## LEGISLATIVE COUNCIL

Thursday, October 16, 1975

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

### ASSENT TO BILLS

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

Land and Business Agents Act Amendment,
Licensing Act Amendment (R.S.L.),
Planning and Development Act Amendment (Regulations),
Returned Servicemen's Badges Act Amendment,
Statutes Amendment (Gift Duty and Stamp Duties).

### BEVERAGE CONTAINER BILL

The Hon. T. M. CASEY (Minister of Lands): I have to report that the managers have been to the conference on this Bill, and their recommendations are as follows:

*As to amendment No.* 3:

That the Legislative Council do not further insist on its amendment but make the following amendment in lieu thereof:

Clause 4, page 2, line 26—Leave out "the amount" and insert in lieu thereof the following words "an amount not exceeding five cents".

and that the House of Assembly agree thereto.

*As to amendments Nos.* 6 *to* 10:

That the Legislative Council do not further insist on its amendments.

I want to say a few words about the conference and indicate to the Council that it was not an easy matter to resolve, mainly because there was the problem of dispensing with cans altogether, or trying to devise some means by which we could keep the can makers in operation but at the same time minimising the litter which cans have created over the years. It was felt that the amount of the deposit that was originally bandied around would be detrimental to industry in general, although it would have probably cleared up a lot of the littering about which people are complaining. I think under the amendment which has been suggested to the Council a very sensible compromise has been reached and I want to take this opportunity of congratulating all those managers who acted so responsibly in this matter so that this difficult problem could be tackled in the way in which it has been.

I do not think under this recommendation that the can manufacturers will be adversely affected. I think it gives them a guideline as to what they can now expect will happen when the time comes in 1977. This gives the industry ample time in which to gear itself to accommodate this maximum of 5c deposit on cans. I believe that, because there is a deposit of up to a maximum of 5c on cans, this will be an incentive to the public to collect them and so get some monetary value on their returns.

The other point that I would like to indicate to the Council at this stage is a matter that was raised by the Hon. Mr. DeGaris and by the Hon. Mr. Cameron, and I have an undertaking from the Minister for the Environment which reads as follows:

1. The Government recognises that the improper disposal of bottles is a particular community problem and undertakes to introduce legislation to provide severe penalties for this practice as soon as practicable.

I think we all realise the problems of bottles which have been disposed of in such a way as to render them harmful to the public in general, such as broken bottles on beaches and so forth, and that is an undertaking that the Minister has given, and I ask the Council to accept that in the spirit in which it has been given. The undertaking continues (and this was a matter raised by the Hon. Mr. DeGaris during the course of his second reading speech):

2. The Government will require the Environmental Protection Council to investigate and report upon the feasibility of a packaging tax on beverage containers and other packaging and provide a report to be published prior to December, 1976.

Those two undertakings were given by the Minister for the Environment and I ask the Council to accept both of those in the spirit in which they have been given. Overall, I think that the compromise which has been reached is a good one and I think it will benefit everybody in the long term.

The Hon. M. B. CAMERON: I would like to say a few words about the conference. I accept the fact that the Government has given an undertaking to provide penalties in some future Act in relation to littering with bottles. I indicated to the conference, and I indicate now, that it was with some reluctance that I reached this compromise. However, I regard the problem of the littering of cans as a severe problem and I came to the conclusion reluctantly that it would be most unfortunate if the Bill was finally lost because of this point. However, I will be watching with interest to see whether manufacturers and people using cans can live with the 5c tax which has been proposed and which, I believe, will lead to an exacerbation of the problem of bottles littering the environment. It will be interesting to see whether the Government's proposal will curb the problem sufficiently by merely providing a disincentive to litter in the form of a penalty. However, that is a matter to be viewed in the future. As I said I would, I indicate my support for the compromise that was finally reached.

Consideration in Committee of the recommendations of the conference.

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

That the recommendations of the conference be agreed to.

The Hon. R. C. DeGARIS (Leader of the Opposition): I rise to support the recommendations of the conference. I congratulate the managers from this Council as well as the managers from another place on their attitude toward this matter. I should like to make my position clear. I stated previously that I would support the Bill irrespective of what happened because I believed that the Constitution Act required me to support it.

As a person with a keen appreciation of Parliamentary conventions I made that statement openly and clearly. I do not believe that all conventions should necessarily be observed, because there could be matters of great moment and great importance about which the Council should have the right to reject a Bill for the second time. However, I do not believe that this Bill deals with such a matter. Although the Government knew I would support this legislation, it did listen to the arguments advanced.

I now put forward my own view on this legislation, as I believe that the approach made to the problem is from the wrong direction. I am pleased that the Minister has agreed to refer the whole matter of a packaging tax to the Environmental Protection Council, because I believe that this is the most effective way of handling the matter. In the meantime, I believe that the packaging industry, especially the can industry, could pay a voluntary tax to the Government so that the Government can handle the whole litter problem.

This would get the industry over the problem in the short term and it would provide a basis for future development, and I am convinced that there will be a reference of power relating to a small sales tax to assist the States to handle the litter problem. I was concerned about the question of beer bottles, and this matter is also of concern to industry and to the Government. The original amendment moved by the Hon. Mr. Cameron would have placed much difficulty in the way of the existing system, which no-one has been willing to criticise. I believe that fact is accepted by all members.

I draw to the attention of all members that beer bottles actually carry a 10c a dozen deposit, yet the problem is well handled in the community. Therefore, I come down strongly with the viewpoint that a 2c deposit on cans would have been the advisable course to take. Because this is the second time around for this Bill after an election, I believe the statement I made was a reasonable one. At the same time, I shall be examining the regulations extremely closely and, if I believe that a 5c deposit is beyond what industry can carry, beyond what it should be to cater for the problem that has been outlined to the Committee, I will reserve my right to have my say on the regulation when it comes down.

I think that explains the position. I am pleased that the Government has seen fit to reach a compromise, and I reserve my rights until the regulations are presented. The Government has said it will not proclaim the Bill until June, 1977, and no doubt the regulations will come down some time after that date. I am still convinced in my own mind that a 5c deposit on cans could be too much for the industry to bear. This is one point the Government will have to watch most carefully in framing the regulations.

Motion carried.

*Later*:

The House of Assembly intimated that it had agreed to the recommendations of the conference.

## PUBLIC WORKS COMMITTEE REPORTS

The PRESIDENT laid on the table the following reports by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

Mawson Co-educational High School conversion (Stage II),

Port Augusta West Sewerage System.

## QUESTIONS

### IMPORTS OF MEAT

The Hon. R. A. GEDDES: I understand that the Minister of Agriculture has been kind enough to get for me a reply to a question which I asked should be available today. Can the Minister give that reply?

The Hon. B. A. CHATTERTON: I have full details of the importation of various meats into the metropolitan Abattoirs area, as requested by the honourable member, but in view of their lengthiness I seek leave to have them incorporated in *Hansard* without my reading them. Unfortunately, figures for veal importations are not individually recorded but are incorporated under the heading of "beef".

Leave granted.

IMPORTATION OF MEAT INTO METROPOLITAN ABATTOIRS AREA (IN KILOGRAMMES)

| Period | Beef (including Veal) | Mutton and Lamb |
|---|---|---|
| July 1974 | | |
| Interstate | 594 186 | 60 050 |
| Intrastate | 341 999 | 195 983 |
| Total | 936 185 | 256 033 |
| August | | |
| Interstate | 701 863 | 119 471 |
| Intrastate | 297 157 | 545 690 |
| Total | 999 020 | 665 161 |
| September | | |
| Interstate | 683 822 | 84 715 |
| Intrastate | 188 708 | 474 256 |
| Total | 872 530 | 558 971 |
| October | | |
| Interstate | 613 150 | 140 089 |
| Intrastate | 326 677 | 387 714 |
| Total | 939 827 | 527 803 |
| November | | |
| Interstate | 410 818 | 105 039 |
| Intrastate | 499 583 | 655 272 |
| Total | 910 401 | 760 311 |
| December | | |
| Interstate | 367 453 | 157 433 |
| Intrastate | 813 495 | 627 484 |
| Total | 1 180 948 | 784 917 |
| January 1975 | | |
| Interstate | 315 671 | 203 576 |
| Intrastate | 782 464 | 683 251 |
| Total | 1 098 135 | 886 827 |
| February | | |
| Interstate | 331 346 | 108 821 |
| Intrastate | 1 054 147 | 630 166 |
| Total | 1 385 493 | 738 987 |
| March | | |
| Interstate | 410 494 | 129 339 |
| Intrastate | 1 282 124 | 706 826 |
| Total | 1 692 618 | 836 165 |
| April | | |
| Interstate | 318 487 | 44 058 |
| Intrastate | 1 102 236 | 684 421 |
| Total | 1 420 723 | 728 479 |
| May | | |
| Interstate | 489 473 | 34 281 |
| Intrastate | 702 787 | 552 921 |
| Total | 1 192 260 | 587 202 |
| June | | |
| Interstate | 785 560 | 68 863 |
| Intrastate | 643 471 | 461 195 |
| Total | 1 429 031 | 530 058 |
| Grand Total | | |
| Interstate | 6 022 323 | 1 255 735 |
| Intrastate | 8 034 848 | 6 605 179 |
| Total | 14 057 171 | 7 860 914 |

IMPORTATION OF MEAT INTO THE METROPOLITAN ABATTOIRS AREA FOR THE PERIOD JULY 1972-JUNE 1975 (IN KILOGRAMMES)

| Period | Beef | Mutton and Lamb |
|---|---|---|
| July 1972 to June 1973 | | |
| Interstate | 2 413 578 | 402 616 |
| Intrastate | 1 757 756 | 4 806 781 |
| Total | 4 171 334 | 5 209 397 |
| July 1973 to June 1974 | | |
| Interstate | 3 423 873 | 268 719 |
| Intrastate | 4 427 424 | 3 802 124 |
| Total | 7 851 297 | 4 070 843 |
| July 1974 to June 1975 | | |
| Interstate | 6 022 323 | 1 255 735 |
| Intrastate | 8 034 848 | 6 605 179 |
| Total | 14 057 171 | 7 860 914 |

### TRADE UNIONS

The Hon. J. E. DUNFORD: As a result of a question I asked the Chief Secretary, representing the Minister of Labour and Industry, on October 9, there has been a response which dealt with the Master Builders Association of South Australia Incorporated and an article about that association and *Workforce*. I have received a response by correspondence from that organisation, and I seek leave to make the reply from the Master Builders Association available to the Council, and the public—

The PRESIDENT: You are seeking leave—?

The Hon. J. E. DUNFORD: —to incorporate in *Hansard* the response I received from the Master Builders Association as a result of the question I asked.

Leave granted.

The Hon. J. E. DUNFORD: The letter is from the Master Builders Association of South Australia, dated October 10. It is addressed to me, and states:

Dear Sir,

I refer to the statement on the A.B.C. News this morning, a copy of which is attached. We are aware of the paper which is the source of your information. The authorship of the report which is referred to in the paper has not yet been established but it would appear to have originated in the Master Builders Association of Victoria. The Master Builders Association of South Australia is in no way responsible for this report and no representative of the M.B.A. of South Australia attended the major contractors meeting on Wednesday, September 17, where it was apparently presented.

We wish to disassociate ourselves from this paper and from the views which it expresses. We sincerely hope that it will not damage the good industrial relations which have existed for many years between the Master Builders Association and the Building Trade Unions in this State. We have conveyed this to the Hon. J. D. Wright, Minister of Labour and Industry, and also to the Australian Building and Construction Workers' Federation.

Yours faithfully,
(Signed) K. C. WEST, Executive Director

The report to which it refers and which is headed "A.B.C. News Bulletin, 7.45 a.m., Friday, October 10, 1975", is as follows:

A Labor member of the Legislative Council, Mr. Dunford, claims that the Master Builders Association attempted to provoke an industrial dispute last month. Mr. Dunford read from an article in the magazine *Workforce* which he said discussed ways of defeating builders labourers in a dispute over the pay claims of crane drivers. He said the Master Builders Association recommended that the union be provoked into widening the dispute so the workers would look bad in the eyes of the public and get the blame. The Chief Secretary, Mr. Banfield, said it was well known that it was not always the unions that caused disputes. He would refer this particular matter to the Minister of Labour and Industry.

## CONSTITUTION ACT AMENDMENT BILL (COMMISSION)

Bill recommitted.

Clause 7—"Enactment of Part V of principal Act"—reconsidered.

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

In new section 88 (2) (*a*) to strike out "the Chief Justice has certified in writing that".

The provisions in the Bill providing for the certificate of the Chief Justice being given if a measure is not to be put to a referendum is a safeguard designed to see that minor amendments to the clauses otherwise entrenched can be made where it is shown they are administratively necessary, so long as the principles of the enactment are not interfered with. The practice of giving certificates to the Governor on Bills is not new; in fact, it is standard practice for the Parliamentary Counsel and Attorney-General to give certificates to the Governor now. The Chief Justice has, since his return to Adelaide, written to the Attorney-General raising an objection to the effect that the judge is being asked to act other than in a judicial manner by being required to give the certificate proposed in the legislation. The Government does not agree with that view. However, it has not been possible for the Attorney-General and the Premier to see the Chief Justice to resolve the matter during this week, and the Chief Justice is now interstate.

The objections of the Chief Justice will be met if, in fact, the certificate provision is removed. The provision that no Bill may be presented for an assent without a referendum would remain, but would simply become justiciable if in fact any Government acted in breach of the section. The Government previously had a doubt as to whether, following the line of cases since *Trethowan* v. *the Attorney-General for New South Wales*, it would not be difficult to call in question in proceedings the action of an Executive in presenting a Bill for assent. However, it would seem that the recent High Court case has resolved those doubts as to the effective justiciability of the section, and the Government is satisfied that the provision without the certificate is a sufficient safeguard.

I am not in a position to table the letter of the Chief Justice since I have not his permission to do so, and I do not believe it was intended as a public document. However, I am prepared to show it privately to any honourable member who wishes to see it, on a confidential basis, so that honourable members may satisfy themselves that the objections of the Chief Justice have been met. He raises one other matter as to the meaning of "available". The Government considered the point raised by the Chief Justice before introducing the measure, and was satisfied that to make the amendment he proposed would be to allow a manipulation as to which judge was to hear the matter. The safeguard of seeing to it that the bench could not be stacked so that a judge with prejudice or bias might become Chairman of the commission is an essential feature of the legislation and the Government would, in no circumstances, be prepared to alter the provision relating to which judge should sit on the electoral commission.

Since this matter was last before this Council, the Government has had an opportunity of considering the representations of the honourable the Chief Justice contained in a letter dated October 10, 1975. The Government is not entirely convinced that the situation presaged by the Chief Justice will eventuate. However, to put at rest any disquiet in the matter, certain amendments are now proposed to the Bill. The second of these amendments, to proposed section 88, will remove the need for a "certificate" from the Chief Justice and will leave the question of whether a proposed amending Bill is to be submitted to His Excellency for assent directly or only after it has been submitted to the electors at a referendum to be determined, in the first instance, by the advisers to the Government in these matters—the Parliamentary Counsel and the Attorney-General—their advice, of course, being based on the subclause of any amending Bill viewed in the light of the provisions of section 88.

For many years, it has been customary for the Parliamentary Counsel and Attorney-General to tender advice to His Excellency in relation to the reservation of Bills for Royal assent and it is no great extension of their responsibilities to impose this additional duty on them. I point out to honourable members that it is, of course, pursuant to prosed new section 88 (5), open to any elector to have this question canvassed before the courts in the manner provided in that subsection.

The Hon. J. C. BURDETT: This matter was discussed at considerable length last night. I find it strange that it appears that the letter from the Chief Justice was dated October 10 and these amendments were not previously canvassed; it appears they have been canvassed only as a result of the debate.

The Hon. D. H. L. Banfield: That is not right. The Chief Justice has been away and we have been attempting to interview him all the week.

The Hon. J. C. BURDETT: Yes, but the letter was dated October 10. If difficulty in getting in touch with the Chief Justice was the problem, why were not these amendments moved last night? I suggest they are moved only because of matters raised on this side of the Council. Because the matter is important and the amendments have only just been circulated, I should like to look at them and make sure I understand exactly what they mean. I would be prepared to debate and consider the matter later in the afternoon but, as a matter of courtesy, common sense, and decency, I suggest that I and other honourable members have an opportunity to consider exactly what they mean. It takes some digesting to fit the amendments into the Bill. Therefore, I ask whether the Minister of Health would be prepared to report progress; I would be happy if it was on motion.

The Hon. D. H. L. BANFIELD: I do not appreciate the reference to "decency", because the Government never attempts to steamroller Bills through this Council, as honourable members who have frequently sought leave to have progress reported when amendments have only just been circulated well know. I am happy to accede to the honourable member's request.

Progress reported; Committee to sit again.

*Later*:

The Hon. J. C. BURDETT: This amendment seeks to amend the position relating to the provision of a certificate by the Chief Justice. Clearly, this amendment would not have been moved if this matter had not been taken up by Liberal members last night. I do not oppose the amendment, although I do oppose new section 88, and I will oppose it at the app opriate time. However, if that new section is to exist (and I do not think it should), I do not oppose this amendment. As I said last night, it was improper to bring the Judiciary into this procedure, and it was improper to give the Chief Justice a *quasi* legislative or administrative and, certainly, a partly political function. I am pleased to see (undoubtedly as a result of what we said last night) that the Government has agreed to this amendment, which gives the elector somewhat more power. Subsection (5) of new section 88 provides:

> Any person entitled to vote at a general election of members of the House of Assembly shall have the right to bring an action in the Supreme Court for a declaration, injunction or other legal remedy to enforce any of the provisions of this section.

While that provision is there, certain things could be done if the Chief Justice gave the certificate, and it is certainly arguable that the right of the individual is restricted. It is hard to imagine how an elector could have gone to court and claimed that the Chief Justice was wrong, that he should not have given his certificate. Certainly, it would be almost impossible to imagine procedurally how that would be done.

If we are to have new section 88, then I believe that this amendment strengthens the right of the elector, because it means that in any circumstance, whenever a question arises of the Bill being presented in the circumstances set out in section 88, the elector has the right to go to court. There is no doubt that the Minister of Health's explanation of the amendment this afternoon is correct, that the idea of the certificate provision is to enable certain minor amendments to be dealt with without the whole procedure of new section 88 being opened up. This amendment takes care of the matters I canvassed yesterday. There appears to have been a fundamental breach of the convention that the Judiciary remains separate from Executive Government and from the Legislature. I am pleased that the Government has agreed to observe this convention and has removed the requirement on the Chief Justice to give a certificate in certain circumstances.

The Hon. R. C. DeGARIS (Leader of the Opposition): I support the views expressed by the Hon. Mr. Burdett, and my position is the same as his. I do not agree with new section 88, as I do not believe it has any part in our State Constitution. I was concerned that the Chief Justice was to be involved in what could be a serious political matter, and I am certain that the Hon. Mr. Sumner knows what I mean by "political".

The Hon. C. J. Sumner: You were being completely inconsistent.

The Hon. R. C. DeGARIS: When one uses the term "political" everyone knows what is meant. There can be no argument, and in this case exactly the same situation applies. I oppose the whole provision for that reason but, if the new section is to exist, it is far better if this amendment is in force. There were some amendments to this Bill which were logical and reasonable about which members just set their mind against and they would not even consider them. When it came to this amendment, members who were not members of the Liberal Party were approached, and they adamantly stated that they would support the Bill willy-nilly. I object to people entering this Council with predetermined views, being told what they are going to do.

*Members interjecting*:

The Hon. R. C. DeGARIS: I object to such a situation arising when a logical argument is advanced, when members are adamant and when we still cannot get any support for what is right and proper in regard to the Constitution Act. I am pleased that the Government, after examing this matter, has seen fit to remove the provision involving the Chief Justice or any of the Judiciary in what could be an extremely difficult political argument. If the new section is to remain, it is better for it to be in this form, but I oppose the whole clause.

Amendment carried.

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

In new section 88 (3) to strike out:

> Where the Chief Justice does not give a certificate under subsection (2) of this section in respect of a Bill to which this section applies then the Bill shall, on a day appointed by proclamation (being a day that

and insert the following:

> Where it is necessary for a Bill to be approved by the electors in accordance with this section, the Bill shall, on a day appointed by proclamation (being a day that

I gave the reasons earlier for this amendment.

Amendment carried.

The Hon. J. C. BURDETT: I wish to oppose new section 88, although I do not oppose the rest of the clause.

The CHAIRMAN: The question is "That clause 7, Divisions I and II, stand as printed."

Divisions I and II passed.

The Hon. J. C. BURDETT: I oppose the proposed new section 88, for the reasons I gave last night. I object to the entrenchment of this Part in the Constitution. There is no precedent, and none has been brought forward, nor is there any reason I can see why a simple redistribution Bill should be entrenched into the Constitution. The reason why there is no precedent is that there is no proper reason or point in the exercise, not that it has not been done. I do not raise it simply as a matter of precedent, that if there is no precedent we cannot do it, as has been suggested I said yesterday. The point is that I

see no proper principle which would entitle the Government to entrench in the Constitution what is simply an electoral redistribution.

The other principal ground on which I oppose the proposed new section is that it means that the entrenched portions cannot be changed without a referendum. It seems quite improper to take the power out of the hands of the Parliament and to entrench it so that it cannot be changed without a referendum unless first a referendum is held to see whether the people are prepared so to entrench that provision.

The Committee divided on Division III:

Ayes (11)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, M. B. Cameron, J. A. Carnie, T. M. Casey, B. A. Chatterton, J. R. Cornwall, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Noes (7)—The Hons. J. C. Burdett, Jessie Cooper, R. C. DeGaris (teller), R. A. Geddes, C. M. Hill, D. H. Laidlaw, and A. M. Whyte.

Pair—Aye—The Hon. C. W. Creedon. No—The Hon. M. B. Dawkins.

Majority of 4 for the Ayes.

Division III thus carried.

Bill reported with amendments. Committee's report adopted.

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

*That this Bill be now read a third time.*

The PRESIDENT: I have counted the Council and, there being present an absolute majority of the whole number of members of the Council, I now put the question: "That this Bill be now read a third time." For the quesion say "Aye", against "No".

The Hon. R. A. Geddes: No.

The PRESIDENT: There must be a division.

The Hon. R. A. GEDDES: Under Standing Orders, I believe there is provision for the recalling of a call for a division. It was a genuine mistake on my part.

The PRESIDENT: I will call off the division and again put the question to the Council. I have counted the Council and, there being present an absolute majority of the whole number of members, I put the question: "That this Bill be now read a third time." For the question say "Aye", against "No". The Ayes have it.

Bill read a third time and passed.

*Later*:

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

## CONSTITUTION ACT AMENDMENT BILL (ELECTIONS)

Second reading.

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

*That this Bill be now read a second time.*

The purpose of this Bill, which amends the principal Act, the Constitution Act, 1934, as amended, is to ensure that so far as is possible each time a general election for the House of Assembly is held an election to return half the members of the Legislative Council is also held. Honourable members will be aware that honourable members of the Legislative Council are at present elected for a minimum term of six years. When successive Houses of Assembly run for their full term (about three years) half of the members of the Legislative Council do, in fact, retire at each general election for the House of Assembly.

However, if for any reason a House of Assembly does not run its full term, it is possible that an election for half the members of the Legislative Council will not be held to coincide with the relevant Assembly election, for the reason that no members thereof will have served for the minimum term adverted to above. In some cases, therefore, a member of the Legislative Council could serve for almost nine years before being required to face the electors. If this measure is enacted into law, save in one set of circumstances only, an election for half the members of the Legislative Council will coincide with each general election for the House of Assembly.

Clauses 1 and 2 are formal. Clause 3 amends section 13 of the principal Act by repealing subsection (1) of that section, this being the provision that provided for a minimum term of six years for members of the Legislative Council. As amended, this section will now deal only with casual vacancies. Clause 4 repeals and re-enacts section 14 of the principal Act and provides that, in effect, half the number of members of the Legislative Council will retire at each general election for members of the House of Assembly. Actually, the amendment provides for 10 members to retire at the next election and thereafter for 11 members to retire. This recognises the progressive increase in the size of the Legislative Council from 20 to 22. Subsection (3) of this proposed section makes an exception following a dissolution of both Houses since in those circumstances section 41 of the principal Act, an "entrenched provision", provides for a minimum term of three years for a member of the Legislative Council.

Clause 5 repeals and re-enacts section 15 of the principal Act, which sets out an order of retirement of members of the Legislative Council. In effect, the application of this section will result in half the Council retiring upon each general election, the members to retire being those with the shorter period of service. The provision in this section for the determination "by lot" of members to retire will be called in aid only when more than the required number have the same period of service. This could occur only following a double dissolution. Subsection (2) provides that the term of a person appointed to fill a casual vacancy will be determined by the term of the member being replaced. The reason for the foregoing exception is that the minimum term of half the members of the Legislative Council is provided for by section 41 of the principal Act, which is an "entrenched provision": that is, pursuant to section 10a of the principal Act, it cannot be altered except by a Bill passed and approved of by referendum. In the Government's view, the expense of a referendum is simply not justified to authorise such an insignificant departure from the principle sought to be given effect to by this Bill.

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

## MONARTO DEVELOPMENT COMMISSION (ADDITIONAL POWERS) BILL

Adjourned debate on second reading.

(Continued from October 15. Page 1311.)

The Hon. C. M. HILL: In my view, this debate must involve the whole matter of the future development of the town of Monarto. Therefore, I intend to touch upon some matters relative to that, although I will endeavour to be brief. My second point is that I do not cast any reflection upon the officers of the Monarto Development Commission in my remarks: I think they have honoured their appointments in good faith and it is most unfortunate that they find themselves in their present predicament. No blame in my view should be placed on their shoulders. Indeed, the total blame in regard to the Bill before us lies at the door of the Government.

The Bill deals with the future of the Monarto Development Commission. The commission, I understand, comprises a group of 66 people, whose total annual salaries amount to $920 000. I believe the salary range of the officers concerned starts at the top with the salary of the General Manager of $28 490 a year, and then runs down through a general scale to about $5 000 a year.

The commission is divided into certain divisions. There is the General Manager, with a small secretariat. Then there is an Industrial and Commercial Development Division, with a Director whose salary is $18 648 a year. There is an Environmental Planning Division, with a Director on a salary of $18 648 a year. There is a Social Planning Division, whose Director receives $18 648 a year. There is another division, known as the Administration and Finance Division, which has a Director, who is an accountant, receiving a salary of $18 648 a year.

There is a Town Planning Division, with a Director who, I believe, holds a Diploma in Town Planning, and whose salary is $20 202. The Director of the Engineering Division receives the same salary, as does the Director of the Architectural Division. Then there is a Public Relations Division, on which the Government, I think, places a great deal of emphasis, and the Director of that division receives $13 364. In total, I understand the annual salary account for this whole group is, as I have said, $920 000 a year.

The Government seeks in this Bill to permit this commission to do outside consultative work, whether that work be of a private nature or whether it be for other Government or semi-government instrumentalities, and the Government particularly seeks to give the right to this commission to go to Darwin to do consultative work there.

I oppose the Bill. I believe that the Government's plan to establish Monarto was doomed to failure from the start. That it has failed is evidenced, first by the fact that the Government planned to spend $10 100 000 in this current financial year, 1975-76, but has now admitted that only $4 000 000 is available. Secondly, no long-term agreement has been completed with the Commonwealth Government regarding finance and of course, the bulk of the money in a venture of this kind simply has to come from the Commonwealth.

The long-term plans for Monarto, which stretched into and beyond the year 2000, I understand, ultimately envisaged a total expenditure in excess of $1 000 000 000. Certainly, by the year 1984-85, the Government expected that $600 000 000 would be spent there, and it hoped that about 80 per cent of that money would come from the Commonwealth. These plans have now been shattered. Staff has already been employed, as I have just mentioned, and that staff comprises the commission.

The Government has reached the stage where it has grouped this highly technical section of experts together. The Government having employed them, we now find out that they do not have any work, or have insufficient work to do, and the Government is trying to make arrangements to turn them out elsewhere so that they may be gainfully employed.

Another reason why Monarto has failed is that it is not untrue to say that no-one wants to go to live there. The Government has resorted to regimentation of individuals.

The Hon. N. K. Foster: That's not true.

The Hon. C. M. HILL: The Government has tried to force its own employees in this State to go to Monarto. Public servants in the Lands Department have been pressured to go.

The Hon. N. K. Foster: Qualify that statement. How have they been pressured?

The Hon. C. M. HILL: A statement is in *Hansard* to the effect that the Lands Department intends to transfer ultimately to Monarto. The officers simply did not want to go. What did they do? They took action through their association (and I commend them for that), which told the Government, loud and clear, what its members thought about it. Then the Government decided to try to put out bribes and incentives to try to encourage them to do just that.

The Hon. N. K. FOSTER: A point of order, Mr. President; is the Hon. Mr. Hill not out of order in suggesting that bribes have been offered to, if not perhaps accepted by, public servants of this State, on the one hand, as an inducement for them to go to Monarto or, on the other hand, forcing them to go to Monarto? The honourable member should qualify that remark in this place.

The PRESIDENT: The honourable member was speaking in general terms. He did not make any specific allegation against any person.

The Hon. C. M. HILL: Mr. President, so that the Hon. Mr. Foster can be in some way satisfied, if it is possible in any respect to satisfy him, I go back on the matter and point out that, when I used the word "bribe", I used it to mean an incentive.

The Hon. N. K. Foster: You tried to bribe people by buying up a whole host of newspapers in the city a few years ago.

The Hon. C. M. HILL: Incentives have been put out to the public servants to encourage them to go to Monarto. That cannot be denied. I understand the incentives related to matters such as the time of retirement, extra monetary payments to compensate people for disadvantages in having to live there, and so forth.

I was about to say that I was approached one evening by an employee in the Lands Department, and he was very upset indeed. He had made his home in the metropolitan area of Adelaide; he had been working as a specialist in the Lands Department for about 20 years; and he could see no future if he had to change that employment. His children were going to school down here in metropolitan Adelaide; he foresaw his whole family breaking up if he had to go to Monarto and live 45 to 50 miles away simply because the Government said that was where it was going to transfer the department. He was incensed at the Government's proposal.

This is the kind of freedom of choice that the Labor Party extends to its own employees, let alone to other individuals throughout the State. It is far worse when the person concerned is a captive employee, at a stage of his employment where he cannot turn back. He has to go on for 10 or 15 more years, before he can retire and receive the benefits of that retirement, including his superannuation, and so forth. He has no other alternative but to do what he is told.

The point I am making is that the Government has been endeavouring to force people to live where they do not want to live, and on that ground alone Monarto is a failure. Another reason it is a failure—

The Hon. N. K. FOSTER: On a point of order, Mr. President. I consider that the member is being unduly provocative, but that is not the point of order. Would the honourable member enlighten us as to the changes he would insist on forcing on the Education Department regarding the transfer in employment of teachers?

The PRESIDENT: That is not a point of order.

The Hon. N. K. Foster: I know that.

The Hon. C. M. HILL: I will not be silenced by the continual interjections and the ridiculous points of order taken by the Hon. Mr. Foster. Such action will not affect me at all.

My next point in justifying my claim that Monarto is a failure is that, when Monarto was first conceived, it was looked upon as a separate township, a separate future city apart from metropolitan Adelaide. Decentralisation was referred to in that concept.

However, as time went by, Monarto started to be described as a sub-metropolitan area, and the Premier used that expression on many occasions. We can see that the Government in establishing Monarto is seeking to stretch metropolitan Adelaide over an area of 80 kilometres to the east and to the west. As if it were not bad enough to have the metropolitan Adelaide area sprawling over 80 km from the north to the south, now, for good measure, the Government's vision is to extend metropolitan Adelaide over 80 km from the east to the west.

Moreover, the Government has referred to a plan to allow people to commute from inner Adelaide to this work site. The Government hopes people will commute to Monarto if they do not want to live there. Plans are in hand for a transportation system through the Adelaide Hills to Monarto. Any Government which seeks to implement a plan to spread further the metropolitan area to such an extent must admit that its plan has failed. Why has the plan failed? It has failed principally because of one major planning blunder made by this Government at the outset of its programme. The Government did not hold an open public inquiry to determine the necessary ways and means and how best the existing and future metropolitan Adelaide population could have its excess numbers siphoned off so that the current reasonable size of metropolitan Adelaide could be maintained.

I wholeheartedly support any plan which seeks to keep Adelaide at about its same size, or at a population level of about 1 000 000 or 1 200 000. The only successful way in the free world to plan a new town or to provide a new city that will be successful (where people will be accommodated in the way foreshadowed by the Government) is to allow people to have a say in the matter from the start. That is not my opinion: I was told that by a leading world town planner in London, in 1972. World experience has proven that new towns that have not been commenced initially with an open public inquiry have failed.

The Hon. J. E. Dunford: What is the name of this world planner?

The Hon. C. M. HILL: I do not think I will name him, but he was then a Labor member of the House of Lords. I will give his name to the Hon. Mr. Dunford privately. However, I want that point known, that the Government has made this blunder. What did the Government do then? Behind closed doors in its conclave in the State Administration Centre, the Government and its senior public servants (and I am not criticising them: they acted on instructions from their Ministers) got together and conceived this dream. No new town can succeed if it is started in this way.

The Hon. N. K. Foster: Where do you believe such development should take place?

The Hon. C. M. HILL: If the honourable member would listen, he would learn. Another reason why this project will fail (and I will touch upon the point raised by the Hon. Mr. Foster) is that the Government did not go back to Professor Jordan's report, a report which we all admire and which we all hail. Professor Jordan is a man for whom I am sure all honourable members have a high regard. In his report on the environment, he said that the question of a new town should be fully investigated, and he suggested a possible location east of Port Pirie, pointing out that, at least, that site should be looked at as a start. That comment might, in some way, satisfy the Hon. Mr. Foster.

Faced with this failure, the Government continued to gain publicity from the Monarto project. The Government has a first-rate public relations operation. It has all its plans and models set out, and the Government is encouraging people to inspect them. It is telling visitors everything about the plan. It appears to me (and I stand to be corrected if I am wrong) that it is placing special emphasis on encouraging schoolchildren to inspect its plans.

The Hon. N. K. Foster: What is wrong with that?

The Hon. C. M. HILL: Nothing, but the Government is placing special emphasis on this aspect. Is there any real benefit in such inspections by schoolchildren if the project is not to proceed? Certainly, that aspect must be questioned. The situation has developed and the Government has created a commission requiring about $1 000 000 of public funds for salary payments, yet the commission has no work to do. In this situation, what does the Government do? What does this commission, employing 66 experts, do? The Government now seeks to use them in the private sector, which is already hard pressed for work and which is hard pressed to earn a livelihood. These 66 profressionals are now expected to compete for work with the private sector. That is a fine state of affairs, and it is something for which this Government should stand condemned.

The Hon. C. J. Sumner: There is nothing wrong with that.

The Hon. C. M. HILL: From the honourable member's point of view, I can agree; however, from my point of view, there is much wrong with it. What is the second thing that the Government seeks to do with its commission? It seeks to direct its attention to Darwin. However, Darwin does not want any more planners. It is on record that the Mayor of Darwin (Dr. Ella Stack), the Leader of the majority party (Dr. Letts) and many other leading citizens in that town have said repeatedly that they are fed up with planners and that what they want is houses. Only a month or two ago we found that not one house had been completed in Darwin.

The Hon. D. H. Laidlaw: They will finish about 20 houses this year.

The Hon. C. M. HILL: If 20 houses are finished this year, they will be lucky. Because of the situation existing, the South Australian Government wants to direct its 66 specialists to Darwin to do even more planning. Surely we must keep our feet on the ground. We have to be realistic.

The Hon. M. B. Cameron: The commission is expert in how not to progress.

The Hon. C. M. HILL: I again stress that I am not critical of the commission's staff. In fact, I have much sympathy for the predicament in which the staff finds itself. I want to be positive and constructive.

The Hon. N. K. Foster: For how many years was the Snowy Mountains Authority established before it turned the first sod? It was spoken of in 1875, and engineers undertook a feasibilty study in 1885. In all, over 100 years was involved.

The Hon. C. M. HILL: Is that the kind of record that the Government seeks to emulate? The Hon. Mr. Foster supports the establishment of an organisation, and he wants

to see the organisation get on with the job about 100 years later. That follows in sequence upon what he is saying. It is a load of rubbish.

The Hon. D. H. Laidlaw: Out of the horse and buggy days.

The Hon. C. M. HILL: Of course. Let the Council be positive and constructive in this way, fair to private enterprise, to Darwin, and as fair as possible (now that the Government has got itself into this fix) to these personnel. The number of personnel in the commission should be allowed to run down. I would be opposed to any retrenchments of any kind, but I know that these people are specialists whose services are needed as individuals all over Australia and in the international market. If we gave them time to find alternative employment, and if we gave them adequate compensation (because I have no doubt some of them are under contract and the Government must face up to its commitments, although I know it does not like giving adequate compensation), in time their numbers could be reduced.

A small nucleus, a limited number, should be retained, because some work will go on in Monarto; for instance, State's money to the extent of $3 200 000 has been set aside by the Government for the project, rather than to provide schools at Two Wells and other places, where the Government has said it does not have enough money to spend. That small group should be absorbed within the South Australian Housing Trust, and I believe the time has come, because of the changed events and the failure of the Government in relation to Monarto, for the South Australian Housing Trust to take over the job of overseeing and supervising all the plans for Monarto. If that was the case, a small group of these people could give invaluable assistance because of their previous involvement with the project.

The Hon. D. H. Laidlaw: The Housing Trust did well at Elizabeth.

The Hon. C. M. HILL: Exactly. That point should be stressed even further. Critics who say that the South Australian Housing Trust cannot do the job in the extremely limited way that will occur at Monarto should be reminded of the success of the Housing Trust in building the new town of Elizabeth. That is not a dream, or something on paper; it is there in bricks and mortar, and it is a wonderful social structure for everyone to see. I believe that the continuation of this commission is unnecessary. It is socialistic in concept, if it is to be taken as a separate entity and set up as an authority doing work different from that which it was originally designed to do.

The Hon. N. K. Foster: You didn't do such a good job at Whyalla.

The Hon. C. M. HILL: The Housing Trust did not plan Whyalla. The Hon. Mr. Foster is having a bad day today. I hope he improves in the debate to come later in the afternoon. The Government is to blame for this whole mess. I am sheeting the blame home to the Government, and it is only an excuse for the Government to hide behind the sharp drop in population that has occurred when it talks about the reasons for Monarto's not progressing as planned. A proper inquiry on the subject by the Government as to future population growth would have warned it of the possibilities that lay ahead.

The Hon. N. K. Foster: You had better read the Borrie report, and read it properly.

The Hon. C. M. HILL: It is the Borrie report that leads me to say, on the basis of population, that Monarto is a failure. The Government has got itself into a mess, and this Bill will not rectify the position. If we pass this measure, the problem will remain. The Bill does not solve the problem, and the Government does not have the courage to act as it should in regard to this commission. It is frightened, scared of loss of face and loss of prestige and, although I repeat that I regret very much the uncertainty with which these people are faced, regretting also that these individuals are drawn into the matter in this way, I simply cannot suport the Bill.

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

## AUSTRALIAN PARLIAMENT

The Hon. D. H. L. BANFIELD (Chief Secretary): I move:

That this Parliament deplore and condemn the action of certain Senators in announcing that they will vote to refuse Supply to a duly elected Government in the Australian Parliament. In the history of this State, despite the fact that there have been many years during which a Government has faced a hostile majority in the Legislative Council, our Upper House has never entertained a motion to refuse Supply. A Government has a right to continue to govern according to law for the period for which it was elected to govern.

The simple facts of the Constitution are that a Government is chosen by the people in electing a majority in the Lower House of the Parliament, and that Government is elected for a period specified in the Constitution, regardless of whether it has a majority in the Upper House of a bicameral Legislature or not. Although it is true that all Bills must pass both Houses of Parliament (and that includes Supply Bills), no representative system of Government on the Westminster system can operate if an Upper House interferes with the money power that traditionally resides in the Lower House, by refusing Supply to a Government. In all the years during which there have been Labor Governments in South Australia, there has always been a hostile majority in the Legislative Council.

The Hon. R. C. DeGaris: I object to that word "hostile".

The Hon. D. H. L. BANFIELD: However, it has never refused Supply. There was a constitutional argument at the time of the Verran Government about the Government's tacking on other measures to Supply, but a specific refusal of Supply to oust a Government has always been held to be so far contrary to the effective working of the Constitution that it has never, to my knowledge, even been proposed. The reason for this must be obvious. The people are entitled to stable Government. They elect a Government for a period of time that is deliberately chosen to give sufficient time to a Government to carry out policies on which it was elected.

Inevitably, Governments from time to time must do things which are temporarily unpopular but which are aimed to have long-term results that the Government believes will gain majority support. If an Upper House was so far to depart from being a House of Review to becoming merely a Party instrument as to wait for any situation in which it believed that the Government of the day was temporarily unpopular, and then force an election for Party advantage, continued responsible government in Australia would become impossible. Voters could never elect a Government in the knowledge that it was able to remain in office for long enough to carry out the policies upon which they had elected it, and the whole institution of Parliamentary democracy would founder.

There is no excuse for what is happening in the Senate at the moment in the rejection of Supply. There is a reason, of course, and that reason is just the one to

which I previously adverted. The Liberal-Country Party majority in the Senate believes that its Parties have a temporay political advantage in the electorate and, therefore, it is prepared to bring this country's Constitution into chaos and disaster in order to gain power by forcing a Government to an election which the Opposition believes the Government will lose. If, in fact, Liberals in this State support that principle, undoubtedly we are due for Constitution alterations in Australia and would have to propose them promptly in this Parliament, and they would be to deprive the Upper House of the right to reject a Supply Bill. That would have to be carried at a referendum of the people, and I believe it would be carried. This matter is so clear that I do not believe there is any necessity for prolonged debate. All people who are concerned for the continuance of responsible government will join with this Parliament in condemning the shameful and improper actions of the majority of the Federal Senate.

The Hon. R. C. DeGARIS (Leader of the Opposition): At the outset, I indicate that I intend to move to amend the motion so that it will read as follows:

That this Parliament agree that the action of certain Senators in announcing that they will vote to refuse Supply to a duly elected Government in the Australian Parliament is manifestly within their rights. A Government has a right to continue to govern according to law for the period for which it was elected to govern, subject always, however, to its adherence to the Constitution of the Commonwealth, its practice and convention.

In doing so—

The Hon. N. K. FOSTER: On a point of order, Mr. President, I want to raise a matter very seriously. In endeavouring to listen—and I think it would be fair if I were to say this before referring to the point of order, if I may be permitted that latitude—

The PRESIDENT: I think the honourable member should deal with the point of order.

The Hon. N. K. FOSTER: I must protest at an amendment of such length to this motion. How can members on this side know whether the amendment is in any way conflicting with, or is even a direct contradiction of, the motion? Such an amendment should be in writing and on the desks of members so that they can determine what is involved. The mumbled manner in which the amendment is being dealt with indicates that that may well be the case.

The PRESIDENT: Order! I was about to ask the Hon. Mr. DeGaris, before the Hon. Mr. Foster raised this point of order, whether he would supply me with a copy of his amendment in writing.

The Hon. R. C. DeGARIS: As soon as I saw the motion, I approached the Parliamentary Counsel to assist me in drafting this amendment. It is being typed, and it will be circulated. I can do not more than that.

The PRESIDENT: I think the honourable Leader may proceed.

The Hon. N. K. Foster: Will he please speak up? I can't hear this fellow.

The Hon. R. C. DeGARIS: I said that I have spoken to the Parliamentary Counsel regarding this motion. He has helped me draft my amendment and, as far as I know, it is being typed and will be circulated. The motion came on the Notice Paper only this morning. I saw it, and—

The Hon. N. K. FOSTER: I rise on a point of order, Mr. President.

The PRESIDENT: What is the point of order?

The Hon. N. K. FOSTER: It seems to me that, in the absence of any procedure on this matter, it is totally unfair and places the Government at a distinct disadvantage. The way the Leader of the Opposition is proceeding does not afford Government members an opportunity to ask the President to rule whether the amendment is in direct contradiction to the motion. If we had the amendment in writing, we would be competent to do that. However, it is unfair for you, Sir, to make a ruling on an amendment when honourable members have not got it in writing. The Hon. Mr. DeGaris should not move the amendment at least until a copy of it is in the hands of the President.

The PRESIDENT: I do not think the Hon. Mr. DeGaris has moved it at all. He has merely given notice of his intention to do so.

The Hon. N. K. FOSTER: It is at that point of time that honourable members with inquiring minds on this side of the Chamber would wish to raise with you, Sir, the question of a ruling on the amendment. Such a question should be resolved when it is indicated that the amendment is to be moved.

The PRESIDENT: I have already asked the Hon. Mr. DeGaris to supply me with details of the amendment in writing. As I understood it, he said that was being done. If the honourable Leader supplies me with that statement in writing, it will be circulated to all honourable members. The Hon. Mr. DeGaris can proceed with his speech now because, at this point of time, he has only indicated his intention to move that amendment later.

The Hon. N. K. FOSTER: On a point of order, Sir, I ask you, in all seriousness, whether members of this Council, not only those on the Government side but also Opposition members, are going to be prejudiced or disadvantaged later in the debate in raising with you a point of order. I point out, with due respect to you, Sir, or to anyone who occupies the Chair, that it would be unfair if the Leader, who has given notice of his intention to move an amendment, proceeded in the debate and was allowed to speak for an unlimited time, say, two hours, before Government members could raise the question whether or not the amendment was a contradiction of the motion before the Council. You would have heard a debate from one side but not from the other. The matter should be laid aside until the amendment has been circulated.

The PRESIDENT: Order! The Minister of Health has moved a motion in the Council. That motion having been duly seconded, the matter is now open for debate. In commencing his contribution to the debate, the Hon. Mr. DeGaris gave notice of his intention to move certain amendments to the motion. Those amendments will be circulated and, if and when any honourable member moves those amendments, it will be open for any honourable member to take a point of order regarding their validity.

The Hon. N. K. FOSTER: I am sorry if I seem to be persistent and to be taking up the Council's time, but I make the point that, at that time, Opposition members could have debated the matter for the whole afternoon or for the length of time permitted under Standing Orders. The Hon. Mr. DeGaris could take up the Council's time for the whole afternoon and we would, perhaps, not return to the debate until Tuesday week.

The PRESIDENT: That is a matter for the Council to decide.

The Hon. N. K. FOSTER: I am sure it is. However, in the normal sittings of the Council, you could be expected, with due respect, to be influenced by the contributions made by Opposition members.

The PRESIDENT: Order! I do not intend to argue with the honourable member. This Council can sit here until 1 a.m., or indeed all day and all night, if it so wishes. That matter is under the control of honourable members. The Hon. Mr. DeGaris's proposed amendment will be circulated in due course. As far as I can understand the amendment at present, it does not negate the motion, although it may change the tenor and effect of it. The Hon. Mr. DeGaris.

The Hon. R. C. DeGARIS: I deplore this sort of motion coming before the Council, as it is designed purely for political purposes.

The Hon. C. J. Sumner: What do you think we're doing here?

The Hon. R. C. DeGARIS: I have no intention of speaking for two hours, as the Hon. Mr. Foster has challenged me to do. I will say what I have to say quickly and concisely, and sit down. Most of the time so far today has been wasted by inane points of order being taken. I do not believe it is within the spirit or role of this Council that a motion like this should come before it. The motion contains a back-handed compliment regarding the work of this Council. I agree that its role and function throughout its history have been exemplary.

I remind honourable members that that history is one of which I am proud. That exemplary record is, however, being undone by this kind of motion being moved in the Council. The motion refers to a hostile Upper House in South Australia. However, this Council has never been a hostile one. This is borne out by what the motion says. This claim about the Council's being hostile has been a constant claim of Government members and now, when it suits them, the same people are laying claims regarding the excellent manner in which the Council has conducted itself over the years.

How can any claims be made that this is a hostile Chamber? The Council is a part of the Constitution of this State, having done over the years an excellent job of which all honourable members and everyone in South Australia should be proud. Constantly to refer to the Council as a hostile House is anything but the truth. It has never been such, nor will it be while I am here. If one examines the matter one sees that the hostility has always come from certain elements in the Parliament that have sought publicity and to play the role of dictator. That situation is not restricted to members of any particular Party.

As I have said previously, I am an upholder of Parliamentary convention and of the Constitution of this State. I go further and say that I am also an upholder of the spirit of convention and of the Constitution. Recently I issued a press statement in relation to a Bill. I said that I would support it because I believed that the conventions of Parliament would have me support it. When I made that statement I was faced with press statements that were designed to draw political publicity.

I clearly stated that I would support that Bill and that I would observe what I believed was the right thing to do in relation to the Constitution Act. No-one can accuse me of being other than a person who has supported absolutely the understandings and conventions attached to Parliament. I believe that the conventions, if one can call them that, required me to vote for that Bill. At the same time one must recognise that the Constitution itself provides that, if any honourable member feels so strongly about a situation, he can take a contrary view and defeat a Bill for a second time; that must always be his right and his judgment. Some members today are going to talk about the conventions of Parliament, yet those members made press statements in connection with the Bill that, unless their will was done, the Bill would be defeated.

There are conventions, and there is a spirit in those conventions that should always be observed by honourable members. Further, there is a spirit in the Constitution that should always be observed, as should the actual words of the Constitution. This motion refers to members of another Parliament, and even the Standing Orders place certain constraints on us in relation to that matter. In this connection I refer honourable members to Standing Order 193. I observe not only that Standing Order but also the spirit of it. The Commonwealth Constitution provides that the Senate may act to compel a Government to face the judgment of the people; that is written into the Commonwealth Constitution. If the Senate decides on that action, it has a clear constitutional right to do so. This view was expressed by the then Attorney-General, Mr. Justice Murphy. In his Budget speech of 1970, the Prime Minister made the following clear statement of the position:

> Let me make it clear at the outset that our opposition to this Budget is no mere formality. We intend to press our opposition by all available means on all related measures in both Houses. If the motion is defeated, we will vote against the Bills here and in the Senate. Our purpose is to destroy the Government which has sponsored it. We all know that in British Parliaments the tradition is that, if a money Bill is defeated, the Government goes to the people to seek their endorsement of its policies.

The right of the Senate to defeat a money Bill cannot be in dispute. The rejection of Appropriation Bills should be undertaken by Upper Houses with the greatest reluctance and the utmost caution. The Senate itself must answer the question, and the Senate alone may make that judgment. If this Council passes any motion on this matter, it should only be one confirming the constitutional rights of the Senators to make that decision within their existing constitutional rights. If the Senate makes that decision, it is making it within its rights and under the Commonwealth Constitution. Whatever reasons the Senate has for taking that action are irrelevant to the argument: what is relevant is the action of others if that decision is taken. I do not wish to canvass the reasons because I do not believe it is right that we in this Council should debate the reasons why another House of Parliament takes a certain action. When that action is taken, there is only one action that any Government can take—to consult its ultimate masters, the people of Australia.

The Hon. C. J. Sumner: Every six months?

The Hon. R. C. DeGARIS: It does not matter whether it is every six months or every five minutes. What we are dealing with here is the written word of the Commonwealth Constitution. I deeply regret that this Council, with what I might term a rather majestic legislative record over many years which has been constantly and unfairly berated and used by political opportunists for their own narrow political propaganda, is now to be used for the passage of a motion designed only to seek short-term political gain. I have done all I can to circulate my amendments to the motion. I move that the motion be amended to read:

> That this Parliament agrees that the action of certain Senators in announcing that they will vote to refuse Supply to a duly elected Government in the Australian Parliament is manifestly within their rights. A Government has a right to continue to govern according to law for the period for which it was elected to govern subject always, however, to its adherence to the Constitution of the Commonwealth, its practices and conventions.

The PRESIDENT: Is the motion seconded?

The Hon. R. A. GEDDES: I second the motion.

The Hon. M. B. CAMERON: As I understand it, I can now speak to both the motion and the amendments. I find it difficult to speak to the amendments because they have not yet been circulated. I was rather taken with one remark of the Hon. Mr. DeGaris in response to an interjection that we might have elections at various periods of time and we could not really rely on any term. He said, "It does not matter if we have an election every five minutes or every six months." If that is the attitude adopted by the Liberal Party in this Chamber, I am pleased I am not a part of it, because Governments are elected for a period of time, as laid down in the Constitution. If an Upper House (and, in particular, an Upper House formed of members and people who are no longer there but are resting in Brisbane, who have been improperly elected to represent a particular Party or fill the place of a member who has died) does this sort of thing, that is quite out of order.

The voting in the Senate yesterday was 29 to 28, the one person missing being Senator Field, whose appointment to the Senate was quite improper. There are Senators from this State who have taken this action to bring about the downfall of the Government that I do not support. Nevertheless, I do not approve of the action of those people in attempting to bring down the Government and put this country into electoral chaos. If that is the sort of situation facing Australia, goodness gracious me—what sort of a mess will we get into with that attitude on our side of politics! It is a disgrace that this side of politics is leading the country into such a mess. I am ashamed that the Liberal people brought this about. We are supposed to be the defenders of democracy, yet this is happening.

I have been gravely concerned for some time about the lack of response from the Commonwealth Leader of the Opposition, Mr. Fraser, to questions about whether the Upper House would deny Supply. I am amazed that an Upper House, a supposedly independent House, should act in this way. I would be amazed if Dr. Tonkin, the Leader of the Opposition in another place, advocated such a course of action even before it was taken. Does that mean that members here will in future take the same sort of direction? Will Dr. Tonkin at some future stage give that direction to members on this side of the Chamber? Why did he not do it on the last occasion, if he thinks it proper now, if he thought the Budget of this State was so bad? It is quite improper. I support the original motion but not the amendments, which water it down. In fact, they are almost a contradiction of the motion, and it is entirely within the province of this Council to try to get some sort of sanity back into the Liberal Senators of this country and into the electoral process.

The Hon. N. K. FOSTER: Were it not for the fact that I have not had an opportunity to consult the Leader of the Government in this Council, I would seriously consider seeking a ruling on the basis that the amendments should not be considered as they are a direct contradiction of the motion. There are some precedents for rulings by Speakers and Presidents of other Parliamentary systems and Houses that I could refer to as regards the manner in which the amendments came into this place, although I do not deny the right of the Hon. Mr. DeGaris to move them. I think his attitude to the Council and the way in which he introduced his amendments leaves much to be desired. He shows an absolute and total disregard—almost that of an anarchist, the man who sits here and purports to be the champion of Parliamentary and Commonwealth conventions, if not of the Constitution.

Last night, during the course of another debate, I raised a point of order, realising that in so doing I would incur the wrath of the Chair. I took that stand because I strongly hold the view that the institution of Parliament stands firmly on the traditions of what must happen to Ministers if they dare to mislead the House. Standing Orders of all sorts of Parliaments—

The Hon. C. M. Hill: What about Prime Ministers?

The Hon. N. K. FOSTER: I will come to that and to the late Harold Holt, who was Prime Minister, because I do not intend to take this matter lightly, as did the honourable member who preceded me in this debate. Mark you, great importance is attached to tradition by the present Prime Minister, that, if a Minister misleads the House, the consequences of so doing are that he is annihilated. There have been a number of instances of this happening in the United Kingdom and I could name a few others in the Liberal Party, but, for the benefit of honourable members here and of people outside this Chamber, my point is that it irks me, as a citizen of this State and of Australia, that it happens. It is, in fact, automatic, yet privileges are accorded to every member of Parliament (and in this Parliament more than in the Parliament of any comparable country) that enable me and all of us here to lie and distort facts against any member of the community or any person walking down the street. I can say what I like in this place against any person who sits in the press gallery; I can malign him and destroy him, and that person has virtually no redress at law. If we consider that the House is misled (and decide that on a proper basis it is really misled) and we weigh that against the consequence for people outside this Chamber, I say that we should all have a conscience in regard to that matter.

There was the occasion when two members of the public under a previous Prime Minister (Sir Robert Menzies) were dragged before the Bar of the House. There should not exist in any Parliament a Bar of the House. It takes away the right of a citizen of the Commonwealth and we saw, in fact, two men dragged before the Bar of the House, and one was innocent and should never have been there. He was almost totally, utterly and absolutely destroyed. We have had the situation in this very Chamber of members of a religious order being dragged into this Council at the Bar of this place, 2 m from where I stand, to address this Chamber. It was a denial of the democratic and individual rights of an individual in the community. That matter should have been resolved by the electorate.

We had a Prime Minister of this country, John Gorton (previously a Senator) and at that particular time of the Commonwealth Parliament, members of the Opposition in both Houses raised the question of the tabling of certain documents in regard to flights undertaken by a Minister of the then Holt Government, and indeed other people within the Parliament, in V.I.P. aircraft. There was a refusal in the Lower House to table those documents, but Senator Gorton (as he then was) told the truth of the matter in the Senate. The appropriate Minister, the Minister for Air (Mr. Howson), was almost under instruction from the Cabinet room, and at least from the Party room (no question about that). I served in the same Parliament with this gentleman and I will refer to that again later. On the involvement in Vietnam in regard to much the same principle—

The Hon. J. C. Burdett: What about the motion we are debating?

The Hon. N. K. FOSTER: Never mind about that. I am putting to you quite seriously that Howson was annihilated; he was a sacrificial goat for a Prime Minister who misled that Parliament. If I remember correctly, it was the 26th Parliament, but it may have been the 25th. Anyway, it was misled and Howson was the sacrificial goat. Where, then, stands these great lordly gentlemen, the Frasers and the Lynchs and their contemptible colleagues, who say in the House of the Federal Parliament today that the Prime Minister is guilty because one of his Ministers is guilty? I shall not go into the guilt of the Minister on this occasion because I think there will be historians who will debate this matter for many a long day.

I put it to you, Mr. President, that the actions of the Opposition are reprehensible in the extreme, or the least, whichever way you like to take it—the reprehensible actions by a person in the Commonwealth Parliament who destroyed a previous Prime Minister in a most shameful way. He destroyed a previous Leader of the Liberal Party on a previous occasion. Malcolm Fraser, the member for Wannon, said on the following day that he was not in Canberra, that he was not in the Parliament. Let me say here and now, Mr. President (and it is not irrelevant to the debate) I spoke and put certain matters to Mr. Fraser on the very night that the runners were out to win support on behalf of a Minister in the Lower House, whose responsibility it was for the passage of a Bill. I spoke with Malcolm Fraser in his office. Far be it for me to say a bloke is a damned liar. One would have to think of some Parliamentary term like "misleading" or something of this nature, but he was there. He destroyed John Gorton, and he destroyed a Leader of his own Party.

But I want to get much more serious than that, and I will come to that directly. I now raise the question of whether Parliament was not being misled in relation to a matter as serious as in 1965, if not earlier than that, namely, the involvement of this country in a war in Vietnam. For all of the probing and all of the effort put in by the then Opposition (which was the A.L.P.) to find out how we came to be involved in that war, there was never any real substance given to the House by way of tabling of documents. It is quite obvious, from what historians have already written in the short time after that most unfortunate involvement, that the then Prime Minister, Sir Robert Menzies, misled the House, or could not, at least (to be fair to him), prove to the House that he had a document or a letter from South Vietnam seeking the assistance of the armed forces of this country to intervene in a civil war. And if there are any members on the other side of the Council who doubt what I say, let them interest themselves in the Pentagon (not the Watergate) papers, and they will find that what I say by way of inference on the one hand, and directly on the other, is supported by the Pentagon papers.

When that was revealed, considerable debate ensued in the Federal House, and the unfortunate Mr. Howson (and I have not looked at *Hansard* today and cluttered my mind with a lot of undue verbiage like the honourable member who has now left the Chamber) was at that time under some pressure in the House of Representatives during a debate that ensued as a result of the misleading of the House. The unfortunate Mr. Howson who, I think was Minister for Aboriginal Affairs and about 27 other bits and pieces, got up in the House and made some reference (and it is relevant to this particular debate)—

The PRESIDENT: Order! I was about to say to the honourable member that what he is saying is very interesting but not relevant to the motion.

The Hon. N. K. FOSTER: Isn't it? We are talking about a constitutional crisis. One could range over the whole breadth of the Constitution of this country, Mr. President, in regard to this motion that is before the Council, and what the motion does not include in that regard the amendment most certainly does. I come to the point that this matter is before us today because of an accusation by the Leader of the Federal Liberal Party that the Prime Minister has misled the House, apart from what Mr. Rex Connor has done as a previous Minister of that place. The fact is, if I may end on the question of the involvement in Vietnam and get back to constitutional quarrels and arguments and crises that have been evident in both the State and Federal areas since Parliaments were elected in this country, that the unfortunate Mr. Howson was unable to convince the House, or supply the House with information in regard to how Australia's involvement came about in Vietnam, other than to say that on a casual visit to Saigon he picked up a letter written in French (and he admitted his French was not too good) and it was put forward that that letter was a confirmation of a request by Vietnam for assistance in that very sorry spectacle in that country. John Profumo, in the British House of Commons, tried to fool Ministers and his Prime Minister.

The Hon. C. J. Sumner: Did the Government resign?

The Hon. N. K. FOSTER: The Government did not resign, no more than Harold Holt resigned. If I may say so, Harold Holt did not resign but he came to an unfortunate end, or at least we do not know what happened, because of the pressure of people like Fraser in the Liberal Party to get rid of him. Make no mistake about that. They were not happy with Harold Holt; there was considerable pressure on Harold Holt.

The Hon. C. M. Hill: Absolute rubbish!

The Hon. N. K. FOSTER: It is not absolute rubbish. That has been said to me by at least one of your colleagues in this State. There is no doubt about that. The Prime Minister of Great Britain did not resign over the Profumo affair, and I can give many other examples. All members must admit that politics is a blood sport. This morning I heard that lightweight Doug Anthony, the man who profited from the Crown when he was a Minister in the Australian Parliament. He obtained a free and expensive house in Canberra, as did his National Country Party colleague, Sinclair. True, Hunt did not so profit when he was a Minister of the Interior but those are just a couple of examples of what can happen.

Was not Anthony refused a loan in normal circumstances from normal lending institutions? Yet when the rural industry was at its lowest ebb he was able to secure a loan from the Commonwealth Development Bank. What was the interest rate charged? If honourable members opposite are honest Liberal politicians they will do some groundwork on this matter. I will be interested to see what answers they come up with. There is also the matter of expediency in politics. I emphasise the point that people are much more important than is the petty pilfering of policies and politics.

Senator Withers (Senate Leader) first said as early as 1973 that he would drag the Government down through

the measures open to him. I should now like to examine Senator Withers. He turned his own Bunbury business office into his electoral office, he employed his wife and ripped off the Australian taxpayer. I will make no more mention of that, Mr. President—

The PRESIDENT: I was about to rule the honourable member out of order if he continued to make reflections on individual members of the Commonwealth Parliament.

The Hon. N. K. FOSTER: Individual members (Withers or whoever it may be); I will have to think of their districts, but a Senator from Western Australia, who is the Opposition Leader in the Senate, has done as I have already described and perhaps one can say that he, too, has "profited from the Crown". In reporting that situation, the *Advertiser* confused "Withers" with "Willesee" and, as I believe a writ was the result of that action, I will say no more about that situation.

What has brought about this constitutional crisis? It is obviously the unscrupulous attempt and grab for power by an individual. Perhaps the author of a book published in recent years chose his title unwittingly in view of these latest developments. Nevertheless, this individual's (Fraser) actions, in addition to the result of a combined meeting of the Opposition Parties in Canberra, have plunged the nation into a morass of constitutional dilemmas, and no constitutional authority or any number of learned legal opinions can clear up the matter.

Moreover, I point out that, when one of the elected Opposition Senators sought permission to leave the meeting to make up his mind regarding the topic being considered by the meeting (that is, the refusal of Supply), this Senator, who is also a solicitor from Victoria, was granted leave to withdraw from the meeting to make up his mind yet, while he was absent from the meeting, the vote was taken. So much for democracy!

Would people have the right to be irked if the same procedure was adopted for matters dealt with by the Senate? I think so. Who is the man who has precipitated the country to the brink of a crisis? Who is this wealthy, tall, towering man, this tall towering dwarf, this wealthy man in his own right, this man who is not honest enough to state publicly what his wealth is? I refer to the following report in the *National Times*:

Mr. Fraser is a man of considerable personal wealth whose extent is not well documented in the public record. The report goes on to show the fiddle he has indulged in. That does not surprise me—it merely means that he can continue to fiddle so far as Australia's constitutional rights are concerned. Bearing in mind that the Senate has the right to reject Supply, Opposition Senators do not even have enough guts to state openly their convictions on this matter.

The PRESIDENT: Order! The honourable member must remember that he is debating a motion in a State House of Parliament. He must temper his language. His language has gone beyond the use of proper Parliamentary language. The honourable member is also reflecting on the Commonwealth Houses of Parliament and on honourable members thereof. He is clearly out of order. I must ask the honourable member to observe Standing Orders.

The Hon. N. K. FOSTER: I must apologise, Mr. President, if I have done that. That was never my intention, even if I inadvertently said that some of those people were beyond the pale. I could refer to the number of changes undertaken in previous Governments, as listed in *Hansard*, which you, Mr. President, permitted a previous speaker to quote at some length. I did not hear you pull him up in that regard when he quoted a member of the Commonwealth Parliament.

The Hon. R. C. DeGaris: That was different.

The Hon. N. K. FOSTER: The Leader quoted from Commonwealth *Hansard* and referred to a Commonwealth member.

The Hon. R. C. DeGaris: Yes.

The Hon. N. K. FOSTER: Was the honourable member called to order by the President? However, I will let that matter pass. The fact is—

The PRESIDENT: Order! The honourable member has referred to something which was said by the Hon. Mr. DeGaris, but his statement was not a reflection on anyone. He was reading from a document.

The Hon. N. K. FOSTER: It was a reflection so far as I am concerned, because he did not read the whole of the document. I want to continue—

The Hon. C. M. Hill: Do you think you're still back in the House of Representatives?

The Hon. N. K. FOSTER: No, I do not. My point has relevance because a Standing Order of this Council has some bearing on the crisis we are now confronted with. I refer to the Standing Order which deals with the appointment of a person to the Senate and which gives a direction in the matter. A limitation is placed on the matter and, if the Hon. Mr. Hill looks at it, if he reads section 15 of the Constitution—obviously from the look on his face the honourable member does not even know what I am talking about. He should get a copy of the Constitution and read it. I am not talking about Standing Orders but about a section of the Australian Constitution, which is referred to in that Standing Order.

The Hon. C. M. Hill: Can't the honourable member recognise my copy of the Australian Constitution? Obviously, he has never read it.

The Hon. N. K. FOSTER: Yes, I have read it. I have a copy of the Constitution here, and one can get a copy of it from several sources. The fact is that this Council has a role, but there is a limitation placed on its role. I suggest that the honourable member look up what the position is. I suggest to the Hon. Mr. DeGaris, in view of his constant referral to the Commonwealth Constitution, to which I have also referred, that in the event of a half Senate election, which is apparently what could result from what has been said today, to what length do the Lewises, Bjelke-Petersens, Hamers, and Courts go to elect Senators before June 30 next in compliance with the Constitution?

I have referred to the matter raised by the previous speaker. This motion seeks to condemn the actions of an Opposition Party which should be condemned on the basis that it is acting in a manner which will deny a section of the Australian people its right through the denial of Supply. It will deny these people their rights to their salaries, weekly wages and so forth. Is it going to put us back to the time when a previous Government, before Federation, was put in much the same position in Victoria? There is some parallel. We have the shocking situation of this fellow, whose surname is Hannah, the Governor of Queensland, addressing some people yesterday, attacking Government. The only coincidence I can see is that both he and Philip Game, who did the same thing in New South Wales, were air marshals. I am grateful that the Governor of South Australia is not a former field marshal or air marshal.

The amendment, as I see it, without having a printed copy in front of me, even though the debate has been raging for an hour, is a direct contradiction of the

motion, and without resiling in any way, shape or form, and without wishing to reflect upon your position in this place this afternoon, Mr. President, I think the Hon. Mr. DeGaris, the Leader of the Opposition, placed you in a most unfair and invidious position. I consider it would be unfair, without having that amendment in front of me, to seek a ruling from you regarding whether or not it is a direct contradiction on the motion.

The Hon. R. C. DeGaris: Do you disagree with my amendment?

The Hon. N. K. FOSTER: The Leader went on for 20 minutes about an amendment and did not even have the decency or the courtesy to acquaint us with it in writing.

The Hon. C. M. Hill: It's in front of you.

The Hon. N. K. FOSTER: I was on my feet when it came in. From what I have heard of it, it is a direct contradiction and, as I said last night by way of interjection, the halo will fall around the neck of the Hon. Mr. DeGaris and cause some form of strangulation. He has said today, in effect, "Far be it for anyone even remotely to suggest that we were ever hostile in our great numbers against those elected here to the Opposition benches in this place. We never did such a thing." Of course he did such a thing, and members of the Party to which members opposite belong have been doing it for more than 100 years.

Yet the Leader can come in here with this miserable, contemptible amendment, trying to whitewash the actions of previous years in this place. It is a contemptible action, even though the term I would use might be contrary to the accepted forms of Parliamentary expression. It is a contemptible thing to do, irrespective of what has happened in Canberra and in the Australian Parliament. Even with the restrictions placed on an expression of opinion in this place because of the type of motion that can be brought before this State Upper House, the Leader still will not agree that this Council has used its weighted strength to upset the will of the people and to deny the right and the will of the people.

The Hon. C. M. Hill: You have just got your riding instructions.

The Hon. N. K. FOSTER: No, I have merely had my attention drawn to the time. It is quite honest, in this place—

The Hon. C. M. Hill: What was on the note?

The Hon. N. K. FOSTER: I will circulate it, if you like.

The Hon. C. M. Hill: If you don't watch out, I will make you table it.

The Hon. N. K. FOSTER: The Hon. Mr. Hill can do that if he wants to. Show it to him, for God's sake; his childish action is incredible. I can well envisage this fellow who sits opposite (being concerned about the gold-braided attitude this place should adopt in the eyes of the Conservatives) seeking advice this morning from all sorts of legal eagles around town, coming to this place and having an amendment drafted setting out to defeat the purpose of the motion. If members in this place are honest about what misery is going to be the lot of people in this Commonwealth as a result of the reprehensible actions of the non-Government Parties in Canberra, they should support the motion, not the amendment. Without doing that they are putting themselves in the same category as their counterparts in Canberra; they are playing politics, and to hell with the lives and conditions and rights of individual citizens in this country.

The Hon. C. M. Hill: What are you doing?

The Hon. N. K. FOSTER: They have been elected to govern, and the Hon. Mr. Hill knows that as well as I do. The Government has not been as bad as he makes out. Referring to Khemlani and the loans affair, I recall the actions indulged in by people of the honourable member's political ilk regarding a West German loan a few years ago, but I have to leave that out of the record in deference to the Chair. The Prime Minister has done nothing to warrant such extreme action, the action one would expect from an anarchist, right-wing political movement in this country. Things will never be the same, whether the action is brought about or not. We have had people of the political ilk of members opposite turning their backs on convention.

I could talk about Bjelke-Petersen, that bloke in Queensland; someone said the other day, "I thought he was an Australian," and the response was, "No, he is a Queenslander." That is what is thought by people who do not reside in that State. He put this fellow Field in the Senate, but Field has not been accepted by the Liberals on the Canberra scene. He was put there because the Queensland State Government and Bjelke-Petersen were fearful of Dr. Coulson and the influence he has in the Brisbane area, and the greater influence he would have serving as a Senator in the national Parliament. I come back to the paltry, petty politics here. I regret, Sir, that you have not let me be as free and open as I would have wished and that there are considerable restrictions in this place when talking of the corruption of members of the Opposition in the Federal sphere.

The Hon. R. C. DeGaris: You have not answered my question.

The Hon. N. K. FOSTER: What is your question?

The Hon. R. C. DeGaris: Why can't you agree with my amendment?

The Hon. N. K. FOSTER: One of your colleagues recently said something about going back to the horse and buggy days. You want to go back to the stone age! The amendment seeks to preserve the picture that the so-called great and almighty Renfrey DeGaris has of himself in this place, which is only sticks and mortar, when all is said and done.

The Hon. R. C. DeGaris: It is people.

The Hon. N. K. FOSTER: The Hon. Mr. DeGaris does not have any regard for people. He has turned his back on them and condemned them by denying them representation in this place. Where is his sincerity in relation to people? Where is his sincerity in an amendment that aids and abets the callous actions now being contemplated in Canberra? If he had any regard for people, he would support the motion.

The Hon. J. R. CORNWALL: That is a pretty hard act to follow, but I shall try to be a little more brief. I support the motion, and oppose the amendment. I should like to quote from this afternoon's *News*, which states:

> If the Opposition blocks the Budget in the Senate today, the money needed to run Australia will start drying up progressively between now and the end of November. Some Government departments could begin to run out of cash within days, depending on how much of last year's budgeted funds they have spent. This is the position facing Australia today as the greatest constitutional crisis in history emerges.

I am saddened and dismayed by the actions of certain Senators in this matter, and also by the attitude and the twisting and turning of the Hon. Mr. DeGaris, the champion of convention! Democracy is being ravaged,

and all honourable members on both sides should agree with me that constitutional convention has been outraged. Honour and decency have been cast aside. These opportunists, who could perhaps be called political thugs, pushed on by the faceless men of the Establishment, have decided on a completely unprincipled grab for power.

We have a constitutional revolution on our hands that threatens to reduce the nation to the status of a banana republic, and the Hon. Mr. DeGaris supports this. I ask the Council to recall the brave and responsible words of Mr. Malcolm Fraser after he had successfully pushed his way to the leadership of his Party, over the bodies of Mr. Gorton, Mr. McMahon, and Mr. Snedden. Mr. Fraser said:

The basic principle which I adhere to strongly is that a Government that continues to have a majority in the House of Representatives has a right to expect that it will be able to govern.

The Hon. F. T. Blevins: Who said that?

The Hon. J. R. CORNWALL: Mr. Malcolm Fraser said it. Contrast that with reality. Conventions have been swept aside in a most reprehensible way. The reactionaries and obscurantists have crawled from under the bushes. No price has been too high for them to pay, and no principle so great that it cannot be cast aside. The course of government in Australia in the last three years has been largely dictated by a hostile and bloody-minded Senate.

During a period when economic crises unknown before in the Western world have bedevilled all Governments, the Whitlam Administration has had to live under the constant threat of going to the polls. What a great contribution our Senate has made to stable government during these crises. What a great help it has been to the restoration of stability and so-called business confidence. It has been government from day to day in a crisis-ridden world. On his own admission, the Hon. Mr. DeGaris supports this. What a shameful record these Senators have.

No-one pretends that the track record of the Whitlam Cabinet has been above reproach. However, it has been responsible for many great reforms of which we can all be proud. It has always been sufficiently flexible to meet the ever-changing circumstances; it has always been firm enough to deal with any hint of impropriety in a swift and decisive manner; and it has never shirked its responsibilities.

Only recently, the Whitlam Government presented a Budget complemented by policy initiatives and actions that are already showing signs of working effectively. Just when there are clear signs of economic recovery, these political jackals in the Senate are willing to throw the country into a state of turmoil and uncertainty by holding up this Budget. The effects of their action are, of course, incalculable.

I conclude, Sir, by outlining the probable course of events if these reprehensible actions eventually lead to the election of a Fraser Government. In the euphoria of the first six months, business confidence will return to the extent that we will enter a new boom period. There will be concessions to friends, and pay-offs to supporters.

The Hon. B. A. Chatterton: Insurance companies.

The Hon. J. R. CORNWALL: I dare say they will be among others. Inflation will crash through the 25 per cent barrier, and wage demands will escalate alarmingly. No doubt this will be followed by a period of union bashing and industrial strife on a level not known before in this country's history. Then, a horror Budget will be presented to put the cap on it all, after which there will be a recession of horrible proportions.

Is this a situation which any honourable member who cares about Parliamentary democracy, the people, or Australia, can contemplate with anything but despair? I ask all honourable members, in the name of all the things that we hold dear in the Westminster system of Government, to join with me in supporting this motion.

The Hon. C. M. HILL: I oppose the motion and support the amendment. I believe the motion reeks of political motives. I do not think the people of this State will be fooled by the Government's tactics in moving such a motion in this Parliament. Honourable members do not seem to want to accept the hard fact of life that the Senate has the constitutional right to reject Supply. If it was intended that the Senate should not have that right, it would not have been put in the Constitution by its founders.

The Hon. C. J. Sumner: Does the Queen have the right to refuse to assent to a Bill?

The Hon. C. M. HILL: I am talking about the Constitution and I am not going to be led aside by interjections. I am merely saying that it is a fact of life, which is simple to me, that the Senate has the right within the Australian Constitution to reject Supply and, as far as I am concerned, the matter rests there.

In support of my opposition to the motion, I want to make two points. First, I highlight the hypocritical attitude of the Dunstan Government in trying to save the Whitlam Government by moving a motion of this kind. Before the last State election in July, and early in that election campaign, the present State Government strongly supported the Whitlam Government. They were great buddies, so to speak.

But what happened in the last week of that election campaign? We all know how the attitude of this State Government towards the Whitlam Government suddenly changed. It changed as a result of surveys that the Dunstan Government took and on advice given by Mr. Combe, who came over from Canberra as the Government's adviser in the campaign. The Government was told, "Do not stand hand in hand with the Whitlam Government, or you will lose the election."

What did the Dunstan Government do on the Tuesday or Wednesday of the last week of the election campaign? It cut the painter and let the sinking Whitlam ship drift slowly astern. The Government saved its own skin by doing that. At that stage, the Government turned its back on the Whitlam Government. Now, a mere three months from then, the Dunstan Government suddenly does a turn-about and moves this motion in support of the Whitlam Government. Now, it says to the Whitlam Government, "We stand side by side with you."

What a turn-about for the Dunstan Government! It will do anything for politics. That seems to be its cry: it will do anything to save political face. I do not believe the Dunstan Government will fool the South Australian people with tactics like this.

The same tactics (and this is the second point I make) have been employed by individual members of the Dunstan Government towards Mr. Whitlam himself. We all know what Mr. Whitlam did in relation to some of his senior Ministers, and that he was responsible for Mr. Cope's being removed from his office as Speaker in the House of Representatives. We all know that he removed Mr. Crean from the Treasury, and that he down-graded Mr. Clyde Cameron. We all know that he sacked—

The Hon. C. J. Sumner: What did Menzies do?

The Hon. C. M. HILL: Never mind. We all know that Mr. Whitlam sacked Dr. Jim Cairns, and we all know

the story regarding Mr. Connor. What do some honourable members on the Government side of this Council say about Mr. Whitlam? We all know what they have said. Certainly, we know what they said when Mr. Cameron was down-graded. I now refer to a press report of June 6 this year, in which the Hon. Mr. Dunford is reported to have said the following regarding the Whitlam Government:

This is the worst decision Gough Whitlam has ever made.

The Hon. J. E. Dunford: I was misquoted.

The Hon. C. M. HILL: The Hon. Mr. Dunford continued:

Our members are up in arms over what they consider is a grave injustice. Mr. Whitlam has shown he is a man who cannot be trusted and he has also shown that no-one in Canberra can feel safe. He owes his present position to Clyde Cameron, and now he has turned on him and stabbed him in the back.

The Hon. Mr. Dunford said that he was misquoted, and I do not criticise that interjection. However, I will now refer to what Mr. George Whitten said.

The Hon. F. T. Blevins: He was misquoted, too.

The Hon. C. M. HILL: How far can misquoting go? I will refer, then, to the following statement of the Hon. Mr. Wright:

I am absolutely disgusted with the Prime Minister's action.

That was said only last June but now, a few months later, they are buddies with Mr. Whitlam again, and they press this motion in an attempt to support their cause of solidarity with Mr. Whitlam himself and his Government. Have they deserted Mr. Cameron? This shows that the Dunstan Government's approach in moving this motion is incredible and insincere. The Government lacks credibility in trying to join with the Whitlam Government after what has happened in recent months. It is politically dishonest of the State Government to move this motion.

The Hon. Anne Levy: The motion refers to the Senate. Why don't you refer to the Senate?

The Hon. C. M. HILL: The purpose of the motion is to support the Whitlam Government; honourable members opposite cannot deny that. It is a political ploy, and honourable members opposite are not putting anything over the people of South Australia by moving this motion. I oppose it, and I support the amendments.

The Hon. C. J. SUMNER: I should like to commend the Hon. Mr. Cameron for his contribution to this debate. It was an extraordinarily courageous performance. He has put in proper light the issue that this motion puts before this Council—the consequences that the Liberal Opposition's action in Canberra has for the future of the Australian Constitution. I refer, first, to what a Constitution convention is, because there seems to be much doubt as to what the term means. When one talks about the law one is referring to Acts of Parliament, judicial decisions, and the written Constitution, which is a fundamental law; it is a law that cannot be contradicted by any other law, whether State or Federal. We have taken over that system from America. It differs from the British system, where there is no written constitution; in Britain, the Constitution is contained in a series of Acts of Parliament, conventions and usages. It goes back to the *Magna Carta*, the Bill of Rights of 1688, and other important constitutional enactments. It depends very much for its functioning on the conventions that surround it; without them, the British Constitution would not work. In the same way, without the conventions surrounding our Constitution, government in this country would not work.

It is not true to say that, if there is a written Constitution, there are no conventions surrounding it. Even in America there are conventions. One such convention is that the electoral college votes according to the votes of the people in a Presidential election. Initially, it was decided in the Constitution that there should be a two-tier process for the election of a President: first, the election of delegates to the electoral college and, secondly, the election of the President by that electoral college, the delegates being able to exercise independent judgment. However, it is now a well-established convention that the delegates vote for the President in the same way as the people voted for them. In the same way, the Australian written Constitution has developed a number of conventions. In fact, without some of the conventions of the British constitutional system, the Australian Constitution is meaningless.

I should like to refer to some of the common conventions that we have as part of the Westminster system. The Sovereign must act on the advice of her Ministers, particularly the Prime Minister. The Sovereign appoints the Prime Minister, who has the confidence of the House. The Sovereign or the Governor-General accepts the recommendation that Parliament be dissolved. The Sovereign must assent to Bills; that is not something that is written into the Constitution—it is a convention that the Head of State in our system assents to Bills. Another convention is that the Prime Minister should resign if he does not have the confidence of the House; or he should dissolve the House and go to the people. Civil servants are not responsible to Parliament: it is the Ministers who are so responsible. The civil servants are independent of the day-to-day politics of the Legislature, and they will co-operate with any Government. In Britain, it is a convention that money Bills originate in the House of Commons.

A convention that we have not taken from the House of Commons is that the Speaker, once elected, retains his seat, despite the fact that the Government may change subsequently. Although we have not taken that convention from the House of Commons, we have taken others, and they are fundamental to our system of government. Section 59 of the Commonwealth Constitution would not be used, because it is a convention that that section is not used. Section 59 refers to the Queen's power to disallow any law within one year from the Governor-General's assent; that has not been used, because it would not be acceptable to the Australian people. It would be a breach of convention for the Queen to act in accordance with section 59. It has never been done. So it misses the point to say that the Constitution strictly gives the right to the Senate to refuse Supply. I agree it gives the Senate that right, but that is not the end of the matter. As I said, the Queen or the Governor-General cannot refuse to assent to a Bill, even though there is the strict right to do so.

The Hon. C. M. Hill: But the question of extreme circumstances and degree comes into it.

The Hon. C. J. SUMNER: That may be so.

The Hon. N. K. Foster: There is no way out for you.

The Hon. C. J. SUMNER: Nothing that I have read indicates that the Senate has those circumstances before it at the moment. As I say, once we accept that a convention can be broken, we strike at all those conventions I have mentioned. If we do not accept these usages, the future of Parliamentary democracy is put in grave doubt. To add to the conventions I have already mentioned, the whole system of Cabinet Government is a convention and, without that convention, taken from the British Parliament, our written Constituion would mean nothing. Part of that system is that Governments shall be made and unmade in the Lower House.

The history of this principle that Governments shall be made and unmade in the Lower House goes deep into British constitutional history. I believe British Parliamentary traditions are worth preserving; they have been built up over many years by trial and error. Conventions are not matters that are plucked out of the air: they have their base in reason and common sense and are accepted by the contending Parties in a political context because they promote the national good. These traditions that have been fought for are fundamental to our conception of democracy. They go back to the fights of the popular House, the House of Commons, against the Monarch, who represented a dictatorship or authoritarian style of government, and the House of Lords, which represented a privileged or class form of government. That is why the House of Commons has produced the situation where the popular House makes and breaks Governments through the Cabinet system. It is a basic tenet of democratic government.

I had intended to, but I will not, give a brief history of the development of the powers of the Upper Chambers to reject Supply, but there seems to be no doubt that, so far as the House of Lords is concerned, prior to the 1911 Reform Act there was a convention that the House of Lords would not reject the Supply Bill of the Government. It attempted to reject it prior to the 1911 Reform Act. The Government went to an election on that issue, was re-elected, and then enacted the 1911 Reform Act, which restricted the powers of the House of Lords and, in particular, removed any doubt as to its powers in relation to financial measures, such as the Supply Bill.

I agree with what the Hon. Mr. Burdett has said, that there is a distinction as far as the Australian Senate is concerned: it is an elected House. However, although it is elected, it is elected on a State representation basis. This does not detract from the conventions and constitutional principles I have put to honourable members, that Governments are made and unmade through the Cabinet system in the Lower House. The attitude of the House of Commons leading up to the 1911 Reform Act was a continual assertion of that principle. I concede there may be some circumstances in which that strict legal right contained in our Constitution would be exercised by the Senate. I refer to the comments made by Senator Everett, from Tasmania, quoted at page 8 of the *Advertiser* of August 29, 1975, as follows:

> But that power is very much a reserve one which should only be used in the most extreme circumstances.

Several professors of constitutional law and experts on constitutional law have also turned their minds to this problem recently. They, too, assert the principles I have been putting. In that connection, I refer to the comments of Sir Isaac Isaacs, quoted in a letter signed by four constitutional law professors (Professor Sawer, Professor Zines, Professor Castles, and Professor Howard) which appeared as follows in the *Advertiser* of October 11:

> Sir Isaac Isaacs one of Australia's greatest constitutionalists, said for example of the 1947 Victorian Upper House's rejection of Supply that it was "a severe blow at democracy" and a "misuse of the power of rejection".

The professors said they agreed with him. So the problem we arrive at is that we are not talking about the strict letter of the law: we are talking about these usages and conventions that make our system work. When one particular side in a political fight decides to throw away these conventions, passions become inflamed, people become dissatisfied, and there is a strong possibility that instability will continue in Government; the rule book will be completely torn up, and we can see what has been happening over the past few years in that respect. We have other examples of breaches of those unwritten laws—such as the appointments by the State Parliaments of Queensland and New South Wales of Senator Field and Senator Bunton—and today a further deterioration in what should be constitutional propriety, the Governor of Queensland coming out and saying, "The Whitlam Government should fall." That is another constitutional propriety, another convention, that Governors-General, sovereign in our system, do not take any active part in the Party-political process.

The Hon. R. A. Geddes: The State Governor, not the Govenor-General.

The Hon. C. J. SUMNER: It is part of our system that the Queen, the Governor-General or the Governor does not take part in the Party-political process, but that has been thrown out of the window. That is what happens when we start taking these conventions lightly. This started last year, when the Liberal Opposition in Canberra decided to reject Supply. That is when the rot set in, and it has continued since then. This action of rejection of Supply now proposed in Canberra could be the nail in the coffin of our constitutional system.

In summary, Opposition Senators took that step last year. It was a wrong step from a constitutional point of view. Nevertheless, they took it and they lost, and now they seek to take it again. Opposition Senators are going to use the Senate to destroy the Government elected for a three-year term in the popular House. In future, this means that any Party which can muster a majority in the Senate at any time will be able to reject Supply, especially if it sees that the Government is unpopular, especially if there is a severe economic situation. Such a Party or group will have no qualms in the future about rejecting Supply. This situation has been brought about by members of the Liberal and Country Party coalition in Canberra. I support the motion.

The Hon. J. C. BURDETT: I oppose the motion and support the amendment.

The Hon. N. K. Foster: What amendment?

The Hon. J. C. BURDETT: That moved by the Hon. Mr. DeGaris. In the first place, the motion is extraordinarily worded. Indeed, I suggest that it is badly worded. It is only the first sentence, really, that properly should be part of the motion. The second sentence is a narration of history, and whether it is somewhat complimentary to the Council is a matter of argument. However, it should not be part of a motion. In any motion, one moves what one wants to do, and one's argument comes out in the course of the debate. I take issue with the third sentence of the motion, as follows:

> A Government has a right to continue to govern according to law for the period for which it was elected to govern.

The true position is that a Government has a right to continue to govern according to law until its term of office is lawfully terminated, which can happen in a variety of ways. We have heard suggestions about conventions and, particularly, the suggestion that the Senate is bound by a convention not to reject a money Bill. When we are talking about money Bills in relation to the Senate, we must look to the Australian Constitution. It must be remembered that there is not much point in referring to conventions in the British system, because the constitutional position, as has been stated (the Hon. Mr. Sumner said it), is entirely different.

The Hon. C. J. Sumner: But it couldn't function without the convention of the British system.

The Hon. J. C. BURDETT: It is a question of which convention. This is a federal country.

The Hon. C. J. Sumner: You agree, however, that we have accepted a large number of the British constitutional conventions in our Constitution?

The Hon. J. C. BURDETT: Yes, but it is a question of which ones. I was going to point out that Australia is a federal country and that the United Kingdom is a unitary one. Therefore, the question of which convention we accept must be determined by that. The United Kingdom does not have a single written constitutional document, and it must rely to a much greater extent on convention than we do in Australia, where we have a written Constitution. The Australian Constitution is not only a written Constitution: it is also a consensus, or agreement, between the States. It sets out the whole agreement between the Commonwealth and the States, and must be taken as it is.

Certainly, we can use the appropriate conventions from the United Kingdom or the United States, but we cannot use them in such a way as to take away or to alter the powers that are given in the Constitution, which is the agreement that represents the consensus between the States and the Commonwealth. Secondly, the great difference between the conventions relating to money Bills with the United Kingdom and the Commonwealth of Australia is that the Upper House, the House of Lords, in the United Kingdom, is a partly hereditary and partly appointed House, whereas the Senate of Australia is democratically elected. The best place to which to turn when dealing with this matter of whether there is any impropriety regarding the Senate's delaying Supply—

The Hon. C. J. Sumner: Can they do that year in and year out?

The Hon. J. C. BURDETT: I am going to start examining it, if the honourable member will let me. The first thing to which to turn is the Constitution. I do not think there is much point in discussing whether, in the event, the Senate should have rejected Supply at this time. I am suggesting that the Senate has every right and prerogative to do so.

The Hon. C. J. Sumner: That is a technically legal right.

The Hon. J. C. BURDETT: It is not, as I will show in a minute, from certain authorities. The first authority to which I refer and which cannot be contested is the Constitution itself, section 1 of which provides as follows:

The legislative power of the Commonwealth shall be vested in a Federal Parliament, which shall consist of the Queen, a Senate, and a House of Representatives, and which is hereinafter called "The Parliament", or "The Parliament of the Commonwealth".

The Hon. C. J. Sumner: What happens if the Queen refuses to assent to a Bill?

The Hon. J. C. BURDETT: There is no point in my answering that. Although it does not say what would happen if the Queen did not assent to a Bill, it does say what would happen if Parliament rejected a Bill. Where we can refer to areas in which the Constitution does not say something, the Hon. Mr. Sumner is right. That is an area in which we can look to convention. However, where it relates to the Constitution, which is the agreement between the States (and the only basis on which they were willing to join in a Federation), we must take the Constitution itself and not try to gloss it over by a convention. I have just referred to section 1 of the Constitution, which says that the legislative power is vested in the two Houses, and Appropriation, Supply, is a legislative Act. One will notice if one looks at section 1 of the Constitution that the House of Representatives and the Senate have equal legislative power. The other relevant provision is section 53, which deals with money Bills and which provides:

Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall be taken to appropriate revenue or moneys . . .

It goes on to say that the Senate may not amend, although it may suggest amendments. Finally (and this is important), that section provides:

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

Money Bills are, of course, proposed laws, and this section has gone to the trouble of setting up a code and saying what should happen in relation to money Bills. It provides that they may not originate in or be amended by the Senate. It sets out a procedure in relation to suggested amendments, and finally takes care to finish with the proviso to which I have just referred. That includes money Bills, so the Senate has the same power to reject money Bills as has the House of Representatives. I intend now to refer, I am afraid somewhat extensively, to a recognised authority, the *Australian Senate Practice*, by J. R. Odgers.

The Hon. R. C. DeGaris: You couldn't get a better one.

The Hon. J. C. BURDETT: I do not think I could. I shall refer to it somewhat extensively because it deals with this exact point. At page 311, Odgers says:

Financial power of the two Houses was one of the great issues in the Convention debates of 1897-8. Delegates from the smaller colonies threatened to leave the convention and return home unless they were assured of a strong Upper House to protect the interests of the States. Delegates from the more populous colonies wanted the House of Representatives to be paramount in regard to financial legislation, while the smaller colonies wished the two Houses to have equal powers. In the compromise finally reached, the Senate emerged a powerful Upper House, with full power of veto over all legislation, financial and non-financial.

Nonetheless, over the years it has been argued by some members of the Lower House that the Senate should have only the right of consultation in respect of money Bills. Any doubt about the policy of the Australian Labor Party was put to rest on 18 June, 1970, when the Leader of the Opposition in the Senate (Senator Murphy) said:

> The Senate is entitled and expected to exercise resolutely but with discretion its power to refuse its concurrence to any financial measure, including a tax Bill. There are no limitations on the Senate in the use of its constitutional powers, except the limitations imposed by discretion and reason. The Australian Labor Party has acted consistently in accordance with the tradition that we will oppose in the Senate any tax or money Bill or other financial measure whenever necessary to carry out our principles and policies. The Opposition has done this over the years, and, in order to illustrate the tradition which has been established, with the concurrence of honourable Senators I shall incorporate in *Hansard* at the end of my speech a list of the measures of an economic or financial nature, including taxation and appropriation Bills, which have been opposed by this Opposition in whole or in part by a vote in the Senate since 1950.

The Hon. C. J. Sumner: Do you think he meant that the Senate could do that every year?

The Hon. J. C. BURDETT: I do not know. The honourable member had better ask Mr. Justice Murphy. I have concluded the quotation from the Senator's speech. Odgers continues:

Except for the origination of money grants and tax measures, the Australian Senate is invested with powers which, in effect, are equal to those of the other branch of the Legislature—the House of Representatives. It has the full power of veto and, in respect of those money Bills which it cannot amend, the Senate has the right to make, and to press, requests to the House of Representatives for amendments.

Thus, except for the broad principle that the power of origination of financial legislation is vested in the Lower House, the limitations of the "Lords and Commons Theory" of financial relationship, based on an Upper House which is in no way elective, finds no place in the Australian legislative structure.

In addition to the circumstance that it is fully elected, the Australian Senate has a claim to greater powers than those normally accorded Upper Houses because of its special character as the second Chamber in a federal system, charged with the responsibility to protect State interests. Nevertheless, it must always be remembered that the Senate is not the governing Chamber and, therefore, a proper relationship towards Government must always be maintained by a responsible Senate.

The Hon. C. J. Sumner: That is the important thing.

The Hon. J. C. BURDETT: The whole lot is important. At page 362, Odgers says:

For many years it has been an academic argument as to whether the Senate can, by refusing to pass Supply, force a dissolution of the House of Representatives. The question becomes a practical one when a Government does not control a majority of votes in the Senate.

There can be no question that the Senate has the power to refuse Supply. No money can be drawn from the Treasury except under appropriation made by law, and such laws must pass both Houses before being presented to the Governor-General for assent.

There are always at least two occasions each year when the Senate is asked by the House of Representatives to join in the granting of Supply. These occasions are the annual Appropriation Bill (based on the proposals in the Budget), and the Supply Bill (which is introduced towards the end of the financial year to grant Supply for the early months of the next financial year, pending the introduction and passing of the Appropriation Bill).

If the Senate refused to pass any such financial measure, what then? The only machinery provided by the Constitution for the settlement of legislative deadlocks is the process of the double dissolution. The weakness of that constitutional machinery, insofar as financial measures are concerned, is that there must be a continuing deadlock, evidenced by a repetition of the disagreement between the Houses on the same matter and an interval of three months between such disagreements.

Should the Senate refuse Supply, the machine of government would come to a stop. Obviously, the government of the country cannot remain at a standstill for months while the constitutional requirements for a double dissolution are being satisfied.

For that very reason, the Senate's power to refuse to join in the granting of Supply is its greatest power, which can be exercised in relation to both the House of Representatives and the Executive Government. It is a power which could be used to force concessions from an unwilling Government concentrated in the House of Representatives, or perhaps it could be used to force a dissolution of the House of Representatives. But it is a power which has never been exploited by the Senate.

The Victorian Legislative Council, however, has not hesitated to use similar powers. Supply had expired on 30 September, 1947. On 1 October, 1947, a Supply Bill for one month (October) was negatived by the Legislative Council on the second reading. The main reason for refusing Supply was that members of the Council were anxious to force an election on the Assembly so as to give the people an opportunity of expressing their views on the Chifley Government's bank nationalisation proposals then before the Federal Parliament. On 2 October, 1947, a Supply Bill for two months (October and November) was negatived in the Council on the second reading. During the second reading debate, Sir Frank Clarke said that he and his supporters in the Council would pass any Supply Bill that carried a satisfactory intimation that the Governor had ordained a dissolution, and that they would not pass any Supply Bill that did not carry such an ordinance. On 8 October, 1947, a Supply Bill for 10 weeks (from 1 October) was negatived by the Council on the second reading. Late the same night a Minister informed the Council that the Governor had decided to grant a dissolution of the Assembly. Thereupon motion was again made for the second reading of the Supply Bill negatived earlier in the day. The Bill passed its remaining stages without amendment. The Legislative Assembly was dissolved on 9 October and elections were held on 8 November.

It may be argued that in a system of responsible government an Upper House should not resist unduly the people's House in matters of finance. Perhaps the practice at Westminster will be instanced. There, when a money Bill is sent to the House of Lords and that House fails to pass it within one month without amendment, it is presented for the Royal Assent, notwithstanding that the Lords has not agreed to the Bill.

What that argument forgets is that the Senate has the power, and it was given its great financial powers because the Senate has a different responsibility than an Upper House like the House of Lords. Great Britain is a unitary State. Australia, however, is a federation of States, and a principle of federation is the near equality of the two Chambers of the Legislature—with a Senate or States House constituted in such a way that the interests of the States may be protected against the House of Representatives or national assembly which is elected on a population basis.

This greatest of the Senate's powers has never been used. But like the latent power to imprison persons for breach of Parliamentary privilege, it is there to be brought out and used when circumstances warrant.

I suggest that these circumstances have arisen. For those reasons, I oppose the motion and I support the amendments.

The Hon. J. A. CARNIE: This afternoon we have had a long harangue from the Hon. Mr. Foster who, almost by accident, once or twice dealt with the motion. We have also had some contributions relating to constitutional law. I do not propose to speak for any length of time, but it saddens me that I must support the motion, because I deplore the fact that a situation has arisen where such a motion can be moved. Although I am appalled at the actions over the last 2½ years of the Labor Government in Canberra and I am anti-Labor in my philosophy (I want to see the Labor Government in Canberra defeated), I cannot support or approve of the methods being used at the moment to bring this about. Our whole system of Parliamentary democracy depends, to a large extent, on convention.

We have heard most speakers who oppose this motion say it is written into the Constitution that the Senate has the power to reject Supply. It is written into the Constitution, but this is an occasion when convention and practice should be more important than the written word. We have seen, over recent months, some breaking of conventions by both sides of politics, and I am sure we all deplore the breaking of those conventions. Reprehensible though those breaches may have been, they pale into insignificance by what is being done now, which hits at the whole fabric of Parliamentary democracy and the Constitution. I fear that the actions taken this week by the Opposition in the Senate will be remembered to the sorrow of all Australians for many years to come.

Mr. Fraser repeated what he said at the time of the election, that he would not bring down the Government except in the most reprehensible circumstances. Whether it is because he sees power in his grasp and his fine ideals have gone by the board in his desire to seize power, or whether he is badly advised, the result is the same. There have been no reprehensible circumstances to warrant such an action. It is simply the case of an Opposition majority in the Senate seeing an electoral advantage and being prepared to seize that advantage at whatever cost, and that cost could be high for Australia as a whole, because, with this convention broken once and for the first time in the history of the Commonwealth, no Government could be sure that it could run a full term—

The Hon. R. C. DeGaris: What convention are you talking about?

The Hon. J. A. CARNIE: —and stable Government could be a thing of the past. I support the motion and oppose the amendments.

The Hon. A. M. WHYTE: I oppose the motion and am not happy even to have to discuss it. Any Australian who is not concerned about the present political situation in Canberra is either naive or an ardent supporter of the Labor Party, some members of which advocate class war.

*Members interjecting*:

The PRESIDENT: Order!

The Hon. A. M. WHYTE: For the Chief Secretary to be coerced into moving an electioneering motion in this Council is another matter altogether. I do not believe for a moment that the Chief Secretary found any more pleasure in moving such a motion than we found in listening to it. It has nothing to do with the situation in Canberra: it is the beginning of an electioneering campaign, in which the State Government has asked this Council to move against certain Senators. I am not interested in the provisions of the Constitution—it will not make any difference. The action to block supply will or will not be taken, as is seen fit. No matter what we say in this debate, it will not alter that situation, any more than will the Hon. Mr. Foster, who wants the Constitution changed so that everything he says in libel can be taken against him. What a chameleon! He abuses people from all over Australia, using his Parliamentary privilege, and then says what a shocking thing it is that they cannot prosecute him! He is as big a chameleon as is Senator Steele Hall, who on July 16 said this:

Does the Government believe that simply by denying further information to the Opposition and to the public, which is thirsting for it and which is being led by the media to obtain it, it can close the books? It cannot. This is an evolving situation. The Parliament has been tried and the Ministry has not answered. This is the second major attempt to obtain information which so far has not been available. If the Government is able to frustrate this move, something else will happen.

This is the interesting part:

If I were in the Opposition's position, I would adjourn the Senate until January 1 next year and let the people decide in the meantime. Something will have to be done to find out just where the Government is culpable or where it is blameless, because it will not say. The Opposition's position is, of course, somewhat difficult. As I have said, it cannot let the matter rest here. It will be the Government's responsibility—I have no doubt that it will be the Government's responsibility—if the Opposition is forced into further action to obtain the information that it desires . . .

That was on July 16. So at that time Senator Steele Hall was urging the Opposition to move against the Government. I am not saying whether such a move was good or bad: I am saying it is absolutely scandalous that this South Australian Government should introduce an electioneering proposition into this Chamber when it cannot run even its own affairs. What right have we to be telling Canberra what to do when we cannot run this State properly, let alone involving ourselves with the Senate?

*Members interjecting*:

The PRESIDENT: Order!

The Hon. A. M. WHYTE: The wonderful write-up that the Chief Secretary gave South Australia was because the Legislative Council in South Australia did once reject a Supply Bill.

The Hon. D. H. L. Banfield: No, it was not a Supply Bill.

The Hon. A. M. WHYTE: You put your name on it and I will put mine.

The Hon. D. H. L. Banfield: What you are saying is wrong, if you stick to that.

The Hon. A. M. WHYTE: In 1912 the Verran Government faced a position in which the Legislative Council had refused the Supply Bill, and the Premier of the day did not hesitate: he took the matter to the people, and that is all our Prime Minister has been requested to do now.

The Hon. C. J. Sumner: Can he be forced to do that every year? Every time a Supply Bill is introduced, this can happen—every year, or twice a year—every six months. If the Senate can refuse Supply, the Government of the country will be meaningless. Twice a year it can be done; that is the danger of it.

The PRESIDENT: Order! The Hon. Mr. Whyte has the floor. Interruptions are out of order.

The Hon. A. M. WHYTE: The Hon. Mr. Sumner has put himself up as a constitutional authority.

The Hon. C. J. Sumner: I did not say that.

The Hon. A. M. WHYTE: The question he asks is: could the Government be taken to the people every six months? All I can say is that, if it did not display any more competence than the Commonwealth Government has over the last two years, it should be taken to the brink more often than every six months. I believe that constitutionally—

*Members interjecting*:

The PRESIDENT: Order!

The Hon. A. M. WHYTE: The point that our learned constitutional authority (Hon. C. J. Sumner) has made is valid. That is what the Constitution provides. I hope the point about which the honourable member was so adamant will not become a reality, but that we will have competent future Governments, especially once we get rid of the present Commonwealth Government. I do not want to go further to make the point clear. In 1970, the then Leader of the Opposition (Mr. Whitlam) said he would undertake similar action if the necessity arose. Referring to the 1970 Budget, Mr. Whitlam stated:

Let me make it clear at the outset that our opposition to this Budget is no mere formality. We intend to press our opposition by all available means and all related measures in both Houses. If the motion is defeated, we will vote against the Bill here and in the Senate. Our purpose is to destroy the Government which has sponsored it.

He knew his constitutional rights.

The Hon. C. J. Sumner: Who said that?

The Hon. A. M. WHYTE: Mr. Whitlam. Does the Hon. Mr. Sumner believe that Mr. Whitlam's interpretation of the Constitution was wrong at that time?

The Hon. C. J. Sumner: Yes.

The Hon. A. M. WHYTE: The Constitution was written by people who had experienced the type of corruption we have seen in the past couple of years in Australia. They had come through the years of the Cromwells and the monarchs who had persecuted the nation. That is why the founding fathers wrote into the Constitution every safeguard needed to protect the man in the street. Once the Constitution is abused I feel sorry for the nation.

The Hon. N. K. Foster: Your mob is abusing it.

The Hon. A. M. WHYTE: I am alarmed that such drastic action is necessary. However, there is a provision in the Constitution; the situation was foreseen by the founding fathers who wrote the Constitution, and that provision applies. The Constitution is good, and the Prime Minister has made exactly the same interpretation as that made by Malcolm Fraser—there is the right to do it. I have said this to point out that, as great as my concern is over the situation in Canberra, if this Council is to be used in an electioneering campaign, our fears become even greater and encompass much more than our

concern about the situation applying in Canberra. I will oppose this motion and any other similar motion moved by the Government in future.

The Hon. R. A. GEDDES: I wish to contribute briefly to the debate and say that I do not support the motion.

The Hon. N. K. Foster: Will you answer my question?

The Hon. R. A. GEDDES: The honourable member can answer his own questions when he looks in the mirror and talks to himself. The Hon. Mr. Whyte referred to the words of the then Commonwealth Leader of the Opposition in 1970 concerning what he thought was the correct interpretation at that time when the Labor Party was in Opposition in Canberra. I refer to the well known comments of Senator Steele Hall in the debate on the loans affair in the Senate on July 25, 1975, reported in Commonwealth *Hansard* at page 2756, as follows:

If I were in the Opposition's position I would adjourn the Senate until January 1 next year and let the people decide in the meantime.

The Hon. D. H. L. BANFIELD (Chief Secretary): I thank honourable members for their attention to this motion, although they did stray from it at certain times. I wish to make two points to put the record straight. The first concerns the allegation of the Hon. Mr. Whyte that I was coerced into moving this motion in the Council. There was no coercion. This is a motion I fully support and I believe that all honourable members, if they are sincere, will also support it. I give the lie to the Hon. Mr. Whyte's statement that I was coerced into moving this motion.

I also deny the claim made by the Hon. Mr. Hill. I deny the claim that this motion supports the Whitlam Government. Nowhere does the motion mention the Whitlam Government. The motion condemns something which all honourable members know to be morally wrong. For those reasons the Council should support the motion if we are in any way to get some semblance of sanity back into our democratic system of government. We have heard the Leader say that he does not care whether there is an election every six months, every few weeks, or every five minutes: he does not care. He said he did not care whether there was an election held at such short intervals. The Leader obviously does not care about the country if he is willing to say that he approves of such action.

The Hon. R. C. DeGaris: I deny that.

The Hon. D. H. L. BANFIELD: What?

The Hon. R. C. DeGaris: You said that I didn't care.

The Hon. D. H. L. BANFIELD: What did the Leader say? If he does not know, I remind him that he said, "I do not care whether there is an election every six months, every few weeks, or every five minutes." This is the position, and this is the sort of thing that members opposite think about Government. If they can seize a political opportunity and a chance to govern this country they are willing to do that, and they do not care how often the country is disrupted as a result of their actions.

How often have we heard members opposite say that members of Parliament should not be coerced by people outside Parliament into taking action within Parliament? We have heard members opposite say that on hundreds of occasions in the time I have been a member of this Council. What happened last weekend when there was a handful of people in Canberra who believed that they saw an opportunity to seize power? They have brought pressure to bear on members of Parliament. This situation has been condemned by members opposite in the past, but today they are agreeing with this action, because their own Leader in this Council was a party to that decision. Members opposite have told the Council how the Labor movement is controlled by an outside body, how the trade union movement controls the Labor Party, and how the Liberal Party is so independent. It is so independent that it has one boss—Bjelke-Petersen. That is how independent it is. Then Bjelke-Petersen says, "We will have an election", and the boys jump, supported by their own federal council. So much for the belief that outside people should not coerce people in Parliament.

The Hon. Mr. Hill talked of the turn-about of the Labor Party and of the Premier before the last election. He spoke about actions which the Prime Minister believed were in the interests of the people when he sacked various people from Cabinet. What has happened in relation to the Liberal Party? What demotions and expulsions have taken place there in a relatively short time? What happened to John Gorton? He got the sack. What happened to Billy McMahon, soon after his wife showed her leg going up the stairs? What happened to Bill Snedden? What happened to our own Bruce Eastick? He got the sack.

What happened to our own John Coumbe? One could never get a more capable person than John Coumbe, but he was put aside. That is what honourable members opposite do to people in their Party. What happened to Gordon Gilfillan, a most competent member of the Legislative Council? He was put down on the list where there was no way in the world in which he could win a seat. Although the person who was brought in is doing an exceptionally good job, the Liberal Party cast aside Gordon Gilfillan and Ross Story, people who had done a magnificent job. They have been thrown on to the scrap heap by their own political Party.

The Hon. R. A. GEDDES: On a point of order, Mr. President, the Hon. Gordon Gilfillan is not on the scrap heap, and I object to the Minister's statement.

The PRESIDENT: It is not a point of order, but the Minister is supposed to be replying to the debate. I think he should reply to points made during the debate, and not start a fresh debate.

The Hon. D. H. L. BANFIELD: I seek your ruling, Mr. President. I am replying to the debate, but in my view it is true that the Hon. Mr. Hill pointed to a number of people who had been dismissed by the Labor Party. In replying to those points, I go on to ask what happened to our own Leader in this place. Could he not get a guernsey in the shadow Ministry? Members opposite talk about loyalty and demotions in the Labor Party, but what happened to each and every one of the people I have mentioned?

Parliament must deplore and condemn a situation in which the Government and the country will be thrown into a shambles in future if this sort of thing is to continue. This is the place in which we should be advising certain Senators in the other place that they are not acting in the best interests of the country. We should also make the point to Senator Jessop. He said publicly on at least three occasions that he would not vote to stop Supply, but we know very well that the whips have been cracked and that he will come to heel. In my view, this Council must deplore and condemn the actions of certain Senators in announcing that they will vote to refuse Supply to a duly elected Australian Government. We all believe that a Government has the right to govern, and it is the people who should tell the Government that it is no longer wanted, not members of the Federal Council of the Liberal Party meeting in Canberra. All the people of Australia should have this

right, and it should not be foisted upon them by persons who are not even in the Senate. Honourable members of this place claim that Upper Houses are Houses of Review, yet we find Mr. Malcom Fraser dictating to the Senate, of which he is not even a member. Members of the Liberal Party, who are not members of Parliament, also dictate to Senators, members of a House of Review, regarding what they should and should not do.

The Hon. D. H. Laidlaw: Who is it? No-one dictates.

The Hon. D. H. L. BANFIELD: We do not know who they are. They are the faceless men. However, they are still known as the members of the Liberal Party council. We do not know who they are because they meet behind locked doors, not like the Labor Party, which opens its conferences to the press. When the Liberal Party opens—

*Members interjecting*:

The PRESIDENT: Order!

The Hon. D. H. L. BANFIELD: —its conferences to the press, we will know who these faceless men are. In the meantime, we do not know. However, we know that they are exerting a fair amount of pressure on the members of the Senate, and they have no right to do this. They have no right to coerce—

The Hon. D. H. LAIDLAW: I rise on a point of order. I was present at the Commonwealth council meeting, and it was open to the press and to the public on all occasions.

The Hon. D. H. L. Banfield: Are you one of the faceless men?

The Hon. N. K. Foster: That's not true, not when you made some of your decisions.

The PRESIDENT: Order! I do not uphold the point of order.

The Hon. D. H. L. BANFIELD: The Hon. Mr. Laidlaw has a lovely face, and we know that he is not one of the faceless men. However, those men said to their members in the Senate, "We will call the tune, and you will dance to it." That is the sort of thing that we should deplore. I pay tribute to members of the Liberal Movement, because they, along with the Government, can see what will happen if the Senators in the Commonwealth Parliament reject Supply. We have the far-sighted Steele Hall, another man who was deposed by the Liberal Party. Having spent $250 000 promoting him, that Party let him go, and it has regretted it ever since. Indeed, it regrets two things: first, that it has not got the $250 000 that it spent on Steele Hall and, secondly, that it has not got Steele Hall.

The Hon. N. K. Foster: And has ended up with Renfrey!

The PRESIDENT: Order! I have told honourable members that the use of Christian names in the Council is out of order.

The Hon. D. H. L. BANFIELD: I see no reason why the Council should not carry the motion unanimously.

The PRESIDENT: The question before the Council is the motion moved by the honourable the Chief Secretary, to which the Hon. Mr. DeGaris has moved an amendment. I intend to put the amendment to the Council in parts. First, the Hon. Mr. DeGaris has moved that the words "deplores and condemns" in the motion be struck out. I put the question: "That the words proposed to be left out stand as part of the motion."

The Council divided on the question:

Ayes (11)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, M. B. Cameron, J. A. Carnie, T. M. Casey, B. A. Chatterton, J. R. Cornwall, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Noes (7)—The Hons. J. C. Burdett, Jessie Cooper, R. C. DeGaris (teller), R. A. Geddes, C. M. Hill, D. H. Laidlaw, and A. M. Whyte.

Pair—Aye—The Hon. C. W. Creedon. No—The Hon. M. B. Dawkins.

Majority of 4 for the Ayes.

Question thus carried.

The PRESIDENT: Does the Hon. Mr. DeGaris wish me to put his other amendments, in light of that decision?

The Hon. R. C. DeGARIS: The second part of the amendment is consequential on the first, but the other part of the amendment is different and relates to the deletion of the second sentence, and I have already spoken about that.

The PRESIDENT: I now put the Hon. Mr. DeGaris's amendment to strike out the sentence beginning "In the history" in line 3 of the motion down to the words "refuse Supply" in line 5.

The Council divided on the amendment:

Ayes (7)—The Hons. J. C. Burdett, Jessie Cooper, R. C. DeGaris (teller), R. A. Geddes, C. M. Hill, D. H. Laidlaw, and A. M. Whyte.

Noes (11)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, M. B. Cameron, J. A. Carnie, T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, and Anne Levy.

Pair—Aye—The Hon. M. B. Dawkins. No—The Hon. C. J. Sumner.

Majority of 4 for the Noes.

Amendment thus negatived.

The PRESIDENT: I put the amendment: After "govern" to insert "subject always, however, to its adherence to the Constitution of the Commonwealth, its practices, and conventions."

The Council divided on the amendment:

Ayes (7)—The Hons. J. C. Burdett, Jessie Cooper, R. C. DeGaris (teller), R. A. Geddes, C. M. Hill, D. H. Laidlaw, and A. M. Whyte.

Noes (11)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, M. B. Cameron, J. A. Carnie, T. M. Casey, B. A. Chatterton, J. R. Cornwall, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Pair—Aye—Hon. M. B. Dawkins. No—Hon. C. W. Creedon.

Majority of 4 for the Noes.

Amendment thus negatived.

The Council divided on the motion:

Ayes (11)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, M. B. Cameron, J. A. Carnie, T. M. Casey, B. A. Chatterton, J. R. Cornwall, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Noes (7)—The Hons. J. C. Burdett, Jessie Cooper, R. C. DeGaris (teller), R. A. Geddes, C. M. Hill, D. H. Laidlaw, and A. M. Whyte.

Pair—Aye—The Hon. C. W. Creedon. No—The Hon. M. B. Dawkins.

Majority of 4 for the Ayes.

Motion thus carried.

## ADJOURNMENT

At 6.21 p.m. the Council adjourned until Tuesday, October 28, at 2.15 p.m.