that most people wanted to vote for a Party in the Legislative Council system and he gave examples, citing a case, I think, in which 94.8 per cent supported the Party system. However, that is not always the case. While many people are loyal Party supporters, I am sure there are many who are supporters of individuals. We are now in our forty-fourth Parliament, and history shows that in only one ot those Parliaments have the people of South Australia been represented in this House by only two Parties. Every other Parliament has had more than two Parties represented in it. There is always a section of people who want to get away from the Party system, or who want a minor Party or an Independent.

Mr. O'Neill: To all intents and purposes, you're a member of the Liberal Party.

Mr. BLACKER: I think the honourable member should check my record on that score. He cannot substantiate that statement. I am a free enterprise person.

The Hon. R. G. Payne: You keep asking about petrol prices, and you vote for them.

Mr. BLACKER: I am a free enterprise person. That is the platform I stood on and it is the platform I maintain. This Bill is a step in the right direction. It will be considered by the majority of people to be an opportunity for constituents to cast a vote for the candidate of their

choice. They have an opportunity of casting a vote for the Party of their choice.

Mr. Trainer: It doesn't go far enough. There are still faults in it.

Mr. BLACKER: The honourable member says that there are still faults in the Bill; it would be a brave man who would say there are not. I have yet to find an Electoral Bill that is free of faults. I do not think any of us will be here when that day arrives.

Mr. Trainer: Are you saying that under a fair system everyone in this House would be voted out?

Mr. BLACKER: The honourable member is trying to confuse the issue. Every member of this House will be far too old to be here when that time arrives. I support the Bill.

The Hon. D. O. TONKIN (Premier and Treasurer): I thank honourable members for their contributions to this debate, although I must say that some of the contributions from the other side have been quite miraculous and far from valuable.

Mr. O'Neill: Some from your side were pretty ridiculous.

The Hon. D. O. TONKIN: The remarks made by members on this side of the House have been pertinent, and they have shown up quite clearly the hypocrisy, the double dealing, and the double standards of members opposite. How anyone can stand in this House and support a system of list voting when it is clearly demonstrated that, within their own organisation, members opposite support a preferential system is beyond me.

Certainly, there has been an attempt to impugn the Liberal Party's recent record in electoral reform, and I believe that that attempt has failed dismally. There has been a great deal of change. The system has become vastly improved, and that has been largely to the credit of Steele Hall, as Premier, and it has been to the credit of the former Premier of Labor Party persuasion, Don Dunstan. Let us get that clear, and let us acknowledge that. It has been the result of a good deal of combined work on both sides of the House. I remind members opposite that the legislation, when it was passed, to change the voting system in the Upper House received the support of a considerable number of members of the Liberal Party. They should not forget that.

These custodians of electoral reform, as the Leader of the Opposition called them, the members of the A.L.P., were very keen on electoral reform as long as it suited them, and that basically is what we have heard again today. The reforms which they supported we know did not go all the way. They did not go as far as they should have gone to achieve the ideal or as nearly a possible the ideal system. There was no full transfer of all preferences, and the presence of the Hon. Mr. Sumner in the Upper House at the present time is due entirely to that situation, where several thousand votes were not fully counted.

One member opposite talked about the election of six members to the Upper House on that occasion and said that the right of centre Parties, the Liberal Movement and the Liberal Party, could not be taken together. That is an expression of their belief that preferences should not be passed on. The Leader obviously does not want any change to the present system. He does not want a full flow-on of preferences, because he knows perfectly well that, if there is no full flow-on of preferences, and if the situation stays as it is, it gives the Labor Party a clear (although perhaps narrow) partisan advantage.

He says that he supports the fundamental principles of democracy. There are some fundamental principles that he has not seen fit to support. They are, first (and these are the two major points of issue), that electors have the right to vote for individuals, for people, and not for Parties. They have the right to choose for whom they will vote. They will not accept, despite the protestations of members opposite, a list system, a block system, a system that is one of regimentation and dictation by political Parties. I would have thought that in this day and age even the A.L.P. would realise that people no longer wish to be regimented in that way. It is a fundamental principle, a principle which, as my college from Eyre said, has been recognised throughout the world in the United Nations Declaration of Human Rights and in other statements, that people have the right to vote for individuals. If the Labor Party denies that, it is showing its true colours.

The other fundamental principle with which we are dealing and which was deliberately avoided by every member opposite who would not face up to the true requirements is that we must ensure that every vote cast is fully counted. There is no question that, under the present system, literally thousands of votes in the past have been thrown away and, if the system is not changed, they will be thrown away in the future and not fully counted. What right has any Party or any system to deny the full flow-on of all votes cast so that a full result can be obtained?

The Hon. R. G. Payne: So that the thirty-second—

The Hon. D. O. TONKIN: That is just another example of the devious interjections, statements and arguments that have been put forward. The member for Mitchell knows full well that there is not a flow-on of 32 preferences under list system.

The Hon. R. G. Payne: That's what you are plumbing for.

The Hon. D. O. TONKIN: I suggest that the member for Mitchell do some very quick reading and get on with the Bill. He knows perfectly well that the system that is being proposed is the nearest to a fair and ideal system that we can get. It is the essence of democracy and it ill behoves members opposite to object and to try to cling at any length to that electoral advantage that the present system gives them. Members opposite can shout, interject and abuse as much as they like, but they cannot change the facts. The Leader said that the measuring stick of a good electoral system is simple—it is a maximisation (and that was his word not mine) of formal votes. He said that any strange rules that are introduced—

Members interjecting:

The SPEAKER: Order! The Premier does not need assistance from either side of the House.

The Hon. D. O. TONKIN: The Leader said that this is a simple maximisation of formal votes and that any strange rules that cause there to be disfrancisement of any voter cannot be supported . The Leader is on record in this debate as saying that any strange rules that cause any voter to be disfranchised cannot be supported. Yet, he is deliberately opposing the clause that will avoid that disfranchisement to which he refers. He is prepared to support a system that disfranchises thousands of voters by not counting their preferences.

The list system is out, the optional preferential voting system is out, and this is a matter of grave concern to the Leader. He says that this will make the whole business more complicated and it will therefore cause and increase informal votes. This is a deliberate plot to disadvantage Labor voters, he says. How ridiculous! That is absolutely absurd.

Experience with this identical system (and the Leader was very careful not to refer to this) in New South Wales shows quite clearly that there is no increase in the number of informal votes. The Leader spent a lot of time talking about the full Senate system and quoted figures from that

showing what a high proportion of informal votes occur in that system. I do not deny that. However, he did not produce figures or convincing arguments in respect of the New South Wales system. The fact is that experience has shown with similar systems that there is no increase in informal votes, and that any comparison with the Senate is not reasonable.

It has been made clear several times that the system that has been proposed is that adopted by a Labor Government in New South Wales and endorsed by Labor members of the State A.L.P. and, indeed, by Federal members of the A.L.P. after a great deal of research and investigation into electoral systems. The system has been endorsed by these people and accepted by a Labor Government because it is the fairest system that they could devise. It is generally recognised that that is so. Yet, the Leader defends the perpetuation of the present undemocratic system that was brought in by those so-called dedicated democrats, and we have heard enough about them tonight, who were the Leader's colleagues.

All we can ask is why the Labor Party is adopting this two-faced, dichotomous approach to the whole situation. The reason is quite simple. All of the arguments that we have heard tonight have been directed against correcting this injustice that presently exists. All of the arguments that have been advanced tonight by members opposite have been in support of the retention of what is clearly a blatant electoral injustice. It is evident that, whatever protestations have been made to the contrary, members opposite have been instructed to oppose this essential democratic reform, come what may. They have been told that they must oppose the full counting of all votes cast through to all preferences, because it suits them to retain this injustice. It is an injustice that has allowed a majority of their Party to be elected with the minority of the total votes, as the Hon. Mr. Sumner can well attest.

I make quite clear (and I believe that I speak for the member for Flinders as well as I do for all democrats and all people who believe in a fair and just democratic electoral system) that we cannot tolerate the perpetuation of this injustice, of this built-in advantage to the A.L.P. The New South Wales Labor Government is to be commended for taking on board this very fair system. I agree. The Opposition clearly does not agree, and its motives, I suggest, are patently obvious to all South Australians. Its professed support for electoral justice and democracy is exposed for what it is—a complete and absolute sham.

It is a sham in which it has indulged for continued electoral advantage, and for no other reason. This is why the legislation to bring in an electoral system for the Upper House which is totally fair and is accepted by all reasonable people, including the A.L.P. in New South Wales, as being reasonable. It is accepted by psephologists, political commentators throughout Australia and, indeed, by many Australian Labor Party politicians as being fair and eminently just, and it is on record as being supported as the most democratic system available. By opposing this, the A.L.P. in South Australia shows that it is clearly out of step with its colleagues in other States and, indeed, with many of its colleagues in South Australia. I believe that if it persists in blotting what I will accept has been a good record of electoral reform in the past, as it is doing by its attitude, it will find itself totally out of step and out of sympathy with the people of South Australia for many years to come.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Progress reported; Committee to sit again.

INDUSTRIAL AND COMMERCIAL TRAINING BILL

Returned from the Legislative Council with the following amendments:

No. 1. Page 2, lines 26 to 31 (clause 5)—Leave out all words in these lines.

No. 2. Page 2 (clause 5)—After line 33 insert definition as follows:

' "trade" means an occupation declared by regulation to be a trade:'

No. 3. Page 7, lines 26 to 28 (clause 15)—Leave out subclause (6) and insert subclauses as follows:

(6) Four members of a training advisory committee (of whom one must be the chairman of the committee, at least one must be a member appointed to represent the interests of employers and at least one must be a member appointed to represent the interests of employees) shall constitute a quorum of a training advisory committee.

(6a) A decision carried by a majority of the votes of the members present at a meeting of a training advisory committee shall be a decision of the committee.

(6b) Each member present at a meeting of a training advisory committee shall be entitled to one vote on any matter arising for decision by the committee at that meeting and, in the event of an equality of votes, the chairman shall have a second or casting vote.

No. 4. Page 7 (clause 16)—After line 46 insert subclauses as follows:

(5a) At any meeting of a sub-committee, at least one member appointed to represent the interests of employers and at least one member appointed to represent the interests of employees must be present.

(5b) A decision carried by a majority of the votes of the members present at a meeting of a sub-committee shall be a decision of the sub-committee.

(5c) Each member present at a meeting of a sub-committee shall be entitled to one vote on any matter arising for decision by the sub-committee at that meeting and, in the event of an equality of votes, the member presiding at the meeting shall have a second or casting vote.

No. 5. Page 8, line 31 (clause 18)—After "and" insert ", subject to subsection (4),".

No. 6. Page 8 (clause 18)—After line 32 insert subclause as follows:

(4) If the Commission, acting at the direction of the Minister, requests the disciplinary committee to review its decision or order upon any matter, the disciplinary committee shall review the decision or order and may, upon the review, confirm, vary or revoke the decision or order subject to the review, or make any other decision or order in substitution for that decision or order.

No. 7. Page 10, lines 32 to 34 (clause 21)—Leave out all words in these lines.

No. 8. Page 11, lines 7 to 9 (clause 21)—Leave out subclause (10) and insert subclauses as follows:

(10) Any party to a contract of training may, within three months after the apprentice or other trainee commences work under the contract, terminate the contract by giving notice in writing to the other party or parties to the contract.

(11) Where a contract of training is terminated under subsection (10), the employer shall, within seven days of the termination, notify the Commission in writing, of the termination.

Penalty: Five hundred dollars.

(12) Where a contract of training is transferred or assigned from one employer to another, the employer to whom the contract is transferred or assigned shall, within seven days of the transfer or assignment, notify the Commission, in writing, of the transfer or assignment.
Penalty: Five hundred dollars.

Consideration in Committee.

The Hon. D. C. BROWN: I move:

That the Legislative Council's amendments be agreed to.

The Legislative Council has inserted eight amendments, the majority of which are what I would describe as very minor administrative matters that deal with quorums and the persons that must be present for a meeting of either a trade advisory committee or a subcommittee. The Bill was previously silent on this matter, and it has been pointed out by the Apprenticeship Commission that the new provision may clear up some misunderstanding and help set down procedures for meetings. It will help them to know what the quorum shall be, and it will also make sure that for a subcommittee meeting there are representatives from both the employer and employee sides. That deals with amendments Nos. 1 to 5, 7 and 8. I point out that part of amendment No. 8 deals with a minor administrative matter which saves the employer's duplicating his notification to the commission of the termination of the first three months after a contract of training has been signed. As I understand it, it is simply duplicating the existing practice of the Apprenticeship Commission. As there have been no problems with the existing practice, it was felt that that should be carried on by the Industrial and Commercial Training Commission.

Amendment No. 6 deals with the disciplinary committee. It was brought to my attention by the Hon. Mr. DeGaris that there was no right of appeal on the decision of a disciplinary committee. This provision was inserted to make sure that there is not a right of appeal to the full commission. The reason for that is that the last thing we want is to have the full commission sitting down and hearing at great length minor disciplinary matters, simply because a person is appealing against a decision of the disciplinary committee. Without reflecting on the Apprenticeship Commission at all, one of the problems with the commission is that it spends much of its time doing routine administration on disciplinary matters rather than getting down and dealing with the broader training issues. Certainly, the Industrial and Commercial Training Commission is there for these broad training issues, and it should not be dealing with the mundane administrative matters of contracts of training.

The Hon. Mr. DeGaris suggested that some form of appeal should be provided, and what I have suggested, and he has moved in another place, is that the Minister may request through the commission that the disciplinary committee reconsider one of its decisions. In other words, I suppose one could say the ultimate right of requesting a reconsideration of a decision of the disciplinary committee comes from the Minister. I believe that the Bill as originally drafted gave that power to the Minister, because the entire commission was subject to Ministerial direction. Although I do not believe this changes the power of the commission or the provisions of the Bill, it certainly does clarify the position that there is a right of appeal to the Minister, and the Minister may request the disciplinary committee, through the commission, to review its decision.

The Hon. J. D. WRIGHT: This is a unique occasion. I cannot recall on any occasion previously when industrial legislation returned to this House from the Legislative Council has been in a form which I am able to support. On every other occasion in the past when the Legislative Council has looked at my legislation it has dissected it to such an extent that it was unrecognisable when it came back. Therefore, I have always been forced into a situation where I have had to oppose the amendments.

I agree with the Minister that the majority of the amendments are procedural. They tidy up the legislation. I am not making any criticism of the legislation in the first place. The amendments, however, make it operative, lay down guidelines and set rules that I think will work to the advantage of all concerned. The amendment with content is No. 6. As the Minister has said, it clearly gives him the right to have disciplinary matters reviewed. I regret that I did not think of it myself. I commend the Legislative Council for its efforts on this Bill. The amendments improve the legislation, and give rights to people that they did not have previously. I am a great fighter for workers' rights and, as I believe that amendment No. 6 extends those rights, the Opposition supports the motion.

Motion carried.

SOCCER FOOTBALL POOLS BILL

Returned from the Legislative Council with the following amendment:

Page 4 (clause 8)—After line 29 insert subsection as follows:

(2) The conditions of a licence shall include—

(a) where the licensee is a natural person, a condition that he shall be resident in South Australia for the term of the licence;

(b) where the licensee is a corporation—

(i) a condition that at all times during the term of the licence not less than twenty per centum of the issued shares of the corporation shall be held by residents of South Australia and not less than twenty per centum of the voting rights that can be exercised at a general meeting of the corporation shall be exercisable by residents of South Australia;

and

(ii) a condition that a person nominated by the Minister shall be a director of the corporation at all times during the term of the licence.

Consideration in Committee.

The Hon. M. M. WILSON: I move:

That the Legislative Council's amendment be disagreed to.

The amendments that have come to us from the Legislative Council are exactly the same as the amendments moved in this place. Where the licensee of a soccer football pools scheme is a corporation, the amendments require that during the term of the licence not less than 20 per cent of the issued shares of the corporation shall be held by residents of South Australia and not less than 20 per cent of the voting rights that can be exercised at a general meeting of the corporation shall be exercisable by residents of South Australia. Further, the second part of that amendment requires that one of the conditions will be that a person nominated by the Minister shall be a director of the corporation at all times during the term of the licence.

I will deal with the last first. Australian Soccer Football Pools Ltd., as I understand, is a proprietary company which has as its shareholders two public companies—Vernons Ltd., of the United Kingdom and News Ltd., an Australian company. Vernons holds 70 per cent of the shares, and News Ltd. 30 per cent. What these amendments are saying is that I should nominate a director to that corporation. As I have mentioned in this place before, a soccer football pools scheme is in operation

in four States of the Commonwealth. If this Bill were to pass on a unilateral basis, obviously the other States would require the same. It is important, when dealing with the scheme, that there be uniformity between the States. As I have mentioned before, it is clearly an impossible situation for one State to be able to nominate a director and the other States not to. If we were running separate football pools in each State, it would be a requirement, and a desirable requirement, but it cannot be done in isolation.

I will now deal with the more important part of the amendment, which deals with the conditions of the licence on shareholding and voting rights. This plainly makes the Bill completely unworkable. There is the proprietary company with two public companies as shareholders, and what this amendment says is that, whereas you now have 70 per cent owned by Vernons Ltd. and 30 per cent by News Ltd., 20 per cent of those shares will have to be held by residents of South Australia. I am not going on at length, as it is obvious that this would be a gross interference in company rights and private enterprise. It is a far greater interference than other legislation that we have seen in this place. It is plainly and obviously unworkable, and I ask the Committee to reject the amendments.

The Committee divided on the motion:

Ayes (22)—Mrs. Adamson, Messrs. Allison, P. B. Arnold, Ashenden, Becker, Blacker, D. C. Brown, Chapman, Eastick, Glazbrook, Goldsworthy, Lewis, Mathwin, Olsen, Oswald, Randall, Rodda, Russack, Schmidt, Tonkin, Wilson (teller), and Wotton.

Noes (19)—Messrs. Abbott, L. M. F. Arnold, Bannon, M. J. Brown, Crafter, Duncan, Hamilton, Hemmings, Hopgood, Keneally, McRae (teller), O'Neill, Payne, Peterson, Plunkett, Slater, Trainer, Whitten, and Wright.

Pairs—Ayes—Messrs. Billard and Evans. Noes—Messrs. Corcoran and Langley.

Majority of 3 for the Ayes.

Motion thus carried.

The following reason for disagreement was adopted:

Because the amendment would make the Act unworkable.

ELECTORAL ACT AMENDMENT BILL

In Committee (resumed on motion).

(Continued from page 3526.)

Clause 3—"Transitional Provisions."

Mr. BANNON: Reference has been made in the second reading debate to the manner in which this measure is being put through the House. We got a printed Bill only after dinner tonight, despite the fact that the second reading debate had taken place. With clause 3, we come to the first of the substantive clauses. A number of amendments have been foreshadowed but have not been circulated to the Committee, and I am not sure whether this clause is involved in one of those amendments. Probably it is not, but we are in a difficult position in attempting to ascertain which clauses are to be amended. We could use the Bill as it was in another place, but a substantial number of amendments were made in the early hours of this morning, so it is not possible to use the numbering of those clauses. My information is now that this clause is not the subject of controversy, so I indicate the Opposition's support for it.

The Hon. D. O. TONKIN: As the Bill was heavily amended in another place and brought into this Chamber, it was printed relatively late this evening. I do not in any way reflect and I am sure honourable members would not reflect on the service provided in that respect. It has been a remarkably difficult job. I do not doubt that the amendments commissioned by members opposite have taken some little drafting, but I believe that they are now ready and that we can proceed.

Clause passed.

Clauses 4 to 8 passed.

Clause 9—"Returning officers."

The Hon. R. G. PAYNE: Can the Premier say what thinking was used in inserting a new subsection (1*a*) stating that no person of or above the age of 70 years shall be appointed as a returning officer? My experience of elections and the duties associated with them leads me to the conclusion that they are becoming more arduous. There seem to be more elections than was once the case, and in general there is a greater political awareness in the community and a greater involvement in these matters. I wonder whether the age of 70 years is considered satisfactory.

The Hon. D. O. TONKIN: I can reassure the honourable member that the population of South Australia will, as far as I am concerned, be spared from elections as frequently as we have had them in recent years. The question of the age of 70 years is a policy adopted by the Government in relation to a number of matters. As the honourable member would well know, the retiring age is normally at 65 years for the Public Service.

Many public servants retire at 60 and some opt to retire after age 55. There is no doubt that there are very many competent returning officers who have been giving good service to the State. Their service is invaluable, and they will probably continue to serve for many years. Nevertheless, there must be a cut-off point, and that cut-off point of 70 takes due account of the experience of those officers. Obviously, that is the line that has to be drawn.

Clause passed.

Clauses 10 and 11 passed.

Clause 12—"Polling places."

The Hon. R. G. PAYNE: I am somewhat at a loss to understand the reason for this clause. The words differ very slightly from the words contained in the principal Act. This clause appears to cover the same requirements. The first real difference occurs in clause 14 (1) *(c)*, which provides for abolishing polling places. There is a requirement in section 14 (1) *(c)* of the Act to clear any polling places to be polling places for any specified subdivision, and subsection *(d)* provides for the abolition of any polling place. It appears that one word will be taken from the principal Act, and the previous requirement to declare any polling place to be the polling place for a specified subdivision will be omitted. Over the years, I have learned to be very cautious of electoral matters in general.

I do not care less how many times the Premier looks at his watch. I am in Parliament to ensure that electors are not disadvantaged in any way inadvertently because of any lackadaisical action on the part of members here. I intend to see that that does not happen. Why are the words "declare any polling places to be the polling places for any specified subdivision" to be omitted? This matter was not canvassed in the famous House of Review. There has been no explanation of this alteration.

The Hon. D. O. TONKIN: Of course the honourable member has not had an explanation, because he has been on his feet wasting some six minutes of his colleagues' time. I was looking at my watch only because of my consideration for the honourable member's colleagues, who have substantial amendments to move.

The Hon. R. G. PAYNE: I rise on a point of order. Surely the usage of time relating to the Opposition is entirely a matter for this side and has nothing whatsoever

in hell to do with the Premier, and I ask you, Mr. Acting Chairman, to rule that way.

The ACTING CHAIRMAN (Mr. Mathwin): There is no point of order.

The Hon. D. O. TONKIN: I simply make the point that I have far more consideration for the honourable member's colleagues than he has. Relating to clause 12, the second reading explanation states:

> The new section is framed by omitting reference to the appointment of polling places for individual subdivision.

The honourable member would know that, following the last redistribution, individual seats were frequently composed of different subdivisions. Following the redistribution, subdivisions no longer apply. Each State seat is an entity in its own right, and therefore there is no need for any reference to subdivisions.

The Hon. R. G. PAYNE: I am amazed to receive that response from the Premier. Why are rolls prepared and headed "Subdivision of Mitchell", and so on, because the Premier has just explained that they are entirely superfluous?

The Hon. D. O. TONKIN: I suggest that the honourable member read the covers of the rolls very carefully; he will find that State seats are subdivisions in Federal seats.

Mr. CRAFTER: I notice that the Minister is the person provided for in this section to appoint a chief polling place, and appoint and abolish polling places in a district. Clause 6 provides for delegation of powers. I should have thought that these duties fell clearly within the ambit of the responsibility of the Electoral Commissioner, who has powers as an independent statutory person and who would seem to be the more appropriate person to make this sort of decision, not the Minister. This matter may be seen to be in the ambit of political influence. I seek the Premier's assurance that the Minister would delegate his powers.

The Hon. D. O. TONKIN: The matter is entirely administrative. The decision comes through the Executive Council by way of the Minister. The Electoral Commissioner would advise the Minister.

Clause passed.

Clauses 13 to 23 passed.

Clause 24—"Requirements for nomination and rejection of nominations."

Mr. CRAFTER: I move:

> Page 5—After line 43 insert subsections as follows:
>
> "(3) A person whose nomination is rejected under subsection (2) may within two days after the rejection appeal against the rejection to a court of summary jurisdiction.
>
> (4) An appeal under subsection (2) shall be heard and determined as expeditiously as possible.
>
> (5) Upon an appeal under subsection (2), the court may confirm or reverse the decision of the returning officer."

This clause is consequent on legislation that passed the House last year, and provides that obscene and frivolous names and names that have been assumed for an ulterior purpose can result in a person who uses that name being prohibited from being a candidate for an election. While I have some doubts about the wisdom of that, if that is the case, there must be a safeguard to members of the community who may wish to be candidates for public office. The amendment provides certain appeal procedures and rights of access to have the decision reviewed by a magistrate in a court of summary jurisdiction. I commend the amendment to the House.

The Hon. D. O. TONKIN: While I have some sympathy with the point of view put forward by the honourable member I think the case for strong measures should be taken to stop these frivolous, sometimes obscene, nominations of very little value.

Mr. Trainer: At any end of the alphabet.

The Hon. D. O. TONKIN: At either end of the alphabet, or indeed in the middle. I will give the honourable member an undertaking, as I will in regard to several other matters in this Bill, that the refinements which may be necessary following the amendments being made to the Act by this Bill will be assessed very carefully. If there is any difficulty in regard to the matter it will certainly be looked at and necessary amendments can be made later on. At this stage the matter should be clear cut, and I cannot accept the amendment.

The Hon. R. G. PAYNE: Regarding the provisions of new subsection (2), how will what is obscene and frivolous be defined and determined? What is an ulterior purpose?

The Hon. D. O. TONKIN: One can think of a number of cases where a name could be adopted. The member for Flinders quoted the example of "Screw the taxpayer". A long name, which instead of being a name is a political message, would be the sort of thing that is not proper to appear on a ballot-paper, because it is a political message. That is an ulterior motive. This provision is to be implemented with the concurrence of the Electoral Commissioner, who has wide experience in these matters. As the member for Norwood pointed out, he is very much his own master in these things. I have no doubt that the provision is necessary, and certainly I hope that it will stamp out some of the practices which have been creeping in, to the detriment of the system.

The Hon. R. G. PAYNE: I do not believe it can be established in a court as to the real meaning of an ulterior purpose. I draw the Premier's attention to a person I have heard of with a name of Dick Pull. It might well be argued that that is an unusual name, and it could be argued that it has been assumed for an ulterior purpose. This is certainly nonsense creeping into legislation.

The Hon. D. O. TONKIN: It devolves very much on evidence being produced in the particular instance that the honourable member referred to, by birth certificate or notice of deed poll. It all devolves around the old fundamental principle at law as to what a reasonable man would believe. In those circumstances, I think it is quite capable of interpretation.

Amendment negatived; clause passed.

Clauses 25 to 31 passed.

Clause 32—"Authorised witnesses."

Mr. TRAINER: Because I have not had time look at the updated version of the Act, I am not exactly sure what is being deleted here. Does the proviso mentioned in the clause refer to the words "Provided that nothing in this subsection shall apply to the witnessing of an application for a postal vote certificate and postal ballot-paper"?

The Hon. D. O. TONKIN: Yes.

Mr. TRAINER: Can the Premier give a reason for that?

The Hon. D. O. TONKIN: It is purely and simply a consequential amendment in relation to clause 30, which we have already passed.

Clause passed.

Clauses 33 and 34 passed.

Clause 35—"Repeal of section 94."

Mr. CRAFTER: I seek clarification from the Premier why there is no longer a requirement in the Act for a certified list of voters to be used by a presiding officer. I realise that there will still be rolls, but why is there a repeal of section 94 concerning certified lists?

The Hon. D. O. TONKIN: As members will know, the certified list of voters was the list that was originally prepared manually. With the adoption of the computer program, it is no longer considered necessary to have that certified list. The modern method is simply a computer method. The program is run and the list appears from the program. I think it is more a question of certifying the

program rather than certifying the list, but that is in the hands of the Electoral Commissioner.

Mr. CRAFTER: My concern is that there is some certification of the list of voters, because it is not possible for any review of an election to look into the sufficiency or otherwise of the roll, which is sacrosanct, so there must be some certification of the accuracy of the roll. It appears that a computer is that safeguard. If that is wrong, and I understand that it could go badly wrong, there could be no way that that could be reviewed by any subsequent tribunal.

The Hon. D. O. TONKIN: If the computer does go wrong it goes wrong in ways that can become apparent very rapidly. The very fact that it comes out in a form which can be checked by spot checking I think is quite sufficient.

Clause passed.

Clause 36—"Printing of ballot-papers."

Mr. BANNON: I move:

Page 8—

Line 10—After "amended" insert:

"—

(a)"

After line 12—insert:

and

(b) by inserting after subsection (2) the following subsections:

(3) The Electoral Commissioner shall , on the application in writing of a candidate, cause to be printed on a ballot paper, next to the name of that candidate, or a group in which the name of that candidate is included, a word or abbreviation, consisting of not more than 8 letters, indicating the political party represented by the candidate.

(4) An application under subsection (3) must be endorsed by the secretary or other proper officer of the relevant political party.

The effect of the amendment is to insert a provision to provide that, on the ballot-paper, next to the name of the candidate or group in which the name of that candidate is included, a Party appellation consisting of not more than eight letters should be added. This is an amendment which was proposed, I think, by the Hon. Mr. Milne in another place. It has considerable merit, and I would be rather surprised if the Premier does not agree to it. It seems an odd situation that we have a Party system operating that is clearly understood by most people. In fact, the evidence is overwhelmingly that people vote for Parties rather than for individuals.

It was interesting that earlier in the debate reference was made to the somewhat overwhelming evidence of that, particularly in relation to the major Parties. It can be cited, for instance, that in the 1978 New South Wales election, voters for both the Liberal and Labor Parties, able to choose individuals under the system then applying, in over 98 per cent of cases indicated that they were voting for the Party and not the individual. The member for Mitcham, who is not in the Chamber at the moment, but who is no doubt busy working in his office below, has suggested that the voters for his Party, the Australian Democrats, are much more selective. They are not mere Party voters; they look at individuals and vote accordingly. I did a check on the New South Wales situation and discovered that over 95 per cent of the supporters of the Australian Democrats in the New South Wales election also voted for the Party rather than for the individual. This is just a fact of life in this system. We cannot ignore it, and we cannot pretend it does not exist.

Mr. Lewis: Times change.

Mr. BANNON: Times change indeed, as the member for Mallee said. There was a time when the individual candidate got votes on his own merits. He may have joined a loose faction in the Parliament, but largely the faction or Party label did not matter terribly much; what mattered was his influence in the district, his effectiveness as a member, and so on. Now we are in a situation in which, increasingly, the Party system is entrenched absolutely, and it is a very commendable system.

I am sure that members opposite who are members of a large and major Party with a long history and tradition in this country feel the same as members on this side do about the Party tradition and the role of the Party in the Westminster system of government. It seems an extraordinary thing that outside the polling booth one can have people handing out Party cards indicating how the Party wants people to vote; there can be posters up indicating the Party's choice. The election propaganda has been waged around the Party, Party leaders and the policy platform of that Party. Then the voters go into the booth and all reference to Parties disappears. It is as if the Party no longer existed, and they are faced with a ballot-paper with a long list of names, unless they carry their how-to-vote card or some other indication they do not know who the Party candidates are. That is an ostritch-like approach by the Electoral Act, and it does not help the voter, because most of those voters, having collected their how-to-vote card, or in the absence of it, having gone into the booth, go into the booth to vote for a Party, not an individual.

Certainly, there is a small proportion, sometimes as high as 5 per cent or 6 per cent (normally about 1 per cent or 2 per cent), who are looking at individuals in any election. I do not think that any of us should kid ourselves, even in our single member consitituencies, no matter how popular we think we are, that people vote for us because of our particular merits rather than for the Party label we carry. If we lose preselection, by and large we lose the seat. Let us have no illusion about that, that is how the system operates. The logic of that is that, in confronting a voter with his ballot-paper, let him have the information he needs. He needs to know who the candidates are, because that may be important to him. But, in the overwhelming majority of cases more than the candidate he needs to know what Party he belongs to. It is simple just to put the Party label on the paper. It will assist accuracy of the vote and aid the voter in carrying out his intention.

It is not as if this would be an unusual or pioneering amendment to our Act. I know that the Premier is frightened of South Australia being in the forefront of anything these days. Let us look at other areas. There are precedents for it in Canada, France, New Zealand and Norway, all substantial democracies with substantial democratic traditions, and Party names are included on their ballot-papers. In the United Kingdom there is a description not only of the political Party but also of the occupation of the individual, an interesting additional variation. So there is ample precedent for what is a sensible, realistic move.

It is a means of giving people a choice and a ballot-paper that tells them quite clearly what they are doing. They are not just voting for a particular individual; they can check that against the Party, the Party they may have gone into the booth with the intention of voting for. An overwhelming majority, around 98 per cent of people, is voting for a Party, so let us put the Party name on the ballot-paper. This amendment achieves that, and I hope

that the Government gives such a good reform its support.

The Hon. D. O. TONKIN: There is a fundamental difference in thinking apparent here, and I must tell the Leader forthwith that the Government cannot accept this amendment. The contention he puts forward is that most people vote for political Parties, and that may well be so. I believe that there is a significant section of the community that does not vote for political Parties so much as they vote for individuals. It may not be a big percentage, as the Leader has said, but it nevertheless exists.

The other factor, which I think is most important, is that we have throughout the life of this State and our Constitution avoided reference to political Parties. They are not recognised in the Constitution, and I tend to believe that that is a good thing. In this Chamber, although we belong to the Opposition or the Government side, we are basically members of the Parliament and I will not bore people in this Chamber at this hour by quoting the words most people know of Burke about being a member of Bristol. That quotation which I recall to the Leader is still pertinent today.

When a member is elected to the House, he becomes a member of Parliament and his first responsibility is always to the people who elected him. I think it would be a retrograde step, one that could be quite dangerous, to recognise political Parties in the Constitution and indeed could even lead to a situation where, in fact, there could be a demand for them to be recognised in the Constitution because they are referred to in this Act, for instance, or in other ways. I have no doubt that the Leader will have some counter arguments to put forward, and that is his right. I regard this as being a fundamental matter on which the Government cannot move.

[Midnight]

Mr. BANNON: The Premier is being quite unreal. I am aware of the reference to Burke, but he was writing in the context of an eighteenth century Parliament, a Parliament far less democratic and more full of place men and time servers than any democratic Parliaments in this State have ever been. It was a strange system with a lot of corruption, and yet he could make his ringing statement on representation. Aspects of that are quite relevant, and I agree with the Premier that every member has responsibilities to his electorate, and to his voters, the constituents, in the broad. I am asking the Premier how my amendment affects that. If a person wishes to vote for an individual, if there is a significant section of people who do (and I argue that it is not as signficant as the Premier is saying), how does my amendment prevent that person from voting for an individual? The name of the individual is on the ballot-paper. It is providing something additional, not taking away something from the elector.

I cannot understand that aspect of the Premier's argument. If the Premier is saying that we are to ignore the existence of Parties in this Parliament, we would need a very different structure and a different way of running the whole area of Westminister government. We could debate that philosophically. The Party system has served democracy very well, and I imagine members of most of the great Parties would agree—the Liberal Party, for instance. But that is a philosphical debate on a matter which is not at issue. Endorsement of Party labels, how-to-vote cards, Party Whips, and all the paraphernalia of Parties are a fact of life. Why say to the voter in the ballot-box that we will not tell him which Party the people belong to? Why have a conspiracy of silence in the ballot-box which is not reflected in the reality of political life? This is taking nothing away from those with a Burkian concept of Parliament and Parliamentary representation, but it provides for the ordinary voter something to recognise from the system that in actuality operates in this place.

Mr. TRAINER: I wish to add to the comments of the Leader regarding the Premier's reply, which was reminiscent of something out of cloud cuckoo land. It seemed to have no relationship to reality. He implied that the amendment would in some way harm that tiny minority of electors who vote on a personal basis for a member. That right is not being taken away. The Leader did not suggest that names be deleted from the ballot-paper, but merely that, in addition to those names, extra information be provided to help the elector make the choice he wants to make. He or she should be fully aware of the Party from which candidates on the ballot-paper come.

No suggestion was made that the names should be deleted. If the amendment is carried, no harm would be done to those who wish to vote on a personal basis. They will not be inconvenienced.

It seems to me that the Premier is trying to perpetuate the constitutional fiction that political Parties do not exist. Can he seriously tell the Committee that he would be in his current position if he had not been a member of the Liberal Party? He may have a very high opinion of himself, but surely he does not pretend that David Tonkin would be Premier of South Australia on his own merit had he not come through the Party structure that put him here.

Mr. Slater: Or even been elected as member for Bragg.

Mr. TRAINER: Nor would he have been the member for Bragg.

Mr. Keneally: I think he would have lost his deposit.

Mr. TRAINER: Yes: he would have been a member of the D.L.P.—the Deposit Losing Party. If he had not been a member of the Liberal Party he would not have been on his salary, nor would he have had the big white car with the No. 1 number plate and all the rest, yet he is trying to perpetuate this constitutional fiction that Parties do not exist. I do not think the Premier exists, according to the Constitution. Apparently it is a phantom facing us from the other side of the Chamber. I do not think the Cabinet is recognised in the Constitution either. The Cabinet is another constitutional fiction that does not exist.

The Hon. D. O. Tonkin: You have just made my point for me. Thank you. You went too far.

Mr. TRAINER: This constitutional fiction cannot be maintained in the real world. The Premier cannot pretend that Parties do not exist, because that is flying in the face of reality. When an elector casts his vote, he will be voting either for the individual or, more likely, for the Party that the individual represents. The Party will have chosen that candidate to run in that electorate, and many electors will vote on that basis. They will vote on the basis of the Party, perhaps because of some generalised support for a particular political Party, almost in the way in which some people follow football teams: they do not know exactly why but they have done it all their lives.

Members interjecting:

Mr. TRAINER: It could be so in some cases. Perhaps they are attracted by the general overall range of policies of the Party, or its general philosophy, or because of a specific package of policies put together at the election, or because of specific individual policies.

Mr. Keneally: You have to be right; otherwise, how would the member for Glenelg have been here?

Mr. TRAINER: True, and that would apply to others on that side. It was the advertising campaign waged by the Liberal Party and its backers that put the back-benchers into the seats opposite us from which they will be removed at the next election, when people realise the mistake they

made in identifying excessively with that Party as a result of its pressure.

Most electors vote not for an individual but for his Party. I have no illusions about my personal support in Ascot Park, although it could be slightly larger than that of the member for Bragg. I have no illusions about it being of any great size, and of those people who cast votes for me on 15 September 1979, of the 8 000 votes, I am sure not more than half a dozen voted for me as a person, and that includes my mother and my wife. The proportion was a minuscule amount. At the next election it may be much greater, but on that occasion it was a minuscule minority, and it will not be a particularly large minority at the next election who vote for me on a personal basis. They will rather be expressing their support for the Labor Party, its policies and the leadership of John Bannon. On that basis, I will be happy to face the next election, whenever it may be.

Similarly, my opponent in the election of 15 September 1979 would have received very few votes on a personal basis, amiable and affable as he may be. The people who voted for him would have done so because they did not support the Labor Party, and instead gave their support to the Liberal Party, yet no reference to political Parties appears on the ballot-paper.

It would not be difficult for this amendment to be put into practice. Admittedly, it would involve some sort of registration of the titles of political Parties. Otherwise, there could be two groups within the community both claiming to be a particular Party or using identical initials. In the case of the greatest democracy in the world, that system has been followed for nearly 30 years in the form of the symbols that are used for the illiterate majority of the population in India when they cast their ballots. It is true that there is a certain amount of conflict whenever a Party divides, as has happened in the case of the Congress Party, because so much importance is attached to that symbol. The early symbol, as I recollect, of the Congress Party was a cow and a calf, because this was connected with the Hindu religion, being symbolic of motherhood, purity, and so on. The first time the Congress Party split, there was a series of court cases as to which section of the Party maintained that symbol.

Notwithstanding that difficulty, I do not believe that it would be particularly difficult to acknowledge the existence of political Parties and to provide additional information so that electors can cast a vote knowing that they are giving their vote to the political Party that they think they are giving it to. To a small extent political Parties are recognised by having how-to-vote cards pinned up inside the polling booth. By that system, we recognise the existence of policital Parties. Why not simplify the process further and accept the amendment, which would recognise political Parties on the ballot-paper? The name of the political Party would appear alongside the name of the candidate. This amendment is simple, and I cannot see why we get this sort of reaction from the Government.

The Committee divided on the amendment:

Ayes (19)—Messrs. Abbott, L. M. F. Arnold, Bannon (teller), M. J. Brown, Crafter, Duncan, Hamilton, Hemmings, Hopgood, Keneally, McRae, O'Neill, Payne, Peterson, Plunkett, Slater, Trainer, Whitten, and Wright.

Noes (22)—Mrs. Adamson, Messrs. Allison, P. B. Arnold, Ashenden, Becker, Blacker, D. C. Brown, Chapman, Eastick, Glazbrook, Goldsworthy, Lewis, Mathwin, Olsen, Oswald, Randall, Rodda, Russack, Schmidt, Tonkin (teller), Wilson, and Wotton.

Pairs—Ayes—Messrs. Corcoran and Langley. Noes—Messrs. Billard and Evans.

Majority of 3 for the Noes.

Amendment thus negatived; clause passed.

Clauses 37 to 42 passed.

Clause 43—"Voter may be accompanied by an assistant in certain cases."

Mr. CRAFTER: I move:

Page 9, line 27—

After "may" insert ", after consulting any scrutineers present in the polling booth"

This clause provides a much needed amendment to the Electoral Act. It provides for assistance to be given to a voter in certain circumstances. The judgment of the Court of Disputed Returns in the Norwood by-election made considerable comment about the so-called practice of doubling up. Obviously, some attention had to be given to the Act in this regard. I believe that the power given to the presiding officer to express his disapproval of a person chosen to assist the voter and in that event appoint some other person needs some balancing. There appears to be no provision for checks and balances of excesses or particular tastes or styles of function of officials in the polling booths.

There was considerable evidence in regard to the attitude of polling staff in relation to doubling up. It was quite illuminating to note how much one polling officer varied from another in regard to what constituted doubling up. When was intervention by polling staff appropriate and when was it not appropriate? Some polling staff intervened in a husband and wife situation, but others believed that it was inappropriate to intervene in that situation. That dilemma may still reside in the minds of some polling staff.

The amendment seeks to provide that a voter who is to be accompanied by an assistant of his choice may consult with the scrutineer if there is one present in the booth so that there is a person to whom the voter may turn other than the polling staff. It may be that the voter does not require that assistance, but often the evidence appears to indicate that people are unsure of what procedures they should follow and where to seek assistance, particularly those who do not have a grasp of the English language. Maybe they are in some way offended by officialdom or by the attitude taken by the polling staff, and they seek to check what their rights are, who is the person who is advising them, what is his status in the polling booth, and similar information. The Opposition feels that there is a need for there to be some checks and balances in this new provision, and that is best provided by an ability for such a voter and his assistant to consult a scrutineer in the polling booth. This will provide some balance against the quite considerable powers that this section vests in the presiding officer to disapprove of an assistant helping a voter.

The Hon. D. O. TONKIN: I can appreciate that the honourable member is undoubtedly putting forward this amendment with the best of motives, but I must say that I find it a rather surprising suggestion, especially bearing in mind the difficulties of which he is well aware which occur from time to time at elections. It is not at all appropriate that a member of a political Party, an official scrutineer and a supporter of one of the candidates, should be a person involved in a polling booth as an assistant. After all, one of the main considerations with the postal voting system or the voting system for hospitals is that as far as possible neutral people and officers of the Electoral Department are those who supervise the voting.

If we are to avoid any possible suggestion of influence or vote-rigging, call it what you will, it must be members of the Electoral staff, who obviously by virtue of their position are, and are seen to be, above reproach, who are available at the booths. The honourable member may be arguing for the best of motives, but I believe that would be

a step which would be open for far more criticism than allowing the impartiality of the electoral staff to prevail.

Mr. CRAFTER: I believe the Premier has not fully grasped the role that this amendment provides for the scrutineer. The scrutineer is an unidentified person in the polling booths, although he does usually have some sort of identification, and he is given special statutory responsibility by the Act. My next amendment will in fact raise a similar concern in that there is some attempt by the Government to dilute the role of scrutineers. The scrutineer is a citizen who is in the polling booth as an observer. We have seen that in elections right throughout the world. Often members of Parliament become observers in the form of scrutineers in order to view the election. That function is an important one not only in the interests of the conduct of the elections but ensuring the fairness of the contest. There is little scope within the confines of the polling booth for there to be some misbehaviour. However, there is an assurance that that person is interested in making sure that valid votes are recorded. The real risk is that there will be bad votes cast because the presiding officer will so declare, and this is a safeguard for the elector and the person who is assisting the elector, and I would have thought it was also a safeguard for the presiding officer and the polling staff with the very difficult decision they must make in respect of approving or disapproving a person chosen to assist voters under this section.

The Hon. D. O. TONKIN: I totally support the remarks about scrutineers. I would go further than that and say that I am quite certain that the honourable member would agree with me that scrutineers are fiercely loyal to the people they represent and do their duty to the best of their ability. It would be a pity if they were placed in any situation which would suggest that they were or could be suggested to be exercising undue influence or acting improperly. I think that is exactly what will happen if they were given this power. I am not suggesting that they would do so, but it would be seen to be an impartial assistance, as it would be with the staff of the Electoral Office.

Amendment negatived; clause passed.

Clause 44—"Voting in pursuance of claim."

Mr. CRAFTER: I move:

Page 10, lines 22 and 23—leave out paragraph (b).

This bears directly on the previous clause. This clause attempts to remove the obligation of the presiding officer to have, as a witness to a section 110a vote, the scrutineer that may be present in the polling booth at that time. The amendment seeks to make sure that that provision is retained in this Act. As the Premier has just said, it is not the intention of the Government to dilute the function of scrutineers or take anything away from the work that they do in the proper conduct of polls. This seems to be in direct contravention of that assurance that the Premier gave us.

A section 110a vote is always controversial. It involves people who come into the polling booth whose names are not on the roll but who think that their names should be on the roll and that they have a right to vote pursuant to section 110a. That is a vote that is sealed and considered after the election, and very few of those votes are ever counted in the formal votes. However, it is a safeguard against mistakes in the roll or some other official error, and it seems to me that there need to be safeguards so that there is not any fraudulent behaviour and so that there can be some checking of signatures at a later date. Checking is most important with section 110a votes, as they must be compared with the card that is lodged with the State or Commonwealth Electoral Office when one applies for registration as a voter. So, the scrutineer plays an important function in this regard. He is an independent witness and he does provide a useful function. He is a safeguard for the polling staff and the voters. I would have thought that there is overwhelming evidence for leaving in the Act the provision for the witnessing of the scrutineer.

The Hon. D. O. TONKIN: I do not disagree with much of what the honourable member has said, but once again, although scrutineers do their job particularly assiduously in some booths, a number of booths throughout the metropolitan area are not as a general rule manned by scrutineers of either Party. That happens reasonably often. If this clause were to be amended, as the honourable member suggests, it would mean that the dealing and processing of 110a votes would have to wait until scrutineers were present. Since the whole tenor of the Bill with earlier amendments, which is really the reason for the change in clause 44, is to tidy up that whole section, in practical terms the need to have scrutineers present when section 110a votes are dealt with would be quite difficult to achieve. I understand the honourable member's concern, but practically, I do not think it is on.

Amendment negatived; clause passed.

Clause 45 passed.

Clause 46—"Mode of voting."

Mr. BANNON: I move:

Page 10, line 32—

After "amended" insert:

"—

(a)"

I make clear that we believe the ideal situation is to retain the optional preferential method of voting. There are a lot of arguments in favour of that and we will be advancing those arguments shortly. In a situation in which the Government is not prepared to accept optional preference, and that will be tested, we believe that at least it should carry out to a logical conclusion its avowed intention of putting into effect the New South Wales system. That is what this amendment attempts to do. The clause before us requires a voter to indicate preferences to the extent of vacancies to be filled. My amendment requires the voter, if 11 persons are to be elected, to indicate preferences for seven of those persons. Naturally, the elector can go on and indicate preferences throughout the ticket, but a minimum requirement of seven is what we are providing for.

The CHAIRMAN: Does the member for Norwood intend to proceed with his amendment to clause 46?

Mr. CRAFTER: Yes.

The CHAIRMAN: In that case, I intend to treat line 32 as a clerical amendment. Lines 39 and 40 then have to be safeguarded. I have been advised that the proper procedure is for the Leader to move the amendments to lines 39 and 40.

Mr. BANNON: I move:

Lines 39 and 40—Leave out "number of candidates required to be elected for the district" and insert "prescribed number";

After line 40—insert:

'and

(b) by inserting after subsection (1) the following subsection:

(1a) In subsection (1) "prescribed number" means—

(a) where the number of candidates required to be elected is eleven—seven;

(b) where the number of candidates required to be elected is twenty-two—fourteen;

(c) where the number of candidates required to be elected is two—two.'

The principle is a simple one, that if, as the Government says, it is trying to bring matters into line with New South

Wales it ought to follow the New South Wales system. One finds from the sixth schedule of the New South Wales Constitution Act that 15 members are to be returned in a single electoral district for the Legislative Council in New South Wales. The New South Wales Act states:

> At a poll for a periodic Council election, a voter shall be required to record his vote for 10 candidates and no more but shall be permitted to record his vote for as many more candidates as he pleases, so as to indicate in such manner as may be provided by law the candidates for whom he votes and the order of his preferences for them.

In other words, to cast a formal valid vote you have to vote for 10 out of 15 candidates. That's why we suggest that to be on all fours with that situation in South Australia, where there are 11 candidates returned, seven is a reasonable number.

The New South Wales Act was brought into operation as a result of extensive hearings, inquiries and checking of voting system, in States such as South Australia. You will recall, Mr. Chairman, that in another place the Bill as originally introduced had no reference to this New South Wales system. It was, in fact, forced on the Government by members of that other place. The Government withdrew the original proposition, in effect, and substituted the one before us. The amendment is simply attempting to give effect to the intention of the Government. I do not think that it requires extensive canvassing. Obviously, the least number of preferences that a person has to indicate the more chance there is of the ballot being formal.

I go right back to that principal, that what we as a House should be doing is trying to reduce the number of informal votes to ensure that any one evincing an intention can have that intention counted as part of the ballot, so there is a logical connection between the two. I would be interested in the Premier's reasons why in this case, his Government is suggesting that it is a requirement to fill in numbers for all the available vacancies, which seems at odds with the New South Wales situation.

The CHAIRMAN: I want to ensure that we keep the amendments in their correct order. Technically we should be dealing with the amendments of the honourable member for Norwood. I ask the honourable member for Norwood if he intends to move his amendment could he move it now.

Mr. CRAFTER: I move:

> Page 10, lines 38 to 40—Leave out "until he has indicated his vote for a number of candidates not less than the number of candidates required to be elected for the district".

The purpose of this amendment is to allow, in Legislative Council elections, for the system that exists at present with respect to list voting. This system has been universally held as most desirable in the interest of attaining the highest possible formal vote and the most accurate indication of the will of the electors in an election. That is the system of absolute optional preferential voting. That is, if an elector wants only to vote for one candidate he may, or he may vote for as many as he chooses. A voter may, and many would, vote for all candidates in the order or preference he so chooses.

This system has worked very well in Legislative Council elections that have been conducted since the reform a few years ago. It is a system that I believe is difficult indeed to refute as not being a fair system. It is a simple approach to the difficult task often facing electors with respect to single electorate Houses. It has always been open to the unscrupulous to provide obstacles for electors, and this can be done in single electorate Houses by stacking the number of candidates. In some elections in this country we find more than 100 candidates, and this makes the task difficult if there is no provision for optional preferential voting, and the simplest form of that is the form embodied in this amendment.

The other determinant which I commend to the Committee is that it is the accurate representation of the will of the people. They do not have to provide a fictitious number of preferences. That is decided by some form of compromise or other, or even as to the number of candidates to be elected. It is an accurate indication of how the electorate wishes to place its preferences. I would be interested to hear the arguments that the Government has for its opposition to this system.

I listened with interest to the Premier's summing up of the second reading debate, and I was most surprised that he did not explain the very crucial area where the system of voting as proposed for the Upper House by his Government is not similar to that of New South Wales, and that is embodied in the amendment before us. The Premier chose not to tell the House of that difference between the proposal of the Government in this State and the existing law in New South Wales. It is a vital difference. It is a tampering with the expression of the will of the people. I do not believe that there is any justification for that rationale. It is as much a compromise as is the New South Wales formula. The true indication of the will of the people is where there is true optional preferential voting. As this matter has been well canvassed in the second reading debate, I will not debate it further. I commend the amendment to the Committee.

The Hon. D. O. TONKIN: Dealing first with the matter raised by the member for Norwood, I think it has been canvassed very thoroughly and that he would accept that. The list system is not part of this Government's policy and it cannot be accepted. We believe in voting for people.

As to the Leader's amendment, again we believe in voting for people, and I believe that in voting for the number of candidates to be elected we are in fact voting for people and putting down our choice. It has been suggested that this is not exactly like the New South Wales system, because in that State they go for only 10 out of a possible 15 candidates. To that extent, our system is not identical, but the principle is identical with that of the New South Wales system. It goes further. The principle in the New South Wales system (and this applies very much to the comments I made on informal voting) of voting for only 10 people is applied still in a way almost identical with the requirement to vote here for 11 candidates. In effect, we are applying the same sort of system, the same numbers, and therefore the comparisons of informal votes can be taken as being much the same. We are applying that same principle, but extending it a little further to make certain that we vote for the number of candidates that we need. It is up to the people to complete it in order. Later clauses will allow for changes and I think members opposite would agree that they are reasonable because they deal with the question of informality.

Mr. Trainer: They maximise the options, while minimising informality.

The Hon. D. O. TONKIN: Indeed. To that extent, I think that the provision in the Bill that people vote for 11 candidates, the number required, is in line with the Government's policy and the Government's commitment in this regard.

Mr. TRAINER: The Premier's reply is not adequate. I would like to make several comments regarding optional preferential voting and various aspects of it, but I understand that arrangements have been made that we will be concluding shortly, so I may have to cut my remarks down. The Premier has said that his Bill has the same principle as the New South Wales Act contains, and

to a certain extent that is true, but that falls down in relation to aiming towards the goal of the maximum number of options for the voter with the minimum informal votes resulting from his striving to get those options. In the New South Wales system, there are 15 vacancies and an elector has to vote for only 10 candidates to get a formal vote. Ten is approximately the number of candidates that a major political Party in New South Wales puts up as its slate. Here in South Australia for Legislative Council elections, we have 11 vacancies, and the normal number of candidates that each major Party will have listed on its slate is seven, for reasons I mentioned earlier.

To put a requirement that they must cast votes from one to 11 means that electors have not only to vote for the Party of their choice, but they have to take four other people on the card for whom to cast a preference in order to cast a formal vote. It may well be that the Government is thereby trying to get a few more informal Labor Party votes, but the attempt can be a two-edged sword. For some reasons connected with optics, I think that visually it is easier for someone to follow straight down a vertical column than to jump horizontally across the card. A number of informal votes will result from the Government's move in this direction that would not otherwise be cast.

I should like to canvass the matter of an alternative system of voting advocated four or five years ago by Ian Wilson, Federal member for Sturt. It is an alternative known as automatic preference voting. I quote from the *Advertiser* on 8 March 1975, as follows:

> Under this system the voter would put the figure 1 in the square of the candidate of his choice. That would be sufficient for the preferences to be allocated according to the Party how-to-vote card. If the voter did not want to follow a Party ticket, he would number as many squares as he wishes to indicate preferences, and not necessarily all squares. The vote would be formal.

I believe that Mr. Wilson's private Bill lapsed, which is rather a pity because it seemed to have some potential. In the same *Advertiser* article, we find the Hon. R. C. DeGaris, from another place, being quoted as follows:

> We will stick to the principle that a voter is given the maximum number of options to express himself, or not. An elector should have the right to vote for a candidate, the right to vote against a candidate and the right not to vote for a particular candidate.

The Hon. G. O'Halloran Giles at that time prepared a paper on that alternative, and it is available from the Parliamentary Library. It was interesting to note his first comment in that paper. Referring to the then Federal Opposition, He stated:

> The Opposition's response to the [Labor] Government's general views on limited preferential voting is not only illogical but refuses to take into account the very real problem of voters, who find the present method of expressing preferential votes unduly complex.

He supported a scheme very much like that recommended by the Hon. Ian Wilson. The Minister of Health replied to a letter in early 1979 from a constituent of mine, Mr. Dean Crabb from the Electoral Reform Society. Mr. Crabb had written to the Minister asking how the Liberal candidate in Norwood was giving his second preferences to the Marijuana Party, because with the compulsory preferential system for the House of Assembly, since electors are obliged to give their preferences to someone. Political Parties in most cases have woken up to the fact that it is easiest to design a how-to-vote card that goes either straight up or straight down the ballot-paper, and it happened that the Marijuana Party candidate, for alphabetical reasons, was the candidate next to the Liberal Party candidate. The how-to-vote card rather sensibly suggested that a voter should vote straight up the card to minimise the informal vote supporters might fall into. The result of that was that many indignant Liberal supporters wanted to know why their candidate was giving to the Marijuana Party the second preferences. As part of her reply, the Minister stated:

> I think a case can be made out for those who like the idea of simplicity to mark their first preference and accept the fact that subsequent preferences are counted as if the Party card had been followed. This enables those who wish to differ from the Party card to do so and also provides the simplicity which some people think is essential whilst at the same time protecting the rights of minorities.

They are admirable sentiments. I tend to agree with what the Minister said, although it does not fall into line with what the Premier said earlier about the existence or otherwise of political Parties and their influence on the electoral process.

One reason why I am tentatively canvassing what I will refer to as the Wilson suggestion is that it would be ideally suited to the introduction of machine voting, as used in the United States. An elector would only have to push a button or pull a handle in a particular way and the slate of candidates selected by the Party would be voted for in the choice that had been registered by that Party. At the same time, the machines provide the flexibility whereby an elector wishing to do so can vote for individual candidates in order of his choice. I am disappointed that the Government, with this Bill, has not taken up the opportunity provided by Opposition amendments to go for fully optional preferential voting, rather than the mish-mash put forward in this Bill.

The CHAIRMAN: As the amendments of the Leader of the Opposition and the member for Norwood involve leaving out the same words, to safeguard the Leader's amendment, I will put that part of the member for Norwood's amendment up to the words "not less than in line 39".

The House divided on Mr. Crafter's amendments:

Ayes (18)—Messrs. Abbott, L. M. F. Arnold, Bannon, M. J. Brown, Crafter (teller), Duncan, Hamilton, Hemmings, Hopgood, Keneally, McRae, O'Neill, Payne, Plunkett, Slater, Trainer, Whitten, and Wright.

Noes (21)—Mrs. Adamson, Messrs. Allison, P. B. Arnold, Ashenden, Becker, Blacker, Chapman, Eastick, Glazbrook, Goldsworthy, Lewis, Mathwin, Olsen, Oswald, Randall, Rodda, Russack, Schmidt, Tonkin (teller), Wilson, and Wotton.

Pairs—Ayes—Messrs. Corcoran, Langley, and Peterson. Noes—Messrs. Billard, D. C. Brown, and Evans.

Majority of 3 for the Noes.

Amendment thus negatived.

The CHAIRMAN: I now put the Leader's amendment in lines 39 and 40.

Amendment negatived; clause passed.

Clauses 47 and 48 passed.

Clause 49—"Informal ballot-papers."

Mr. CRAFTER: I move:

Page 11, line 42 and page 12, lines 1 to 5—

Leave out "and consecutive preferences for other candidates so that the number of candidates for whom preferences have been indicated is not less than the number of candidates required to be elected for the district (but where the ballot-paper does indicate the voter's first preference for one candidate" and insert "(but where the ballot paper does indicate the voter's first preference for one candidate and subsequent preferences for other candidates".

Mr. BANNON: I move:

Page 12, lines 3 and 4—

Leave out "number of candidates required to be elected

for the district" and insert "prescribed number as defined in section 113 (1a)".

Lines 18 to 20—

Leave out "for one candidate and consecutive preferences for all the remaining candidates".

The CHAIRMAN: As the amendments of the Leader and the member for Norwood involve leaving out the same words, to safeguard the Leaders amendment I shall put forward that part of the member for Norwood's amendment up to the words "not less than" in line 3.

Amendment negatived.

The CHAIRMAN: I now put the Leader's amendment.

Amendment negatived; clause passed.

Clauses 50 to 53 passed.

Clause 54—"Requirements in relation to petition."

Mr. CRAFTER: I move:

Page 18, lines 2 to 9—Leave out paragraph *(a)*

I have already canvassed the Opposition's arguments on this matter during the second reading debate. I think a fundamental principle is at risk here, and that is to oust the jurisdiction of the Supreme Court in any Court of Disputed Returns that may be reviewing the conduct of an election, and to so limit the powers of judicial review is not in the interests of the community or the proper conduct of the election. As a result, democracy in our State is weakened. There are adequate safeguards within the law which were exercised in the recent Court of Disputed Returns case which served the interests of fair play at elections and also demonstrated the ability for some flexibility in the discovery and research required in the establishment of the grounds of a petition.

Amendment negatived; clause passed.

Clauses 55 to 57 passed.

Clause 58—"Effect of decision."

Mr. CRAFTER: I strongly oppose this provision, and I have outlined in some detail our arguments against its purport. I would be interested to hear from the Premier his justification for freezing the rolls for what I consider is an exorbitantly long period of six months. I know that the period that applied for the Norwood by-election was just under six months, but I believe the amendments provided by clause 54 make that period much less. On the figures I have referred to earlier it is possible that some 5 000 or 6 000 electors may be disfranchised in this way. Therefore I believe that any subsequent election would not be in the interest of democracy.

The person returned into this Parliament may well not be the person who would have been returned had a free vote been allowed in the electorate, and people residing in an electorate entitled to vote. Enrolling people at the Electoral Office is a massive job that is done spasmodically through the year, and certain circumstances can occur whereby large numbers of electors are taken off the roll, while the office has not got around to putting people on the roll. Great injustices can occur.

In attempting to overcome a genuine concern that there would be some misbehaviour in preparation of rolls in order to favour one Party or another, this provision does not really achieve what it is no doubt intended to achieve, and in fact it harms the whole electorate. The electorate should reflect as accurately as possible the wishes of all those who are entitled to vote. There are safeguards in both Commonwealth and State legislation that attends to proper maintenance of rolls. That has served the community quite well in the past and I have no doubt that it will serve it well in the future. A provision such as this will be harmful to all candidates. I am sure that all political Parties want elections to be fought on a fair basis; they do not want large numbers of people disfranchised. I would suggest that up to 30 per cent of an electorate could be disfranchised, and that is a drastic step to take for what I would regard is a principle that can be maintained by other means.

The Hon. D. O. TONKIN: This matter has been canvassed in another place and has also been briefly canvassed here. There is no doubt that, under the circumstances of a Court of Disputed Returns, it is only reasonable that the same roll should be used within a period of six months because it is entirely a re-run of the original election. To be a re-run of the original election, which is for the balance of the term—not an additional term—it should be conducted on the same parameters, with the same roll.

Clause passed.

Remaining clauses (59 to 61) and title passed.

Bill read a third time and passed.

PITJANTJATJARA LAND RIGHTS BILL

Returned from the Legislative Council without amendment.

IRRIGATION ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

STATUTES AMENDMENT (ADMINISTRATION OF COURTS AND TRIBUNALS) BILL

Returned from the Legislative Council without amendment.

SOCCER FOOTBALL POOLS BILL

The Legislative Council intimated that it did not insist on its amendment to which the House of Assembly had disagreed.

ADJOURNMENT

At 1.14 a.m. the House adjourned until Thursday 5 March at 2 p.m.