LEGISLATIVE COUNCIL

Wednesday, March 8, 1967.

ELECTION OF PRESIDENT.

The CLERK: I have to advise honourable members that I have received the following letter from the Hon. L. H. Densley:

President's Office,
Parliament House,
Adelaide.
March 7, 1967.

Mr. I. J. Ball,
Clerk of the
Legislative Council,
Parliament House,
Adelaide.

Dear Sir,

I hereby tender my resignation as President of the Legislative Council. My reason for this is so well known to all members of the Council that an explanation seems unnecessary. I desire to express to you and the members of the staff of the Council my sincere thanks for the loyal and efficient service that has been rendered to me during my term of office as President.

Yours faithfully,
L. H. Densley,
President.

The Hon. L. H. DENSLEY (Southern): It gives me very great pleasure to move that the Hon. Sir Lyell McEwin be elected as President. Sir Lyell has been in this Chamber as a member for about 33 years, and has been a Minister for almost all of that time. I think we are all agreed that he is very well equipped to take the position, and it gives me very great pleasure to nominate him as President.

The Hon. C. D. ROWE (Midland): It is a great pleasure to me to have the honour and privilege of seconding the motion that the Hon. Sir Lyell McEwin be President of this honourable Chamber. I should like on behalf of members of the Liberal and Country League in this Chamber to assure Sir Lyell of our confidence and support and to wish him a happy and successful term of office.

The Hon. Sir LYELL McEWIN (Northern): I humbly submit myself to the will of the Council.

There being no other nomination, the Hon. Sir Lyell McEwin was elected and was escorted to the President's Chair by the mover and seconder of the motion.

The Hon. C. D. ROWE (Midland): I move that Standing Orders be so far suspended as to enable me to move a motion without notice.

Motion carried.

The Hon. C. D. ROWE: I move:

That the honourable members of this Council express to you, Mr. President, their sincere congratulations upon your election as President of this Council, assure you of their confidence and support, and wish you a successful and happy term of office.

It is a very great pleasure to me to move this motion. It has been my pleasure to be associated with you as a Minister in Cabinet for a period of 10 years and during that period to make an assessment of the worth and value of your work and opinions. You have not been a person, Sir, who changes his mind with every wind that comes along: you have been a person who has formed opinions and has kept to those opinions so long as you have felt they have been correct. The very long period of service that you have rendered to this State covers practically the whole of your life's work.

Throughout your period of service you have adequately equipped yourself for the responsibilities of the office of President of this Chamber; your predecessors carried out these responsibilities very well, and we believe that they will be very safe in your hands. We look forward to the privilege and pleasure of serving under you as President, and we certainly wish you a very successful term of office. We assure you of our confidence and support.

The Hon. Sir NORMAN JUDE (Southern): I desire to support the motion of the Hon. Mr. Rowe. As one of your Ministerial confreres in this Council for many years and as a supporter of the Party that you led for more than 20 years in this Council, I am conscious of your very loyal service. I join with my colleague the Hon. Mr. Rowe in congratulating you on the long service that you have given to the people of this State and to this Council in particular, latterly as Leader of the Party that you represent in this Council. I join with the Hon. Mr. Rowe in wishing you a very pleasant sojourn in the Chair that you will occupy to the distinction of this Chamber.

The Hon. A. J. SHARD (Chief Secretary): I take the opportunity personally and on behalf of my colleagues to congratulate you, Sir, on your appointment as President of this Council. It needs no words of mine to say that you have had a very distinguished record over many years as a member of this honourable Chamber, and no-one can question your loyalty to your Party and to your beliefs. I join with the Hon. Mr. Rowe in saying that you have never changed your views just for the sake of changing; on the few occasions when you thought you might be wrong (and those occasions were few and far between) you readily acknowledged the change and gave sound reasons for it. I hope that you enjoy

your term as President. While my colleagues and I are in Government we shall do our best to assist you to carry out the arduous duties of President and, provided you carry out those duties in accordance with Standing Orders (which I know you will do), we shall have no complaint. We wish you good health and a happy term of office.

The Hon. Sir ARTHUR RYMILL (Central No. 2): On behalf of the members representing Central District No. 2, I should like to add my very sincere congratulations to you, Sir, on the attainment of this high office. If I may say so, Sir, you are a man of great personality and tremendously wide experience. I admired you for many years when you were Leader of the Government in this Council. I admired the poise that you always possessed, even when things were difficult. If one can be impartial in a position where one has to promote a cause, I believe you showed that impartiality in your position as Leader of the Government here, and I have no doubt that you will be a completely impartial President and that you will do justice in carrying out all your duties. Regarding your poise, I remember clearly how admirably and skilfully you were able to move your paper when you were sitting in the position of Chief Secretary. When nasty things were being said you were able to detach yourself from what was being said by the skilful use of your paper until those who were trying to say those things did not know whether you were listening or not and all their barbs lost their sharpness. I join with the other honourable members who have spoken in wishing you a very happy term in this high office.

The Hon. G. J. GILFILLAN (Northern): It gives me much pleasure, on behalf of your colleagues who represent the Northern District, Sir, to congratulate you on attaining the highest office that Parliament can bestow. We know you well through working with you both in Parliament and throughout the electoral district and we know well your integrity and your absolute devotion to the duties of office, whatever that office may be. This was amply illustrated during your period as Chief Secretary and later as Leader of the Liberal and Country League in this Council. I feel sure that it will be continued in the office to which you have been elected today. My colleagues from Northern District and I congratulate you most sincerely. We are confident that you will uphold all that is best in the office of President.

The PRESIDENT: Honourable members of the Legislative Council: I should, indeed, be ungrateful were I not unmoved by the kind and far too eulogistic terms in which my colleagues in the Council have alluded to myself in reference to my election to the President's Chair. The elevation to the highest post within the patronage of the Council is, in itself, a recognition that one may justly regard as an honour and a privilege demanding a comparable sense of humility from me, and to receive it with such expressions of good feeling as have been voiced by all sides makes the distinction more deeply valuable to me, if that were possible.

By your vote, I am entitled to wear the honours with which the office invests its holder, to become in person the keeper of the Council's privileges and to follow, if I may be able, in the footsteps of my distinguished predecessors. To wear these honours and discharge these duties are tasks that I should hesitate to attempt without the goodwill and kindly toleration of my fellow members, but I hope that my contact and association with them during my years of service have earned that goodwill and I trust that my conduct in the Chair will merit that toleration.

I regret that the appointment has become necessary by the decision of the Hon. Mr. Densley to withdraw from the responsibilities of the office at this time. He has presided over us for the last five years, during which time he has earned the respect and affection of every member of this Chamber. I shall rank as the tenth President of the Legislative Council, which begins its 117th year of existence, and it has been my privilege to serve under three of the nine former Presidents. It will be my desire to emulate the standards established by men of renown, character and eminence.

It will be my duty to enforce the Standing Orders that you have made for the guidance of your proceedings with a fairness and impartiality that I trust my career has led you to expect from me. Only in this way can the high traditions of this Chamber and its workings be maintained. A willing and generous co-operation by each and every member in assisting me to maintain these Orders will alone enable my efforts to become successful. I feel that I need at any time only claim this assistance to receive it, and in doing so now may I repeat a grateful and sincere expression of thanks for the honour you have done me.

The Hon. A. J. SHARD (Chief Secretary): I move:

That the sitting of the Council be suspended until the ringing of the bells.

In moving this motion, I announce that His Excellency the Governor's Deputy will be pleased to receive you, Mr. President, and honourable members of this Council forthwith.

Motion carried.

At 2.30 p.m., attended by a deputation of honourable members, the President proceeded to Government House.

On resuming at 2.48 p.m.

The PRESIDENT: I have to report that, accompanied by honourable members, I proceeded to Government House for the purpose of presenting myself to His Excellency the Governor's Deputy. I informed His Excellency that, in pursuance of the powers conferred upon it by the Constitution Act, the Legislative Council had, owing to the resignation of the Hon. L. H. Densley, proceeded to the election of a President and had done me the honour of electing me to that high office, whereupon His Excellency expressed his satisfaction at the choice of the Council and congratulated me on being chosen by the Council.

The PRESIDENT then read prayers.

RESIGNATION OF HON. L. H. DENSLEY.

The Hon. C. D. ROWE (Midland): I move:

That Standing Orders be so far suspended as to enable me to move a motion without notice.

Motion carried.

The Hon. C. D. ROWE: I now move:

That this Council place on record its appreciation of the work of the Hon. L. H. Densley during his term of office as President of this honourable Council and wish for him everything that he would wish for himself for the future.

We all regret that the time has come when the Hon. Mr. Densley feels that he must relinquish the responsibilities of the office of President of this Chamber. While we have that regret, nevertheless we feel that we must congratulate him upon his decision. His has been a distinguished term of office. He has enjoyed the respect and esteem of us all. He has given up the whole of his time and interests in life to serve this Council in the capacity of President. That is a very big responsibility —bigger than those who have not occupied the office realize. This position has been occupied by very few men in the history of South Australia and, without exception, they have been men of distinction, men who have made their mark in various walks of life, men who have contributed in no small measure to the high respect and great esteem that this Chamber enjoys among very many thinking people of this community.

I could speak at great length but do not wish to do so. I could talk of the Hon. Mr. Densley's work before he was President and his success as a farmer and grazier during many years of hard work, of the work he did whilst he was a back bench member, and of his work as the Leader of our Party; but I speak particularly this afternoon to place on record his service to this Chamber and to the community at large in his capacity as President. It gives me great pleasure to move this motion, and also to express to him everything of the best for the future.

The Hon. Sir NORMAN JUDE (Southern): It is with natural feelings of regret and at the same time of pride that I second this motion. It is only natural that on an occasion like this I speak with considerable feeling. The Hon. Mr. Densley has been my colleague for some 23 years. No-one could wish for a more loyal colleague throughout the district and in this Chamber. In the many discussions that we have had to have from time to time, sometimes being pleased and sometimes being annoyed with each other, I can say with the utmost sincerity that never could a man have had a more loyal colleague for over 20 years. When we reach that stage, I suppose we are talking almost in terms of married life for a generation. I speak with great feeling, but cannot help doing so. It is with regret that I second the motion, but at the same time my regret is tempered with the knowledge that, as usual, my colleague has done what he considered best in the interests not only of this Council but also of the people as a whole because of the state of his general health.

There is little more I can say. The Hon. Mr. Densley knows perfectly well that I wish him many years of improved health on leaving the cares of office. I know he will be happy in the knowledge that his place as President has been taken by an honourable member who also has long experience. In seconding the motion I join with my colleague in wishing the Hon. Mr. Densley good health and every happiness in his retirement, which is not far distant.

The Hon. A. J. SHARD (Chief Secretary): I want to be associated with this motion and I am sure that my colleagues do also. The Hon. Mr. Densley has been President of this Chamber for some time and has carried out his duties to the best of his ability. I say that without fear of contradiction. It is when occasions such as this occur (and they do not

often occur during one's lifetime) that, regardless of what the respective Parties may think politically, it is apparent that the Hon. Mr. Densley has always been a good member of his Party and loyal to his district of Southern. Irrespective of whether one agreed with him or not, he always acted as he thought best. I do not intend to speak at length, but I have many memories of our former President's kindness. We have differed on occasion—most people are aware of that—but, as I said on a previous occasion, no matter how heated and strong our arguments became the Hon. Mr. Densley's softness of heart and kindness always carried the day and we would eventually agree.

Over the years my colleagues and I, together with all other members, have enjoyed the hospitality of our retiring President. I believe one of the joys of being a member of this Legislative Council is that when members leave the Chamber the worries of office are left within the Chamber. We have had no kinder or better host on many occasions than the Hon. Mr. Densley and on behalf of all members and on my own behalf I thank him for it. I sincerely hope that now he has made up his mind to retire from office his health will improve and that he will learn to enjoy his rest. May he so enjoy it for many years to come.

The Hon. Sir ARTHUR RYMILL (Central No. 2): I, also, would like to join in this tribute to our former President, for whom I know every member feels a great affection. He is a man of charm, kindliness and principle. When on the floor of the House he was forceful and devoted to his cause. In the Chair he was dignified, impartial, and, above all, loyal to the institutions of this Council and to every member of it. I join in wishing him every happiness in the future.

The PRESIDENT: I should like to add my tribute to that of honourable members on both sides of the Chamber who have spoken in tribute to the retiring President, the Hon. Les Densley. I was a member of this Council when the Hon. Mr. Densley first came into Parliament and I quickly learned some of his qualities. These qualities have already been mentioned, and I do not want to be guilty of repetition. I soon learned to respect his honesty of purpose and doggedness in opposition. The Leader of the Government has spoken about Mr. Densley's tenacity. I, too, experienced that when I was leading the Government in this place and the Hon. Mr. Densley was in opposition: I was up against someone who was rather formidable. He always gave an expression of his opinions and said what he thought was correct. Because of these characteristics, the Hon. Mr. Densley won his way into the hearts of members, earned their respect, and ultimately occupied the position of President, from which we all regret his retirement.

Motion carried.

QUESTIONS

BEETALOO RESERVOIR.

The Hon. R. A. GEDDES: Has the Minister of Labour and Industry obtained a reply from the Minister of Works to my question of March 1, about the Beetaloo reservoir?

The Hon. A. F. KNEEBONE: The Minister of Works has informed me that the Beetaloo catchment area has not been leased since 1930. This decision was made in accordance with departmental policy of not allowing stock on reservoir reserves, wherever possible, to avoid pollution and also to allow regeneration of trees following the severe bushfire in 1960. There is no intention to depart from this policy, and there is no proposal to lease the Beetaloo catchment area.

STRATA TITLES.

The Hon. JESSIE COOPER: Has the Chief Secretary any further information in reply to my question of March 1 about strata titles?

The Hon. A. J. SHARD: The Strata Titles Bill still requires at least a month's further work by the Senior Assistant Parliamentary Draftsman, and it is not expected that it can be introduced until the next session of Parliament.

SUPREME COURT ACT AMENDMENT BILL (COSTS).

The Hon. Sir ARTHUR RYMILL (Central No. 2) obtained leave and introduced a Bill for an Act to amend the Supreme Court Act, 1935-1966. Read a first time.

The Hon. Sir ARTHUR RYMILL: I move:

That this Bill be now read a second time.

The substance of the Bill is contained in clause 3, which seeks to insert a new section 79a in the principal Act after section 79. This clause relates to actions or proceedings by, or against, any "person" to which the Crown, or an agent or instrumentality of the Crown, is a party. At present, if the "person" is unsuccessful in a court case by him against the Crown, or against him by the Crown, he not

only has to pay his own legal costs but is usually ordered to pay the costs of the Crown as well, particularly in civil causes.

Although on rare occasions the Crown briefs counsel in private practice to conduct its cases, in the vast majority of cases (indeed in practically all cases) it uses the very excellent counsel and solicitors of its own Crown Law Office, and these gentlemen are paid by the Government by the year. Thus it is that a litigant who is ordered to pay the Crown's costs of an action is, in effect, being ordered to reimburse to the Crown portion of the upkeep of the department—to which, no doubt, he has already contributed his share as a taxpayer.

New section 79a (1), in clause 3 of this Bill, seeks to alter the present law to the extent that, provided the "person" who is a party to an action by or against the Crown is, in effect, held by the court to be acting reasonably in promoting or defending the action, he can no longer be ordered to pay the Crown's costs of the action. In the event of his being unsuccessful, he will still have to pay his own costs. At present, one of the great difficulties confronting a person litigating with the Crown is that he may be involved in heavy expense he had never anticipated through appeals by the Crown to superior courts. These may be because a decision he may have obtained in his favour involves a principle of law unacceptable to the authorities, or merely because the Crown is dissatisfied with the decision in the actual case itself. All persons have some limitation to their means, and most have little money they can spare for these purposes. The Crown, however, is fighting its cases with public moneys.

It seems only fair and just, particularly in present times and circumstances, that, if the Crown is not satisfied with the result of a case in the first instance, it should also bear its own costs in relation to appeals, and this is included in the terminology of the Bill. Indeed, it may be said that the Bill should go further and provide that the Crown should bear the whole of the costs of all parties in an appeal, or chain of appeals, which the Crown has caused to be embarked upon, whatever the result of those appeals. However, at this stage I have not gone to that extent.

Although the word "person" is defined in the Acts Interpretation Act as including a body corporate, I have found it desirable to re-define it in this Bill in section 79 (*a*) (2) to obtain more precision in setting out the various bodies to which this Bill is intended to refer. I think the subclause speaks for itself and all honourable members will have the opportunity of studying it. Subclause (3) excludes court fees and witness fees from the operation of the Bill and the responsibility for these will thus remain as at present.

It may be appropriate for me, in conclusion, to quote from a statement by the Attorney-General (Mr. Dunstan) on this general subject reported in the *Advertiser* as recently as Friday week last, February 24, 1967. The appropriate passages read as follows:

The Attorney-General (Mr. Dunstan) last night criticized South Australian law for creating the illusion of providing justice for the small man when it did not really do so. He said the Government was trying to ensure that the average citizen was able to obtain cheap, effective and readily available remedies at law to protect him from the wrongs of others. . . . He said that a Supreme Court case "of any size at all" was not likely to cost the litigant less than $1,500, an amount beyond the means of the average citizen. He had to take a gamble on getting his money back, but even if he won the case, he was likely to lose a considerable amount.

The present Bill, which I have been considering introducing for quite a long time, seems singularly appropriate as a first step towards the ideals that the Attorney-General has expressed, and his views give me great hope that the Government will accept this measure as such. I commend the Bill to honourable members as a real step forward in the principles of justice to the individual in the world of today.

The Hon. A. J. SHARD secured the adjournment of the debate.

UNLEY BY-LAW: RESTAURANTS AND FISH SHOPS.

Order of the Day—Private Business No. 1: the Hon. F. J. Potter to move:

That By-law No. 19 of the Corporation of the City of Unley in respect of restaurants and fish shops, made on April 4, 1966, and laid on the table of this Council on July 19, 1966, be disallowed.

The Hon. F. J. POTTER (Central No. 2) moved:

That this Order of the Day be discharged.

Order of the Day discharged.

HEALTH ACT AMENDMENT BILL (DISEASES).

Read a third time and passed.

ABORIGINAL AFFAIRS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from March 7. Page 3418.)

The Hon. R. A. GEDDES (Northern): Before dealing with this Bill I wish to add

my congratulations to you, Mr. President, on the high honour that the Council has bestowed on you. I congratulate you, also, because you are a man worthy of representing this Council in these days of doubt in some people's minds as to the validity of the need of a second House in this Parliament.

Turning to the Bill, I see merit in what has been planned; this Bill allows regulating powers to be introduced so that the Aboriginal reserve councils can operate with greater efficiency and, possibly, authority. However, I must sound a warning note concerning some points in this Bill. I acknowledge the need for the Aboriginal reserve councils to have greater control but Aborigines also need to be assimilated into the community.

I hope that, when these regulations are drawn up and presented to Parliament, they will not result in a self-imposed segregation of Aborigines within the reserves by these self-appointed councils. Great care will be needed in framing regulations to guarantee that the tribal relations are not prejudiced or upset in any way. It is well known that in some Aboriginal tribes every member is related to every other member, not by blood but by tribal affiliation; an Aboriginal can bring in a person from 100 miles away whom he has never seen before but, because he is of the same tribal upbringing, he is a relative in the eyes of the Aborigines. Because of this and because of the very sweeping powers that this Bill provides for regulations to be drawn up, caution will be needed in implementing this legislation. Clause 3 (1) states:

The Governor may make regulations for the following purposes:—

1. Providing for the establishment and constitution of Aboriginal Reserve Councils for and in respect of Aboriginal institutions and defining the rights, duties, powers and functions of such Councils and in particular but without limiting the generality of the foregoing for empowering any of such Reserve Councils to do, perform and exercise, any of the powers or functions of the Minister or superintendents for reserves under this Act, and providing that, notwithstanding anything in this Act, any such Reserve Council may grant with or without conditions, or refuse permission to any persons or classes of persons to enter, or be in, or remain upon, any Aboriginal institution for and in respect of which such Council is constituted.

I wish to make four points concerning this clause; first, it seems that the Minister is prepared to hand over further powers to the Aboriginal reserve councils. Is this wise? Is it wise that these councils may be able to impose upon themselves segregation? The rules and regulations made by the Aborigines will be certainly for the Aborigines, but the Government or the Minister may have little control over those regulations. This is an unwise provision. I pointed out earlier that we must learn more about the problems of tribal relationship among Aborigines. It would be easy for these councils to expel a man for his behaviour, because he was not liked by members of the council or because he was not a tribal relative of the majority of the members of the council. This could result in hardship and unjust management of the reserves.

The Hon. Mr. DeGaris yesterday referred to people who may not be allowed into the reserves, such as members of the Police Force or members of the Pastoral Board. I add that, possibly, a health inspector may be frowned on if he comes in too often and makes suggestions regarding health hazards on the reserve. Also, I venture to say that it is possible that the representatives of hire-purchase companies may be precluded from entering in connection with bad debts. That can be for better or for worse, but I do not wish to play on that except to point out that to preclude them from entry is not right. I also visualize educational authorities being disallowed in, because so many people, not only Aborigines, have difficulty in appreciating the need for the teaching of the three R's. New section 41 (ii) empowers the Government to make regulations for the following purposes:

> Providing for the establishment, constitution, incorporation, management, regulation and registration of societies for carrying on any industries, businesses or trades upon Aboriginal institutions, notwithstanding the provisions of the Industrial and Provident Societies Act, 1923-1966, or the Companies Act, 1962-1965.

The Minister, in his explanation of the Bill, referred at length to the need for the starting up of mining operations and the establishment of mining co-operatives within the North-West Reserve, and he said:

In addition, it is foreseen that a mining co-operative must be urgently started on the North-West Reserve. The mining of chrysoprase by Aboriginal residents on the reserve has now reached the stage where a substantial return is expected to be made for the Aborigines. . . . If we—

that is, the Government—

proceed to purchase the chrysoprase from the Aborigines and then sell it from the reserve, under the present provisions any profit made

on that sale (and a profit may well be made) has to go not to the Aborigines but into Consolidated Revenue.

I have no quibble about the principle that, in the mining of chrysoprase, the profits should go back into the area from which they have been made, but here again, if I may issue a warning in my humble way, we must not allow, by regulation, the profits from all types of mining venture that may take place in this area to go back to the councils if, in justice, they should go to the Crown, and be paid by the Crown back to the councils if the Crown sees fit to do so. I consider it imperative that, when these regulations are made, they should not be all-embracing so as to cover all reserves in the State, applying to areas where there may be different modes of life and tribal representation. It is important that regulations be not all-embracing, such as those that affect our way of life. The regulations under the Road Traffic Act are an example of all-embracing regulations. The regulations should apply to particular areas, because we have not yet learnt the needs, the wants, and what is best for all of our Aboriginal society.

New section 41 (iii) imposes a penalty for a breach of any regulation made under this section of not exceeding, for any one offence, $200 or imprisonment for any term not exceeding six months. I consider that those penalties are unnecessarily harsh. If these reserve councils are to govern their own areas, this penalty could cause grave injustice because of some petty or tribal difference or because a man's habits are not considered by the Aboriginal Reserve Council to be satisfactory, a man may be liable to six months imprisonment or a fine of $200, and I venture to suggest that imprisonment would be the alternative accepted.

I say that that is not the way in which we want the councils to operate. First, let us live in love and charity with our neighbour, but let us also see that these councils look after their fellow man, because imprisonment or fining is not a way to teach a man to live in his society. It is imperative not only that they live with themselves but also that they live outwardly and in the whole community of South Australia. I support the Bill in principle but I shall possibly move amendments in the Committee stage. At this time, I shall refer to the possibility of the stringency of the regulations and I hope that the Minister will give a reasonable explanation in this regard.

The Hon. C. R. STORY (Midland): I rise with much concern to discuss the Bill. In the Aboriginal Affairs Act of 1962, which this Bill amends, we find an entirely different situation from that with which we are confronted in the Bill. Clause 3, which is the operative clause, provides:

> The following section is enacted and inserted in the principal Act after section 40 thereof:—
> 41. The Governor may make regulations for the following purposes:—
> I. Providing for the establishment and constitution of Aboriginal reserve councils for and in respect of Aboriginal institutions and defining the rights, duties, powers and functions of such Councils and in particular but without limiting the generality of the foregoing for empowering any of such reserve councils to do, perform and exercise, any of the powers or functions of the Minister or superintendents for reserves under this Act, and providing that, notwithstanding anything in this Act, and such reserve council may grant with or without conditions, or refuse permission to any persons or classes of persons to enter, or be in, or remain upon, any Aboriginal institution for and in respect of which such council is constituted and providing that entry into or remaining upon any such institution without the permission or otherwise than in accordance with the permission of such council shall be an offence.

There is also provision for the establishment, constitution, incorporation, management, regulation and registration of societies, etc. One of the early provisions in the principal Act sets up the Aboriginal Affairs Board, under the Minister and having a Chairman appointed by the Governor. Section 15 of the Act sets out various things that the Minister must do. He is to apportion and distribute moneys, when necessary; he is to manage and regulate the use of all reserves; he is to exercise general supervision and care over the Aboriginal people and, above all, we find here that he has the right to delegate some of these powers to his senior officers, to say who can go on and off the reserves.

My reading of this is that the Minister has taken it upon himself to divest himself of certain powers with regard to the running of Aboriginal reserve councils. The interesting thing is that, when we look at the interpretation section dealing with "Aboriginal institution", we see that the places where Aboriginals can live include a reserve. To me, it is wrong that the Minister should introduce a Bill to make regulations that allow the Minister to give away completely his powers to untried people.

We must not forget that we have come a long way since 1962 as regards the Aboriginal people of this State. We have conferred on them many privileges but what disturbs me more than anything else is that here we are setting up a society within a society. In my opinion, in this clause privileges are granted that are not granted to any other class of people in this State. That is not right. That is what I have seen in other parts of the world where I have been, where reserves are set up and people are given certain privileges in respect of them. Whether or not they like those privileges is incidental. I, for one, think that clause 3 should be limited. I do not object to the Governor having power to make regulations providing for the establishment and constitution of Aboriginal reserve councils, nor do I think any other honourable member objects.

I do not think we have any objection to defining the rights, duties, powers and functions of such councils: we are perfectly happy about that, providing the Minister still has the overriding power. But, if I read this correctly (and I think I do), the whole of this clause could mean that the Minister was yielding all his powers to the Aboriginal reserve councils. We have not seen one of them operate so far, because I do not think any have been properly constituted or set up; but it means that the councils will be comprised wholly of Aboriginal people. That we know because we have experience of it. It means, too, that a person who is on a reserve at the present time can at the whim of the council or its chairman be asked to leave the reserve. If the Minister hands over his powers by regulation, I do not think there will be any appeal to the Minister by that person who feels he has been wronged and I do not think there will be any power to appeal to the superintendent of the reserve if he feels he has been wronged.

On the other hand, people can be brought on to the reserve who may be undesirable for the well-being of the other inhabitants of that reserve. So we cannot just agree to hand over all the powers of the Minister by regulation to the Aboriginal reserve councils. I am not at all happy about this; I shall need much convincing by the Minister. At the moment I am inclined to support any amendment that stops at the word "Councils" in the fourth line of subsection I of new section 41. New subsection II states:

Providing for the establishment, constitution, incorporation, management, regulation and registration of societies for carrying on any industries, businesses or trades upon Aboriginal institutions notwithstanding the provisions of the Industrial and Provident Societies Act, 1923-1966, or the Companies Act, 1962-1965.

That means that we shall have a new set of rules for the functioning of this type of co-operative. I am not opposed to this, because I believe this is the best way in which to get the Aboriginal people working and functioning. I am extremely glad that these organizations are not to be set up under the Industrial and Provident Societies Act, because that Act would need much amendment to make this function. That would be detrimental to those registered under the Act at present. It is within the framework of that Act as a whole that the co-operatives in South Australia function; also under the Companies Act. New subsection III reads:

Imposing penalties for the breach of any regulation made under this section not exceeding for any one offence the sum of two hundred dollars or imprisonment for any term not exceeding six months.

Once again, that is a severe penalty. We need much more explanation when we are handing over a power by regulation.

While I freely admit that the regulations have to come from both Houses of Parliament and pass, my experience as a member of the Subordinate Legislation Committee for a period leads me to the conclusion that, providing certain things are in the Act, it is difficult for that committee to recommend a disallowance, and it is even more difficult for Parliament to agree to that disallowance. Therefore, this legislation should be put in order completely before it passes so that we shall have no doubt in our minds who should have the powers and what they should be.

I do not believe at the moment that the councils are sufficiently far advanced to assume the whole responsibility set out here in the amendments to the 1962 Act, which had as its architect the Hon. Glen Pearson when he was Minister of Aboriginal Affairs and which, in my opinion, is a very good Act. There was no suggestion at the time of its passing that these powers that were vested in the Minister should be given away to some outside body. We could find ourselves in exactly the same position, if we opened the gate on this one, as in other cases where we have delegated some of the powers vested by Parliament in the Minister. The present Government has gone to great lengths since it has been in office to bring back under the Minister certain boards.

The Minister is a member of Parliament who takes his place in the House as a responsible Minister; he can be challenged with various things, and he has a responsibility to Parliament to give the right answers. However, under these regulations we shall have none of that. In my opinion, this is a means of ducking on the part of the Minister. The matter of the management of reserves is one of the thorny portions of the Act. A Minister could easily fall out of favour with the Aboriginal people if things did not go all their way. The diversion of some of the Minister's powers will enable some responsibility to be taken from him. Ministers of the Crown must be broad-shouldered, and they are well paid for doing their jobs.

The Hon. D. H. L. Banfield: And they do their jobs well!

The Hon. C. R. STORY: When a member assumes responsibility as a Minister he must take what is coming to him. The Aboriginal people will be better served over a long period by having the Minister responsible, or at least having final control of matters such as this. I would not support the amendment in its present form.

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

LONG SERVICE LEAVE BILL.

Returned from the House of Assembly with amendments.

PLANNING AND DEVELOPMENT BILL.

Adjourned debate on second reading.

(Continued from March 7. Page 3423.)

The Hon. M. B. DAWKINS (Midland): I rise to address myself to this most comprehensive Bill relating to planning and development. However, I trust, Mr. President, that you will permit me to digress for a moment in order to join with other honourable members in congratulating you, Sir, upon the assumption of your high office after a distinguished Parliamentary career. I sincerely congratulate you and wish you well during your term of office. I trust that it will be a long and successful term. I also endorse the tributes paid to our former President, the Hon. Mr. Densley.

Generally, I support the concept of town planning, as I think most honourable members do. I congratulate the honourable members who spoke earlier on the Bill on the contributions they made to the debate. Especially do I congratulate the Hon. Mr. Hill who gave a most comprehensive survey of the Bill, although I do not necessarily agree with all that he said. Other honourable members maintained the high standard of debate set by him. At this late stage in the debate I have no desire to deal with the Bill in great detail, because it has been done with great competence by other honourable members. However, there are some aspects I want to mention.

In clause 5, dealing with interpretation, there is a definition of the metropolitan planning area. I have no objection to this because I believe it is realistic, and I am glad that the Government is, in some way at least, recognizing the growth of the City of Adelaide. The definition is a good one and it could well be kept in mind by the Government when dealing with other matters.

Turning to Part II of the Bill, which deals with administration, I notice that clauses 6 and 7 provide for the appointment of a Director and a Deputy Director. The clauses also set out the duties and responsibilities of both officers. I have no objection to this alteration and it means that the Director and the Deputy Director will merely take the place of the Town Planner and the Assistant Town Planner. Clause 8 refers to the establishment of a State planning authority and again I have no objection to such an alteration or to the establishment of a new body. My only comment is that the Bill tends to give far too much power to that body. Subclause (5) stipulates that the authority shall consist of nine members, four of whom shall form a quorum. I notice that the Minister has an amendment increasing the size of the authority to 10, and that the Hon. Mr. Hill has a further amendment to increase the number even more. I will give due consideration to both amendments.

The Hon. Mr. Gilfillan said that the Bill as it stands provides for a quorum of four and that he considered the number too few. He gave his reasons for holding that view. I do not intend to repeat what he said. I heartily agree with his conclusions. If the Bill remains as drafted it will be possible for two people to make decisions and I believe that number is too few to bring into effect what could be, perhaps, a controversial decision. I believe the Minister's amendment providing for 10 members with a quorum of five is an improvement, although I believe that probably six would be a better number for a quorum. I have not had time to examine the Hon. Mr. Hill's amendment in detail but I think that it may be even better.

The Hon. C. M. Hill: The number is six in my amendment.

The Hon. M. B. DAWKINS: The proposed appeal board is referred to in clause 19. I approve in general terms the appointment of the board, because I think it is necessary. However, there could be some improvements made to the proposed personnel. There is to be a local court judge, a special magistrate or legal practitioner, and one who shall not be a member of the authority but who shall be appointed by the Governor from a panel of names submitted jointly by the governing bodies of the Municipal Association of South Australia and the Local Government Association. I believe there is a case here for two appointees —one from the Municipal Association of South Australia and one from the Local Government Association of South Australia Incorporated. Another person will be selected by the Governor from a panel of three names chosen by the governing body of the Adelaide Division of the Australian Planning Institute Incorporated.

This board will consist largely of professional people, and I believe there is a case for the appointment of a representative of people who could be somewhat overawed in the presence of professionals. There is a case for the appointment of a representative of small business men or small producers—that is, the man in the street or his equivalent in rural terms. I suggest that the Government should look at these matters and at the possibility of having one member from each of the Municipal Association and the Local Government Association, or possibly for these members to act alternately depending on whether the appeals are from the metropolitan area or from the country. I suggest this because one person appointed jointly from these bodies may not have a full appreciation of the problems of all the people who will appeal under this legislation.

I notice that under clause 26 (3) any further appeals are to be made to the Supreme Court on matters of law only. In common with the Hon. Mr. Potter, who drew attention to this matter yesterday, I consider that there should be a further appeal committee of members of Parliament on a basis similar to that outlined yesterday afternoon—a committee of five members, possibly consisting of two members from each House and the Minister as Chairman. I believe that it is not only on questions of law that there should be provision for further appeal: compensation and other questions could come up that should and would be considered by a Parliamentary committee as further appeals.

Only this afternoon the Hon. Sir Arthur Rymill spoke about references by a Government member to small men not always getting a fair go. This should give weight to the suggestion that we should have a further appeal body or that we should have a representative of the man in the street on the appeal board set up by clause 19.

I turn now to Part III, which deals with planning areas and development plans. Clause 28 (1) provides:

On the recommendation of the authority, the Government may, by proclamation, declare any part of the State to be a planning area for the purposes of this Act.

Subclause (4) provides:

On the recommendation of the authority, the Governor may, by proclamation, declare

(*a*) that any part of the State be added to a planning area; or

(*b*) that any part of the State that is a planning area or part of a planning area shall cease to be, or shall cease to form part of, a planning area.

We could be dealing here with rural lands or, as the clause says, any part of the State, and this matter should not be dealt with by proclamation. As the Hon. Mr. Gilfillan said, it should be a matter for regulation. I entirely agree with my friend, and will support an amendment to this effect.

Clause 29 (*e*) provides that the authority shall have regard to whether, in the interests of the community within the planning area, the subdivision of any land within the planning area should be prohibited, regulated or permitted only subject to conditions, having regard, *inter alia*, to the existence or non-existence of such services as sewers and water, etc. Here the authority may well find itself in the position where it is overriding the powers of local government. I have always had a great respect for local government, and I have always defended its powers. I do not believe we should centralize power too much, and I certainly do not believe that councils should become, as they could become, little more than agents for an overall town planning authority. I notice that in clause 30 (2) the Commissioner of Highways is authorized and required to give certain information to the authority within a reasonable time of being requested so to do. The important word there is, I believe, "required". Here we could be overriding not only the powers of local government but also the powers of the Highways Department.

I turn now to clause 35, which refers to supplementary development plans. Other members have referred to the Bill in far more detail than I have, and I refer to this clause only because it provides in the first place that the authority shall from time to time re-examine the planning area affected by an authorized development plan, and later provides that a council may examine the area of the council or any part thereof. Here again local government is, by inference if not in any other way, being put in a subsidiary position. Local government should have the first opportunity to submit supplementary plans, as in most instances it would have more local knowledge and be better able to advise on these matters than the planning authority would be.

I think the provisions contained in Part VII, which deals with land acquisition and special provisions relating to compensation, are far too sweeping. The Compulsory Acquisition of Land Act will be incorporated in this Act if this clause is passed. The general effect of clause 63 will be that the authority, if it gets into the wrong hands, can do just about anything it wants to do. However, it should be able to acquire only run-down or slum areas and to rebuild them. As the Hon. Mr. Potter said, it could become a gigantic octopus and be the only land developer in the State, and I could not subscribe to that state of affairs.

In common with other members, I have received letters in support of this Bill in its entirety; other letters have been critical. From the wording of the letters that support the Bill, it is obvious that some people do not really know its contents. I appeal to the public to know what they are talking about before writing to members asking that they give a blank-cheque endorsement to this legislation, which is so complex. One letter referred to only one provision and then asked for support for the whole Bill without realizing the Bill's implications. Although I am generally in sympathy with town planning, I believe that many of this Bill's provisions are far too sweeping and all-embracing; they could take over many of the functions of local government and even those of the Highways Department. Such comprehensive legislation, if passed in such a form, is rarely simplified later: if the powers given are too great today, they are rarely taken out or reduced later. With the reservations I have made (and I will support some of the amendments that have been foreshadowed), I support the second reading.

The Hon. L. R. HART (Midland): Before speaking to the Bill, I would like to take the opportunity of extending my congratulations to you, Mr. President, upon your elevation to the Presidency of this august Chamber. You have set an example, both as Minister and as Leader of the Opposition, that may well be emulated by other members. You have always been steadfast in your approach and you have upheld the dignity of this Council in a manner that has made this place accepted by thinking people in this State as a truly democratic institution. Also, I join with other members in extending appreciation to the Hon. Mr. Densley on his conduct during his period as President of this Council.

Turning to the Bill, it is one on which we could all speak at great length; every person has his own pet ideas on town planning and development. I shall make only a few general observations now; I do not intend to deal with the Bill in detail. It has been dealt with at length by other members. I hope that my remarks will assist the Council in deciding what should be finally accepted and in deciding what amendments should be incorporated in this complex piece of legislation.

In accepting that town planning and development are necessary, we realize that in the process of putting planning and development into operation some people will be injured. It is our duty to see that as few as possible are injured and that the injury they sustain is as minor as possible. It is easy to come up with a plan providing for orderly development, the free movement of traffic, and the availability of amenities that we all desire, but these things must be looked at in the light of whether they are economically desirable and economically possible. What concerns me (and I know it concerns other members) is the amount of power that should be given in this legislation. We are going to set up an authority, and we understand that it must have considerable powers. What we are worried about is the manner in which it will use those powers. We must put teeth into the Bill, but having done that we must be sure that it will not be used indiscriminately and detrimentally to the people of this State.

The Hon. S. C. Bevan: Do you want to put teeth in and then pull them out?

The Hon. L. R. HART: I want to put teeth in, but the main thing is that they should not be too sharp. In setting up this authority we are setting up a body that will develop into an empire within itself. We

must be sure that the planning of this authority is in the best interests of the State. Whatever planning and new development are necessary will cause inconvenience to individuals, to business, and to industry, and for this reason it is necessary that the powers of this authority be implemented in as gradual a manner as possible.

Many problems confront us concerning planning; the problem of premature subdivision occurs when people go out beyond the extremities of the services provided by the State, subdivide land and set people up in houses that in due course must be serviced. If this type of subdivision is prevented, the type of subdivision that will be available to the individual wishing to purchase a block on which to build a house will be very costly. People move out of the metropolitan area (where these services are available) because they can obtain cheaper land for houses. If they are prevented from doing so, the demand for sites in the serviced areas will increase, and this will prevent many people from acquiring properties and from becoming the owners of houses. In Melbourne and Sydney, where town planning has existed for some years, there is a far greater percentage of rental houses than in Adelaide. In fact, Adelaide is often held up as an example of good town planning, but even that good planning can go astray. When Colonel Light came to this State he planned the city so that the centre of business would be in the centre of the city itself. However, because of circumstances, that did not eventuate. Are we to say that there should have been in force a power to compel people to develop Adelaide along the lines that Colonel Light envisaged? That might have been good if it had happened from the start.

However, we cannot put back the clock, and Adelaide has developed in such a way that business activity in what we call the centre of the city will increase, but this can be brought about only by encouraging people and making it possible for them to move to the area with better facilities, wider streets and provision for the free movement of traffic. This Bill provides power to do certain things and I wish to deal with only a few of them today. I am interested in the matter of the provision of parks or open space areas.

There is always much criticism when someone suggests that a tree be chopped down or that a section of a park be used for the provision of a new freeway. To a certain extent, this criticism is justified but we are not living in the past: we are living in the present and, because a park was provided in a certain locality 130 or 150 years ago, it does not follow that that park is now in the best position to serve the residents. It may be better to use part of such a park for the provision of a freeway to meet the requirements of the expansion of the city. It may be better to have a park in some other position, where it is of more value to the people.

Again, it may be more desirable to demolish some of the houses in the so-called slum area of the city so as to make available park land than to provide for new industries or a freeway in the area. We have to think of today and tomorrow, not of yesterday, and I am one of those who realize the great need for the provision of parks and open-space areas. However, they should be in places where they can be used to the most benefit of the people. As we have a population shift over the years, so there is a need to provide these areas in the places where the population is living. It is quite all right to have grandiose schemes that are socially acceptable, but they must also be economically feasible. In the end, the taxpayer has to foot the Bill and, in considering all these schemes, we must realize that the greatest amount of wealth comes from the rural sector, which must be taken into consideration as well as the industrial and residential areas of a city.

The selection of areas for parks will be done by a central authority. Is this authority the most appropriate body to decide whether an area is suitable for a park or where a park is required? Local government should be consulted on this matter and I, as well as other honourable members, deplore the passing of any legislation that takes power from local government. Provision was made for an open space area or park land for the city of Elizabeth. The area involved was about 150 acres and the council informed the town planning authorities that the site was not the most suitable and that the land was not the best available, that there was a far better site nearby.

That was an instance where a piece of land would be more suitable for housing development than for the provision of park land. It might seem to the planner sitting in his office that it would be desirable to have a park in a place selected, because of density of population. However, an inspection of the area

would reveal that a site nearby was more suitable. These things will happen, even with the best of planning, unless councils are consulted and allowed to tender advice.

The matter of the acquisition of land for parks has concerned the Government and councils for some time. Much finance is needed for such acquisitions. I have previously drawn the attention of the Council to certain areas of coastal land north of Adelaide that should be acquired as park lands. The difficulty lies in the provision of finance for the purpose. The council is not in a position to make funds available and the land is of little use to the residents of the area. Those using it reside outside the council's area and, therefore, much of the finance for the acquisition of park lands to meet the requirements of the general public should come from State revenue rather than from the funds of local government.

I suppose that one would regard Elizabeth as an extremely good example of planning, but is this or any other State in the Commonwealth economically able to afford to plan on the lines on which Elizabeth has been planned? I am not critical of the authorities that established Elizabeth. However, there is only a certain amount of land available in this country. The Lord has finished making the land but he has not finished making people, and we have to plan for a greater density of population than we are planning for at present.

It is nice to have broad park lands and houses set in spacious allotments, but we shall be running out of productive land as time goes by. We shall not wish to knock down cities so that crops can be grown on the land in order to feed the population, so consideration should be given now to planning our cities on the basis of greater population density. This is completely opposite to the present line of thinking but I suggest we must think for the future. Elizabeth today has some wide main roads through it, and adjacent to them are areas two to three chains wide with avenues of trees. This is all very nice and pretty, but what is the use of those areas apart from the aesthetic aspect? Lines of trees along a highway are not used by the people living there as a park land or playing field.

The people in those areas do not go out under those trees and have picnics: these are purely aesthetic amenities that have to be maintained. There is the cost of providing and maintaining them. It is annoying to the people of other areas who come into Elizabeth to shop to see the sprinklers working on these wide park lands when they themselves back in their own areas cannot get sufficient water for domestic purposes and are struggling to try to make a living against great odds.

In this State if we are to provide these amenities for one section of the community we must be prepared to provide them for all sections. Therefore, the planning of the cities of tomorrow must be examined closely. In the provision of open spaces for future requirements certain areas have been frozen. They will be required for open spaces or park lands in the future. Some provision should be made for the acquisition of this land at the time it is frozen. I know it will be costly, but this land then becomes, possibly, a burden on the person owning it. It cannot be used for any purpose other than what it is being used for at that particular time. I am referring to land being used for rural purposes. I know of areas that have been frozen because they will be required for future open spaces, and all around them housing development is taking place. The person left with that land can use it only for rural purposes. We all know it is not desirable to have a farm, no matter what size it is, in the midst of a housing development area, and the very fact that the land is in such an area means that it attracts a higher assessment both for land tax and for district rates.

These areas of land that cannot be sold or used for any other purpose than rural production are being forced to carry on in rural production against these great odds of high rates and taxes. How are the owners of these areas to be compensated for this injustice they are suffering? I do not know whether there is provision in the Bill for this type of thing. This Council should consider adequate compensation. Nobody should be permitted to stand in the way of development but every person should be justly compensated for an inconvenience or injustice he may suffer from the requirements of future development.

The person who owns land owns it because it is a capital investment. Some people own shares in companies, and some people have other assets. These people are not asked to make a sacrifice for the benefit of the State's development other than through normal taxation. Why should the person owning a piece of land have to sell it at a price below the value of the surrounding land just because that piece of land is required for expansion purposes? Planners of today will continue to make the mistakes of planners of bygone days. Plans are not always carried out according to plan. The main purpose of legislation of this type is to ensure

that the same mistakes are not made over and over again, that we make fewer mistakes. Therefore, this Council should take great care to see that provision is made so that the mistakes of the past are not repeated.

There has been much criticism by a body known as the Town and Country Planning Association. Those people are, no doubt, competent but one wonders what is good and acceptable in our present environment. This body is most critical of anybody who comes up with suggestions that do not agree with its suggestions. It is easy to have idealistic planning; we can all have idealistic planning but we must get back to what we can afford. That should be the basis of our planning and development schemes. In the planning, provision is made for highways of the future. In fact, we know they will be costly. We should be looking at our present public transport system.

One reason why the railways today are not being used to a greater extent and the highways are being used more frequently is the inadequacy of our present transport system. If we can have better railways providing fast transport with an improved type of rolling stock and air-conditioned carriages, then perhaps there will not be the great urgency to provide the freeways in our city areas for people to get to and from work in the city. One of the most pressing needs of future development in this State is a thorough look at our whole transport system to see whether it cannot be improved. These observations may not be acceptable to the town planning authorities but at least I make them in all sincerity. I support the second reading.

The Hon. S. C. BEVAN (Minister of Local Government): First, I join with honourable members in their congratulations to you, Mr. President. I was wondering whether it should be congratulations or condolences, but I congratulate you upon your election as President of this Council. I have been associated with you for a number of years and feel that we could have done much worse than we have done this afternoon, if I may be permitted to put it in that way. I know the business of the Council will be conducted at least as well as it has been in the past, and we are honoured to have you as our President. I hope I shall not be the first to be ruled out of order by you!

I thank honourable members for the attention they have given this Bill. We have had a number of speakers and I have been asked for much information, but if I attempted to reply to all criticisms of the Bill and to all questions levelled at me during the debate I would be here for some time. However, I do desire to comment in reply and I first deal with the criticisms of the Hon. Mr. Rowe. His first comment is that the Bill does not provide a means by which finance may be made available. I point out that clause 71 reads:

> The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for those purposes.

Clause 72 refers to the establishment of a fund to be known as the Planning and Development Fund and lists the moneys that shall be paid into that fund, while clause 73 empowers the authority to borrow money. Therefore, it can be seen that the Bill does provide a means of finance.

The Hon. C. D. Rowe: I went on to amplify my comments.

The Hon. S. C. BEVAN: When dealing with the powers of the State Planning Authority the Hon. Mr. Rowe said that such powers should be limited, but I shall refer to this in another part of my reply. The positive implementation of a development plan is achieved by land acquisition powers enabling land to be purchased and made available for development in accordance with the plan. Such powers can be used, for example, in promoting re-development or for buying recreation areas. Zoning and subdivision controls are regulatory measures and are negative in approach. It is essential for a general power to be given to the authority for the acquisition of land to ensure the implementation of a development plan. We want the State Planning Authority to make a positive contribution to the development of this State.

Dealing with the Planning Appeal Board, it has been suggested that an appeal should lie from a decision of the board to a Joint Parliamentary Committee. Justice Abbott, in *R. v Town Planning Committee, ex parte Skye Estate Limited,* severely criticized the present legislation which provides for an appeal to a Joint Parliamentary Committee from a decision of the Town Planning Committee. He said:

> This legislation makes the furthest advance against the rule of law which has yet been made by any democratic British Parliament. The separation of the legislative executive and judicial powers of the Constitution used rarely if ever to be over-stepped; and if over-stepped the courts of the country used to declare the legislation unconstitutional either by reason of its being *ultra vires* or for some other reason.

Justice Reed in the same case said:

. . . it seems to me the deliberations of a joint committee thereunder do not answer the description of an "appeal" as that term is understood in this connection.

Justice Abbott concluded:

The company will possibly be permitted to address the joint committee of Parliament but as that committee has the right to take into consideration any other matters deemed relevant by the joint committee, the company may possibly end up in a worse position than it now occupies.

The Bill as at present drafted makes provision for an appeal to the Supreme Court on a matter involving a question of law. It would be impracticable for the Bill to provide for a simultaneous appeal to a Parliamentary committee. Provision would have to be made for one or the other. As the Bill stands at present the appeal board will deal with the town planning principles involved in any appeal and, if there is a dispute regarding a question of law, this can be determined by the Supreme Court. I see no merit in amending the Bill. Appeals may be lodged against decisions of the authority, a council, or even the appeal board itself, and if further appeals may be taken to a Parliamentary committee I submit that it will be a matter of appeals just going on and on. Apart from that, I am sure that honourable members will see the wisdom of having an appeal board. The Hon. Mr. DeGaris said:

I would like to know the identity of the people to be nominated by the Minister of Transport and the Minister of Housing.

It is not possible to say who these people will be, but clearly the appropriate Ministers will select people who can make the best contribution to the work of the authority.

It is suggested that the number of members of the Planning Appeal Board be increased to four by adding a representative of the Commonwealth Institute of Valuers. The function of the board is to determine the most appropriate use of the land involved in an appeal or resolve questions relating to the layout of plans of subdivision or resubdivision. If questions relating to the value of the land are involved, an appellant would be much better served if expert evidence was presented on his behalf by a valuer rather than if the valuer were a member of the board. The constitution of the board as set out in the Bill is satisfactory and I see no reason for any amendment to be made.

The Hon. Mr. DeGaris asked if persons coming before the board could be represented by counsel. The Bill at present does not expressly say so, but I am prepared to accept an amendment providing that parties may be so represented. Reference is again made by Mr. DeGaris to a right of appeal to a Joint Parliamentary Committee. I have referred to this matter in replying to the comments made by the Hon. C. D. Rowe.

It is suggested that the Bill should be amended to ensure that a development plan is produced within 12 months of an area being proclaimed as a planning area. Whilst I can sympathize with the honourable member's desire to ensure speedy preparation of such a plan, it would not be practicable to include in the legislation a specific time limit. The investigation and consultation involved in the preparation of a development plan may take a considerable time and little would be gained by hurrying the process unduly. Policy decisions affecting the future development of a metropolitan area or a city, or even a small country town, should not be made in haste.

It is also suggested that supplementary development plans should only be prepared on the authority of the local government body concerned. This would be completely impracticable in relation to the metropolitan area where the consent of 30 councils would have to be obtained before the metropolitan development plan could be revised. Such a provision would bring metropolitan planning to a standstill. The Bill at present contains sufficient checks and cross-checks to ensure that the authority and the local government body concerned must be in accord, otherwise little progress will be made.

In relation to clause 30 (2) (*b*), Mr. DeGaris is unable to see the need for the words "in the opinion of the authority" in relation to the bodies which the authority must consult regarding the provision of public services. These words are included primarily to ensure that no technical objection could be made to a development plan on the grounds that a person providing, for example, some form of transport service had not been consulted. There could be doubt in some cases whether an area was served by a particular service. The provision merely ensures that the development plan is not rejected on the grounds of a fine technicality.

Mr. DeGaris questions the merit of providing that regulations bind the Crown and other instrumentalities or agencies of the Crown. He fears that Ministerial powers may be overridden by powers delegated to local councils. It is necessary when providing for the future development of a city that all developers of land comply with the broad policies outlined

in the development plan. Provisions must be made to ensure that agencies of the Crown, which are among the major developers, follow a policy determined at Government level. One of the reasons for the representation on the State Planning Authority of the major development departments such as the Engineering and Water Supply Department is to ensure co-ordination of development. The authority will obviously be exercising considerable care in drafting any regulations under clause 36, and the process of bringing the regulations into effect involves public exhibition, right of objection and consideration by Parliament. Thus, any department will have ample opportunity to consider the content of any regulations, and it is unlikely that any provision that limits or conflicts with existing powers of the Minister could be interfered with unduly by the provisions of this Bill.

The Hon. Mr. DeGaris questioned whether clause 26 (13) applied to both land on which buildings were erected and to vacant land. It applies to both categories. The planning regulation may reserve land for future acquisition, and this may be vacant land or land on which buildings are already erected. For example, land needed for future recreation areas may be vacant and an owner may wish to develop the land. If the Minister refuses consent to the proposed development, then the owner shall have the right to serve a written notice requiring that his land be acquired.

The Hon. Mr. DeGaris asked for an explanation of clause 43, which sets out the categories of land to which the control of land subdivision does not apply. The control of land subdivision is limited to land being divided into allotments of 20 acres or less by reason of the definitions contained in clause 5. Clause 43 provides that there shall be no control of land subdivision in the city of Adelaide, and not of any Crown lands. Paragraph (1) (*c*) provides also that there shall be no control of land subdivision exercised by the Director of Lands over Crown leases where the lease is used for primary production. This provision is necessary because the definition of "Crown land" does not include Crown leases. Therefore, as the Minister of Lands exercises control over Crown leases, it was thought unnecessary to duplicate this control in the Bill. However, Crown leases that are being subdivided into allotments for residential use should be subject to the same standards as freehold subdivision; therefore, the Bill ensures that such subdivisions must be referred to the Director of Planning.

The Hon. Mr. DeGaris suggested that the moneys to be paid in lieu of land in small subdivisions should be paid to the local council. This is commented upon in my reply to the Hon. Mr. Story. In relation to the powers of the authority, the Hon. Mr. DeGaris referred to the power to develop land. I have already referred to this matter in my reply to remarks made by the Hon. Mr. Rowe.

This brings me to a point made by the Hon. Mr. Story, who spoke at some length and made a good contribution to the debate, as did other members. The honourable member wishes to increase the number of members on the authority to enable the man in the street to have better representation, and this has been suggested by other members. It is desirable to keep the number of members on the authority to a minimum. I do not consider that the number should be further increased except by the addition of a nominee of the Minister of Transport, and an amendment to this effect is on honourable members' files. The Hon. Mr. Hart referred to our public transport, which will play a very important part in the development of this State under this Bill. In the circumstances, it is desirable that the Minister of Transport should have a representative on this authority.

The Hon. Mr. Story suggested that six members should form a quorum of the authority. An amendment that I shall move suggests five as being a suitable number, and I think this number is adequate to meet the position. He also suggested that an appeal should lie to a joint Parliamentary committee from the Planning Appeal Board. I dealt with this matter in reply to matters raised by the Hon. Mr. Rowe, and I do not wish to repeat what I said.

The honourable member also suggested that money to be paid in lieu of land when a plan defined not more than 20 allotments should be paid to the appropriate council rather than to the planning and development fund. If a plan of subdivision provides for more than 20 allotments, then land must be set aside for the reserve, this land vesting in the council; but, if a small number of allotments is involved, then $100 an allotment must be paid into the fund if the land is situated in the metropolitan planning area or $40 if the land is situated in the country. Members will appreciate that the amount of finance involved will not be great and that the collection at one central source will enable the authority to use the money to purchase reasonably sized parcels of land from time to time. If

the small amounts were paid to individual councils, the money would tend to be frittered away with little benefit accruing to the public. There would also be an administrative problem in ensuring that the payment had been made and in making provision for suitable accounting procedures by councils. An amendment to the Local Government Act would probably be involved.

The Hon. Mr. Story is concerned about outstanding subdivision applications, and has asked me to get some information on this matter. He asserts that there are a number of applications for subdivision awaiting the passing of this Bill and that they have been held up for a considerable time. He suggests an amendment to enable these applications to be dealt with under the present legislation. There is no evidence that applications to subdivide land have been delayed departmentally pending the passing of the Bill. I have checked personally with the Town Planner, who assures me that there is no evidence from any council and certainly no evidence in his office that any application has been delayed for this reason. The subdivider's commitments under the new Bill are not increased unduly from his commitments under the present legislation. The State Planning Office deals with between 200 and 250 applications a year for approval of plans of subdivisions. There are 27 applications outstanding and they were submitted between September 30, 1965, when new regulations came into effect, and August 30, 1966—approximately six months ago.

The Hon. C. M. Hill: Twenty-seven?

The Hon. S. C. BEVAN: Twenty-seven applications are outstanding. Of these 27 applications, 21 are waiting for the subdividers' agents to supply further information. A further five applications are awaiting a council decision, and the Town Planner is currently dealing with the remaining applications. The subdivider can take action against a council which does not arrive at a decision within two months, if he desires to do so. The chief objection to permitting applications already lodged to continue to be dealt with under the old legislation is that there are many applications that have lapsed for various reasons over a period of many years. These applications do not proceed, for example, because the subdivider lacks capital or he is unable to purchase adjoining land, or for other reasons. However, the application is rarely withdrawn and in some cases the State Planning Office has the utmost difficulty in trying to reach finality on the matter. Such applications are filed, but they are still considered valid applications under the present Act. The number of these applications could be considerable, and it would be unwise to enable an applicant to revive one of these applications, which might have been made many years ago, merely to circumvent the provisions of the new legislation. When the present Town Planning Act was amended in 1956 and provision was made for subdividers to construct roads and provide public services in the metropolitan area, the Government at that time did not give any grace at all to applicants who had not received the preliminary approval known as Letter Form A. Those who had received Form A approval were only given two months in which to deposit their plans in the Lands Titles Office. Section 11 (2) of the present Act is the relevant section and I see no reason for amending the Bill in this regard. I hope these remarks deal adequately with the questions raised by members who requested further information.

Regarding the Planning Appeal Board, the Hon. Mr. Whyte suggested that the appellant should have the right to nominate to the board someone from the Local Government Association who would have a full appreciation of the particular area with which the appeal was concerned. The chief factor to be considered in establishing an appeal board is to ensure that an impartial and unbiased decision is arrived at, and I consider that it would be unwise to adopt the amendment suggested by the Hon. Mr. Whyte. The board would have the opportunity to inspect the site of an appeal and the appellant could give evidence regarding any local matters. It is also desirable that continuity of membership of the board be maintained so that consistency in appeal decisions is achieved. I point out that the Municipal Association and the Local Government Association will be represented on the appeal board.

The Hon. Mr. Gilfillan raised some points that have not been dealt with by other members. The first point related to the time for nomination of the planning authority and the appeal board. He queried whether two weeks was not too short a minimum time for the various authorities and bodies to nominate representatives. It will, of course, be imperative for the authority and the appeal board to be set up without undue delay, but I can assure the honourable member that adequate time for the recommendation of nominations will be given. There is no need for an amendment to the Bill. The Hon. Mr. Gilfillan also

raised the question of the powers of the authority in relation to primary producing land. He expressed concern that the inclusion in clause 18 of the words "use of land" could mean a control over the type of primary production by the authority. He suggested that primary producing land should be exempt from the Bill. I can assure the honourable member that there is no intention whatsoever that the authority should become involved in determining what types of primary production should be carried out on land throughout the State. I know of no case interstate or overseas where any attempt has been made to use planning powers to this end. Normally, primary producing land comes within the ambit of town planning control only where it is on the fringes of an urban area of township subject to a development plan or where it is included in a regional plan. In those cases, the primary producing land is normally included as a "rural zone" or "agricultural zone" in which all types of primary production could be carried on. It may, of course, be necessary in some instances to discourage primary producing land from being changed to some other use. Also, some uses of land for primary production may not be desirable within a town—for example, a piggery within a residential area. For these reasons it would not be appropriate to exempt primary producing land from the operation of the Bill.

Regarding the proclamation of planning areas, the Hon. Mr. Gilfillan suggested that they should be declared by regulation rather than by proclamation in order to bring the matter before Parliament. Declaration of a planning area is only a procedural matter and a prerequisite to examination of the area by the authority. Such a declaration involves no regulatory powers of any sort and I see no point in Parliament becoming involved at that stage. I see no merit in amending the Bill. I have had other queries as well, but I believe that I have answered most of the queries raised by members with the exception of those raised by the Hon. Mr. Dawkins this afternoon. Fears have been expressed that this Bill is taking power away from councils. However, an examination of the Bill will show that this is not so; rather, it places more power in the hands of councils. I draw members' attention to clause 35 (6) which states:

If the authority reports to the Minister that in its opinion the supplementary development plan is not consistent with, or is not a suitable variation of, the authorized development plan, the authority shall furnish the Minister with its reasons for such opinion, and the Minister shall inform the council accordingly and return the plan to the council, but if the authority reports to the Minister that the supplementary development plan is consistent with, or is a suitable variation of, the authorized development plan, the supplementary development plan shall be deemed to be a supplementary development plan prepared by the authority and duly submitted to the Minister in accordance with section 31 of this Act and the provisions of sections 32 to 34 (both inclusive) of this Act shall apply and have effect in relation thereto accordingly.

As the honourable member said, clause 36 (1) states:

Subject to this Act, the Governor may, on the recommendation of the authority or a council whose area or any part of whose area is within the planning area affected by an authorized development plan and on receiving from the Minister a certificate that in his opinion such of the provisions of section 38 of this Act as are applicable have been complied with, make such regulations, not repugnant to or inconsistent with any Act, as are necessary or expedient for the purpose of implementing and giving effect to the authorized development plan and the general principles contained therein and the objects thereof and any matters incidental thereto and for any other purpose (express or implied) for which planning regulations may be made under this Act.

We have provisions here that extend the powers of local government. I again remind members that this Bill gives added power to local government, which power is not contained in the present Town Planning Act; the present Act does not enable councils to make regulations or to implement the development plans: this Bill does so. I have earlier explained what I envisage to be the respective rights of the authority and local government. It is difficult to envisage how co-ordination can be achieved if the authority cannot exercise some check on the diverse activities of local government. Co-ordination in some form must be achieved. Clause 36 (3) enables a council to specify that it should administer regulations which it has recommended; this provision was inserted at the request of the Adelaide City Council. The Government was pleased to accede to the request, which gives added power to local government.

Again, if we examine the Bill and its ramifications, we shall find that local government has much more power in relation to town planning under this Bill than it has at present. I cannot for the life of me see any grounds for the fears expressed by honourable members that this legislation will take powers away from local government. The authority will want the full co-operation of local government, and the whole purpose of the Bill is to seek that

co-operation. There will be many instances when a council will want to take some action, for instance in relation to a run-down quarter in its area, and this Bill gives it authority to do so. We must have some co-ordination, because we cannot have one council running off at a tangent and another council going another way. We must have some central authority, and this is provided by the Bill. If we did not have the co-operation of all councils, the Bill would fall down. I know that we shall have the full co-operation of all councils on the whole question of town planning. The Hon. Mr. Hart this afternoon said that we must plan for the present. I say that we also have to plan for the future, and that is exactly what the Bill does.

It was suggested that perhaps I would desire to comment on the Ministerial administration of the Bill. I appreciate what honourable members have said on this aspect, and I thank them for their comments. They put forward the view that the Bill should come under the jurisdiction of the Minister of Local Government; as they were referring to the present Minister, I can only say that I appreciate the sentiments expressed. As I have already said, and as honourable members are aware, local government will play a major part in this legislation, and I think this fact has to a large degree influenced honourable members in their desire that the Bill come under the jurisdiction of the Minister of Local Government. However, I remind them that under the previous Government the administration of town planning was the responsibility of the Attorney-General, so the step being taken in this Bill is only following the pattern set by the previous Government.

Despite comments from time to time in relation to the administration, an examination of the town planning legislation of 1962 shows that it is definitely lacking in its ability to give effect to what we now consider to be proper town planning. The Attorney-General, who is to be entrusted with the administration of this Bill, along with the Town Planner and his staff (which is very meagre at present), has gone into the full ramifications of town planning, with the result that we have this rather hefty Bill before us. Full credit must be given to the Attorney-General and to the Town Planner and his staff for the preparation of this Bill for presentation to Parliament. Personally, I consider that the Attorney-General is the appropriate Minister to control this legislation.

I hope I have given honourable members adequate answers to their queries. I do not wish to comment further, unless the Hon. Mr. Hill would like me to occupy as much time answering his points as he devoted to his speech on the Bill. I know the honourable member gave considerable attention to the Bill, and I have notes here regarding the contribution he made. However, it would take me a long time to go through everything that he raised, and rather than do that I shall confine myself to what I have already said. I hope I can answer all the queries raised by the honourable member when we get into Committee.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Arrangement of this Act."

The CHAIRMAN: I point out that in the line "Part IX—Miscellaneous" the appropriate sections listed should read "75-81" and not "75-80". I shall make the correction.

Clause passed.

Clause 3—"Repeal and savings schedule."

The Hon. C. M. HILL: I have an amendment to this clause. I listened with interest to the reply given by the Minister, and this has given me further food for thought in relation to the amendments I have on file. Also, there are still some amendments in the course of preparation, and in view of that I wonder whether the Minister will consider reporting progress so that I can have another look at the clause.

The Hon. S. C. BEVAN (Minister of Local Government): In the circumstances, Mr. Chairman, I ask that progress be reported.

Progress reported; Committee to sit again.

ROAD TRAFFIC ACT AMENDMENT BILL (GENERAL).

Committee's report adopted.

Bill recommitted.

Clause 1 passed.

Clause 2—"Incorporation."

The Hon. S. C. BEVAN (Minister of Roads): In view of the delay in the necessary reprinting of the Bill, I ask that progress be reported.

Progress reported; Committee to sit again.

ADJOURNMENT.

At 5.11 p.m. the Council adjourned until Thursday, March 9, at 2.15 p.m.