LEGISLATIVE COUNCIL

Wednesday, November 12, 1975

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

QUESTION

PRIVATE ROOMS IN HOSPITALS

The Hon. R. A. GEDDES: Yesterday I asked a question of the Minister of Health regarding the possibility of building private rooms in hospitals in rural and metropolitan areas now that Medibank is such a prime part of the finances of the Hospitals Department. The Minister, not in his customary way of giving advice to members, gave a curt reply that did not answer the question. In the future, subject to economic needs, will it still be possible for hopitals to build private rooms as well as wards for patients?

The Hon. D. H. L. BANFIELD: In no way did I mean my reply to be curt. As I saw the position, I thought the answer I gave yesterday summed it up, because it covered the position relating to the doctor who had made the comment; the honourable member had referred to what the doctor had said. This is a different question today and relates to another subject. The policy covering extensions to existing hospitals or the building of new hospitals has not changed in any way. When plans are submitted we study them before granting a subsidy, and we see that they do not have too great a number of single-bed wards or single rooms. This policy has not changed. If it is thought that single rooms are warranted (which they are in many cases) they may be built, subject to finance being available. There is no change of policy.

STOCK DISEASES REGULATIONS

Order of the Day, Private Business, No. 1: The Hon. J. C. Burdett to move:

That the regulations made on October 2, 1975, under the Stock Diseases Act, 1934-1968, in respect of swill and laid on the table of this Council on October 7, 1975, be disallowed.

The Hon. J. C. BURDETT moved:

That this Order of the Day be discharged.

Order of the Day discharged.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 6. Page 1735.)

The PRESIDENT: When this Bill was before the Council on Thursday last, the Hon. Anne Levy raised a point of order under Standing Order 124 which provides, "No question shall be proposed which is the same in substance as any question or amendment which, during the same session, has been resolved in the affirmative or negative unless the resolution of the Council on such question or amendment shall have been first read and rescinded. This Standing Order shall not be suspended." The Hon. Anne Levy raised the point of order that the Bill was identical in wording to an amendment moved on September 17 by the Hon. Mr. Burdett to the Criminal Law (Sexual Offences) Amendment Bill.

After hearing certain arguments put to me relevant to the point of order by the Hon. Mr. Burdett and the Hon. Mr. Sumner, I ruled that consideration of the present Bill was not contrary to Standing Orders and could proceed. At the time I gave as the reason for such ruling that it was allowable under Standing Order 274 as an amendment to an Act which had been passed earlier during this session.

I have, since the adjournment of the Council, had an opportunity to examine the situation further and, although I do not intend to change my ruling that the present Bill may be properly considered by the Council, I think the reasons that I previously gave for such decision were incorrect in that the provisions of Standing Order 274 cannot be invoked to render nugatory the provisions of Standing Order 124. However, it seems to me that there are two valid reasons why I should maintain my previous decision.

First, although it may appear a somewhat technical ground, I am satisfied, from the Minutes of the Council Proceedings and from the *Hansard* record of the debate, that the amendment now proposed in this Bill was not in fact a question or amendment which on September 17 was resolved in the affirmative or negative by the Council during the Committee stage of the Criminal Law (Sexual Offences) Amendment Bill. What actually happened on that occasion was that the Hon. Mr. Burdett moved an amendment to leave out in clause 29 of that Bill the words "section is" with a view to inserting the words "sections are".

With leave of the Chairman he proceeded to explain his proposed amendments, one of which was in exact terms to that now in the Bill under consideration. The Committee debated those proposed amendments prior to the formal preliminary amendment being put and there is no doubt that the substantive amendments which the Hon. Mr. Burdett wished to move were tacitly considered by the Council and no doubt they had them fully in mind when the preliminary procedural amendment was put to the vote. Indeed my own remarks as Chairman were, prior to putting the question, "This is a procedural matter and following its passage it will be possible to submit proposed new section 68b in two parts."

The proposed preliminary amendment moved by the Hon. Mr. Burdett was defeated in a division and as a consequence thereof the Hon. Mr. Burdett did not make any effort to move his substantive amendments. He could, of course, have chosen to do so if he had so desired, even though they might have looked a little incongruous without the preliminary amendment which had been defeated. Because the Hon. Mr. Burdett did not so move, I cannot hold that the substantive question now proposed in this Bill is the same as a substantive question which, during the same session, had been resolved in the negative.

Secondly, Erskine May's *Parliamentary Practice*, 17th edition, deals in pages 518-520 with this matter under the subheading of "Bills with the Same Purpose as other Bills of the Same Session". At page 519 the learned author says, and I quote:

Objection has also been taken to a Bill on the broader grounds that it raised a question which had been previously decided by the House in the course of proceedings on another Bill of the same session. Such objection has rarely been found capable of being sustained.

On the occasion referred to in paragraph (ii) on that page the Speaker made it clear that the rule only applies to identical Bills, not to a Bill identical with a rejected amendment, and I quote from Parliamentary Debates, House of Commons, 1884-1885, 298 Column 1591:

If the Bill was substantially the same as a Bill upon which the House had come to a decision it would be out of order; but if it referred to a clause in a Bill which had been decided in different ways at different times, then he was clearly of the opinion that it would not be irregular.

For the same reasons now given by me I affirm my ruling on Thursday last that consideration of this Bill is not contrary to Standing Order 124 and the debate may proceed.

The Hon. ANNE LEVY: I accept your ruling on this matter, Sir. However, I still consider that the subject matter of the Bill has, to a large measure, already been debated in the Council. In consequence, my remarks will be brief and more or less limited to what I said previously. My objections to the Bill are the same as those to which I referred on September 17.

First, the Bill provides that penalties will be applied for any person who undertakes certain acts. As I said before, no age is specified for the person undertaking such acts. Two primary schoolchildren who go into the bushes could well encourage each other, quite innocently in my view, to undertake certain acts that could be classed as gross indecency, and could then come under the terms of the Bill and therefore be up on a criminal charge. That is ludicrous.

Secondly, I ask what is meant by "advocate" or "encourage". What is a plain statement of fact to some people could well be taken as advocacy or encouragement by other people. As I suggested earlier, if in an art class there was glowing praise of Michelangelo and mention of his homosexuality, it could be taken by some people as encouragement for committing homosexual acts. This would be a great imposition on the teachers concerned and would limit proper educational practices.

I am not sure how any teacher in a class can discuss Oscar Wilde, Andre Gide, Tchaikowsky and many other famous people without introducing their homosexuality into the matter. This Bill would certainly stifle genuine and valid discussion and instruction if a teacher feared that he might have to justify his remarks in a court of law.

Thirdly, as I said previously, the definition of "unnatural sexual practice" includes buggery between persons of the same or different sex. In this context, is it meant that, if a teacher in a sex education class mentions that married couples sometimes engage in acts of buggery, it could be considered to be advocacy of such a practice? Again, I think this is a ridiculous situation that could inhibit teachers, who need to be able to discuss matters freely with their classes without fear of being hauled into a court of law. It is most unwise to place in our laws restrictions on teachers, and to do so is an insult to their professional integrity.

The South Australian Institute of Teachers and the Headmasters Association have, I understand, agreed that Ministerial direction is appropriate in some situations. However, they are most reluctant to have official regulations laying down prohibitions, and they would certainly be opposed to legal sanctions, such as are now before us, reflecting most seriously on the professional integrity of our teachers. Principals in South Australia have always had complete discretion regarding those who enter schools.

I believe it is right and proper that children should carefully consider serious issues. It is incorrect to suggest, as some honourable members have, that last week's Ministerial statement was prompted by this Bill. On September 17, when the same matter was before us, I stated, with the full authority of the Minister of Education, that he was looking at the regulations under the Education Act to see what changes were necessary to prevent undesirable activities and to protect schoolchildren from improper proselytising.

Last week's Ministerial statement, of which we all received a copy, resulted from the Minister's investigations into this matter. I consider that the statement is perfectly adequate to safeguard the children of this State from what many would agree are undesirable influences. I should like to quote from a document that I received this morning from the South Australian Council for Civil Liberties, as I believe that some of the council's remarks are pertinent, and they strongly support my stand on this Bill. The document states:

We believe that schoolchildren are, at present, adequately protected within the Criminal Law Consolidation Act and the Police Offences Act from sexual exploitation and oppression by adults. We do not see that the proposed amendment would in any way increase the protection of children from overt sexual actions. The proposed amendment would, however, insulate schoolchildren from the opportunity to discuss the full range of human sexual behaviour and, by so artificially restricting opportunities to discuss these matters, only ensure immature and irresponsible attitudes among a future generation of adults.

Education is by its nature a process of open and free inquiry; the proposed amendment fundamentally misconceives the purpose of education. We do not believe that the educational system should be used for proselytising or propagandising any particular point of view. We do believe that a free and democratic society demands an educational system which allows free and open inquiry into all areas of human thought and behaviour. A school curriculum constrained by the criminal law is anathema to a democratic society.

I heartily endorse those remarks.

The Hon. J. C. BURDETT: Will the honourable member give way?

The Hon. ANNE LEVY: Yes.

The Hon. J. C. BURDETT: Does the honourable member believe that any person should be able, within the precincts of any school, to advocate or encourage any unnatural sexual practice? I use the term "unnatural sexual practice" in the way in which it is defined in the Bill.

The Hon. ANNE LEVY: I think it depends a great deal on what is meant by "advocate or encourage". I certainly believe that schoolchildren should be able to have these matters discussed in a balanced and mature way, appropriate to the age and maturity of the schoolchildren concerned. It is the reponsibility of our schools to see that such discussions occur and that children are not shielded from areas of life that they will encounter on leaving school. This must be done properly, and I have complete faith in the integrity of the teachers of this State to ensure that this occurs. The proposed amendment could lead to the stifling of discussion on the part of teachers, who would be afraid that, if they undertook their proper educational functions, they might be brought before a court. Such stifling of the professional activity of teachers is anathema in a democratic society. For these reasons, I oppose the second reading of the Bill.

The Hon. M. B. CAMERON: I think it is most unfortunate that this matter is now being raised again in this way, that is, through the reintroduction of a Bill. I make it clear that my comments are no reflection on the Hon. Mr. Burdett, because I can understand his reaction to the announcement made by the Attorney-General in another State. The announcement has been denied, but it obviously took place.

The Hon. B. A. Chatterton: It is an emotional matter.

The Hon. M. B. CAMERON: Not at all. I can understand the reaction. Early in the debate on the previous Bill I made our position clear, that is, my position and that of my Party, that we did support the taking of this set of circumstances out of the criminal code. We were approached by Mr. Duncan (before he was Attorney-General) and asked to not approve certain amendments

then advanced by the Hon. Mr. Burdett. We considered the approach and, after consideration based on Mr. Duncan's statement that this matter should be contained either within the Education Act or some other Act, we decided not to support the Hon. Mr. Burdett's amendments. We made it clear to the Hon. Mr. Burdett that that was the reason why we did not support his amendments.

Members can imagine the reaction we had when we found that the person who advocated this course of action to us had not told the truth: he changed his mind. It is most unfortunate that I have to say that, but that is the case and that is what happened. Moreover, it means that at any time in the future if that member, who is now a Minister of the Crown in another place, comes to me advocating some point, I will not believe him; I will not be able to take his word for it. It deeply pains me to have to say that about anyone.

The Hon. F. T. Blevins: Why are you smiling?

The Hon. M. B. CAMERON: I am not smiling: far from it. The situation is that I, along with other members of my Party, express our deep disturbance about the course of action that has been undertaken by the Attorney-General. It is clear in my mind, despite what has been said by the honourable member who has just spoken, that the Government's direction to headmasters or school principals has come out perhaps earlier than it otherwise would have, because of this Bill. I am not going to argue whether the direction should be in the form of a regulation or whether it should merely be a direction.

I can understand the problems of putting such a direction in the form of a regulation because, if one makes regulations in respect of one group and its dealings with schools, one will have to look at the position in relation to other groups. That is a fact of life. One cannot just say that one group is banned and that another group, which is not so banned, will not be included in such a regulation. One must rely on the judgment of headmasters in respect of other groups. Certainly, it is not up to me to name other groups, although I would be distrubed at having my children approached by people proselytising their beliefs before them.

However, in these circumstances it is important that some direction be given. Probably this would not have been necessary if the matter had not been raised by the Attorney-General. It is amazing that we are now discussing a matter that probably would not have come forward if it had not been for the advocacy of the Attorney, because there has been no problem so far in this area. That is the amazing situation: there have been no problems, but we have been forced into this situation.

I again indicate that I do not support this Bill, as I did not support the original amendments. I accept that there are problems in putting this matter in this form. I accept the direction of headmasters, but I give clear warning that, if we have future problems with any group, I will immediately reconsider the position at the response of any member. Perhaps that will indicate to the Attorney that on any other matter on which he may like to advocate we will consider it in that light.

It would be naive to say that these matters are not discussed in schools. Of course they are, and probably at a level that is not appropriate. It may be that certain of these matters would be better brought up in a decent and proper discussion than in the indecent discussions carried out in the school yard. Anyone who has attended school will know that such matters are discussed there. Indeed, there are not many innocent people like me left. Anyway, I make quite clear that my opposition to this Bill is meant in no way as a reflection on the Hon. Mr. Burdett. His action in reintroducing the Bill was an understandable reaction to the extraordinary statement made by the Attorney-General.

The Hon. F. T. Blevins: Alleged.

The Hon. M. B. CAMERON: We had better stop using the word "alleged". If you want to use "alleged" bring forward the tapes of the discussion that took place in Sydney. The Attorney-General can get the statement released from Sydney if he wants to.

The Hon. F. T. Blevins: No, he can't.

The Hon. M. B. CAMERON: But he would not get it released because that would be the end of his Ministerial career. I do not support the Bill.

The Hon. D. H. L. Banfield: It was tied up with Mr. Becker's statement.

The Hon. M. B. CAMERON: He is not a member of my Party. I make clear my opposition to the Bill but on the basis that I trust the matter will not have to be raised again in future in the Council.

The Hon. F. T. BLEVINS: I oppose this Bill. I think it is both unnecessary and unwarranted. It is unnecessary because, if society sees the proselytising of homosexual attitudes in schools as a problem, then the recent Education Department circular No. 69, circulated by the Minister of Education to all headmasters, takes care of that problem.

The Hon. R. C. DeGaris: That is about as effective as Mr. Duncan's undertaking.

The Hon. F. T. BLEVINS: I do not know the machinery for doing this, but perhaps this circular should be incorporated in *Hansard* without my reading it. Then, if any person follows the *Hansard* debates, he can see what we are talking about.

The PRESIDENT: Is the honourable member asking leave to incorporate a Ministerial direction in *Hansard?*

The Hon. F. T. BLEVINS: Yes.

Leave granted.

STATEMENT BY THE MINISTER OF EDUCATION—PROSELYTISATION IN SCHOOLS

From time to time, questions are raised about the possibility of proselytisation within schools for life styles which are opposed by or even abhorrent to the vast majority of the community. Since the promulgation of the Freedom and Authority Memorandum of 1970, it is clear that what happens in schools so far as imparting knowledge, advocating points of view, or inculcating attitudes are concerned, is a matter for the professional expertise and integrity of teachers. The Government is concerned that this position should be maintained.

At the same time, it is conceded that the Government's position in this matter should be more than just a pious resolution. This matter was the subject of comment in the last Parliament because of the successful passage of a private member's Bill to amend the Criminal Law Consolidation Act. Various courses of action were then urged—further amendments to that particular Act, an appropriate amendment to the Education Act or to the regulations under that Act. Since that time, I and my officers have considered what action could best secure the Government's position without doing violence to the professional integrity of teachers.

With the support of my colleagues, I have now decided to have issued an official Education Department circular, No. 69, which will be sent to all school principals and

will be incorporated in the proposed administrative instructions currently in the course of preparation and which will be issued to schools in mid-1976. It indicates a frame of reference within which the freedom and authority of schools is to be interpreted. This matter has been discussed with representatives of the South Australian Institute of Teachers and the principals. Both prefer an administrative instruction of the type intended rather than amendments to either the Act or the regulations. The circular will read:

Education Department Circular No. 69. Contentious Issues in Schools.

The Freedom and Authority Memorandum of 1970 giving undisputed control of their schools to principals, in consultation with their staff and the school community, must be interpreted in terms of the Education Act and regulations and departmental policy as proclaimed from time to time by the Director-General. Indeed, the exercise of freedom and authority within schools must be used with the prevailing moral attitudes, practices and customs of the community always in mind. Fundamental amongst these is our society's belief that in social, personal, moral, and political matters schools are not to be used by interested persons for propagating their particular or private beliefs or on any account for proselytising.

This does not mean that controversial matters should not be discussed in schools. In fact, it is of paramount importance that they should be, with opportunities for presentation of arguments and points of view for and against to students of appropriate maturity and previous preparation. In this connection, however, the very appearance of some people in a school programme could be construed as advocacy. Among such would be people of extreme views or those known as professed advocates of activities or beliefs associated with homosexuality, particular religious doctrine, or unorthodox moral and political beliefs which have no considerable support and, indeed, are objectionable to the vast majority of the community. You, therefore, have the right and, indeed, the duty to see that they have no access to children in schools. There are other places where such people can express their views in our democratic society, but your first duty is to children, and school is not one of these places.

The Hon. F. T. BLEVINS: The Bill is unwarranted because what it will do, if it passes both Houses, is to put on the Statute Books a grossly discriminatory law, and the problem, if there is one, certainly does not warrant that action. As this is a private member's Bill on an issue that is not one of Government policy, I think it appropriate to give my personal views on the issues raised by the Bill. The main issues raised are, in my opinion, freedom of speech, censorship, and the right to privacy. I would be very annoyed if anyone attempted to associate the Government, or the Australian Labor Party as a whole, with my view on these issues. I repeat that they are not the views of the Government or of the A.L.P.: they are purely personal views held by me.

Dealing with the first of these issues, freedom of speech, I do not care what particular barrow a person wants to push, be it, for example, communism, fascism, homosexuality, or anything else. I think he should have the absolute right to put forward that viewpoint and persuade others that his views have merit. Apart from the laws of libel or slander, I would not be a party to any restriction at all on the right of free speech.

The second issue raised by the Bill is censorship. This is interwoven with the freedom of speech issue. Obviously, if we restrict a person's freedom of speech, we act as a censor at the same time by preventing another person hearing that particular viewpoint. This, to me, is intolerable. I am as strong in my opposition to any form of censorship as I am in support of everyone's right to freedom of speech. If a view is put forward that cannot be sustained in free and rational debate, that viewpoint will perish. Suppressing that viewpoint by censorship will do nothing at all to discredit it. Conversely, if a viewpoint is correct, then censorship only delays the discovery of it by others. I believe that people are far more intelligent then they are given credit for by the people who want to censor ideas. Why is it that the censors themselves are not corrupted by the views they censor? Do they imagine they are superior to everyone else? Do they imagine that they are the only people able to discern which view has merit and which has not? I suggest that everyone is quite capable of making his own decision as to what he wishes to hear, and I believe this applies equally to children and to adults.

The Hon. R. C. DeGaris: Do you think television should be censored?

The Hon. F. T. BLEVINS: I have said that I am totally opposed to any form of censorship. If the honourable member wants to go through the rigmarole of television and the press, etc., etc., he should refer back to what I said. I read an article recently by Professor Frederick May, of Sydney. I want to read a small part of that article, so that it puts clearly and concisely the view to which I subscribe on the issue of children and censorship. It was from an article as a result of discussions between Graham Williams, who is, I understand, a writer and broadcaster on religious matters, and Professor Frederick May, of the Sydney University. The article states:

Basically I hold to the old English Puritan values which proclaim the right of a person to be entirely himself. All human beings must be free at all times to explore, to negotiate as they will with their mind and body.

He is referring to Graham Williams. The article continues:

He is particularly trenchant about preserving the inalienable rights of children—"their rights to be free, free to explore, free from oppression, fear and exploitation". How does he reconcile his belief in utter personal freedom with his passionate desire to protect children? Easily. Censorship takes away the right of the child to explore his rights to the future. If you claim to be protecting a child what you are really saying is you have failed to bring that child up in a way that he can take experience as it comes. But if there is a perfect normalcy about what comes into a family, the children are perfectly normal—they have no hang-ups.

I am sorry that I have not got the date of that article, but it was from the *Australian* and I could find out the date for anyone who wanted it. It was not long ago. This was an excellent article, which I commend to the Council. The third point raised by the Bill is the right to privacy, and although I have raised this following the other two issues (freedom of speech and censorship), it is of equal importance. Whilst I believe that everyone has the right to say and hear what he likes, he has an equal right to privacy, the right not to have views thrust upon him if he does not wish to hear those views. This, I think, is where the circular of the Minister of Education comes in, making this Bill unnecessary. Whilst it is simple enough for an adult to protect his privacy in this context, the same cannot be said for a child. Society at the moment gives an almost unrestricted right to the parents of a child to decide to what ideas that child should or should not be exposed. Whilst I do think that this is the way it should be, I accept that society does not agree with my views on these contentious issues and, therefore, until I can persuade a majority of the people to my way of thinking, society has the right generally to regulate its affairs to suit the majority.

In accordance with the system we have of parental responsibility for children, headmasters assume most of this responsibility during schools hours. It is impossible for a

headmaster to know the attitude of the parents of every child in his care on such contentious issues as this one of homosexuality. Therefore, the headmaster must be extremely cautious about who is allowed into his school to address the students. I think headmasters have welcomed the circular issued by the Minister. It will assist them in making very difficult decisions, and reassure parents that their children will not be exposed to ideas to which the parents would not wish them to be exposed. The Minister's directive is, I think, in line with community attitudes at this time, and is certainly all that is required to solve what some people see as a problem. In view of the Minister's circular and my own views on these kinds of issue, I see no necessity for this Bill; therefore, I oppose it.

The Hon. R. C. DeGARIS (Leader of the Opposition): I support the Bill. I should like to comment on the views expressed by the Hon. Mr. Blevins on the matter of censorship. The point made by the Hon. Mr. Cameron is valid in this context, because the reason for this Bill's introduction is the reported statement of the Attorney-General in Sydney. One hears talk about censorship, and that there should be no censorship, and yet the Attorney-General is deliberately censoring the ability of people in this State to know exactly what he said in Sydney.

The Hon. D. H. L. Banfield: That is not right, you know.

The Hon. R. C. DeGARIS: That is the position.

The Hon. D. H. L. Banfield: Why don't you get the tape?

The Hon. R. C. DeGARIS: The Attorney-General could get that tape and clear himself of what he said in Sydney, if he so desired.

The Hon. F. T. Blevins: No, he can't.

The Hon. R. C. DeGARIS: This is the form of censorship to which the Hon. Mr. Blevins has referred, the censorship of the truth reaching the people in South Australia about what was said. The less we talk about censorship in this issue, the better. There is the imposition of a form of censorship in this issue. I believe the wrong decision was made when the Bill was first introduced. All the talk at that time about this being the wrong Bill into which to put this amendment was one of the reasons why the amendment was opposed. Such an allegation cannot be substantiated, because this is the correct Bill in which this amendment should rest.

To think it is possible to bring down a regulation or to amend the Education Act to cater for this situation is quite ridiculous. To think that a directive issued by the Minister of Education is any protection is also a viewpoint that cannot be substantiated as a reasonable means of containing this provision. We know that directives can be issued on many matters. We know, too, that directives can be withdrawn just as easily. It is right that Parliament should express itself in relation to this matter. The Bill specifically refers to the phrase "advocates and encourages", and what is happening is that honourable members are arguing that this will prevent free discussion of matters in these schools. That is not so. If one takes that view, one can say that the discussions in schools on felonies should not take place, yet they do and they should.

Because thieving and the fact that one should not thieve from another person is openly discussed in schools, that does not constitute encouragement or advocation. The argument that this provision will cut across free discussions in schools on these matters is not valid; it will not do that, but it prevents advocation and encouragement. I suggest that if anyone in a school advocated and encouraged people to thieve, action would be taken. At present there is nothing to prevent the advocation and encouragement of homosexuality in schools, and if the alleged statement of the Attorney-General is any—

The Hon. C. J. Sumner: What about the carnal knowledge offence?

The Hon. R. C. DeGARIS: What about it?

The Hon C. J. Sumner: I am asking you.

The Hon. R. C. DeGARIS: The honourable member has the opportunity to speak on this matter if he wishes. The position is quite clear that the Bill refers to "advocates and encourages". I do not think anyone here wants to see the advocation and encouragement of these things in schools. There is not one honourable member in this place who would stand up and say, "I support that." Why should we not make certain that there is a penalty if this is undertaken? I cannot understand the opposition to this Bill. I believe that the measure is reasonable and that it is supported by the vast majority of South Australian people.

The Hon. A. M. WHYTE: I support the Bill, and I cannot understand why there should be such opposition to it. The Minister of Education has issued an instruction to headmasters.

The Hon. M. B. Cameron: Do you think this instruction illustrates the difference between this Minister and the Attorney-General?

The Hon. A. M. WHYTE: Whatever may be the difference between the Ministers we are not here to register approval or otherwise of Ministerial statements. Our job is to see that laws on the Statute Books are observed, in order to ensure correct procedure in schools or elsewhere. We do have laws and, of course, some are broken; I think this one will be broken, too, but I believe it is our job to provide for this type of legislation. The Bill does not say that there is any restriction on what headmasters may prescribe.

The Hon. M. B. Cameron: Are these the only people you don't want to go into schools?

The Hon. A. M. WHYTE: No.

The Hon. M. B. Cameron: What are you going to do about the other groups?

The Hon. A. M. WHYTE: If I see anything as repugnant as the teaching of homosexuality in schools, I will most certainly attempt to see that the people concerned also are removed from schools.

The Hon. F. T. Blevins: Who decides what is repugnant?

The Hon. A. M. WHYTE: You say there should not be any restriction on anything—censorship, or anything at all; it should be open slather—everyone can wear a gun.

The Hon. F. T. Blevins: What on earth does wearing a gun have to do with censorship?

The Hon. A. M. WHYTE: The point I make is that this legislation does not detract from the authority of headmasters. In fact, it strengthens their hand, so that if they need to take action they have something which is a good deal more valuable to them than a Ministerial instruction, which has no weight whatsoever.

The Hon. F. T. Blevins: The headmasters disagree with you.

The Hon. A. M. WHYTE: It would hold no weight whatsoever if the headmaster believed he had a right to have people removed from the school precincts.

The Hon. F. T. BLEVINS: Will the honourable member give way?

The Hon. A. M. WHYTE: It has always been my pleasure to listen to honourable members on the other side who interject because, in general, they strengthen my case. Yes, I will give way.

The Hon. F. T. BLEVINS: In this case, you will be disappointed. The Hon. Mr. Whyte suggests that headmasters will be delighted if this Bill goes through; he says it will strengthen their hand. But headmasters have already been consulted. In fact, the Minister of Education has clearly stated that this matter has been discussed with representatives of the South Australian Institute of Teachers and the principals. Both prefer an administrative instruction of this type rather than amendments to either the Act or the regulations. The headmasters and the institute have said they prefer what the Minister is doing to what the Hon. Mr. Burdett is attempting; so, how can the Hon. Mr. Whyte say the Bill will strengthen their case? They certainly do not agree with that. On what authority does the member set himself up to speak for these people?

The Hon. A. M. WHYTE: So said the Minister. The people concerned have spoken clearly for themselves.

The Hon. F. T. Blevins: So, he is a liar?

The Hon. A. M. WHYTE: I am not saying he is a liar. You mentioned that word.

The Hon. F. T. Blevins: But if you said "so said the Minister of Education" you are implying that what he said was untrue.

The Hon. A. M. WHYTE: It need not be the general opinion of the headmasters. If the Minister wants this done, we are assisting him by passing this legislation. There is no question in my mind that this was the Minister's instruction to schoolteachers. This Bill merely strengthens that situation.

The Hon. N. K. Foster: That's only your opinion.

The Hon. A. M. WHYTE: Just as the Hon. Mr. Blevins has an opinion. He is apparently of the opinion that parents generally are immature in comparison with teachers, whereas many of the facts of life are explained more clearly to children by their parents. This is the proper and right way for them to be instructed. In any case, I do not believe that this legislation will do other than assist headmasters. I think we should place this matter on the Statutes rather than leave it to a Ministerial instruction which, after all, cannot carry any weight in supporting headmasters, should they wish to take action. Further, Ministers are not indispensable. We do not know what the next Minister of Education may think. The present Minister has already held more than one portfolio, and there is nothing to say that he will not be shifted or taken right out of Cabinet within weeks. We have no—

The Hon. N. K. Foster: If a parent was convicted of the offence, would you remove the children from that parent?

The Hon. A. M. WHYTE: We have no undertaking from the Premier that what I have said about a change of Ministers will not be the case. If the Hon. Mr. Foster wants to hold a private discussion with me on homosexuality, I am quite prepared and available to take part in that discussion at any time, but, since that has nothing to do with the present debate or this Bill, I do not wish to answer him further.

The Hon. N. K. Foster: The only thing you haven't accused a person of is cannibalism.

The PRESIDENT: Order!

The Hon. A. M. WHYTE: I support the Bill.

The Hon. J. C. BURDETT: I would like to thank honourable members for their contributions to this debate. By his statement, I suggest that the Minister of Education has acknowledged the importance of this matter. He has made quite clear that he wants to prevent people from entering schools and advocating homosexual practices. I suggest that the only effective way of doing what the Minister of Education has stated in his directive he wishes to do is by amending the legislation. As was said by the Hon. Mr. Whyte and others, the Minister may change: he may quite legitimately without any wrong practice at all change his direction. The proper way to give this direction is by legislation.

It should be remembered that the requirement to do something to prevent homosexuals from being in the precincts of schools for the purpose of advocating or encouraging their way of life is results from the legislation passed by Parliament recently; otherwise, the Bill would not have been necessary, because sodomy was previously illegal. But, because a Bill has been recently passed by Parliament making sodomy no longer illegal and, therefore, removing the law preventing its being advocated or encouraged in schools, the need now arises to give some form of protection in this area. As a need arose for legislation, I suggest that the protection should be through legislation. There should be legislation to prevent this practice from being advocated or encouraged (and that was all that the Bill referred to: it did not refer to discussion). There should, by legislation, be some means of preventing these practices from being advocated or encouraged in schools.

I refer now to the letter from the South Australian Council for Civil Liberties, to which the Hon. Anne Levy referred and a copy of which I think all honourable members received only this morning. I suggest that it is not a civil liberty for people to go into schools without control and encourage various practices. That is a matter which must be kept under control. There must be some control over people who are at liberty to go into schools and there advocate or encourage certain practices.

The Hon. Anne Levy: The principals have that authority now.

The Hon. J. C. BURDETT: That is so, but let us remember, first of all, that not only secondary schools but also primary schools—

The Hon. Anne Levy: Their principals also have authority.

The Hon. J. C. BURDETT: Yes, but how does one know that that authority will be exercised properly in all these circumstances? Generally speaking, I have the greatest confidence in the teaching profession in this State. However, there are cases in all professions (and I refer even to lawyers, politicians, seamen and university lecturers) where—

The Hon. N. K. Foster: I am glad you mentioned lawyers.

The Hon. J. C. BURDETT: Naturally, I did that first. There are cases in all professions where people do not do the right thing; they exercise their discretion and do what they ought not to do. It is an offence to advocate felonies and, since sodomy is no longer an offence, there is a need by legislation to prevent this practice from being advocated and encouraged in the precincts of schools. I cannot emphasise that too much, as much of the discussion on this Bill has been irrelevant, having related to homosexuality and homosexuals.

I am not trying to prevent that; nor is the Bill. It seeks to prevent that practice from being advocated and encouraged. I believe that many (in fact most) schoolchildren would be upset if they were subjected to people in the precincts of schools advocating or encouraging this practice. I certainly know that my children would be. While we acknowledge these days the need for fairly frank discussions with children, I do not see why they (and this goes down to primary schoolchildren) should be subjected to this kind of trauma. I do not see why they should be subjected to persons advocating and encouraging practices that those children find abhorrent.

One point made was that, in regard to the person who commits the offence created by the Bill, no age limit is stipulated. However, there is no general age limit in the criminal law. So, there is nothing unusual about this Bill.

This matter has been referred to previously, but I will briefly pass this comment. The Hon. Anne Levy spoke of Oscar Wilde and other people in history who have, in their field, made great contributions to society and who have been homosexuals. She suggested that the Bill would prevent those people and their works from being discussed in schools. That is nonsense. To talk about Oscar Wilde and to say that he was a homosexual is not in any way to encourage unnatural practices.

The Hon. Anne Levy spoke about unnatural practices between husband and wife, and suggested that this Bill could mean that those practices could not be mentioned. Of course, to mention is not to encourage.

The Hon. Anne Levy: It is to some people.

The Hon. J. C. BURDETT: No, it is not. The words, "to advocate or encourage", in the Bill are perfectly clear. They may be difficult of application in certain circumstances, but to mention is not to encourage, and anyone who simply mentions these practices does not risk being prosecuted if this Bill is passed. I might add that, quite apart from that, I doubt whether there is much need, anyway, to talk to schoolchildren about unnatural practices between husband and wife. I am rather alarmed at that thought.

The Hon. Mr. Blevins objects to any form of censorship, including censorship with regard to children in schools. He seems to believe there should not be any kind of control whatever on what people (and this includes schoolchildren) hear and read.

The Hon. F. T. Blevins: I didn't say that at all.

The Hon. J. C. BURDETT: This attitude is a strong argument for the Bill.

The Hon. F. T. Blevins: It wasn't what I said, of course.

The Hon. J. C. BURDETT: It is a pretty fair summary of what the honourable member said.

The Hon. F. T. Blevins: No, not in relation to schools.

The Hon. J. C. BURDETT: Everyone can read *Hansard*.

The Hon. F. T. Blevins: I said I supported the Minister. I said that clearly.

The Hon. J. C. BURDETT: In any event, everyone can read *Hansard*.

The Hon. F. T. Blevins: You might be able to read, but you can't hear too well.

The Hon. J. C. BURDETT: If the honourable member would keep quiet, he would hear what I have to say.

The Hon. N. K. Foster: Now don't react like that. You're being nasty, you know.

The Hon. J. C. BURDETT: I am not being nasty. The Hon. Mr. Blevins said he objects to any form of censorship, including that in regard to children.

The Hon. F. T. Blevins: I also said that the majority of people do not agree with me and, therefore, I supported the Minister's attitude.

The Hon. J. C. BURDETT: That was only a gloss. The main substantive statement made by the Hon. Mr. Blevins was that he did not agree with any form of censorship, including that relating to schoolchildren.

The Hon. F. T. Blevins: I didn't say that at all.

The Hon. J. C. BURDETT: That attitude is a strong argument for the Bill. One final point that was raised related to the offence in the Act, as it is now constituted (having been amended by the Bill passed recently), of carnal knowledge. As I said in my second reading explanation of the Bill, this is a protection in regard to actively seeking, at that time between two persons, the commission of a homosexual act. However, it is no protection whatever against persons advocating or encouraging, in principle, the practice of homosexuality. That is what I believe should be prevented by Statute.

The Council divided on the second reading:

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

Noes (11)—The Hons. D. H. L. Banfield, 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 (teller), and C. J. Sumner.

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

Majority of 4 for the Noes.

Second reading thus negatived.

CONSTITUTIONAL PRINCIPLES

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

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

Motion carried.

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

That the Legislative Council respectfully draw the attention of His Excellency the Governor to the following constitutional principles and respectfully affirm that they should be followed:

(1) The Lower House of the Parliament grants Supply. The Upper House may scrutinise and suggest amendments to money Bills but should not frustrate the elected Government by refusing or deferring Supply.

(2) The Governor, in accordance with letters patent, should act on the advice of his Ministers, and should not dismiss a Ministry except in the case of that Ministry's acting in breach of the law or its losing the confidence of the Lower House.

(3) As neither ground for dismissal occurred in the case of the Federal Government of Mr. Whitlam, the action of the Governor-General in dismissing Mr. Whitlam and refusing his advice to hold a Senate election was wrong according to all constitutional convention, precedent, and propriety, and should not on any occasion be followed as a precedent in this State.

The Council has already expressed its view on the failure of the Senate, including the Senators from this State, to pass the Appropriation Bills presented to the Senate by the Whitlam Government. If a position is adopted by Upper Houses in this country that they are able, at any time when they see a political advantage to Opposition Parties which have a majority in the Upper Houses, to reject Supply, then constitutional and democratic Government in this country will be at an end. It will be impossible

for stable Governments to continue. It will be impossible for voters to know at election time that they are electing a Government to carry out the policies on which they are voting. Enshrined in the Constitution of this State and of the Commonwealth is the principle that the Upper House of Parliament grants Supply, and it is because of that principle that it is the Lower House which can determine the Government. It is that Party which commands the support and confidence of the Lower House which forms the Government, regardless of the political complexion of members in the other House.

It is clear from the constitutional history and practice of this State that the Upper House does not refuse Supply and, while it may scrutinise money Bills and suggest amendments, it does not frustrate the elected Government by refusing or deferring Supply That constitutional principle acted on in this place equally applies to the Federal Parliament of this country. The Governor, as is the Governor-General, is required by letters patent to act on the advice of his Ministers, and it is clear from constitutional practice during this century that the prerogative power of the Crown or its representative in dismissing a Ministry is limited to dismissals where the Ministry loses the confidence of the Lower House or where, in the view of the Crown representative, Ministers are acting plainly in breach of the law and in excess of the powers granted to them by legislation, and persist in doing so.

In the case of the events of yesterday, there was no allegation, nor could there be, that the Government had lost the confidence of the Lower House. There was no allegation that the Government was acting or had acted in breach of the law. Supply had not run out. No action of any illegal nature had been taken by the Government. The only allegation that has been made at any time against the Federal Government was that Executive Council had exceeded its authority in granting to the Minister for Minerals and Energy the right to investigate loan raisings, which had not been referred to Loan Council. It could hardly be contended that the Governor-General should allege this as an illegality for, while I do not believe that it was, nevertheless he was a party to the action.

It is plain, then, that the Governor-General has acted contrary to constitutional convention, precedent and propriety, and that should not be followed as a precedent in this State. It is necessary for us in South Australia to make clear what the basis is of the prerogative power of the Government in circumstances like this, and respectfully to draw the attention of the Governor to the fact that this wrong, which has been done in Canberra, should never occur in this State.

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

That this debate be now adjourned.

The Council divided on the motion:

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

Majority of 4 for the Noes.

Motion thus negatived.

The Hon. R. C. DeGARIS: I rise, first, on a point of order regarding Standing Order 193. I believe that an injurious reflection is made in paragraph (3) of the motion in relation to Standing Order 193.

The PRESIDENT: As the honourable Leader is taking a point of order, can he say how he suggests that there is a reflection in paragraph (3) of the motion?

The Hon. R. C. DeGARIS: Paragraph (3) states:

As neither ground for dismissal occurred in the case of the Federal Government of Mr. Whitlam, the action of the Governor-General in dismissing Mr. Whitlam and refusing his advice to hold a Senate election was wrong according to all constitutional convention, precedent, and propriety, and should not on any occasion be followed as a precedent in this State.

I think that is an injurious reflection upon the Governor-General.

The PRESIDENT: I have considered the honourable member's point of order in relation to Standing Order 193. I point out that the Standing Order itself is a little ambiguous. I am not sure whether it does cover reflections, whether they be injurious or otherwise, on the Governor-General of the Commonwealth but, assuming that the Standing Order is wide enough actually to encompass the Governor-General, I cannot rule that the statement in paragraph (3) of the motion is an injurious reflection. I think it amounts to no more than a criticism of the way His Excellency the Governor-General has fulfilled his constitutional functions. Therefore, I rule against the point of order raised by the honourable Leader.

The Hon. R. C. DeGARIS: I am most disappointed that the Government has moved this motion without giving any warning whatever to this side of the Council. The first I heard of it was when the Minister rose and sought leave of the Council to suspend Standing Orders. He gave no reason why he wanted to suspend Standing Orders. The Council granted that request, and reasonably so because, at this stage of the session, to move a motion of which we knew nothing, to move a motion that cast a reflection, whether injurious or not, upon the Governor-General of Australia—

The Hon. N. K. Foster: It does not cast a reflection at all, and you know it.

The Hon. R. C. DeGARIS: Paragraph (3) of the motion states:

As neither ground for dismissal occurred in the case of the Federal Government of Mr. Whitlam, the action of the Governor-General in dismissing Mr. Whitlam and refusing his advice to hold a Senate election was wrong according to all constitutional convention, precedent, and propriety . . .

That is a reflection, no matter how one looks at it.

The Hon. F. T. Blevins: That's a reflection on the Chair. What about the President's ruling?

The Hon. R. C. DeGARIS: It is not a reflection on the Chair.

The PRESIDENT: Order! The Chair is able to protect itself.

The Hon. R. C. DeGARIS: I say that it is not a reflection on the Chair at all. You, Mr. President, referred to Standing Orders and to the matter of injurious reflections. Your ruling may be correct, and I accept it. However, I am saying that the motion is a reflection. The motion provides:

That the Legislative Council draw the attention of His Excellency the Governor—

The Hon. N. K. FOSTER: I rise on a point of order, Mr. President. The Leader is implying that your ruling may be incorrect. That is a challenge to the authority of the

position that you hold in this Council. Either the Leader accepts or rejects your ruling—but let him have the courage to accept it or reject it. If he has not the guts to do so, he should not be talking in this vein in this Council.

The PRESIDENT: Order! I do not think I need the honourable member's assistance in this respect. I do not regard what the honourable member has so far said as being any reflection upon my ruling. The Hon. Mr. DeGaris.

The Hon. R. C. DeGARIS: I assure you, Mr. President, that my comments were not a reflection on your ruling. The motion states:

That the Legislative Council respectfully draw the attention of His Excellency the Governor to the following constitutional principles and respectfully affirm that they should be followed:

It then goes on with three paragraphs. I point out that this Council unanimously granted the suspension of Standing Orders. No warning was given to this side of the Council on what the motion was about, and no information has been given no information about the Government's reason, no is the usual position, and it is the accepted position in such circumstances, that this Council does not prevent the Government from getting on with its business. We will allow Standing Orders to be suspended, and we will assist in every way possible for legislation to be passed in this Chamber. To be confronted with a motion such as this, to be confronted with the suspension of Standing Orders and given no information about the Government's reason, no (shall we say?) second reading speech to look at, is beyond the normal practice in this Chamber. I point that out to the Minister.

The Hon. C. J. Sumner: Why don't you get on with the substance?

The Hon. R. C. DeGARIS: I am talking about the substance, because all we have at the moment is a piece of paper delivered to me five minutes ago and no information on what the Minister said. That is the position.

The Hon. C. M. Hill: We have never had that situation before.

The Hon. N. K. Foster: You have never had a lot of things before.

The Hon. R. C. DeGARIS: I am disappointed, in view of the co-operation that this Council has always given to the Government, to be confronted with this position. Let me reread the first part of the motion:

That the Legislative Council respectfully draw the attention of His Excellency the Governor to the following constitutional principles and respectfully affirm that they should be followed.

What constitutional principles?

The Hon. N. K. Foster: I will tell you in a minute.

The Hon. R. C. DeGARIS: With no Federal Constitution before me to quote from, are we looking at constitutional principles as far as this State is concerned or are we looking at constitutional principles from the point of view of the Federal Constitution? It is not even stated in the motion. What is the Government talking about? The motion deals with two separate constitutional principles—those relating to this State and those relating to the Federal sphere. What are we talking about when we say "constitutional principles"? The principles in the two Constitutions are entirely different, anyway. There is no comparison between the Federal Constitution and the Constitution of this State.

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

The Hon. N. K. Foster: We are all part of the Commonwealth, aren't we?

The PRESIDENT: Order!

The Hon. C. J. SUMNER: Will the honourable member give way?

The Hon. R. C. DeGARIS: Yes.

The Hon. C. J. SUMNER: You said there is no comparison between the constitutional principles of the Federal Parliament and those of the State Parliament. Surely the whole system of Cabinet government on which the Government in this State is based is similar to that existing in the Federal Government? Clearly, there is one definite similarity.

The Hon. R. C. DeGARIS: There may be similarity in the Constitutions but there are differing provisions in every Constitution. To say that one Constitution is the same as another is to talk balony.

The Hon. N. K. Foster: The motion does not say that, and you know it.

The Hon. R. C. DeGARIS: There are differences in all Constitutions but this part of the motion ends up with the words "following constitutional principles", as though there is one massive constitutional principle that applies to all Constitutions.

The Hon. N. K. Foster: There is.

The Hon. R. C. DeGARIS: Practically every issue is different between the two Constitutions; the constitutional principles embodied in the State Constitution are different from those embodied in the Federal Constitution. The motion continues:

The Lower House of the Parliament grants Supply. The Upper House may scrutinise and suggest amendments to money Bills but should not frustrate the elected Government by refusing or deferring Supply.

That is a general principle I can accept, but to say that the Upper House should not frustrate the elected Government by refusing or deferring Supply does not mean, in any Constitution, that it should not be done. That is a decision for the Upper House itself, and for us to criticise the actions of any other Upper House by any motion, as I pointed out before, is an action that should not be taken. It has nothing to do with this Chamber or any other Chamber in South Australia.

The Hon. C. J. Sumner: Don't you believe we are entitled to express a point of view?

The Hon. R. C. DeGARIS: I do not believe we are entitled to express a point of view in relation to this matter, because the point of view will be expressed by the people of Australia, who are the correct and final court of appeal.

The Hon. D. H. L. Banfield: And that has already been done twice.

The Hon. R. C. DeGARIS: Let me quote the text of yesterday's statement, part in summary and part in detail, by Sir John Kerr, in which he terminated Mr. Whitlam's commission as Prime Minister. He said:

I have given careful consideration to the constitutional crisis and have made some decisions which I wish to explain.

The Hon. N. K. Foster: He made it a constitutional crisis.

The Hon. R. C. DeGARIS: The article continues:

In a summary, Sir John said:

It has been necessary for me to find a democratic and constitutional solution to the current crisis which will permit the people of Australia to decide as soon as possible what should be the outcome of the deadlock which

developed over Supply between the two Houses of Parliament and between the Government and the Opposition parties.

The only solution consistent with the Constitution and with my oath of office and my responsibilities, authority and duty as Governor-General is to terminate the commission as Prime Minister of Mr. Whitlam and to arrange fo a caretaker Government able to secure Supply and willing to let the issue go to the people.

The Hon. N. K. Foster: A dreadful decision.

The Hon. R. C. DeGARIS: Let me compare what the Governor-General said with paragraph 3 of the motion, which is:

As neither ground for dismissal occurred in the case of the Federal Government of Mr. Whitlam the action of the Governor-General in dismissing Mr. Whitlam and refusing his advice to hold a Senate election was wrong according to all constitutional convention—

not according to the Governor-General—

precedent, and propriety, and should not on any occasion be followed as a precedent in this State.

Sir John Kerr continued:

I shall summarise the elements of the problem and the reasons for my decision which places the matter before the people of Australia for prompt determination. Because of the Federal nature of our Constitution and because of its provisions the Senate undoubtedly has constitutional power to refuse or defer Supply to the Government.

So has this Chamber exactly the same right.

The Hon. C. J. SUMNER: Will the honourable member give way?

The Hon. R. C. DeGARIS: Yes.

The Hon. C. J. SUMNER: Does the honourable member concede that it is a constitutional convention of this Chamber not to refuse Supply?

The Hon. R. C. DeGARIS: No, I do not concede that point for one moment. Constitutionally, this Council has the power to refuse Supply and to refuse a Budget. The fact of the matter is that in the 125 years—

The Hon. N. K. Foster: More than that, mate.

The Hon. R. C. DeGARIS: —in the 129 years, I think, of responsible Government in South Australia the Upper House has never refused Supply.

The Hon. C. J. Sumner: Does that not establish a convention?

The Hon. R. C. DeGARIS: No, it does not, because the Constitution Act of South Australia specifically allows for the fact that the Upper House, if it is confronted with a situation where it believes that the people of this State should express an opinion on the Government in the Lower House, has that right so to do.

The Hon. C. J. SUMNER: Will the honourable member give way?

The Hon. R. C. DeGARIS: Yes.

The Hon. C. J. SUMNER: Is it not true that the Queen, or the Governor-General, can refuse to assent to Bills passed by both Houses of Parliament, but that it is a convention that she never does so, although that right strictly and legally exists?

The Hon. R. C. DeGARIS: As far as I am aware, the Monarch has the right not to assent to a Bill. Whether it is a convention that she never would, I do not know, nor am I prepared to express an opinion on it. Since I have been in this Chamber, however, the Governor has recommended to this Council amendments to Bills before he has signed them. That has been done since I have been in this Parliament.

The Hon. C. J. Sumner: You must agree that it is a convention that the Monarch never refuses to assent to Bills.

The Hon. R. C. DeGARIS: I have said that the Monarch's representative in this State has referred Bills back to Parliament before signature with a recommendation that they be amended. That has happened since I have been in this place.

The Hon. N. K. Foster: Do you or do you not agree?

The Hon. R. C. DeGARIS: I do not know what this word "convention" that people are throwing around really means. What I am saying—

The Hon. N. K. Foster: Why don't you sit down?

The Hon. R. C. DeGARIS: What I am saying, if honourable members will listen—

The Hon. N. K. Foster: You admit you are incompetent.

The PRESIDENT: Order!

The Hon. N. K. Foster: So he is.

The Hon. R. C. DeGARIS: I am saying that, in my experience in this Chamber, the representative of the Monarch has referred back to Parliament a Bill, recommending an amendment; that amendment has been accepted by the Parliament and then the Governor has signed the Bill.

The Hon. C. J. Sumner: Why don't you answer my question?

The Hon. N. K. Foster: He won't.

The Hon. R. C. DeGARIS: Because I do not know what the answer is.

The Hon. N. K. Foster: Well sit down.

The Hon. R. C. DeGARIS: Nor would I presume to talk about a convention in relation to the Governor or the Monarch, as far as we are concerned.

The Hon. N. K. Foster: Isn't Mr. DeGaris on the Constitution Convention committee from this place?

The Hon. C. M. Hill: He is on quite proper ground.

The Hon. N. K. Foster: He is on the Constitution Convention committee, and he doesn't know what a convention is. He should be ripped off.

Members interjecting:

The PRESIDENT: Order! Will honourable members please be quiet when I am on my feet. Interjections are developing in this debate and the situation is arising where one interjector is arguing with another person across the Chamber. That is completely out of order, and I do not intend to allow it. The Hon. Mr. DeGaris will continue.

The Hon. R. C. DeGARIS: I continue with the statement made by the Hon. Sir John Kerr, the Governor-General. The statement continues:

Because of the principles of responsible government a Prime Minister who cannot obtain Supply, including money for carrying on the ordinary services of government, must either advise a general election or resign. If he refuses to do this I have the authority, and indeed the duty under the Constitution to withdraw his commission as Prime Minister. The position in Australia is quite different from the position in the United Kingdom. Here the confidence of both Houses on Supply is necessary to ensure its provision. In the United Kingdom the confidence of the House of Commons alone is necessary. But both here and in the United Kingdom the duty of the Prime Minister is the same in a most important respect—if he cannot get Supply he must resign or advise an election.

If a Prime Minister refuses to resign or to advise an election, and this is the case with Mr. Whitlam, my constitutional authority and duty require me to do what I have

now done—to withdraw his commission—and to invite the Leader of the Opposition to form a caretaker government—that is one that makes no appointments or dismissals and initiates no policies, until a general election is held. It is most desirable that he should guarantee Supply. Mr. Fraser will be asked to give the necessary undertakings and advise whether he is prepared to recommend a double dissolution. He will also be asked to guarantee Supply. The decisions I have made were made after I was satisfied that Mr. Whitlam could not obtain Supply. No other decision open to me would enable the Australian people to decide for themselves what should be done.

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

The Hon. R. C. DeGARIS: The statement continues:

Once I had made up my mind—

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

The Hon. R. C. DeGARIS: What does the honourable member mean? Does he want me to give way so that he can explain himself on that point?

The Hon. N. K. Foster: I will tell you—

The PRESIDENT: The honourable member is inviting you to tell him now.

The Hon. N. K. Foster: He is not getting it now. He will wait his turn.

The PRESIDENT: Then the honourable member will remain quiet until he gets his opportunity to speak.

The Hon. R. C. DeGARIS: The statement continues:

Once I had made up my mind, for my own part, what I must do if Mr. Whitlam persisted in his stated intention I consulted the Chief Justice of Australia (Sir Garfield Barwick). I have his permission to say that I consulted him in this way. The result is that there will be an early general election for both Houses and the people can do what, in a democracy such as ours, is their responsibility and duty and theirs alone. It is for the people now to decide the issue which the two leaders have failed to settle. On October 16 the Senate deferred consideration of Appropriation Bills (Nos. 1 and 2) 1975-76. In the time which elapsed since then events made it clear that the Senate was determined to refuse to grant Supply to the Government. I make this point: it is the constitutional right of the Senate to refuse Supply if it so desires. No other argument can touch that one point. Whether the Senate is right or wrong is not the question at this stage. The Senate has a constitutional right to refuse Supply, just as this Council has a constitutional right, under the Constitution, to reject Supply if it so desires. The fact that it has never been done in this State is a credit of which this Council should be justly proud. I have said that on many previous occasions. There has been vast criticism of this Council over the years, but its record is one for a credit rating rather than a matter of abuse.

The Hon. F. T. Blevins: In your opinion.

The Hon. R. C. DeGARIS: The honourable member said, "In your opinion". It is not only in my opinion. I refer him to a recent conference in Great Britain on the operation of Upper Houses, where it was a decision of the Commonwealth Parliamentary Association that the work of the Legislative Council in South Australia was, by comparison, one of the best records in the free world in the operation of second Chambers.

The Hon. F. T. Blevins: It just shows how crook the others are.

The Hon. R. C. DeGARIS: I continue with the words of the Governor-General, as follows:

In that time the Senate on no less than two occasions resolved to proceed no further with fresh Appropriation Bills, in identical terms, which had been passed by the House of Representatives. The determination of the Senate to maintain its refusal to grant Supply was confirmed by the public statements made by the Leader of the Opposition, the Opposition having control of the Senate. By virtue of what has in fact happened there, therefore came into existence a deadlock between the House of Representatives and the Senate on the central issue of Supply without which all the ordinary services of the Government cannot be maintained. I had the benefit of discussions with the Prime Minister and, with his approval, with the Leader of the Opposition and with the Treasurer and the Attorney-General.

As a result of those discussions and having regard to the public statements of the Prime Minister and the Leader of the Opposition I have come regretfully to the conclusion that there is no likelihood of a compromise between the House of Representatives and the Senate nor for that matter between the Government and the Opposition. The deadlock which arose was one which, in the interests of the nation, had to be resolved as promptly as possible and by means which are appropriate in our democratic system. In all the circumstances which have occurred the appropriate means is a dissolution of the Parliament and an election for both Houses. No other course offers a sufficient assurance of resolving the deadlock and resolving it promptly.

Parliamentary control of appropriation and accordingly of expenditure is a fundamental feature of our system of responsible government. In consequence it has been generally accepted that a Government which has been denied Supply by the Parliament cannot govern. So much at least is clear in cases where a Ministry is refused Supply by a popularly elected Lower House. In other systems where an Upper House is denied the right to reject a money Bill denial of Supply can occur only at the instance of the Lower House.

When, however, an Upper House possesses the power to reject a money Bill including an Appropriation Bill, and exercises the power by denying Supply the principle that a Government which has been denied Supply by the Parliament should resign or go to an election must still apply—it is a necessary consequence of parliamentary control of appropriation and expenditure and of the expectation that the ordinary and necessary services of government will continue to be provided. The Constitution combines the two elements of responsible government and federalism. The Senate is, like the House, a popularly elected Chamber.

The Hon. N. K. Foster: But he is wrong, isn't he?

The Hon. F. T. Blevins: It's not true.

The Hon. R. C. DeGARIS: It is true. The Senate is elected by full adult franchise, proportional representation, which is more likely to be popularly elected than the Lower House. The article continues:

It was designed to provide representation by States, not be electorates, and was given by section 53, equal powers with the House with respect to proposed laws, except in the respects mentioned in the section. It was denied power to originate or amend Appropriation Bills but was left with power to reject them or defer consideration of them. The Senate accordingly has the power and has exercised the power to refuse to grant Supply to the Government. The Government stands in the position that it has been denied Supply by the Parliament with all the consequences which flow from that fact.

One must examine and understand the Federal Constitution, the Constitution of the Commonwealth of Australia. That Constitution sets up the Parliament, consisting of the Senate and the House of Representatives.

The Hon. N. K. Foster: I agree with that.

The Hon. R. C. DeGARIS: Under that Constitution those Houses have certain powers. When Supply is rejected by one House it is a rejection of Supply by Parliament. The Federal Constitution (as everyone knows) is virtually a contract signed between six sovereign States. In signing that contract to protect the interests of the States, the Senate was given those powers and to see that the—

The Hon. C. J. SUMNER: Will the honourable member give way? How can you compare deferring the Supply Bill with the protection of the States' rights? Surely the action of the Senate was merely on the orders of the Leader of the Opposition, as he then was, in the Lower

House. It had absolutely nothing to do with the protection of State rights.

The Hon. N. K. Foster: A meeting of non-Parliamentarians last Sunday fortnight.

The Hon. R. C. DeGARIS: If honourable members will contain themselves for a moment and try to understand what I am saying, we would not have such comments. What I am saying is that we would not have been a Federation unless that contract had been signed, giving the Senate those powers, for the purpose of protecting the interests of the States. Where the Senate has gone since that time is nothing to do with the contention I have put forward. What I am saying is, there would not have been a Federation of Australian States if, in the first place, there had not been a—

The Hon. C. J. Sumner: Is it not true that had it not been for a decision in the Liberal Party room in Canberra, putting pressure on a number of Liberal Senators to defer Supply, Supply would not have been deferred? In other words it was a Party decision. Individual members of the Senate, who represent the States, were forced by Fraser, by the Liberal Party machine in Canberra, to defer Supply.

The Hon. N. K. Foster: By the faceless men.

The Hon. C. J. Sumner: I ask the Hon. Mr. DeGaris, is that true?

The Hon. R. C. DeGARIS: I have no information as to whether what the honourable member is saying is true or not. I am not privy to the discussions of the Liberal Party or the Country Party or any other Party in Canberra. Neither am I privy to the discussions of the Parliamentary Liberal Party in the House of Assembly in this place. I make that perfectly clear.

The Hon. C. J. Sumner: Don't you read the newspapers?

The Hon. R. C. DeGARIS: One reads newspapers, but the honourable member asked me whether a particular statement he made is true or not. I am unable to answer that. That is the simple truth of the matter. What I am saying is that this motion criticises the Governor-General, casting a reflection on the decision he made. The Governor-General has acted strictly within the Constitution. For this House to consider a resolution criticising the Governor-General of the Commonwealth of Australia, when he has acted within the Constitution, is something that goes beyond my understanding. In no way can honourable members say that the Governor-General acted outside his constitutional responsibilities. He has not done so. For this Council to criticise what the Governor-General has done I believe goes beyond what is reasonable.

The Hon. N. K. Foster: What would you consider to be reasonable?

The Hon. R. C. DeGARIS: I have pointed out that I do not believe this Council should be considering a motion such as this. We have our jobs to do in relation to legislation coming before us and that is our role and task. As I have explained to this Council on many occasions, the record of this Chamber in regard to that particular job is a record of which I am proud. This State should also be proud of the Council's record.

The Hon. C. J. Sumner: Don't you think this Council has a role in discussing matters of public interest?

The Hon. R. C. DeGARIS: I do not think a motion casting criticism and reflection upon Her Majesty's representative, as Governor-General of Australia, is in the public interest.

The Hon. N. K. Foster: She didn't know anything about it.

The Hon. R. C. DeGARIS: I hope other members will speak on this motion. I do not necessarily disagree with the sentiments expressed in parts of it. I do not think there is any need for this Council to express a viewpoint on it because, after all, we are covered by our own Constitution. When that Constitution is in debate here the Governor will make his decision under the provisions of our own State Constitution. He has already done that (not this particular Governor, for whom I have the highest regard). At that time the Governor of this State made his interpretation of our Constitution. I do not know what went on in that particular situation but in 1968 the Governor made a decision where submissions were made to him by both the Premier and the Leader of the Opposition. At that time decisions by the Governor were made under the terms of the Constitution. It would have been just as much an action that should not be taken in this Council if there had been a motion criticising the actions of our own Governor—what he did in his constitutional rule at that particular time—as the Governor-General has done in this case. Let me look again at this motion. It states:

That the Legislative Council respectfully draw the attention of His Excellency the Governor to the following constitutional principles—

I have always asked what "constitutional principles" means—and respectfully affirm that they should be followed:

1. The Lower House of the Parliament grants Supply. The Upper House may scrutinise and suggest amendments to money Bills but should not frustrate the elected Government by refusing or deferring Supply.

As a general rule, I agree, but there must be a power, where a Government acts dishonestly or proceeds along lines that people do not want it to follow, so that—

The Hon. C. J. Sumner: Where has it acted dishonestly?

The Hon. R. C. DeGARIS: I have made no point that any Government has acted dishonestly. I am merely saying that an Upper House must have the power to stop Supply if, in its opinion, and with pressure being exerted by the majority of people, the Government should go to the people. That is a reserve power that an Upper House must have if it can fulfil its role successfully as a second Chamber.

The Hon. N. K. Foster: The Lords hasn't got that power.

The Hon. R. C. DeGARIS: If one looks at the position regarding the House of Lords, one will see that it had its power removed in 1911.

The Hon. N. K. Foster: Because they abused it like this mob has done.

The Hon. R. C. DeGARIS: If the Hon. Mr. Foster wants me to examine this matter, I will do so, even if I must stand here all night.

The Hon. N. K. Foster: You couldn't justify the actions of your colleagues if you stood there for a month.

The PRESIDENT: Order! The honourable Mr. Foster will be able to contribute to the debate later.

The Hon. R. C. DeGARIS: The Hon. Mr. Foster has raised the matter of the House of Lords, and related it to the role of the Senate. However, the situation of an Upper House in a unitary State is different from that of an Upper House in a federation, and a comparison between the House of Lords and the Senate should not be made in relation to second Chambers, because they fulfil two entirely different functions. While the honourable member may have an argument regarding the Upper House in a unitary State,

he certainly has no argument in relation to a Senate in a federation. One has merely to look at the powers of the Senate in the Federation of the American States, and of the second Chamber in Canada, and so on.

The modern constitution makers of federations (and federations are relatively new developments on the constitutional scene), when dealing with this question, have referred to a second House with strong powers. Those powers exist and, if they had not existed, we would not have achieved federation in the first place. I refer now to the first part of the motion.

The Hon. N. K. Foster: What period do you define as modern?

The Hon. R. C. DeGARIS: I define modern constitution in this area as being, say, over the last 100 years. One sees exactly the same thing having been followed in modern constitutions after the close of the Second World War, where the same principle was followed in relation to federation. I can support the first part of the motion, although up to a certain point only. However, to say that the Upper House should not frustrate the elected Government by refusing or deferring Supply goes too far. I believe any Upper House should have that right if things reach the stage where people start demanding that action be taken.

The Hon. J. R. CORNWALL: Will the Leader give way?

The Hon. R. C. DeGARIS: Yes.

The Hon. J. R. CORNWALL: Regarding the matter of people demanding that the Government should resign, is the Hon. Mr. DeGaris referring to the three newspaper proprietors in this country, or to the public at large? It seems to me from the statements of the former Federal Leader of the Opposition that he relied almost exclusively on his reading of the editorials of the metropolitan dailies.

The Hon. R. C. DeGARIS: I was not referring to the present crisis at all when I made that statement. I made the statement generally that an Upper House must, in my opinion, have power to force the Government to the people when it considers it necessary to do so. It should have those powers, and the people should have the right to decide. That power has never been used by this Council, about which I am proud. However, to take away that power would, I believe, deny an important power that keeps any Government in the Lower House reasonably on the rails. This is an important power for any Upper House to have.

The Hon. T. M. CASEY: Will the Leader give way?

The Hon. R. C. DeGARIS: Yes.

The Hon. T. M. CASEY: How does the Leader link up his remarks with the situation that obtains today in Queensland, which has only one House of Parliament or, for that matter, with the situation that obtains in New Zealand, which also has only one House of Parliament? How does the Leader tie up his argument with those two situations?

The Hon. R. C. DeGARIS: I do not regard New Zealand or Queensland as having anywhere near a perfect democracy. I believe they have suffered because they have not got a second Chamber system of Parliament, which is largely and almost unanimously a judgment of history. However, I am getting away from the general run of my argument. I have been dragged away from it by certain honourable members.

The Hon. N. K. Foster: You didn't have to give way. You could have just kept going.

The Hon. F. T. Blevins: You haven't got an argument. The Hon. Mr. Sumner has given you something to say.

The Hon. R. C. DeGARIS: Although I have read a newspaper report, I have not had a chance to do much more than that. The only opportunity I had of seeing what Sir John Kerr said (and this motion attacks the Governor-General) was to get the Whip to run and obtain this morning's newspaper, in which the Governor-General's remarks were reported. If the Government had wanted to give me a reasonable opportunity to prepare for this debate, a few moments notice would have been greatly appreciated. The second part of the motion is as follows:

The Governor, in accordance with letters patent, should act on the advice of his Ministers, and should not dismiss a Ministry except in the case of that Ministry's acting in breach of the law or its losing the confidence of the Lower House.

As Sir John Kerr clearly pointed out, in a federation the Parliament is the two-House Parliament and, if Supply cannot be achieved, exactly the same position obtains here as that which obtains in Great Britain when that country's Prime Minister cannot get Supply through the House of Commons. The constitutional rights of the Senate are the same as those of the House of Commons in relation to money Bills. The final part of the motion, to which I take deep exception, is as follows:

As neither ground for dismissal occurred—

referring to the two previous grounds, I have already pointed out that the second part, dealing with letters patent, and acting on the advice of Ministers, does not deal with the constitutional position regarding the Commonwealth Constitution—

in the case of the Federal Government of Mr. Whitlam, the action of the Governor-General in dismissing Mr. Whitlam and refusing his advice to hold a Senate election was wrong, according to all constitutional convention, precedent, and propriety, and should not on any occasion be followed as a precedent in this State.

Suppose one reaches a situation in this State in which it is considered that Supply should be stopped, irrespective of which Government is in power in another place. That does not worry me at all.

The Hon. F. T. Blevins: On what basis are you judging this matter?

The Hon. R. C. DeGARIS: On the basis that this Council has stood the test over 125 years of its history.

The Hon. F. T. Blevins: Hardly a fair test.

The Hon. R. C. DeGARIS: If one compares the record of this Council with the record of any other Upper House in the free world, one will find that this Council's record is one of which this State should be proud. The motion says that, on any occasion in the future, it would be against constitutional convention, constitutional precedent, and constitutional propriety if this Council stopped Supply. I hope that Supply is never stopped in this Council, because I hope the situation is never reached where this Council believes that the Lower House should be forced to the people on that score. During the 125 years of its history, this Council has never stopped Supply, and I hope that that record continues. On the other hand, if this Council believes, in the judgment of individual people, that the Government in the House of Assembly has gone beyond what a Government should do and that it is in the interests of the State that that House should face the people, then this Council must have the right to stop Supply. If the Council is incorrect in that respect, it will suffer the consequences, and it is only the people who can make that decision. It is the people of this State, not a group of people in another

place, who must make that decision if that action is ever taken. I am disappointed that the Government has moved the motion in this Council without giving any warning to any person that it would introduce it. The Government moved that Standing Orders be suspended, the Minister of Health then read a statement to the Council without providing me with a copy of it, and he then forced a division on my motion for an adjournment of the debate. It would have been reasonable for the Government to defer this matter, even on motion, to allow people to research the constitutional matters to which the motion refers. I do not object, in broad principle, to some of the things in the motion, but I am forced to oppose the motion as a general statement.

The PRESIDENT: Before the debate continues, I point out that I have drawn the attention of the Minister of Health to what I consider to be a confusing aspect of the motion, namely, the inclusion in the motion of "(3)" at the commencement of the last paragraph. The motion refers to constitutional principles, which are contained in paragraphs (1) and (2), but there is no principle contained in paragraph (3), which is a conclusion drawn from paragraphs (1) and (2). It might be desirable for "(3)" to be struck out. This might help to keep the debate on the rails. The Hon. Mr. Hill.

The Hon. C. M. HILL: I oppose the motion and I, too, am critical of the Government for the manner in which it introduced the motion. It catapulted this motion forward without giving Opposition members any time to research their material and prepare their case.

One historical feature of this Council and of all second Chambers is that the cut and thrust of rapid debate is not in place within their walls. That kind of debate is reserved for the House of Assembly and other Lower Houses in the bicameral system. In this place, it is traditional and proper for time to be given for consideration of matters. It follows that ample notice needs to be given of motions. The Government must have thought that it would gain some political advantage by using this tactic.

The Hon. D. H. L. Banfield: Are you saying that this has not happened before?

The Hon. C. M. HILL: I have never known it to happen before.

The Hon. D. H. L. Banfield: Were you here in 1967?

The Hon. C. M. HILL: Yes. I shall be pleased to hear of any 1967 precedent that the Minister can cite. Irrespective of whether it happened in 1967 or at any other time, it is still not right that motions should be introduced in this way. One can only assume that there is some political advantage that the Government believes can accrue through this tactic. Of course, if one cuts all the veneer from the motion, one must conclude that the motion reeks of politics.

Government members are going on to the hustings. Because there is a political fight in the wind, at every opportunity Labor Party members will try to gain some political advantage. That is the real intent behind the motion.

The Hon. C. J. Sumner: Aren't you a politician?

The Hon. C. M. HILL: Yes, but I like to adhere to precedent and to the proper functioning of this Council. If the honourable member wants me to get on to the political band waggon, I will certainly do that, and I will remind honourable members opposite that in 1970 Mr. Whitlam said, "We will defeat the Budget if we can gain the help of the D.L.P. in the Senate." Mr. Whitlam was all for it, and honourable members opposite cannot deny it. Is it not strange how situations change? The opinion that Mr. Whitlam had then is now completely contradicted, because he now says that that should never happen.

The Hon. F. T. Blevins: Like Mr. Menzies.

The Hon. C. M. HILL: I have a copy of what Sir Robert Menzies said about the matter.

The Hon. F. T. Blevins: On the same issue?

The Hon. C. M. HILL: In 1970, Mr. Whitlam was all for the course of rejecting the Budget. That cannot be denied.

The Hon. C. J. SUMNER: Will the honourable member give way?

The Hon. C. M. HILL: Yes.

The Hon. C. J. SUMNER: Is it not true that in 75 years of Federation the Labor Party has never voted to defer Supply, even though at various times during that period it had a majority?

The Hon. C. M. HILL: It is true that until the present situation Supply had not been rejected. It still has not been rejected. That does not detract in any way from the point I am making.

The Hon. C. J. SUMNER: Will the honourable member give way?

The Hon. C. M. HILL: Yes.

The Hon. C. J. SUMNER: By a sleight of hand the honourable member has refused to answer my question. Is it not true that in 75 years of Federation the Labor Party has never voted to defer Supply, even though at various times during that period it had a majority?

The Hon. C. M. HILL: Yes, that is true. But the point I want to stress is that only five years ago the Leader of the Australian Labor Party, the same man who now condemns the Senate for the action it has taken, clearly and categorically stated, "We will reject Supply."

The Hon. F. T. Blevins: No, he didn't; he didn't have the numbers to reject it.

The Hon. C. M. HILL: He and his friend, the then Senator Murphy, tried to woo the Democratic Labor Party, and they said that they would do it.

The Hon. F. T. Blevins: They didn't.

The Hon. C. M. HILL: If I had been given the time I should have been given, I would have been pleased to obtain the relevant quotes and read them to the honourable member to further prove my point, if any further proof is necessary. Mr. Whitlam said he would do it.

The Hon. F. T. Blevins: It is unfortunate that you do not have time to get the earlier comments of Sir Robert Menzies.

The Hon. C. M. HILL: I am pleased to read the comments of Sir Robert Menzies at any time. I repeat that five years ago Mr. Whitlam said that he intended to reject Supply and now, five years later, he accuses members of the Liberal and the National Country Parties of committing the political crime that he previously advocated. This somersault, this contradiction, is something that he cannot put over the people as he thinks he can.

The Hon. F. T. Blevins: Do you agree that what Mr. Whitlam said in 1970 was completely wrong, that he was entirely out of order in saying that, or even in thinking it?

The Hon. C. M. HILL: I hope to answer the honourable member completely when I deal with the matter of the Commonwealth Constitution. I hope to answer him if I can get down to that point, which is contained in the rough notes I have prepared.

The Hon. F. T. Blevins: You can only agree or disagree with it. Why not tell us?

The Hon. C. M. HILL: First, I want to conclude on this purely political point into which I have been drawn. It is strange to me that the Party opposite can take the attitude it has taken regarding this matter and condemn the Opposition in the Senate for deferring Supply when, if the Party represented by members opposite had been in a similar position, it would have done exactly the same thing.

The Hon. C. J. Sumner: That is absolute nonsense.

The Hon. C. M. HILL: It is not absolute nonsense, because the same Prime Minister who said he would do it five years ago—

Members interjecting:

The ACTING PRESIDENT (Hon. R. A. Geddes): Order!

The Hon. C. M. HILL: I do not want to spend any more time on this aspect, although I am willing to take further time on it if the Hon. Mr. Blevins would like me to.

The Hon. F. T. Blevins: Yes, I would.

The Hon. C. M. HILL: This contradiction is something that has amazed the Australian public, and it is something that will be well taken into account by the public—

The Hon. J. E. Dunford: At the polls.

The Hon. C. M. HILL:—at the polls.

The Hon. J. E. Dunford: We will win.

The Hon. C. M. HILL: Yes, we will win. It depends on whom we mean by "we".

The Hon. M. B. Cameron: We will win, too.

The Hon. C. M. HILL: I want to refer to convention, which has already been discussed at some length, and I do not want to spend too much time on it. Much ballyhoo has been spoken about convention and the Labor Party.

The Hon. M. B. Cameron: Convention does not exist any more.

The Hon. C. M. HILL: The Labor Party has talked itself into believing what conventions are and what they are not and, when something suddenly does not suit its purposes, the Labor Party raises the sacred cow of convention. In a political sense, conventions are established in countries that do not have written constitutions, and the constitution of the land is simply based on a series of conventions. That is the basis of conventions in the political sense.

The Hon. C. J. SUMNER: Will the honourable member give way?

The Hon. C. M. HILL: Yes.

The Hon. C. J. SUMNER: Is it not true that, with our written Commonwealth Constitution, there are a large number of conventions that mean that the Constitution cannot work if they are not accepted? Is it not true that the most fundamental of those conventions is the convention of Cabinet Government?

The Hon. C. M. HILL: The question of conventions as they apply to the Commonwealth Constitution is a matter I intend to deal with in just one moment.

The Hon. C. J. Sumner: Answer the question: it is a simple question.

The Hon. C. M. HILL: I will, but I do not think that continuous interjections, when a member is trying to develop his case, are helpful in advancing one's case. If I have not answered the honourable member in a few moments, I shall be pleased if he will tell me so. I was making the point that, basically, political constitutional conventions have grown up in countries where constitutions have not been written documents. The classic case is that in the United Kingdom. Over centuries, indeed, over many centuries, practices have become accepted and, with the passing of time, conventions have become accepted. It is the whole series of conventions in a country such as the United Kingdom that make up its constitution. The United Kingdom does not have an Act of Parliament, a written constitution.

However, coming to the new world, the States (whether they be nations or States comprising a federation) accepted, passed, or were granted, a written constitution. In the Federal Constitution of Australia we have such a document. I am now coming to the point that I intended to make in reply to the honourable member's interjection, that is, that when such written documents are put into practice it is found that in some matters it is necessary for some conventions to develop, because all aspects of constitutional government cannot be covered within those written constitutions.

It may well be that there are some conventions in this State, because we have our written Constitution (I cannot recall an example now), but, nevertheless, they are doubtless here. When we consider whether the Senate has the legal right to reject Supply, the matter of convention does not come into the picture at all, because it is clearly set out in section 53 of the Australian Constitution. The power is there—

The Hon. F. T. Blevins: So long as we know the rules.

The Hon. C. M. HILL: No, it is not. The legal position is clear. The power is there.

The Hon. F. T. Blevins: So long as—

The Hon. C. M. HILL: Just a moment: the honourable member has had a fair go. The power is there. What has happened?

The Hon. F. T. Blevins: Conventions always suit your side of politics.

The Hon. C. M. HILL: That is also the point I was going to make.

The Hon. N. K. Foster: What did Tom Playford say?

The ACTING PRESIDENT: Order! The Hon. Mr. Hill should be addressing the Chair.

Members interjecting:

The ACTING PRESIDENT: Order! Interjections are not accepted.

The Hon. C. M. HILL: Because the position is clear in section 53 of the Australian Constitution, the Senate has the legal right under the Australian Constitution to reject Supply. The power is clearly there and, as it does not suit the Labor Party, it grasps the excuse that this is a convention, yet it is not a convention at all. A convention, where there is a written constitution, is something apart from the written word, something that has not been covered by the written word.

The Hon. F. T. Blevins: Rubbish!

The Hon. C. M. HILL: It is not rubbish; it is the truth and you don't like it.

The Hon. C. J. SUMNER: Will the honourable member give way?

The Hon. C. M. HILL: Yes.

The Hon. C. J. SUMNER: Is it not true that the Queen has the strict legal right to reject Bills and yet it

is a convention of the Constitution that she never exercises it, in the same way as the Senate has a strict legal right to reject Supply but it does not do it as a matter of convention and has not done it in 75 years?

The Hon. C. M. HILL: I do not agree that there is a convention that the Monarch shall not do this.

The Hon. C. J. Sumner: You don't?

The Hon. C. M. HILL: If the legal right is there, it is there.

The Hon. C. J. Sumner: Are you saying that the Monarch can refuse assent to a Bill passed by both Houses of Parliament?

The Hon. C. M. HILL: If it is within the written Constitution, she can.

The Hon. C. J. Sumner: Do you say she has that right?

The Hon. C. M. HILL: It is you who are telling me that she has that right.

The Hon. C. J. Sumner: A legal right she does have.

The Hon. C. M. HILL: Yes, she has that right.

The Hon. C. J. Sumner: That is your belief?

The Hon. C. M. HILL: Yes.

The Hon. C. J. Sumner: You do not agree that there is a convention that the monarch does not refuse assent to Bills?

The Hon. C. M. HILL: I do not agree: a convention does not apply where a legal provision is within the written Constitution.

The Hon. M. B. Cameron: It's time you wrote it all down.

The Hon. C. M. HILL: You can't write it all down.

The Hon. N. K. Foster: And that's where you are dishonest.

The Hon. C. M. HILL: I repeat that the purpose of conventions where written constitutions exist is to cover aspects of constitutional government that are not or cannot be covered by the written word.

The Hon. C. J. Sumner: Utter tripe!

The Hon. C. M. HILL: It is as simple as that. I know honourable members opposite do not like it but their whole case when they go before the Australian people will be based on this argument of convention; but, as far as I am concerned, their case is a lot of rubbish; they are simply twisting the whole matter around to suit themselves. That is the situation.

The Hon. F. T. Blevins: You don't understand it.

The Hon. C. M. HILL: The honourable member says I don't understand it but—

The Hon. J. E. DUNFORD: Will the honourable member give way?

The Hon. C. M. HILL: Yes.

The Hon. J. E. DUNFORD: I should like to put a proposition to the Hon. Mr. Hill. He says that he is well informed on this matter. I invite him to attend a rally on Friday in Victoria Square, and to tell the people there how he sees the constitutional position as he is now telling the Council.

The Hon. C. M. HILL: If the rally on Friday is an Australian Labor Party meeting—

The Hon. J. E. Dunford: No, it is not.

The Hon. C. M. HILL: I do not intend to attend it, nor have I ever attended meetings of my political opponents. However, that is the situation as I see it. I want to commend the Governor-General on the action—

The Hon. N. K. Foster: Why?

The Hon. C. M. HILL: —he took. In my view, his action was responsible and proper—

The Hon. N. K. Foster: Irresponsible.

The Hon. C. M. HILL: —and I believe that the vast majority of the Australian people agree with that view.

The Hon. F. T. Blevins: Rubbish!

The Hon. C. M. HILL: They take the view that the present Government could not go on escaping its obligations under the Constitution. What the Labor Party in Canberra must realise is that the Constitution of this land is a sacred document.

Members interjecting:

The Hon. C. M. HILL: The Labor Party is a Party whose Federal members endeavoured to escape their obligations under that Constitution.

The Hon. C. J. Sumner: When? Give one example.

The Hon. C. M. HILL: I can give one instance, because I was asked something about the comments of Sir Robert Menzies.

The Hon. N. K. Foster: Are you going to read his speech?

The Hon. C. M. HILL: I will quote from Sir Robert Menzies' article on this matter dealing with one aspect of the endeavour by the Whitlam Government to evade constitutional obligations and the conventions. On this point, Sir Robert said:

And then there is the not-to-be-forgotten incident of the Executive Council meeting at which the Prime Minister was present and at which the then Attorney-General gave a "kerbstone" opinion.

The Hon. N. K. Foster: And the Governor-General signed that document you are referring to.

The Hon. C. M. HILL: I know the honourable member does not like it—

The Hon. N. K. Foster: He did sign it.

The Hon. C. M. HILL: —but will he try to contain himself?

The Hon. N. K. Foster: Are you saying it is illegal?

The Hon. C. M. HILL: I will continue:

At that meeting, the Executive Council, the Governor-General not being present—

The Hon. N. K. Foster: He did sign the document.

The Hon. C. M. HILL: Perhaps I should repeat that.

The Hon. N. K. Foster: You can repeat it for a month but he signed the document.

The Hon. C. M. HILL: The report states:

At that meeting, the Executive Council, the Governor-General not being present, authorised a borrowing of a sum of so huge a description that it would far exceed all the borrowings ever made by the Commonwealth in 75 years. It was to be done through obscure and unorthodox channels. It was to be a borrow for 20 years.

The Hon. J. E. Dunford: But Australia has been sold out for 75 years by the Liberal Party.

The Hon. C. M. HILL: That is an interesting point: all the members of the Labor Party think that Australia would have been bought back, but the mortgage to the Arabs is something that could never be repaid.

The Hon. J. E. Dunford: That's not true.

The Hon. C. M. HILL: It is true, because, if this loan had been compounded this nation would never have been able to find the money, and what would have

happened? The mortgagee would have come and taken possession, and what then? This Government wanted to do that for our children to bear.

Members interjecting:

The Hon. J. E. Dunford: You want to get back in power so that you can sell Australia to the multi-nationals.

The PRESIDENT: Order! I think this debate is getting out of order.

The Hon. C. M. HILL: I will continue to quote:

It was to be a huge borrowing in which the amount of money received by the Commonwealth from the lenders was 95½ in 100, but the total of 100 had to be repaid at compound interest. This Executive Council decision was scandalous. It was clearly and unblushingly designed to escape the obligation in the Constitution to go to the Loan Council under the Financial Agreement for approval. True, it thought it expedient to call the borrowing one for "temporary purposes"—

The Hon. M. B. CAMERON: On a point of order, Mr. President, it seems to me that the debate has strayed a long way from the subject matter of the motion. I think you should give some thought to the way it is going.

The PRESIDENT: Unfortunately, the subject matter of this motion is concerned with paragraph (3), which opens up a very wide field; but, at the same time, I think that honourable members are, in some arguments they are putting up, getting away from the subject matter. I ask honourable members to confine their attention to the subject matter of this motion as far as possible; otherwise, we shall be here until midnight.

The Hon. J. E. DUNFORD: Will the honourable member give way?

The Hon. C. M. HILL: Could I just finish answering the interjections? I was challenged to give one example of where the Whitlam Government had endeavoured to escape its obligations under the Constitution.

The Hon. N. K. FOSTER: On a point of order, Mr. President, the matter has been raised in this place about the manner in which we may refer to the Governor-General. I point out to the honourable member that the Governor-General signed the document to which he is referring. It bears his signature.

The Hon. F. T. Blevins: It is a reflection on the Governor-General.

The PRESIDENT: That is not a point of order.

The Hon. N. K. Foster: It's the truth, though.

The PRESIDENT: The honourable member could ask the Hon. Mr. Hill to give way.

The Hon. N. K. Foster: I will not do that. I voted against that procedure.

The Hon. C. M. HILL: I want to finish this point. I have been challenged to quote one example of where the Whitlam Government endeavoured to escape its obligations under the Constitution. I continue with the quotation, as follows:

True, it thought it expedient to call the borrowing one for "temporary purposes", but a first-year student would laugh at this as a description of the loan to which I have referred. That was a disreputable incident. It was designed to evade the constitutional obligations of the Commonwealth.

The Hon. C. J. SUMNER: Will the honourable member give way?

The Hon. C. M. HILL: Yes.

The Hon. C. J. SUMNER: Is it not true, first, that the Governor-General signed the executive minute referred to in the statement by Sir Robert Menzies; secondly, that the Governor-General did not rely on that as a ground for his dismissal of the Prime Minister; thirdly, that it is well established that the situation stated by Sir Robert is not the correct one? I refer in particular to two articles appearing in the *Australian* on July 16 and 17 by Anthony Blackshield and Geoffrey Caine, of the Faculty of Law of the University of New South Wales, one article headed "Green Light for Labor's Loans". It deals with this question and clearly indicates that there was no attempt to evade the Constitution.

The Hon. C. M. HILL: I do not know whether the Governor-General signed the document.

The Hon. Anne Levy: He is telling you that he did.

The Hon. C. M. HILL: If he did, I suppose he asked his Minister, the former Senator Murphy, for advice, because he was Attorney-General at the time. Apparently, as Sir Robert says, the then Attorney-General gave a kerbstone opinion about the matter. As to the honourable member's contention that what Sir Robert said is wrong and that what some people, quoted in the *Australian* newspaper, said is right, that is his view. If he wishes to accept the reading he has there, that is his right. I was asked to give an example of how the Whitlam Government had endeavoured to escape its obligations under the Constitution. I was making the point, although members opposite did not appreciate it, that in my view the Constitution of this land is a sacred document and that, when the Governor-General acts with the responsibility and with the authority that he has in carrying out his duty, I am prepared to accept that he has acted quite properly. I believe, therefore, that there is no need for this motion to be brought forward. Accordingly, I oppose it.

The Hon. M. B. CAMERON: First, I indicate my extreme disappointment at the direction this debate has taken (or into which it has been guided). It seems to me an extraordinary set of circumstances in which we are debating all sorts of small things that have happened when in fact, in Canberra, an action has been taken that sets up the very set of circumstances needed to wreck democratic government in this country.

The Hon. R. C. DeGaris: Rubbish!

The Hon. M. B. CAMERON: That is not rubbish. What happens from now on? No Government, following this action, could possibly guarantee its life beyond six months unless, first, it controls the Upper House, or, secondly, it has no deaths or resignations from the Senate. If it controls the Lower House, it is entirely dependent on the help of its members in the Upper House or on the fact that it controls some State Government. What an extraordinary system! We have not got a system at all if that is the basis of our democracy.

It has been indicated that members in this Chamber should not be debating this motion, but is not the Senate the States' House? Do we not put in replacements from this Council and from the other place? Is that not the way in which replacement members are supposed to be elected? Were not the replacements put in from Queensland by the Lower House in that State, and, if there had been an Upper House, and if there had been an argument over the matter, would there not have been a vote in both Houses? The Senate is supposedly the States' House, but it is a mockery that it should be so called. The Governor-General has taken action on a set of circumstances that exists. The Hon. Mr. DeGaris has constantly used the words "rejection of Supply". But that has not happened. There has been no rejection of Supply. Surely to goodness, it would have been within the jurisdiction of the Governor-General to say to Mr. Fraser—

The Hon. R. C. DeGARIS: Will the honourable member give way?

The Hon. M. B. CAMERON: No. Surely he could have said to Mr. Fraser, "Have you got the numbers to reject Supply in the Upper House?" Surely it would have been within his jurisdiction to take that step and to say, "One thing or the other: reject it or pass it." He did not have the numbers to reject Supply. If he had, why did he not do it?

The Hon. R. C. DeGaris: I did not refer to Queensland—

The Hon. M. B. CAMERON: The Leader should keep quiet. He does not believe in democracy, because he is tearing it up. The fabric of democracy is a tender garment: it needs only a little hole torn in it by people like the Leader and it comes apart. What will happen if we have an election and if the Liberal Party gets in? Let me say that that will not be any great disappointment to me, because my politics are not on the other side, but what will happen if there is a hostile Senate, as there is every likelihood there will be? Because of the precedent set, that Government will last until next May unless it can rely on the good sense of the Labor Party. What happens if the Labor Government is returned and if there is a hostile Liberal Senate? What will the Governor-General, who is supposed to have made a decision on this matter, do then? Will he again dismiss the Prime Minister and start all over again? This is an extraordinary set of circumstances. I am not casting any reflection on the decision. It was within the Governor-General's power to do just this, but I am pointing out the possibility of what the future may hold for this country and for its democratic system.

The Hon. Anne Levy: Anarchy.

The Hon. M. B. CAMERON: It is getting close to that. Does this mean we have to set rules and conditions for every single thing that could occur, right down to the renomination of Senators from the States? That is how it seems to me. It has been said that this has nothing to do with this Council or with this Parliament, but we operate under the Westminster system of Government in the same way as the Commonwealth does. It is the same basis, it has the same rules—

The Hon. C. J. Sumner: Not any more.

The Hon. N. K. Foster: It did.

The Hon. M. B. CAMERON: It uses the same rules as we do. Are we in South Australia in a situation where, whenever we have Supplementary Estimates coming in, the Government can be brought down by members in this place deferring Supply? Does a Governor in this State have the power to dismiss the Government in that situation? If so, we had better do something about it.

I do not believe it is in the true interests of democracy to have a Government that has to remain popular every six months, otherwise it is on the edge of disaster. What Government is going to take proper decisions in those circumstances? I know that, because our group has taken a particular stand on this issue, we have been called pro-Labor. What an extraordinary contention to put forward, just because we happen to believe in the system of democratic government that operates in this country. I do not support the policies of this Government or of the Labor Government in Canberra, but that does not mean that I am going to support the tearing up of constitutional government by the Opposition in Canberra (or the Opposition in this State if it tried to do that). If that means I am pro-Labor I will go he. It does not; it means I believe in democratic government.

I think things have been done that should not have occurred but that does not mean the Prime Minister should have been pulled out the way he has been. His Government was put there by the people. The present Prime Minister does not have a majority in either House of the Federal Parliament—what an extraordinary system! We have to do something about the system because it cannot operate that way. I realise that we operate under the monarchal system, with the Monarch in control. It seems to me, and this is one of the difficulties of having such a system, that we are not allowed to criticise—everything the Queen's representative does must be right. We have to lay down some basic rules, because it seems to me (because of the set of circumstances that have now arisen) that the system needs alteration. I say that quite sincerely, because I do not believe it can operate on the basis of conventions any more, because there are none. They can operate only on the basis of recognition by people that conventions do exist.

It has been said that for 75 years we have never rejected a Budget in the Federal Parliament. For 125 years we have not rejected one in South Australia. That sets up a convention, and we have had stable government under that system. I do not believe that we should concur in what has been done in the Senate, because it was not done on a sound basis. When Senator Field was elected he was challenged and he disappeared. Before Senator Field came the Senate voted unanimously that the replacement be from the same Party.

When the vote was taken on the Budget, Senator Field had already gone. He was not in the Senate any more, yet the person who was his direct opposite in the terms of the balance of the House still voted. This upset the vote. Therefore, the vote of that man still had an effect, because if that vote had gone to the original Party the motion would have had to be that the Budget be defeated, not deferred. It would then have been a proper basis for the action that has now been taken. If, in the case of the Budget being rejected, the Governor-General had taken the step he has taken, perhaps that would have been a different set of circumstances. But it was not even proper on that basis.

I believe that the motion before us is quite proper. It pains me that it has to be introduced. I believe we are getting very close to the finish of democratic government under the system that has been operating. I think we now have to look very closely at the rules in all States relating to this matter, because the Governors have the same powers as the Governor-General. There is nothing to stop a Governor taking this as a precedent, and we ought to lay it down very clearly, as soon as possible, so that this particular matter cannot occur again with a properly elected Government (no matter whether Liberal or Labor). It should not happen that a Government can be thrown out just by the non-action of an Upper House. That is not democratic, and everyone knows it. I know that all the people vote for the Senate; nevertheless there are differences in emphases of various people in the various States. So, we have the extraordinary circumstances of the present time.

Again I make it clear that I believe in democracy. I do not believe in the system of government operated by Labor Parties, but I do not believe that a Party, to which I formerly belonged and to which I am now very pleased I do not belong, should take the steps it has taken. Let me say I hope the people of this country, if they make a decision on this matter, make a decision for a sensible and sane view, and not the extreme views that seem to exist in this society and which are increasing day by day.

The Hon. N. K. FOSTER: I want to compliment the previous speaker in this debate. I do so because he dealt with this matter in a serious manner, the way in which it ought to be considered. I will refer to some newspaper reports and newspaper observations, but I do not intend to put just one side of the case, as members who have entered this debate have done—members of the Liberal Party, the Hons. DeGaris and Hill. They confined themselves to the printed report of what the Governor-General thought he ought to have done, what he did do, and the report purported to have been included in the newspaper some few weeks ago. I say this with all due respects to the Hon. Sir Robert Gordon Menzies. Having seen Sir Robert not so long ago I do not agree that he wrote the article. In the past he was quite capable of writing it, but I leave it to the honourable member that he may—

The Hon. C. M. Hill: That is a shocking accusation to make.

The Hon. N. K. FOSTER: We all reach that stage—some much earlier than others. It is quite well known in journalistic circles that there was every suggestion made to the Liberal Party to embarrass a former Leader of this country before a television interview, but wiser counsel apparently prevailed. That is well known.

The Hon. C. M. Hill: You are bringing in rumour here all the time.

The Hon. N. K. FOSTER: I merely indicate the depth to which that Party opposite will sink in its grab for power, which I mentioned some few weeks ago. We had a political situation on our hands for a number of weeks which existed until yesterday. Then it became a constitutional crisis.

Wait until I relate what happened—Commonwealth motor cars at Government House yesterday. Wait until I relate the fact that Mr. Fraser was in Government House, in the very next room, when the Prime Minister of the country at that time was granted an audience with the Governor-General. Wait until you get all those facts put before you in this place. Before doing so, let me go back to how all this started. In fact, let me go back to the joint sitting of the Senate following the last double dissolution.

The Hon. C. M. Hill: Typical bias.

The Hon. N. K. FOSTER: Before going back, let me inform you of this, and I quote what the Governor-General said, when opening Parliament on July 7, 1974:

In the elections for both Houses of Parliament on the 18th May, 1974, the people of Australia confirmed their decision of 2nd December 1972.

In preparing legislation for the 29th Parliament my advisers have taken the view that the first responsibility of the Government is to carry out, fully and promptly, the programme for change twice endorsed by the Australian people. Developments at home and abroad have created new and, in some respects difficult economic conditions. My advisers believe this in no way lessens the obligations imposed on Australia to continue and complete its programme but rather heightens the sense of responsibility and challenge which it should bring during the next three years to the task of leading Australia in a time of rapid change throughout the world. The legislative burden of the session must necessarily be extremely heavy. There are certain legislative provisions which lapsed at the end of June and which should have been re-enacted then.

And so it goes on. I will skip a number of pages and read again some relevance into this debate. It continues:

The Government of Australia in no way seeks to conceal from the Parliament—

I underline that, because of what the Hon. Mr. DeGaris said about the Parliament a while ago—

or the people the difficulties and complexities facing Australia at home and abroad in the years ahead. My Government is confident, however, that these can be surmounted, not only through the programme I have outlined but by the endeavours of a strong united people and the efforts of a Parliament dedicated to the service of that people.

Who said that? It was the fellow who was praised this afternoon by the Hon. Mr. DeGaris: none other than Sir John Kerr. Those are his words, not mine. I now come to another former boilermaker's son. I refer to page 66 of the *Hansard* report of the Joint Sitting of both Houses of Parliament in Canberra on August 6 and 7 last year. When discussing the Senate (Representation of Territories) Bill, Senator James McClelland—

The Hon. R. C. DeGaris: Is he a boilermaker's son, too?

The Hon. N. K. FOSTER: No, he's a legal eagle. The *Hansard* report is as follows:

I merely ask honourable members to ponder the statement made on April 10 last, the last day of sitting of the previous Parliament, by the Leader of the Opposition in the Senate, Senator Withers, who made a highly instructive remark.

Then, in his arrogant manner, Senator Withers interjected as follows:

What I said then still stands.

Senator McClelland continued:

He must be constantly reminded of this statement. It is nice to know that he has not repented. He said:

> We embarked on a course some 12 months ago—I am not trying to be provocative—to bring about the House of Representatives election.

So said Senator Withers. The Party to which members opposite belong did not win that election. However, it was still not content, and its members have seen fit today to use Fraser's words. None of them used the words they ought to have used. I do not think I should pay Fraser any more respect than using only his surname, especially because of what I will say about him later. He is not an elected Prime Minister, representing the common vote of the people of this nation. He has ridden roughshod over the Constitution and convention of this land.

The Hon. C. M. Hill: He's a caretaker Prime Minister.

The Hon. N. K. FOSTER: I would not pay him the respect of a caretaker. He is a "Kerr-taker". That phrase will forever remain in the political history book of this nation. Never mind about saying who appointed Sir John Kerr or another boilermaker, Sir William McKell, years ago. Has there not been a great deal of controversy regarding whether he made the correct decision in granting Sir Robert Menzies a double dissolution in 1951? That matter will be argued for all time. You will not find any clarification of it in all the words of Erskine May. It has become so involved that its clarity has diminished.

I turn now to the events of the last few weeks. No courage has been shown by the Liberal Party and the National Country Party coalition in Canberra, it not having denied Supply by a vote in the Upper House. In getting around the matter in the way it did, those Parties tried to hold together a decision made at their national conference, which was held on a Sunday about a month ago and to which an honourable member of this Council was a party.

The Hon. J. E. Dunford: Who was that?

The Hon. N. K. FOSTER: It was the Hon. Mr. Laidlaw. The previous former President of the Liberal Party said, "Take them to an election."

The Hon. D. H. Laidlaw: He didn't say that. He was reported as saying it.

The Hon. N. K. FOSTER: He did say it.

The Hon. D. H. Laidlaw: He did not. I have a copy of it here.

The Hon. N. K. FOSTER: The Hon. Mr. Laidlaw should table in the Council the minutes of that meeting. It was a dishonest meeting of the faceless men—of the irresponsible idiots. I mean that in the fullest sense of the word.

The Hon. C. M. Hill: What are you talking about? Don't you know it was open to the press?

The Hon. N. K. FOSTER: They met on that Sunday night behind closed doors, and said, "We will take them on." They said to themselves, "We are not in a position to be able to charge them and make the charge stick. This is a different thing from the position we were in in the 1950's regarding the Petrov scandal, on which millions of dollars was spent. On the other hand, if we can avoid rejecting Supply, in the manner demanded under the Constitution, we can hold our Party room together." I have told the Council about Senator Bessell's being sent out of the room while the vote was being taken. They made an unscrupulous and unconscionable decision on that fateful Sunday afternoon regarding the plan to pull down the Government.

The Hon. J. E. Dunford: At any cost.

The Hon. N. K. FOSTER: They would pull it down by denying the people, through the Government, finance. Not wanting to take the step, couched in the constitutional terms to which the Hon. Mr. DeGaris has made scant reference, they dodged their responsibilities. They did not have the guts to go about it in the correct manner but decided to defer Supply. In doing so, they fought a war of attrition with members of the Lower House. Is it any wonder that members of this place have not said this afternoon that this has never happened before in this country or, indeed, in a country with a similar political system to ours? Sir Robert Menzies, to whom I will refer soon, never stood in the House and conceded defeat while he had a majority on the floor of the House, because he firmly and correctly believed that, while a political Party had the numbers in the Lower House, it should be the Government of the land.

Never mind about the hypocritical platitudes of members opposite regarding convention. I ask honourable members whether, in 1941, the then Prime Minister, when told by two Independent members of the House of Representatives that he could no longer enjoy their support, was defeated on the floor of the House.

The Hon. C. M. Hill: But they weren't dealing—

The Hon. N. K. FOSTER: Was he defeated?

The Hon. C. M. Hill: They were not dealing with the Constitution then. They didn't have their hands on the Constitution.

The Hon. N. K. FOSTER: The Hon. Mr. Hill talks about the Constitution.

The Hon. C. M. Hill: I gave you the examples.

The Hon. C. J. Sumner: It's a damn lot of nonsense, and you know it.

The Hon. N. K. FOSTER: Members opposite can crawl out from the woodwork of this place on their hands and knees to the people of North Terrace and say that the Prime Minister was defeated on the floor of the House. This is a fundamental Parliamentary practice and principle, yet some members opposite have the gall to talk about principles being involved in the motion now before the Council. They can read *Hansard* and all the books. They will have to take the responsibility for bloody well cooking the books constitutionally.

The PRESIDENT: Order! The honourable member must moderate his language.

The Hon. N. K. FOSTER: Honourable members opposite must accept the responsibility for cooking the constitutional conventions of this country.

The Hon. D. H. Laidlaw: What about raising temporary loans for 20 years?

The Hon. N. K. FOSTER: Let us consider the situation in which the House of Representatives found itself in 1941. After being advised by the two Independents, what did Robert Gordon Menzies do? He marched to the Governor-General, who did not shirk his responsibilty: he saw the Prime Minister.

The Hon. C. M. Hill: Neither did the present Governor-General shirk his responsibility.

The Hon. N. K. FOSTER: The then Prime Minister, Robert Gordon Menzies, the honourable member's great white father with his quill, went to the then Governor-General and said that he no longer commanded the support of the House of Representatives. What happened then? Did the Governor-General insist on an election? Actually, he invited another member of the Government Parties to form a Government. Then, after 10 or 11 days that Party no longer commanded the support of the majority of members of the House of Representatives. The Governor-General then sent for John Curtin. That occurred on the eve of the entry of Japan into the Second World War. The Party to which honourable members opposite belong turned its back on the responsibility for defending this country. That Party is for ever in the debt of those people who lost their lives in ships that were sunk and in battles in Malaysia.

The PRESIDENT: Order! The honourable member is now getting right away from the motion.

The Hon. N. K. FOSTER: I accuse the present Governor-General of not acting in a manner similar to the manner in which his predecessors acted. I wish to quote from an article, headed "Balance tips towards executive rule", by Professor Colin Howard in this morning's *Advertiser*. The Hon. Mr. DeGaris would not mention the author of the article during his contribution to the debate.

The Hon. C. M. Hill: He is retained by the Labor Party, isn't he?

The Hon. N. K. FOSTER: No. He is retained by a misfit, Senator Greenwood. Professor Howard has been retained by Attorneys-General of both political complexions. The article states:

> By way of comparison it needs to be emphasised for the benefit of the literal constructionists of our written Constitution that there is no mention in it of Cabinet Government, of the Prime Minister, of the principle that the Government should command a majority in the directly elected House, or of many other features of the Government of the country which we take for granted.

In other words, Professor Howard is saying that the Constitution does not provide that we ought to have a Prime Minister, and the professor is correct. The article continues:

> Since it is clear beyond argument that the Governor-General's powers as set out in the Constitution are not to be taken literally, the amount of power which he can exercise depends, to put it bluntly, on what he has the nerve to try and what he is allowed to get away with.

The Governor-General's powers are extremely wide, because they are not defined. The Hon. Mr. Cameron was correct when he said that these people who have prostituted conventions for their narrow political ends must realise the damage that they have done. We will need to establish a Constitution Convention, comprising representatives of the Commonwealth Parliament and of the State Parliaments,

to ensure that every "t" is crossed and every "i" is dotted in the Constitution. One can imagine that, in the last 48 hours, our founding fathers have turned in their graves. The article continues:

Now that the precedent has been set, there can be no question that a remarkable backward step has been taken in the balance of power between the executive arm of Government and the legislative, or elected, arm.

Today, we have an arm that is other than elected. People whose photographs are in today's *News* were not elected by the people. The article continues:

This precedent may just as well in the future work against the present short-term beneficiaries as it has for the moment against Mr. Whitlam.

Yesterday afternoon, and within minutes of Mr. Fraser's announcement, in the House of Representatives, the Senate, after delaying the Budget for week after week, passed it in 90 seconds flat. Why? Because Mr. Fraser and his henchmen knew the Governor-General's decision. I wish to refer to an article by a respected journalist, Mr. Laurie Oakes. Who is Mr. Oakes's authority for what he has written? It is Mr. Smith, Secretary to the Governor-General. Yesterday afternoon, the then Prime Minister, Mr. Whitlam, had an appointment with the Governor-General at 1 p.m.

While people were standing silent in memory of the dead, the likes of Mr. Fraser and his henchmen were silently plotting the overthrow of a democratically elected Government, and it is for ever to their shame that they were doing that. The then Prime Minister, Mr. Whitlam, had an audience with the Governor-General at 1 p.m. At 12.50 p.m., the then Leader of the Opposition, Mr. Fraser, drove through the front gates of Government House in Canberra. He entered Government House, only to realise that his car was visible to people in another car that he knew would be following—Mr. Whitlam's car. The first Commonwealth car was hastily hidden, and the Prime Minister arrived at 1 p.m. After being ushered through the side entrance, he had his audience with the Governor-General, and Mr. Fraser was in the next room.

The Hon. R. A. Geddes: What does that mean?

The Hon. N. K. FOSTER: On the other occasions that the then Leader of the Opposition sought an audience with Sir John Kerr, he did so in accordance with accepted practice. He sought the permission of his Prime Minister to seek such an audience, but he did not do that on this occasion. Is it any wonder that the Senate passed Supply in a matter of only 90 seconds?

The Hon. C. M. Hill: From where did you get all this fanciful information?

The Hon. N. K. FOSTER: The honourable member says it is fanciful information, but we are not all as blind as the Hon. Mr. DeGaris suggests we are. He does not know what it is all about; apparently he has not heard a radio; he has not heard the shouts in the street in the defence of democracy; he has not seen any television programmes; he knew nothing about it; he castigated the Government for not giving him a piece of paper this afternoon!

The Hon. B. A. Chatterton: But he was able to quote it in the debate.

The Hon. N. K. FOSTER: True, as the Minister has said, the Hon. Mr. DeGaris was able to refer to the motion. He knew what was contained in the motion before he came into the Council this afternoon, despite his attempt to make the point that he had been neglected in this matter. The House of Representatives, by a majority of 10 votes, yesterday carried a no-confidence motion in Mr. Fraser. He did not command a majority of that House. I remind honourable members that such a situation has brought about the downfall of previous Governments. Did it do that on this occasion? The Governor-General was informed that the Speaker of the House of Representatives was authorised to see him (and in such circumstances, you Mr. President, occupy a comparable position here as the Constitution of this Council requires you, Sir, in fact, it demands that you have obligations across the road with the Governor as it demands the elected Speaker of the House of Representatives and the President of the Senate have similar obligations with the Governor-General). The House of Representatives had resolved that the Speaker be authorised to convey to the Governor-General that Supply had been passed, that there was not a majority in the House of Representatives in favour of the newly appointed Prime Minister, that a vote of no confidence had been passed in relation to him and, further, that a vote of confidence had been passed in favour of Mr. Whitlam.

The appointment for the meeting between the Speaker and the Governor-General was made for 4.45 p.m. Who pulled the fast tricks in this little piece of intrigue? Of course, the Governor-General's Secretary was on the steps of Parliament House dissolving Parliament, nailing that information on the doors of the Senate before the appointment between the Speaker (Mr. Scholes) and the Governor-General. Does that make the position nice, clear and honest so far as the whole deal was concerned during the course of the day? I put to members opposite that, in a democratic society, and I notice that the Leader is not here now.

The Hon. F. T. Blevins: He has been called out.

The Hon. N. K. FOSTER: I do not blame the Leader for that, but he has challenged the right of this Council to consider this matter. Are not the people of this State Commonwealth constituents so far as the election of Commonwealth members of Parliament are concerned?

The Hon. J. C. Burdett: They will get a vote.

The Hon. N. K. FOSTER: I am not talking about a vote—what is wrong with the honourable member? Are not the people of this State constituents of elected State representatives? Are these people any different in the case of Commonwealth elections than in State elections? How members opposite can draw that conclusion I do not know.

The Hon. J. C. Burdett: Those people will get votes.

The Hon. N. K. FOSTER: Of course they will, but they would not get them if the honourable member had his way. This situation would not have arisen but for exceptional circumstances. Never again will I find myself in this Chamber, if I can possibly avoid it, paying respect to any departed honourable member of this Chamber or of any other Chamber. I say that in all seriousness, and I say it because the situation we are in today should never have come about—I see that members opposite are puzzled why I say this. I say to the two honourable members on the front bench opposite that I will not pay respect to departed members again because I support the statements made by Senator Hall, who said that members opposite had carted the skeleton of the late Senator Milliner across the floor of the House to set about this diabolical situation. Where is the honour of members opposite?

People of the same ilk as members opposite appointed a person by the name of Field who, before he even reached the Senate, did not show good sense or tact to say, "I will never support the Labor Government; I will never support Whitlam; and I will do everything in my

power to support their overthrow." Those words were put into his mouth. By whom? The unscrupulous Fraser, and he is most unscrupulous.

The Hon. R. A. Geddes: Why don't you blame Joh?

The Hon. N. K. FOSTER: Joh appointed him, but the other fellows did the dirty work. He was too shamefaced to stand in the Senate and say that, as the Hon. Mr. Cameron said this afternoon, in support of the man whose place he had taken. This situation has been brought about because of the death of a Senator, who had served many years in the Senate, and about whom Fraser and Anthony had the hide and hypocrisy to pay a tribute to in the House of Representatives a few weeks ago. Yet, over that man's dead body, they have brought this country to a crisis which, as has been stated by other speakers in this debate, destroys every concept of human decency, and that is putting to one side completely any matters of constitutional or Parliamentary propriety.

Regarding common decency, what have these men done? These false men: Fraser, Anthony, Lynch, Sinclair, Ellicott. One can run down the first letter of each of their surnames and one finds that those letters spell "false". These are the false men who decried the death of one of their fellows, yet now they have seen fit to misuse him, now that he is gone. This is one of the most disgraceful situations that it has been my unhappy lot to experience. Having done all these dastardly things, a 14-man Ministry has been appointed. Look at the members of the Ministry: Lynch—the man who runs an unemployment agency in Melbourne to rip-off the unemployed—

The PRESIDENT: Order! I think biographical details are out of order.

The Hon. N. K. FOSTER: They are not the present Ministry—

The PRESIDENT: Order! I have ruled that that is out of order.

The Hon. N. K. FOSTER: I accept your ruling, Mr. President, because I do not have time to disagree to it. However, that Ministry is not an elected Ministry: it is an appointed false Ministry. Honourable members can quote me in the streets, because those are my views as a democratically elected member of this Council. That is not a democratically elected Ministry: it is an appointed Ministry, appointed by a person who has gone about having himself appointed to the Prime Ministership of this country in the most foul way in the first such situation for 300 years since a maniac Monarch, George III, was involved in a like situation.

That situation cannot be denied. You, Mr. President, might deny me the right to say that in this Council but, thank goodness, and with all due respect, not you, Sir, or anyone, can deny the people in the street their right to say just that. They will forgo no principle in saying that. These false men, the Frasers, the Anthonys and others of that ilk have stood and argued for the institution of Parliament and the numbers game. They have seen fit now to forget their principles in 10 seconds as soon as they had the opportunity to play their hand in respect of the Prime Ministership. I refer to the Adelaide *News*, which lifts its editorials from the *Sydney Mirror* (it is all part of the Murdoch plot). The editorial has a strange way of deducing what is violence, and it states:

Violence in any form cannot be tolerated. We must debate policies and programmes, not attack personalities.

What hypocrisy on the part of the Adelaide *News!* Thank goodness the people whom I know associated with the Adelaide *News* are not the guilty people who wrote this. It was a violent thing to do; so was the action by the police in Melbourne yesterday who grabbed someone outside Government House, but the most violent thing done yesterday was done by Fraser and his political cohorts. That is the most violent thing ever done against this country, a bloodless coup if ever there was one. Let me quote further from this infamous editorial referring to Fraser:

He has shown tremendous guts when even some of his own colleagues were wavering.

What it means is that he did not have the guts to stop Supply in a conventional and constitutional way: he went through the back door and was speaking to people who had access to the Governor-General, including his previous political colleague, Sir Garfield Barwick, who was feeding back information to him since last Friday, telling him, "Stand firm", because it was known what the decision would be on Monday. Why did the Governor-General not invite Prime Minister Whitlam at that time?

The PRESIDENT: Order! The honourable member should watch out: he will be making some injurious reflections in a moment on the Chief Justice of the High Court, and he will be out of order.

The Hon. N. K. FOSTER: That would not sadden me, because I have a code of ethics, and I expect others similarly to have one. Why am I wrong in this? If I hurt someone about this, I do not apologise. If people are hurt, it is because they do not realise the seriousness of the situation and are still operating on a petty political plane. I cannot help it if I offend against Standing Orders; I stand here and tell the truth as I see it. I think it was a dirty deal. I think I have gone some way to proving that point. Let me now deal with the loans affair.

The Hon. Anne Levy: Oh, Norm!

Members interjecting:

The Hon. N. K. FOSTER: I want to make this point while I am on my feet rather than by interjection. The Governor-General signed the documents.

The Hon. C. J. Sumner: No-one else will get a go.

The Hon. N. K. FOSTER: Yes you will. There has been no legal charge whatsoever against us—indiscretions, maybe, but not one charge has been made. There has been no complaint that Beneficial Finance in this city—

The PRESIDENT: Order! The activities of Beneficial Finance are not relevant.

The Hon. N. K. FOSTER: I am talking about money.

The PRESIDENT: Please come back to the motion.

The Hon. N. K. FOSTER: The motion is supported by me and honourable members on both sides of the Council. It is long overdue, taking into consideration the course of events since December 2, 1972. I commend the motion to this Council and hope it will be carried unanimously.

The Hon. J. C. BURDETT: I shall not speak for very long. At the outset, I refer to the extraordinary circumstances in which this motion is being debated. There was the motion of the Minister of Health to suspend Standing Orders to enable a motion to be moved without notice. I supported that motion, as we always have, in good faith expecting that it was an important matter, a matter that honourable members could have some time to consider, and that an adjournment would be permitted. However, that was not the case. The Government used its numbers to prevent an adjournment and, in my opinion, that is not good enough. It is unprecedented, as far as I am aware

in my short time in this place; it has not happened before. If the Government is to seek to suspend Standing Orders in this way, the opportunity to adjourn and research the matter should be granted. Looking at the Notice Paper, it appears to me that there will be many items of business on it later this evening, when the Government will have to seek to suspend Standing Orders. My first reaction, if that step is taken, is that I will call "No" every time and force a division but, because I wish to get on with the business of the Council, I will not do that. However, at any time in the future when the Government seeks to suspend Standing Orders to enable motions to be moved without notice, when notice has not been given in advance and where there is no undertaking to allow an adjournment, I shall certainly vote against the motion.

The Hon. J. A. Carnie: But I saw members on your side with notes.

The Hon. J. C. BURDETT: I had no notice at all. None of us sitting here had any idea. I can say, in answer to the Hon. Mr. Carnie's interjection, that I saw honourable members hastily prepare their notes, and I was the one who got out the Standing Orders. I had no previous notice. I say for certain that we had no notice that this motion would be moved.

The Hon. R. C. DeGaris: Unlike the Liberal Movement, we are not privy to what the Government is doing.

The Hon. J. C. BURDETT: No, we have no idea at all. The Hon. Mr. Carnie may have known. The first part of the motion states:

. . . the following constitutional principles and respectfully affirm that they should be followed:

1. The Lower House of the Parliament grants Supply. The Upper House may scrutinise and suggest—

and so on. As the Hon. Mr. DeGaris pointed out at some length (I will not repeat it), it is simply not true that there is any constitutional principle that the Senate will not reject Supply. When there was a previous motion which was referred to and debated here some time ago, I quoted extensively from Odgers, and I am minded to read that again, as it covers a page in *Hansard;* but, in view of the time, I will not do that. However, as the Hon. Mr. Garis has said, it is entirely a matter, in conventions, between a country with a unitary government and a country with a federal government. It is also entirely a matter between a country with no written constitution and one that has.

As the Hon. Mr. DeGaris has said, the Australian Constitution is, in substance, an agreement between the six States and the Commonwealth which they form. Certainly, it is true (and it was outlined in Odgers) that there would have been no Commonwealth of Australia if the Senate had not been given the power to reject Supply. In fact, the former States wanted more power: they wanted the Senate to have the same money powers as the House of Representatives had but, in a spirit of compromise, they agreed to the present situation whereby the Senate may not originate or amend money Bills but can reject them.

In the article to which I refer, commencing at page 1399 of *Hansard*, it was made perfectly clear by Odgers, going through the Constitution and going through the constitutional history of this country, that the power was there to be used and was meant to be used. There is no convention, and a convention never has been used. Regarding the second part of the motion, the position is that the Governor-General found he had a Prime Minister who could not ensure Supply. As he said in his own statement, it was thereupon his duty—

The Hon. C. J. Sumner: Because two conventions had been broken.

The Hon. J. C. BURDETT: There was no convention broken, as I have said.

The Hon. C. J. SUMNER: What about the appointment of Senator Field? Will the honourable member give way?

The Hon. J. C. BURDETT: Yes.

The Hon. C. J. SUMNER: Although it is true that the strict legal right exists under the Constitution to refuse or defer Supply, is it not true that in and around our written Constitution there are a number of conventions, usages, and practices which have built up and without which the Constitution would not work? Is it not true that one of those is the whole system of Cabinet Government that is necessary for the functioning of our Constitution, that over the years there has developed a convention that a casual vacancy for a Senate position should be filled by a member of the same Party, that that was a convention clearly breached, that that was the only reason why the Liberal Party was able to defer Supply in the Senate, and that the deferment itself was also a breach of convention?

The Hon. J. C. BURDETT: That is not the matter in this motion, which refers to a convention that the Lower House grants Supply and the Upper House merely scrutinises and suggests. It goes on to talk about actions of the Government. The convention the Hon. Mr. Sumner mentioned (if it be a convention, and I believe it is) is not in question in relation to this motion.

The Hon. C. J. SUMNER: Will the honourable member give way?

The Hon. J. C. BURDETT: Not again. I have limited time, and I propose to limit my remarks so that the honourable member opposite will have a chance to speak. I do not propose to give way all the time. The Governor-General found himself in a position where he had a Prime Minister who could not get Supply, and he said, "I have to get one who can." It is as simple as that. That also answers the last paragraph of the motion. I understand an arrangement has been made about the timing of this debate, and I wish to give the Hon. Mr. Sumner, who asked me to give way, an opportunity to say what he wishes.

I refer briefly to an article by Dr. Elaine Thompson, lecturer in the School of Political Science at the University of New South Wales, which appears in the *Australian Quarterly* of September, 1975, headed, "A note on Conventions, Customs and Traditions in Australian Parliaments". It makes a very good point, which I believe has been overlooked in much of this debate, trying to distinguish between convention, custom, and tradition. I believe there has been confusion in the course of this debate between those three things. The article goes on to examine various recent happenings in Australian political history: the Morosi affair, the A.S.I.O. affair, the appointment of Senator Murphy to the High Court, the decision of the Premier of New South Wales (Mr. Lewis) to fill the casual vacancy, the appointment of Senator Gair, the resignation of the Speaker of the House of Representatives, the breakdown in Parliamentary behaviour during the Joint Sitting of the New South Wales Parliament convened to choose a new Senator to fill the vacancy created by the resignation of Mr. Justice Murphy, and the refusal, in effect, of Supply by 31 Opposition Senators on April 11, 1974. The article points out that each of those is a case where the usual convention has been applied, but that each is different. This, I think, is the most important thing in it. It is generally agreed that the two constitutional conventions basic to responsible government

under the Westminster system are those of individual and collective Ministerial responsibility. In the examination of these various matters (which, as they are not directly relevant to the motion, I will not go through, but which led up to the political crisis that has occurred) the learned author points out that there has been a breach of those two basic conventions.

The Hon. C. J. Sumner: Which ones?

The Hon. J. C. BURDETT: The Morosi affair and the A.S.I.O. affair.

The Hon. C. J. Sumner: The Morosi affair!

The Hon. J. C. BURDETT: All right. The honourable member can read the article. The learned author poses the question that in these cases there was a breach of that real convention, the convention that if a Minister has misled the Parliament or has otherwise grossly failed in his duty, he resigns—

The Hon. C. J. Sumner: He did.

The Hon. J. C. BURDETT: —and in certain circumstances Cabinet should resign. There is a collective responsibility as well. The article further points out that many of these other matters, including the refusal, in effect, of Supply by the 31 Opposition Senators on April 11, 1974, are not a convention but a custom or tradition. It goes on to state that it has become a custom, although it is a breach of convention, in Australia for Ministers not to resign in many circumstances unless they have to. I oppose the motion on the ground that there is no such convention as is alleged and that the action of the Governor-General in the circumstances was the only proper course he could pursue.

The Hon. C. J. SUMNER: I support the motion. I am certainly disappointed that it has to come before this Council, but it has been provoked by the most extraordinary set of constitutional circumstances that has existed in this country at a Federal level since Federation. I am happy at least that this Council has had an opportunity of expressing an opinion. I think it is more than proper that we should be able to do that with matters of public importance. For members opposite to say we are being political in introducing such motions is absolute nonsense. It is a matter of public concern, and we ought to have a say in it. It is essential that the conventions that have surrounded our Constitution be reaffirmed, at least in so far as they relate to this State.

The doubt I have about it is that it may be too late. This is the really crucial issue we are facing, and I would be happy if members opposite would give the matter the consideration it deserves and perhaps start to think logically through the actions taken by their colleagues in Canberra. It may be too late, because the rule book has been thrown away in Canberra in many ways; certainly in relation to the rejection or the deferral of Supply. The A.L.P. followed this convention for 75 years, and it is a convention established for a much longer period in the United Kingdom.

Let us be absolutely sure who has thrown away the rules and how many they have thrown away over the past few months. It is, of course, the Liberal and Country Parties in Canberra. It is quite ironical that it should be those Parties which have done this after their years of claptrap and talk about law and order, violence in the streets, and what they went on with during the Vietnam war. They talked about the processes of the law and about order, but now they have gone completely against all the principles of law and order and of constitutional and orderly government in this country.

What are these conventions that, bit by bit, they are picking away at? The list gets longer as the days go by. We have seen their attitude in the appointment of Senator Field and Senator Bunton. We have seen the threat of rejection of Supply, not once but three or four times since the Whitlam Government was elected in 1972. We have seen the Queensland Governor enter into the Party-political fray. We have seen the Prime Minister, when advising the Governor-General, no longer able to hold a half Senate election if he wanted to hold it. This is because the Liberal States said that they would not issue writs for a half Senate election. In other words, that convention has been broken. If the Government in Canberra wants to call a half Senate election, there is no way in which it can be assured of being able to do it. If there are Governments of different political complexions in the States, they can refuse to issue writs. That is what the Liberal States said when the Prime Minister said he would call an election. That is another rule that has been broken. Finally, the rule that is most fundamental to our whole constitutional system of government is that the Governor-General should take the advice of his Ministers, and particularly of the Prime Minister. As from yesterday, that rule has also been torn up.

The Hon. B. A. Chatterton: And he has ignored the Speaker.

The Hon. C. J. SUMNER: That is so. That is the last one; there may be others. It is an extraordinary and depressingly impressive list if examined in that way. It is a list about which the Liberal and Country Parties will be sorry in future, and that is the problem that has been posed by this constitutional crisis. One by one, they have whittled away the rules. If honourable members opposite cannot see that, they should take a lesson in constitutional law.

I shall now examine some of the constitutional authorities that have referred to these conventions, particularly to the final one that was breached yesterday. I refer to Hood Phillips on *Constitutional and Administrative Law*, at page 85 of which, under the heading "Conventions Relating to the Exercise of the Royal Prerogative and the Working of the Cabinet System" (and honourable members should listen to this because it is important), the following appears:

> The Sovereign could legally declare war or make peace! dissolve Parliament at any time, and need not summon another for three years; she could refuse her assent to measures passed by both Houses of Parliament—

that strict legal right exists—

> she could at any time dismiss her Ministers and appoint others, and so on.

This is the important point:

> The exercise of these powers, however, is either restricted altogether or regulated by conventions, of which the following are some of the most important.

Then, it lists some of the conventions. These are the conventions by which we are bound, whether it relates to the Constitution at the Federal level or at the State level. The author later continues:

> The Queen is bound to exercise her legal powers in accordance with the advice tendered to her by the Cabinet through the Prime Minister.

That is the convention that has been broken. I refer also to S. A. deSmith on *Constitutional and Administrative Law*, at page 47 of which the following appears:

> Again, as we have noted, the Queen has enormously wide powers, prerogative and statutory, but she is obliged by convention to exercise these powers on and in accordance with Ministerial advice, save in a few very special situations. This is the most important convention of the British Constitution. The main exceptions to the general rule will be considered in chapter 4.

This is the fundamental constitutional convention that is now being tampered with and destroyed. Where is all this going to end? I ask members opposite to examine it and try to think through the consequences of their actions.

The Hon. N. K. Foster: They know not what they do.

The Hon. C. J. SUMNER: It is absolute nonsense to say that the written Australian Constitution is the end of the matter. I am surprised that the Hon. Mr. Burdett should think that it is.

The Hon. J. C. Burdett: I said what was in Odgers.

The Hon. C. J. SUMNER: However, to say that the written Constitution is the end of the matter is ridiculous.

The Hon. J. C. Burdett: I didn't use those words.

The Hon. C. J. SUMNER: You implied them, and you adopted a strict technical approach to the matter. You gave no credence to the conventions which have been built up around the Constitution and without which the Constitution could not function.

The Hon. J. C. Burdett: I said that there was not this particular function.

The Hon. C. J. SUMNER: There seems to be extremely strong support for the view that convention does exist—

The Hon. J. C. Burdett: I don't agree.

The Hon. C. J. SUMNER: —and the fact that this action has not been taken at the Federal level in 75 years surely lends support to this, even though the Labor Party has had a majority in the Senate and could have done it during that time.

The Hon. M. B. Cameron: There might have been reprehensible circumstances before.

The Hon. C. J. SUMNER: That interjection hardly warrants replying to.

The Hon. J. C. Burdett: Certainly not as reprehensible as this.

The Hon. C. J. SUMNER: What reprehensible circumstances have there been? There have been absolutely none!

The Hon. J. C. Burdett: What about the oversea loans deal?

The Hon. C. J. SUMNER: As Mr. Ellicott said after examining the papers brought here by Mr. Khemlani (and we will not go into how he got here), there was nothing to implicate the Prime Minister. There has never been any suggestion that there was something illegal with the Government's actions in relation to the loans deal.

The Hon. D. H. Laidlaw: When has an Administration had so many senior Ministers resign?

The Hon. N. K. Foster: In 1964, in fact: two a day.

The Hon. Anne Levy: Gorton and McMahon!

The Hon. C. J. SUMNER: I do not wish to go back over the Menzies Government's term of office. However, one could examine some of the things Sir Robert Menzies did. He certainly sacked Ministers when they disagreed with him. Sir Robert sacked Mr. Bury over the Common Market statements he made in about 1962. He got rid of political opponents by appointing them to various judicial positions around the place. I refer, for instance, to Sir Garfield Barwick.

The Hon. D. H. Laidlaw: Not for these sort of reasons.

The Hon. C. J. SUMNER: He got rid of them because they were threats to his position.

The Hon. B. A. Chatterton: What happened to Gorton?

The Hon. C. J. SUMNER: Yes, and to McMahon and Snedden? What about the V.I.P. affair, when Senator Gorton (as he then was) had to buck Cabinet and go into the Senate with the documents relating to the V.I.P. flights because the Government would not release them? Honourable members opposite know that as well as I do, but they are not willing to admit it or to introduce any balance into the debate.

The Hon. R. A. Geddes: In your considered opinion.

The Hon. C. J. SUMNER: That is so, and I do not believe honourable members opposite have thought through the consequences of this action. Otherwise, they would not have made the contributions to the debate that they have made today. The plain and simple fact is that the written Constitution in Australia is not the end of the matter in relation to the rules of the game. At least, it was not until recent events transpired. The Hon. Mr. Foster referred to the statements made by Professor Colin Howard in today's *Advertiser*. One paragraph of that report is as follows:

> By way of comparison, it needs to be emphasised for the benefit of the literal constructionists of our written Constitution—

I suppose the Hon. Mr. Burdett would not put himself into that category—

> that there is no mention in it of Cabinet Government, of the Prime Minister, of the principle that the Goverment should command a majority in the directly-elected House, or of many other features of the Government of the country which we take for granted.

The Hon. J. C. Burdett: That is where you look for conventions.

The Hon. C. J. SUMNER: The American written Constitution has conventions relating to the election of Presidents. The electoral college technically can elect the President independently of the votes received from the people; but it is a convention that they do not. In Australia, the weight of constitutional authority comes down in favour of the Whitlam Government's stand. The conventions to which I have referred are essential to the functioning of our system; surely the Hon. Mr. Burdett would have to consider that that is a reasonable criterion for deciding whether or not there is a convention. If we consider the consequences of defying a convention, we will see why the convention should exist.

The Hon. Mr. Cameron has said that the consequences of defying this convention are disastrous for government in this country. Governments, under the new set-up, can change every six months, and they will not be able to take unpopular decisions. The convention that casual Senate vacancies be filled by people of the same Party has been torn up. In this respect, who knows what will happen in the future? The chances are that the convention will not be followed. This could rebound equally on the Liberal Party and the National Country Party, but those Parties do not seem to be able to think that through. We have now had an attack on the convention that the Governor-General ought to take the advice of the Prime Minister. Where will this end? The Liberal Party and the National Country Party are to blame. Perhaps we will reach the stage where the Governor-General will refuse assent to Bills. The strict, legal right exists for the Monarch to refuse assent to Bills, but there has not been such a refusal for 300 years.

The Hon. R. C. DeGARIS: Will the honourable member give way?

The Hon. C. J. SUMNER: Yes.

The Hon. R. C. DeGARIS: Does the honourable member realise that the Governor has suggested an amendment to legislation?

The Hon. C. J. Sumner: When did that occur?

The Hon. R. C. DeGARIS: I cannot recall exactly, but it was between 1965 and 1968.

The Hon. C. J. Sumner: What was the nature of the amendment suggested?

The Hon. R. C. DeGARIS: From memory, I believe the amendment was to the Education Act.

The Hon. C. J. SUMNER: There could have been a grammatical amendment—

The Hon. R. C. DeGaris: It was more than that.

The Hon. C. J. SUMNER: —or it could have been a matter of policy. If the Governor suggested that, I am not saying that he was not within his rights to make the suggestion. If Parliament had disagreed with his suggestion and he had then refused assent to the Bill, he would have been in absolute breach of the conventional principles of the Constitution; in those circumstances, he would not have been Governor the next day. I am surprised that the Hon. Mr. DeGaris raised that absurd point. When the Hon. Mr. Hill replied to an interjection that I made earlier today, he showed that he did not understand the principles involved.

Another fundamental issue involves the idea of consensus politics. Our democratic system is based on the idea that there is a consensus, at least about the the way in which the rules are applied. In a democracy, the majority rules. However, minorities have the right, as do all groups in the community, to believe that they can influence the Government. The group in opposition must think that it has a reasonable chance of getting into government. For 21 years, the Labor Party did not get into government, despite obeying the rules throughout that period. However, the Labor Party thought that it could get into government through the election process, and it succeeded. What has happened since then? It has been denied, half-year by half-year, the right to govern. The actions in Canberra are destroying respect for the rules, and they are destroying the consensus to which I have referred. If a group concludes that it is impossible for it to achieve power, it will feel frustrated and put our whole system at risk.

In Northern Ireland, the Catholic minority was denied access to any semblance of political power; that situation has given the extremists in Northern Ireland and Southern Ireland the opportunity to move into Northern Ireland and to resort to violence.

If a group unjustly attains power, another group might feel justified in taking every step to remove that group, irrespective of how many conventions are broken. This is where honourable members opposite and their colleagues in Canberra have sold the Australian system down the drain. The black minority in America was denied access to power, to the Legislature, and to the Government. As a result, the black minority took the only action it knew to get some say in the system: it took to the streets. This is the sort of problem that honourable members opposite and their colleagues may create in Australia. What is the trade union movement supposed to do? Through its political wing it has fought for 21 years to get into office only to find that it is thrown out of office and that attempts have been made to throw it out of office by an Upper House every six months. What is it supposed to do?

The trade union movement is experiencing a feeling of utter frustration as a result of the functioning of democracy in this country. That is what members opposite have brought us to. Personally, I am upset about this action. I have gone through law school and have learnt about these things. I have learnt about what the British Parliamentary system is, what it has produced, what its traditions are, and I have learnt of the fights between the House of Commons, the Monarch and the House of Lords to obtain democracy.

Now, in regard to the Australian political context I find that there are no such rules. This is the position that members opposite and their Canberra colleagues have brought to the Australian political scene and, if people do feel that frustration, if they feel they cannot get a say in what is going on in Government, we might face problems such as demonstrations, strikes throughout the country and even violence if a similar stage is reached as has been reached in other countries of the world. I believe on that ground that it is really the fundamental issue with which we are faced here today and that members opposite ought to give greater consideration to the motion. I support the motion.

The Hon. A. M. WHYTE: I have listened throughout the debate this afternoon to the learned gentlemen who have contributed to it, and I must say that there have been some good contributions in the debate from members on both sides of the Council. Certainly, I do not agree with many of the points that have been made by members from both sides. The fiasco that we see in Canberra today is a lamentable situation, and I believe that each of the major political Parties is at fault in this matter.

The motion before this Council seeks to give a direction from this Council to the Governor of South Australia. I believe we have not got the right to instruct His Excellency the Governor on what decision he should give or make. We have seen the same position apply in relation to the Governor-General in Canberra, in the Commonwealth sphere, when there was a deadlock when neither Party was willing to give ground and a situation was created that jeopardised the state of the nation. I do not believe that the Governor-General, as an independent arbitrator, had anything more that he could do other than to declare that there should be an election. That was the proper thing to do.

The Hon. F. T. Blevins: Was it proper that Mr. Fraser should be the Prime Minister in the interim? The Prime Minister should have the support of the majority on the floor of the House of Representatives. That is proper.

The Hon. A. M. WHYTE: That is something honourable members can debate. I am not willing to debate it. I could as easily debate that as could the honourable member (but I would probably make a better contribution than would he), but I am not going to do that. We saw the Governor-General exercise his power because of the deadlock situation that was created. I believe that the Governor-General made his decision in the interests of the nation, by declaring that there should be an election.

This motion, in part, seeks to instruct His Excellency the Governor on what he should do. It seeks to take away his power as an independent arbitrator and we could reach a similar pitiful situation in South Australia if the same situation were to result here as we currently see in Canberra, and in that case we might need the assistance of an independent arbitrator. I believe that this Council has no right to give instructions to His Excellency the Governor on what decision he should make, and for that reason I oppose the motion.

The Hon. R. A. GEDDES: I wish to speak on one point only. Much has been spoken about convention and custom and what has applied in the past and what

should have applied on November 11 under section 105 of the Constitution. It has always been a convention or, at least, a custom, that the Government of the day gives the Opposition knowledge beforehand of its intended notices of motion, such as we have debated in this Council this afternoon. It is now a known fact, made public by way of interjection this afternoon, that members of the Liberal Movement were provided before the Council met with copies of the motion considered by the Council.

As Party Whip I spoke with the Chief Secretary this morning and gave him certain assurances about the Notice Paper, yet he did not have the courtesy to say that this motion was to come before the Council so that we could at least have been prepared. The action that the Hon. Mr. DeGaris took in asking for the debate on the motion to be adjourned was only right at the time, and it was most unwise, or unfair, for members such as the Hon. Mr. Sumner to say that the Opposition had not considered the motion wisely.

The Hon. C. J. Sumner: You have not answered any of the points I raised; that is for sure.

The Hon. R. A. GEDDES: The honourable member obviously had a much longer time to prepare his answers in the debate than we did. That is the point I wish to make. I oppose the motion.

The Hon. D. H. L. BANFIELD (Minister of Health): I thank honourable members for the attention they have given to this motion. First, I point out that there are precedents for moving a motion without giving prior notice. Honourable members opposite can find these precedents for themselves if they so desire. Secondly, the Hon. Mr. DeGaris claimed that the motion was a reflection on the Governor-General, but I do not believe it is a reflection. In fact, Standing Orders give members the right to disagree to the rulings that you, Mr. President, make, if we so desire. Surely if we have the right to dissent to the ruling that you have given, Sir, then we have the same right to dissent to a ruling made by the Governor-General. Therefore, in relation to the action of the Governor-General, it is not a reflection. Surely we are able to express our dismay at the Governor-General having made a wrong decision.

The Hon. Mr. DeGaris also asked what principles are contained in the motion, yet within two minutes he read out paragraphs (1) and (2) of the motion and said that those general principles applied. The Leader already knew what the principles were, he referred to those principles, he stated that those general principles applied, yet he commenced his speech by asking what the principles were. The Leader went on to say that this Council has never refused Supply: that is exactly what we are talking about; that is exactly what we are saying; that this Council should not withhold Supply from this Government any more than the Senate should withhold Supply from the Australian Government. That is exactly what we are saying, that this convention should apply not only in this Council but also in the Senate.

From time to time we have heard the Hon. Mr. DeGaris say that members of Upper Houses should not be dictated to by other people. Yet the Senators were receiving their instructions from Fraser, in the Lower House. That is from whom they were receiving their instructions; as a result of meetings (and the Hon. Mr. Laidlaw attended one such meeting a fortnight ago) the Senators were instructed by the faceless men of the Liberal Party. They were being influenced by men from an outside body, yet the Leader says that members of Upper Houses should not be influenced by people outside Upper Houses. I have shown where those instructions came from: first, from the Liberal Party, and, secondly, from Fraser himself. So do not let the honourable member get to his feet again and say that this Council should not be influenced by other people.

The Hon. R. C. DeGaris: I say it, and I will say it again.

The Hon. D. H. L. BANFIELD: Of course you do; it is obvious. You disagree with what Fraser did and what the Federal Council of your Party did, because they are the ones who instructed the Senators to withhold Supply. Is that what you are saying now?

The Hon. R. C. DeGaris: I do not even know whether that is right.

The Hon. D. H. L. BANFIELD: You do not know that Fraser got up and said, "My Senators will not vote for Supply". Is the Hon. Laidlaw prepared to get up and say they did not bring pressure to bear on the members in the Upper House to withhold Supply?

The Hon. D. H. Laidlaw: Yes, I am.

The Hon. D. H. L. BANFIELD: The Hon. Mr. Burdett says they were extraordinary circumstances in which the motion was put. Of course they were extraordinary circumstances, and the motion was put in those extraordinary circumstances: it is an extraordinary occasion, and that is why the motion had to be put as it was.

The Hon. Mr. Hill said that some political advantage might accrue from this motion. Does he not think that Fraser was trying to get some political advantage? That is what it is all about, because someone was trying to get a political advantage and honourable members opposite would try to get the same political advantage if they wanted it. The Hon. Mr. Laidlaw implied, by way of interjection, that there must be something crook with the Government because there had been less than half a dozen changes in it. What about a previous Liberal and Country League Government in which there were about 40 changes? How crook was it? This motion merely draws the attention of His Excellency to the "following constitutional principles"; it does not direct His Excellency what to do; it merely indicates that we do not want this sort of mad caper in South Australia, and Parliament is the place to do that. It is our duty to express these sentiments to His Excellency the Governor, who, I am sure, would appreciate an expression of opinion from both Houses of Parliament.

In conclusion, I ask honourable members not only to carry this motion unanimously but also to attend a memorial service being held on Friday out of respect for the passing of democracy, which took place in another place on November 11, 1975.

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

Majority of 4 for the Ayes.

Motion thus carried.

[*Sitting suspended from* 6.32 *to* 8 *p.m.*]

FISHERIES ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

NATIONAL TRUST OF SOUTH AUSTRALIA ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

Its main purpose is to revise the principal Act with a view to isolating from the Act the rules which are contained in the schedule to the Act and which, under those very rules and section 9 of the Act, have been capable of modification, repeal and being added to in accordance with procedures laid down by that Act as well as by section 38 of the Acts Interpretation Act, 1915, as amended. Under the Act the rule making authority is the council of the National Trust.

Unfortunately, there appear to be insufficient records kept by or on behalf of the council from which the rules, as amended to date, or the procedure followed when making some of them, can be ascertained with any certainty. Moreover, it would appear that the validity of some of the resolutions of the council purporting to amend certain of the rules (for example, the alterations in the classes of members) is not entirely free from doubt, and those and other purported amendments are not in every case capable of incorporation in a consolidation of the Act under the Acts Republication Act. These situations are not uncommon in cases where Acts are made capable of amendment by rule (or regulation) and the correct procedure for making rules (or regulations) is not followed. It is for this reason, as well as to expedite consolidation of Acts, that Parliament has, in recent legislation, adopted the policy of isolating Acts from the rules (and regulations) that may be made under them, thus keeping the rules (and regulations) separate and distinct from the Acts under which they are made. This policy also facilitates the Acts to be consolidated separately from the rules (and regulations) without any interference with the rule making power and without loss of Parliamentary control over that power.

With a view to facilitating the consolidation of the Act and curing any past irregularities and defects in the amending rules of the trust, the Bill repeals the schedule to the Act (clause 4), at the same time conferring on the council the same powers to make rules and by-laws as it possessed before the repeal of the schedule. Power is also included to extend those rule and by-law making powers by proclamation (new section 9(1) to be enacted by clause 3). In order that the rules of the trust might be revised and updated to meet present policies and situations, proposed new section 9(2) makes provision that the council must, within a period of six months after this Bill becomes law or such further time as the Minister may in writing allow, make a new set of rules and a new set of by-laws, under and for the purposes of the Act, and that, until those sets of rules and by-laws have been made and have taken effect, the existing rules and by-laws shall, notwithstanding the repeal of the schedule to the Act, continue to be the rules and by-laws of the trust. Proposed new section 9(3) clarifies and is substituted for provisions of the Act which are being repealed by the Bill.

The Bill, if approved by Parliament, will enable the trust to bring its rules and by-laws up to date and into line with present circumstances and situations and would also enable the Act to be consolidated under the Acts Republication Act, without the inclusion of the schedule, some of the amendments to which could possibly be of doubtful validity or unincorporable because of the insufficiency of records from which they could be ascertained with any certainty, and because of possible irregularities and defects in the procedures followed when some of the rules were amended.

The Hon. C. M. HILL: I support the Bill. I have had an opportunity to look at it, as well as to peruse the 1955 Act. When the legislation was enacted 10 years ago, the rules and by-laws were incorporated in the one Bill with the normal operative legislation. Since that time, as the Minister has said, doubts have arisen as to the situation of the rules and the by-laws, and I agree with the approach that it is far better to have a separate Act and to give bodies of this kind power to make their separate rules and by-laws and that these, in general terms, should be controlled by regulation.

The Government has given, I believe, a fair and reasonable period of time to the trust to set its house in order. That period is six months but, if it proves to be an insufficient period, power is contained in the Bill for it to be extended. I have noted also that the new rules and by-laws, when formulated by the trust, must receive the concurrence of at least two-thirds of the members of the council of the trust. The rules and by-laws must be submitted and carried by resolution of a general meeting of the National Trust.

I believe that the machinery is included in this Bill to enable far more satisfactory legislation to exist under which the National Trust can operate in future in South Australia. In supporting the measure, I commend the National Trust on the work it is doing in South Australia. Particularly do I congratulate the branches of the trust, some of which are in the far-flung areas of the State. These sorts of people are doing a commendable public service in establishing and maintaining these historic institutions.

As time passes by, I believe that South Australians will appreciate them even more. Not only should one commend those who work as trust members, but I must mention, too, the members of the committee who, knowing that a trust branch and establishment is set up, are bringing forward items suitable for installation and display in these various National Trust branches. This is indeed a splendid community effort. I support the Bill.

The Hon. JESSIE COOPER secured the adjournment of the debate.

SUCCESSION DUTIES ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment No. 1, but had disagreed to amendments Nos. 2 to 7.

Consideration in Committee.

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

That the Council do not insist on its amendments Nos. 2 to 7.

I do so because the amendments would create inequity in the incidence of succession duty, and would have an adverse effect upon the revenue of this State. As I said yesterday, the Government considers that a reasonable number of amendments are contained in the Bill and that it is going a long way towards helping people in this regard. Having examined the matter again, the Government has confirmed what I said yesterday. For those reasons, the Government considers that, even if the Council requested a conference, no useful purpose could be served by it. If a conference was refused, this would result in the Bill's being laid aside. I am not holding a gun at honourable members' heads, as they can request a conference if they so desire. However, having examined the matter, the Government considers that it can go no further than it has already gone.

The Hon. R. C. DeGARIS (Leader of the Opposition): I am sorry that the Government has taken this point of view. The amendments to which the Government has disagreed extend from five years to 10 years the period for which the quick succession rebate applies. Although there would be an impact on the State's revenue because of this, it would be minimal. Nevertheless, this is a reasonable amendment, and I am certain that Governments not only in this State but also in other States will soon agree to the 10-year period. When there is only a five-year period in relation to quick succession, grave anomalies are created in relation to the impact of death duties on certain estates. The Minister referred to the Queensland quick succession period of three years. I point out that in that State no duty is payable between surviving spouses, and most of the quick successions occur in inheritances from spouse to spouse and then from spouse to children. It is hardly fair, therefore, to quote the three-year quick succession period in Queensland. I am willing to concede that the extension of the quick succession period to 10 years will affect Government revenue.

The next point relates to the reduction of the existing $5 000 assigned benefit for an inheritor. I point out that no mention was made of the removal of this benefit in any election speech. The public knew nothing about it. It came out of the blue from the Government, which has no mandate to remove this benefit. Secondly, the benefit to widows and widowers has been improved right across the board. On successions up to $71 000, there is a slight advantage for widows; above that it becomes a disadvantage.

Regarding children, the Bill removes any benefits that already exist. Indeed, under the Bill children will be worse off than they were in 1970. For that reason, I believe the application of the $5 000 proportionate rebate of duty, at least in relation to children, is reasonable. It was not stated in any policy speech that this benefit would be removed, and, if there is to be a compromise, it could be along the lines that this rebate should apply to children.

The other amendments to which another place has disagreed concern the rural rebate. This rebate alters the whole concept of the remainder of the Succession Duties Act in that there is no declining rebate in regard to the size of an inheritance. It will not matter how big the inheritance is: the rebate will be exactly the same. The Council merely wanted a declining benefit as the value of the estates increased, as applies to everyone else in relation to succession duties. There was no intention of taking away Government revenue. I am certain most honourable members would agree that the existing section provides for an increased rate and a declining benefit as the size of an estate increases. The Government has imposed a flat rate across the board in relation to rural rebate. I think the Council's request was a reasonable one.

The last amendment deals with the matter of buildiing societies, and this makes absolutely no difference to Government revenue. Government revenue will be the same, whether or not the amendment is carried. It will enable a person who has invested money with a building society to allow his inheritors to receive the same benefits, in relation to obtaining quickly money involved in an estate, as apply to a person who has invested money in a savings bank.

The Hon. D. H. L. Banfield: That will still apply.

The Hon. R. C. DeGARIS: Then why is the Government objecting?

The Hon. D. H. L. Banfield: No-one is disadvantaged.

The Hon. R. C. DeGARIS: Despite the Minister's saying that the suggested amendments would create inequity in the incidence of succession duty and would have an adverse effect on the State's revenue, this amendment will have no effect on that revenue. I suggest, as a result of what the Minister has said, that progress be reported, because, if we request a conference on this matter, the House of Assembly could refuse it and nothing else could be done, in which event the Bill would lapse. As the Bill contains certain benefits, honourable members would not like to see it lapse. Certain amendments are reasonable and will not affect the State's revenue. The Council should therefore insist on those amendments. I ask the Minister to report progress to enable me to examine this matter to see what I should recommend regarding it.

The Hon. D. H. L. BANFIELD: I can see no advantage in reporting progress. Yesterday, I gave my reasons for refusing amendments. This evening, the Hon. Mr. DeGaris has merely said that the amendment relating to building societies will not affect the State's revenue. I would agree with that, if everyone abided by the rules. However, the State's revenue will be affected, as the amendment widens the area in which people can try to deprive the Government of money. If everyone plays by the rules, revenue is not affected, but the amendments widen the scope for people to dodge the rules. The Government is therefore unwilling to shift ground on this matter. The Hon. Mr. DeGaris has admitted that the Bill provides benefits. At a later stage, the Government may consider the points raised by honourable members, and it may consider further amending the legislation, but at this stage I see no good reason for reporting progress.

The Hon. C. M. HILL: I am disappointed with the Minister's attitude. We must acknowledge that the amendments are not acceptable to the Government in the form in which they have been presented. However, surely the door remains open for a compromise to be reached.

The Hon. T. M. Casey: We have already made changes.

The Hon. C. M. HILL: Yes, but we are now talking about the amendments that have not been accepted by the Government in another place. If we request a conference and if the Government refuses that request, the Government could bring about a situation where the Bill would lapse, and I do not think any honourable member would want that to happen, because there are advantages in the Bill. It is a great pity that the amendments cannot be further discussed and perhaps modified, so that there is some improvement to the legislation. I am disappointed that the Leader of the Government in this Council has not given an assurance that the Government would be willing to discuss this matter further in conference. If that assurance was given, we would know that the Bill would not lapse if it went to the other place for further consideration. Will the Leader of the Government in this Council indicate the Government's attitude?

The Hon. D. H. L. BANFIELD: The Government has gone as far as it is prepared to go at this stage. The Hon. Mr. Hill knows the possible consequences of what he has referred to.

The Hon. M. B. CAMERON: Perhaps the Government is being a little unreasonable in not following the normal convention.

The Hon. T. M. Casey: It was spelt out yesterday that the amendments were only suggested amendments.

The Hon. J. C. Burdett: It will be the Government's fault if the Bill is lost.

The Hon. M. B. CAMERON: I do not believe that the Government's attitude is reasonable. I do not want to indicate any withdrawal of support for the amendments, which are fair and reasonable. The Bill has done a great deal toward curing some problems, and the Government deserves credit for that. However, some points raised by the Hon. Mr. DeGaris need further consideration. I warn the Hon. Mr. DeGaris that the consequences of this Bill's lapsing may rest on our shoulders. The decision rests with him as to whether he proceeds with the amendments. The consequences of such an action are difficult to forecast. We may be blamed for the loss of advantages that can accrue to people under this Bill.

The Hon. R. C. DeGARIS: There are no major concessions in this Bill. There are limited concessions to widows and widowers, but this Bill removes some benefits for the majority of inheritors. About 55 per cent of South Australian inheritors will be worse off under this Bill than under the existing legislation. All the talk about major concessions is so much baloney. Further, the concessions in the Bill will have a limited duration, the average duration being seven years.

The Hon. Anne Levy: Once people are dead, they do not need the benefits any more.

The Hon. R. C. DeGARIS: The honourable member can talk for herself. Only a limited number of inheritors will receive a benefit for a limited period. There is very little loss of revenue for the Government under this Bill. I am concerned that the Government has said that there would be a loss of revenue through the humane suggestions of this place. There will be some minimal loss of Government revenue and the Government might refuse a conference on that ground. That is a risk I cannot afford to run with this Bill, because it provides benefits, to a limited degree, to widows and widowers. I suggest to the Government that the Council do not insist on those amendments under which the Government will lose revenue, that is, amendments Nos. 2, 3, 4 and 5, but that the Council request a conference on amendments Nos. 6 and 7, under which it is not intended that the Government should lose any revenue.

The Hon. D. H. L. BANFIELD: I want to make the Government's position clear. The arguments that were advanced in this Council yesterday have been considered by the Government. The Government has indicated that it is not willing to go any further than it has gone. I have no reason to doubt the intentions of the Minister in charge of the Bill in another place. He believes that the Government has gone far enough and that no good purpose can be served by a conference, and I stress that point. If members opposite insist on a conference, that is their prerogative, but they will not then be able to say that I have not told them that the Government believes it can go no further and that no good purpose can be served by a conference. The Government refuses a conference, and that is as plainly as I can put it.

The Hon. J. C. BURDETT: The Government has indicated on several occasions, both yesterday and today, that it believes it has gone as far as it can go at this stage, but that does not mean it cannot discuss the matter further and that it cannot discuss the matter in the intimate atmosphere of a conference. All members know that it is one thing to debate an issue in this Council and that it is another thing to debate an issue in a conference. In the interchange at a conference, things can be brought to the Government's attention that it may otherwise not be possible to bring forward in debate. All sorts of compromise are reached at conferences. There are times when one side says it can go no further, yet in conferences that side does go further. There are many times, at only the few conferences I have attended, where one side has said before the conference that it has gone as far as it can go and yet that side has gone further. That is the idea of conferences, and also the idea of the deadlock provision.

If the Council does insist on its amendments Nos. 6 and 7 and if the Government refuses a conference, it will have been the action of the Government that has refused the conference and the responsibility for the lapse of the Bill will rest on the Government. It will not rest on this Council.

The Hon. T. M. Casey: Come on!

The Hon. J. C. BURDETT: If we insist on the amendments and if we ask for a conference—and this is what we have to do, because these are suggested amendments—

The Hon. T. M. Casey: That was emphasised yesterday.

The Hon. J. C. BURDETT: I am emphasising it again; the situation will be the other way around. If we ask for a conference and if the Government in another place refuses the conference, the resulting situation will be obtained through the action of the Government.

The Hon. T. M. Casey: You're trying to put the onus on someone else.

The Hon. J. C. BURDETT: I am trying to put the onus where it should be. Only one place can refuse a conference. It must be the other place and not this Council. It is for the Government to say in another place at that time what its attitude is.

The Hon. T. M. Casey: It has already said what its attitude is.

The Hon. J. C. BURDETT: It has not said it in another place, and it has not said it in response to a request for a conference. In making such a request, we are seeking only to go to the conference table; we are asking for nothing other than to discuss the matter and, if the Government in another place refuses that request, the responsibility for the Bill then rests on its shoulders. I support the suggestions of the Hon. Mr. DeGaris.

The CHAIRMAN: The Hon. Mr. DeGaris has suggested to the Leader of the Government that the Legislative Council's suggested amendments to which the House of Assembly has disagreed be divided into two sections; one section would possibly not be further disagreed to, and the other section might form the subject matter to be dealt with by a conference. I have consulted Standing Orders in connection with this matter, and I rule that such a procedure is not possible. The whole of the amendments must be taken *en bloc* and either must be not further disagreed to or must be insisted upon and a conference be requested.

The Hon. R. C. DeGARIS: In view of that ruling, I suggest to the Council that it adhere to its amendments, but on the clear understanding that, if a conference is granted, the Council's managers will not insist upon the Council's amendments Nos. 2, 3, 4, and 5, which affect Government revenue. Although there is a minimal effect on Government revenue, I indicate that the attitude of the managers of the conference would be not to insist upon those amendments at the conference. The other two amendments are not designed to affect Government revenue

whatever. I refer to the figures I have given regarding the rural rebate; I am willing to alter the figures, but I still adhere to the point I made. I know that honourable members will agree that the succession duties legislation depends upon two factors in every category, that is, an increasing progressive rate of duty as the size of the estate grows and also a declining benefit, as the size of the estate grows, with one exclusion, that is, the rural rebate. That has always been on a declining basis as the estate grows.

I am certain that members of the Government will agree that this is a reasonable approach. At least, this question should be discussed at a conference to see whether we can maintain the existing situation applying in the principal Act and as it also applies in every amendment made by the Government to the existing succession duties legislation. There is no intention in amendment No. 6 to affect Government revenue. In amendment No. 7 there is no means whereby Government revenue can be affected. I ask the Council to adhere to its amendments and request a conference on the basis that we would not insist on amendments Nos, 2, 3, 4, and 5.

The Hon. D. H. L. BANFIELD: It would not be reasonable for me merely to tell members opposite to do as they wish. Regardless of what the Hon. Mr. Burdett has said, the responsibility for the Bill will not lie with the Government; the fact remains that the Bill would be lost. This Council can do what it likes; it can lay the blame where it likes. The Government has made concessions so far as it is willing to go at this time. The matter is now entirely in the hands of this Council. I do not care what the Hon. Mr. Burdett says about who is to blame: the fact is that this Council, if it insists on its amendments, must bear the responsibility for the progress of the Bill. It is as simple as that. Members opposite are insisting on amendments that the Government is not prepared to accept; that is their problem.

The Hon. J. A. CARNIE: I am disappointed at the Minister's explanation. His last statement sounds to me like blackmail.

The Hon. D. H. L. Banfield: Not at all.

The Hon. J. A. CARNIE: "Accept our terms or get nothing."

The Hon. D. H. L. Banfield: Not at all.

The Hon. J. A. CARNIE: I am sorry, but that is the message I get: if we insist on our amendments we get nothing at all and will then be blamed by the Government for having this Bill thrown out. I have never known a conference that has not reached a satisfactory compromise that is usually for the benefit of the people of this State. I said in the second reading debate that this Bill did not go far enough, although I supported it because there were some benefits in it. The Hon. Mr. Burdett's amendments take it a little further and cure an anomaly. The Government has said it will go no further, but there is still a basis for compromise. I do not like the Minister's saying that either we do not insist on our amendments or we get nothing at all, because I think we can get to the conference table, have a reasonable discussion and come up with something that will be of benefit to this State. We should insist on our suggested amendments.

The Hon. C. M. HILL: I seek your guidance, Mr. Chairman, whether or not a rider could be added along the lines suggested by the Hon. Mr. DeGaris.

The CHAIRMAN: That cannot be debated. This is a money Bill. The Council has suggested amendments to it, and the procedures in connection with the Bill are very limited in their scope: it is a matter of all or nothing.

The Hon. M. B. CAMERON: The Government's approach is unreasonable. I cannot believe that at some time in the past a similar situation has not arisen where the Government knew it was not prepared to make any concessions at a conference. Does it mean that, if the Government decides that a certain matter has gone far enough, the usual procedure of having a conference will now be dispensed with and we shall have no more conferences?

The Hon. R. C. DeGaris: It is the Government's right to refuse a conference if it wants to.

The Hon. M. B. CAMERON: But that has not been the case in the past, certainly not under these conditions. I think the Chief Secretary is being unreasonable, although I mildly warn honourable members on this side that, even if we continue our support of these suggested amendments, we are not always the best salesmen in the world when it comes to saying who is responsible and who is not. We should put the blame where it belongs—with the Government—before we take this action. I should not like to see the Bill lost (that would be most unfortunate) because of the attitude of the Government on this matter.

The Committee divided on the motion:

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

Noes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, 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.

The CHAIRMAN: There are 9 Ayes and 9 Noes. In view of the information of the Minister that there is a likelihood of a conference being refused, I give my casting vote for the Ayes.

Motion thus carried.

STATUTES AMENDMENT (RATES AND TAXES REMISSION) BILL

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

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

That this Bill be now read a second time.

It increases the generous remissions of rates and taxes for which provision was originally made by the Rates and Taxes Remission Act, 1974. The remissions are available to pensioners and other persons in circumstances of financial hardship. The Bill increases from $40 to $50 the maximum remission to be granted in respect of water or sewerage rates. It increases from $80 to $100 the maximum remission to be granted in respect of land tax or local government rates.

Part I is formal. It should be observed that the Bill will be retrospective to the commencement of the present financial year so that it will apply to all rates and taxes levied during the course of that financial year. Part II increases the remission to be granted in respect of water rates levied under the Waterworks Act from $40 to $50. Part III increases the maximum remission to be granted in respect of sewerage rates levied under the Sewerage Act from $40 to $50.

Part IV increases the maximum remission to be granted in respect of land tax from $80 to $100. Part V increases the maximum remission to be granted in respect of local government rates from $80 to $100. Where a council has established a drainage scheme under section 530c of the Local Government Act and levies rates in pursuance

of that scheme, the maximum remission is increased by the Bill from $40 to $50. Remissions granted by a council are, of course, recouped out of the general revenue. Part VI increases from $40 to $50 the maximum remissions to be granted in respect of rates levied under the Irrigation Act.

The Hon. R. A. GEDDES: I support the Bill, although I argue with the Government when it says, in the second reading explanation, that these are generous remissions of rates—

The Hon. R. C. DeGaris: About as generous as the succession duties.

The Hon. R. A. GEDDES: —for those in necessitous circumstances, such as pensioners and others suffering financial hardship. I agree with the Leader. When we recall the report tabled in the Parliament yesterday showing that in 1970 the Engineering and Water Supply Department received advice from the consulting firm of W. D. Scott and Company that its workshop area was wasting $1 000 000, when we realise that the same consulting firm advised that it was costing more than $100 000 000 to finance the management information section of the department, and when we—

The Hon. B. A. Chatterton: Did you say $100 000 000?

The Hon. R. A. GEDDES: That was the figure quoted.

The Hon. D. H. L. Banfield: A year?

The Hon. R. A. GEDDES: In a year, in the management information centre of the Engineering and Water Supply Department. Perhaps the Minister could prove me wrong. The report was tabled in another place yesterday. These are costs which W. D. Scott and Company in 1970 regarded as excessive. Now we have the Government saying that it is so generous that it will increase the maximum remission to pensioners in respect of water and sewerage rates from $40 to $50, at the same time increasing the maximum from $80 to $100 in relation to land tax or local government rates. This will cost the Government about $2 500 000. In 1974-75 the cost of this scheme, when the remissions were of a lower order, was about $1 700 000, and it is accepted that the new increases will cost an additional $500 000, making a total contribution by the Government of about $2 250 000. I thank the Minister of Health for his help in showing me the statements of payments from the Revenue Account for the year, in which it is stated that the total costs of the department and actual payments for 1974-75 totalled $60 500 000.

The Hon. D. H. L. Banfield: That is the whole of the Works vote. The Engineering and Water Supply Department figure was $36 000 000.

The Hon. R. A. GEDDES: Perhaps I have been fed incorrect information about the $100 000 000. I cannot put another figure to it, so I shall stick to it. I support the second reading.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Commencement."

The Hon. R. A. GEDDES: During the second reading debate, I referred to a figure of $100 000 000, and I was questioned by Government Ministers. I quote from today's *Advertiser* an article headed "E. & W. S. could have saved $1 000 000 a year". The article states:

The Engineering and Water Supply Department could have saved more than $1 000 000 if it had adopted a report in 1970 to rationalise its workshops.

The report continues:

The committee also recommends that the department allocate a much higher priority to improving management information systems, with the aim of having a more effective control over its costs. The annual expenditure now exceeds $100 000 000. It also recommends—

The Hon. J. C. BURDETT: Mr. President, I draw your attention to the state of the Council.

A quorum having been formed:

The Hon. T. M. CASEY: We accept the explanation of the Hon. Mr. Geddes.

Clause passed.

Remaining clauses (3 to 14) and title passed.

Bill read a third time and passed.

PRISONS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADELAIDE FESTIVAL THEATRE ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

Honourable members will recall that the principal Act, the Adelaide Festival Theatre Act, 1964, as amended, was last year amended so as to give the Adelaide City Council certain future financial obligations under that Act. At the same time, provision was made to reimburse the council amounts equal to amounts expended by it in meeting payments on moneys previously borrowed by it for the construction of the Festival Theatre, the provision in question being section 7c (1) (*b*) of the principal Act, which provided for annual payments by the Government.

The purpose of this short Bill, which arises from representations made by the council, is (*a*) to provide for payments by way of reimbursement to be made at less than annual intervals; and (*b*) to ensure that payments made by the council to a sinking fund for the redemption of its debt will attract reimbursement from the Government. Clause 2 of the Bill, the only operative clause, gives effect to the matters set out above.

The Hon. C. M. HILL: I have already had an opportunity to review this short Bill, which I support. As the Minister has said, it deals with requests that have been made by the Adelaide City Council that the reimbursement to it ought to be made at intervals of less than one year if it seeks such shorter periods of reimbursement. It was also suggested that payments made to the sinking fund for the redemption of this debt should also attract reimbursement from the Government. I commend the Government for its willingness to accede to these requests made by the Adelaide City Council.

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

CONSTITUTION ACT AMENDMENT BILL (ELECTIONS)

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

Consideration in Committee.

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

That the Council do not insist on its amendments.

I do so because the amendments render the Bill nugatory. I point out that, in substance, this proposal is that the Governor be empowered to call special Council elections to

be held within three months of half of the members of the Council having completed a minimum term of six years. Necessarily, this election would not coincide with a general election for the House of Assembly. In the second reading explanation I pointed out that the purpose of the Bill is to ensure that, so far as possible, each time a general election is held for the House of Assembly, an election to return half of the members of the Legislative Council is also held.

Much debate took place in the Council. Honourable members believe they are elected for a certain period, and that they should not remain members for more than that time. When opposing the amendments, I said that the public was sick and tired of elections. The amendment could result in our having elections much more often than they have been held in the past. I am sure that this is not what the public wants, and I ask the Committee not to insist on its amendments.

The Hon. R. C. DeGARIS (Leader of the Opposition): The Bill was debated fully at the second reading stage. What the Minister has said regarding the reasons for the House of Assembly's disagreeing to the amendments is not exactly the position. We are back to the old House of Assembly use of the word "nugatory", it having said that the amendments render the Bill nugatory The Council's amendments do exactly what the Government has said it wants to do. It is objecting to the fact that, under this State's Constitution, a Legislative Councillor could, in certain circumstances, serve for a period of eight years. We have said, "If you think honourable members should not serve electors for more than the term for which they are elected, we are willing to accept it."

However, the Government wants the House of Assembly to have the right to decide, on an emotional issue, because of a certain political climate obtaining at the time on which it could capitalise, and in which the Council would have no part whatsoever, that this Council should go to the people at the same time as it does. Nothing would undermine the independence of an Upper House more than would this Bill. As the whole matter has been dealt with in the second reading debate, I do not intend to repeat the arguments then raised. I strongly urge the Council to insist on its amendments.

The Council divided on the motion:

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

Noes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, 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.

The CHAIRMAN: To enable the matter to be further considered by the House of Assembly, I give my casting vote to the Noes.

Motion thus negatived.

Later:

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

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

That a message be sent to the House of Assembly granting a conference as requested by that House, that the time and place for holding same be Thursday, November 13, at 10 a.m. in the Legislative Council conference room, and that the conference be managed on the part of the Legislative Council by the Hons. D. H. L. Banfield, J. C. Burdett, M. B. Cameron, R. C. DeGaris, and C. J. Sumner.

I believe this is a wise course of action to follow in order, to try to obtain a compromise on this matter. It is a good idea to have a conference. We may be miles apart at present, so to speak, but in the past conferences have resulted in resolving differences and, for these reasons, I move the motion.

The Hon. R. C. DeGARIS (Leader of the Opposition): I congratulate the Minister on his rapid change of mind concerning the granting of a conference. It is a pleasure to see him take such a conciliatory attitude at this time of the evening. I doubt whether there is any room for compromise on this matter: a straightout "Yes" or "No" answer only can be obtained. Neverless, as a democrat, I agree with the granting of a conference at the request of another place. In this Council, we never adopt a dog-in-the-manger attitude and, although it might be impossible to reach a clear-cut solution, we are always willing to seek a compromise.

Motion carried.

Later:

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

That Standing Orders be so far suspended as to enable the conference on the Bill to be held during the adjournment of the Council and that the managers report the results thereof forthwith at the next sitting of the Council.

Motion carried.

LIBRARY COMMITTEE

The House of Assembly intimated that it had appointed the Hon. G. R. Broomhill to the committee in place of the Hon. Peter Duncan.

INDUSTRIAL COMMISSION JURISDICTION (TEMPORARY PROVISIONS) BILL

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

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

That this Bill be now read a second time.

This Bill, which is essentially of a temporary nature, being expressed to expire on December 31, 1976, sets up the legislative machinery under which certain principles, guidelines and conditions expressed or given effect to in relevant decisions of the Australian Industrial Commission relating to wage indexation may be applied in the industrial jurisdiction of this State.

Clause 1 is formal. Clause 2 incorporates this measure with the Industrial Conciliation and Arbitration Act, 1972, as amended. As an incidental result, definitions used in that measure will apply to this Bill. Clause 3 sets out the definitions used specifically for the purpose of this measure. Clause 4 enables proclamations to be made, bringing within the scope of the measure other wage fixing authorities, as defined.

Clause 5 is a most important provision and is commended to honourable members' particular attention. It specifically empowers the Full Commission of the Industrial Commission in dealing with "flow on" cases arising from decisions of the Australian Conciliation and Arbitration Commission to apply the principles, guidelines and conditions enunciated by that commission in giving its decision. Clause 6 specifically empowers the Full Commission to reopen the matter referred to in the clause and deal with it as if the Act presaged by this Bill had been in force when the matter was last before the Full Commission.

Clause 7 extends the principles of the measure to "proclaimed wage fixing authorities", as to which see clause 3 and clause 4. Again, these authorities are empowered to consider and apply the principles, guidelines and conditions mentioned earlier to the extent that those principles, guidelines and conditions are applied by the Full Commission. Clause 8 is in somewhat different form but, in effect, enables the question of the public interest to be taken into account in registering industrial agreements. In this regard, the commission is authorised to take into account the principles, guidelines and conditions as applied by the Full Commission. Clause 9 provides for the expiry of the Act presaged by this Bill on December 31, 1976.

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

COOPER BASIN (RATIFICATION) BILL

Adjourned debate on second reading.

(Continued from November 11. Page 1783.)

The Hon. R. A. GEDDES: In supporting this Bill, I would like to pay my respects to the Minister of Mines and Energy, who five weeks ago took me into his confidence, explained the ramifications of this Bill, outlined the problems faced by the principal companies that are drilling for oil and natural gas in the Cooper Basin, and gave me as much help as possible to enable me, as the shadow Minister of Mines and Energy, to be in the picture as far as possible. I suppose one thing I could have discussed with the Minister would have been the suggestion that the Select Committee on this Bill could have been a Select Committee of both Houses, because this Bill is of State and national interest. It would have been good for both Houses to be made familiar in that way with the problems dealt with by this Bill. The Bill is designed to ensure a continuity of gas supplies to the Adelaide metropolitan area until 1978 and, hopefully, from 1978 until the year 2005. At the same time, a guarantee in relation to the supply of natural gas to Sydney is involved in the general complications with which the Bill and the indenture deal.

In 1959 Delhi International Oil Corporation and Santos Limited were given one of the largest leases for the exploration of petroleum that has ever been given by world standards. About 192 000 square miles of the centre of Australia was leased to these two companies to try to discover petroleum or its derivatives for the benefit of South Australia and the nation. Since that time, because of the vastness of the lease and because of economic necessity, these two companies have had to farm out, share or sell interests in their activities to 12 other companies, six of whom have been permitted to operate in the Cooper Basin.

These six companies are all involved in the agreement which has been made and which, in turn, has led to this Bill. Most of the companies involved in this development have earned their interest in the field through the amount of work they have done and through the amount of natural gas or petroleum products they have discovered. I refer to all the political ballyhoo that is now history in relation to the petro-chemical complex at Redcliff. I refer to the massive employment potential in the iron triangle in the north of this State; that being the forerunner of advanced industrial technology in relation to petrol, plastics and the export potential from this petro-chemical complex. It is alarming to read, from the evidence given to the Select Committee in another place and from the press statements the Minister has made, that there is now doubt about whether there is sufficient feed stock available to make a petro-chemical project feasible.

On this point alone the Dunstan Government must stand condemned for the misleading political propaganda it advanced over several years, advancing false promises and false hopes, building castles in the sky, especially as it has become public knowledge that there is doubt as to the availablility of sufficient feed stock. It is no wonder that I heard criticism from certain circles. Imperial Chemical Industries was one of the principal firms that looked into the feasibility of being a partner in the petro-chemical works. It was super cautious, and that company said that it could not go ahead or was not willing to proceed with that project.

The Hon. J. E. Dunford: It wanted more than 50 per cent.

The Hon. R. A. GEDDES: I.C.I. was not involved in more than 50 per cent—the Japanese, the British companies and the Australian Government, amongst other, were involved in the total complex. I.C.I. was a cautious company. It asked about whether there were sufficient reserves. The Government said that there were sufficient reserves, but now it says that there might not be sufficient reserves. Why is this? What has caused this state of affairs? Why has there been limited exploration during the past two years? Why have Delhi and Santos and their six partners slowed down their exploration for new wells when it is known that there is only sufficient proven gas supplies to meet Adelaide's requirements until 1987? These companies know of the contract made to supply Sydney at the same time.

The economic climate since 1973, inflation, and the taxation climate of Crean and Cairns, who wanted more taxes from company profits and paid little heed to the need of private enterprise to provide from profits sufficient funds to explore new finds, have caused this. These companies cannot borrow money from lending authorities for wildcat schemes, for exploration work: they can borrow money only on their known finds. Then, to put the icing on the cake, we had the display of Mr. Connor as the then Minister for Minerals and Energy in the Commonwealth sphere wanting to buy back the farm. These three factors, inflation, taxation and political uncertainty pulled the blind down on companies interested in searching for and discovering new gas, oil and petroleum supplies, not only for the benefit of South Australia but also for Australia generally.

The lending public was frightened to invest; banks were unable to invest in such projects and lend funds because of these factors, which resulted in limited exploration for two years. The disclosure of this information gives little credit to the Dunstan Government; the disclosure of these facts certainly gives no credit to the Whitlam Government.

The Bill is complex in its total meaning. First, a unit agreement was drawn up by the eight participating companies. The unit agreement was designed as a farmout and similar sharing agreements between licence holders provide an excellent basis for exploration. However, because of the scattered and varied nature of the several fields and the varying interests of the parties in these fields, the agreements are in many respects inadequate for the efficient production of reserves from the Cooper Basin. A company would receive no income from fields in its farmout areas until such time as those fields came on stream. Responsibility for capital investments for trunkline gathering systems and processing plants become ill-defined resulting in

wasteful design and duplication. To overcome these deficiencies the producers with the assistance of the State have negotiated a composite agreement between themselves known as the unit agreement.

When I approached the Parliamentary Counsel and asked whether I was permitted to see the unit agreement, I was told that the agreement was a mammoth volume comprising hundreds of pages and that the Parliamentary Counsel had not seen it. He thought that, as it was an agreement between the participating companies, there was little point in bringing it to me for my information. It is on one of these bases that the Bill is designed to make the unit agreement operative.

The unit agreement also provides the basis for the integrated development that will be required for the supply of liquids that are associated in varying amounts with the natural gas in particular fields to any proposed petro-chemical plant. Having in mind the provisions of section 80 of the Petroleum Act regarding matters of conservation and wasteful practice, the Government supported the concept of the unit agreement.

The producers' indenture is a complex arrangement required under the unit agreement, but it cannot operate until this Bill is passed. I understand that it is necessary for this Bill to be passed today in order that it can be approved by Executive Council tomorrow. It is necessary for the Government to introduce a new system for petroleum production licences for the Cooper Basin area and to provide certain benefits and assurances to the producers. The State has, therefore, entered into an agreement with producers (the producers' indenture), to which the Minister of Mines and Energy is a party. The indenture provides for a new production licensing system required by the unit agreement, together with necessary benefits and assurances given to the producers.

This indenture was signed on October 16, 1975, by all the parties involved and the signatures were held in escrow until the passing of this piece of legislation, when the indenture will become operative on behalf of all the parties concerned. There was another complication; indeed, a covenant and release was necessary. Originally, the Australian Gaslight Company, which had granted the contract to the Cooper Basin's consortium or to Delhi Santos for the supply of natural gas to the Sydney area only, agreed to sign the contract with these companies when there was an assurance that some gas would be available or could be held virtually in trust for the A.G.L.

This was agreed to at the time but it produced other complications, because some fields had to be virtually held and not used because of the agreement with A.G.L., and it was anticipated that some inefficency would occur; so a deed of convenant and release was drawn up as the needs of gas for the Adelaide market became more obvious, imposed by the A.G.L. agreement; and because there was not sufficient gas to secure supplies for the expanding Adelaide market. So it was necessary for the consortium to go to A.G.L. and to "undedicate" the deed of convenant and release that had been originally signed with A.G.L. The State agreed to recognise the prior right of A.G.L. to all future discoveries in the Cooper Basin until sufficient gas had been identified to satisfy the total A.G.L. commitments.

Then there was an interim gas sales contract. The names, in 1974, included the Pipelines Authority of South Australia, the authority responsible for the transmission or delivery of natural gas from these fields to Adelaide. The 1974 agreement was that the Pipelines Authority would purchase all gas for the South Australian market from the treatment plant at Moomba and take over the sales contracts then existing between the three principal producers (Santos, Delhi, and Vamgas) and the South Australian consumers. So the interim gas sales contract is in substitution for those arrangements which have been in effect since May, 1974, and is necessary to ensure continuity of gas supplies to Adelaide in the event of the unit agreement not coming into effect. This contract provides for the delivery of gas to the expanded Adelaide market to the end of 1987 from existing reserves in the Cooper Basin.

Then there were a gas sales contract which had to be signed, and the Pipelines Authority of South Australia future requirements agreement, which was signed. Then there was the exploration indenture, and many other complex decisions and agreements had to be made with these various companies that had varying interests in the field which, in the evidence before the Select Committee, tried the patience of many boards of directors of this company. Because of the economic necessity, one of the major things to be done in this Bill when it becomes an Act is to allow a type of authority for these companies to come and say, "Here is our agreement; this binds us. This shows us where our profitability will be. Please can we have some additional money?"

There has been a slowing down in the last two years of exploration in these fields. I have given the reasons for that, which are no credit to the parties concerned, but it is most essential that the lid be lifted now and that Delhi Santos and all the associated companies get moving fast so that the guaranteed future of gas for Adelaide and Sydney beyond 1987, and for all other purposes, shall become a reality as soon as possible. It is a most interesting Bill. I appreciate the help I was given in trying to undersand its ramifications. I support the second reading.

The Hon. A. M. WHYTE: Briefly, I support the second reading of this Bill. The producing companies (Santos, Delhi and Vamgas) have always wanted legislation of this type. To some extent, they have been in a cleft stick, inasmuch as without proven quantities of gas they could not make sales, and without sales they could not provide the finance to prove extra fields. This Bill goes a long way and is approved by the companies concerned. I support it.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Position of Commonwealth Government."

The Hon. R. A. GEDDES: This clause provides that this Bill shall be binding on the Commonwealth Government "or any such agency, instrumentality or authority" of the Commonwealth. As I understand it, Commonwealth laws carry much more weight than do the laws of the State, and it is necessary because the Commonwealth has, in Delhi, a shareholder or a partner. That to me means that the Commonwealth is there as a partner. How can the Commonwealth become directly or indirectly a party to this indenture by an Act of the South Australian Parliament, and how binding can that agreement be under this Bill?

The Hon. B. A. CHATTERTON (Minister of Agriculture): This clause is not binding upon the Commonwealth unless the Commonwealth becomes a party to the indenture: in other words, it is only when the Commonwealth through its agency or instrumentality becomes a party to the indenture that this Bill becomes binding on the Commonwealth.

The Hon. R. A. GEDDES: The Commonwealth is a party to the indenture by reason of its interest in Delhi. As I understand it, we admit that the Commonwealth is involved in a company operating in the field, but why is it necessary to mention the Commonwealth, and how can the Commonwealth be bound at any stage if the Act does not bind it?

The CHAIRMAN: The words used are "applies to the Commonwealth" not "binds the Commonwealth".

The Hon. R. A. GEDDES: Can the Minister say whether that is possible?

The Hon. B. A. CHATTERTON: I am not a legal expert, but I think it would be possible. It seems quite adequately covered in the explanation of the clause. It is only the Commonwealth instrumentalities, agencies, and authorities that are involved in the indenture or in any agreement.

The Hon. J. C. BURDETT: Clause 4(1) is merely a statement of intention. It is the intention of the Parliament that this Act, so far as it lawfully may, shall be held and construed as applying to the Commonwealth. It acknowledges by implication that the Parliament of this State cannot bind the Commonwealth, but it states the intention of the Parliament. It seems quite consistent and reasonable, and it is sensible to set up the intention of the Parliament.

Clause passed.

Remaining clauses (5 to 22), schedule and title passed.

Bill read a third time and passed.

SURVEYORS BILL

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

MUNICIPAL TRAMWAYS TRUST ACT AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

It amends the principal Act, the Municipal Tramways Trust Act, 1935-1973, by dissolving the Municipal Tramways Trust and transferring its property, rights, powers, duties and liabilities to the State Transport Authority established under the State Transport Authority Act, 1974. Similar amendments with respect to the South Australian Railways Commissioner are contained in the South Australian Railways Commissioner's Act Amendment Bill, 1975, and amendments to the State Transport Authority Act, 1974, that are consequential to these amendments are provided in a Bill amending that Act. The transfer of direct control of the various aspects of public transport to the State Transport Authority is foreshadowed in the State Transport Authority Act, 1974, but, as indicated in the explanation of the State Transport Authority Act Amendment Bill, 1975, it is proposed to fully implement this by the consolidation of all legislation in a modern public transport legislative scheme under the administration of the State Transport Authority.

The Bill makes amendments consequential to this transfer to the State Transport Authority, and the opportunity is also being taken to repeal or revise certain obsolete provisions remaining in the principal Act. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal, but provides for a new short title, the "Bus and Tramways Act, 1935-1975". Clause 2 provides that the measure is to come into operation on the same day as the State Transport Authority Act Amendment Act, 1975. Clause 3 amends the long title of the principal Act. Clause 4 amends section 2 of the principal Act, which sets out the arrangement of the Act. Clause 5 provides for the repeal of section 4 of the principal Act, which is now obsolete. Clause 6 amends section 5 of the principal Act by striking out "trust", where it appears, and inserting "authority", and by striking out obsolete provisions. Clause 7 substitutes a new heading to Part II of the principal Act. Clause 8 repeals sections 8 to 10 and 16 to 25a of the principal Act and inserts a new section 8 providing for the dissolution of the Municipal Tramways Trust and the subrogation of the State Transport Authority. Clause 9 amends section 26 of the principal Act by striking out "trust" and inserting "authority" and by striking out paragraphs (*a*), (*c*) and (*e*), all relating to matters dealt with by the State Transport Authority Act Amendment Bill, 1975.

Clause 10 provides for the amendment of section 26a of the principal Act relating to audits so that it applies to the accounts of the State Transport Authority kept under the principal Act. Clause 11 provides for the amendment of section 26b of the principal Act relating to annual reports so that it applies to the activities of the State Transport Authority under the principal Act. Clause 12 provides for the substitution of sections 27 and 28 of the principal Act relating to the operation and establishment of tram systems by new sections empowering the operation of tram systems anywhere within the State by the State Transport Authority. Proposed new section 28 gives the authority full power to fix routes and fares for trams as is the case at present with motor omnibuses. Clause 13 provides for the repeal of section 29 of the principal Act, which sets out the definition of the area in which the trust has been empowered to operate buses. As it has been possible to add to that area by proclamation, the area limitation has not served any real purpose since the trust was brought under general Ministerial control.

Clause 14 provides for the repeal of sections 30 and 31 of the principal Act. Section 30 empowers the operation of buses and this power is continued in proposed new section 30 and extended to interstate operations with the consent of the Minister. Sections 30 and 31 also provide for the licensing of the operation of buses for hire. This licensing power and the licensing power of the Transport Control Board under the Road and Railway Transport Act, 1930-1971, are combined and provided for in the State Transport Authority Act Amendment Bill, 1975. Clause 15 provides for the repeal of section 33 of the principal Act relating to the condition of roads on which motor omnibuses are to operate, and the enactment of a provision that up-dates that provision.

Clause 16 provides for amendment of section 34 of the principal Act by substituting "authority" for "trust" and removing the reference to "licensing". Clause 17 provides for the enactment of a new section in Part V of the principal Act which relates to the financial matters, making it clear that the provisions of that Part are to regulate the financial affairs of the Authority only in respect of its operations under the principal Act. Clause 18 provides for the repeal of section 42 of the principal Act which is obsolete and clause 19 provides for amendment of section 43 consequential to that repeal. Clause 20 provides for the repeal of Part VI of the principal Act relating to the liability of metropolitan councils in respect of loans to the trust. These sections are obsolete. Clause 21 provides for

the repeal of sections 80 and 81 of the principal Act which deal with the inter-relationship of the South Australian Railways Commissioner and the trust and are of course no longer required.

Clause 22 provides for the repeal of section 86b of the principal Act which has no further operation. Clause 23 provides for the repeal of section 94 of the principal Act which relates to licensing by the trust. Clause 24 provides for the repeal of sections 98 to 105 of the principal Act which are also obsolete provisions. Clause 25 provides for the amendment of section 113 of the principal Act which relates to powers of entry by substituting "authority" for "trust" and removing the area limitation to the exercise of such powers. Clause 26 provides for the repeal of a further obsolete provision, section 116 of the principal Act. Clause 27 provides that the provisions of the principal Act described in the first column of the schedule to the Bill are amended in the manner indicated in the second column, that is, by substituting "authority" for "trust".

The Hon. C. M. HILL: The Minister has just given the funeral dirge of the Municipal Tramways Trust. In his song of mourning, it is a great pity that he has not paid some compliment to the services provided by the trust, by its General Managers, its staff and its employees, and by the members of the trust over the past 40 years.

The Hon. T. M. Casey: I intended to do that when I replied to the debate.

The Hon. C. M. HILL: I can save the Minister the need to do that by doing it myself. I would have thought that the proper time and place would be when he introduced the measure. I want to stress how much members, at least on this side of the Chamber, appreciate the service to which I have referred. The trust has been like some similar institutions that have been traditional in this State over the years in that it has given splendid service to the travelling public of metropolitan Adelaide. Years ago, members of the board gave their services for minimal remuneration, looking upon it as an honour and privilege to serve the State by giving those services.

The General Managers have been men of great dedication and high qualifications, and the senior staff and the employees, right down to the people who have been drivers and conductors of buses, and trams when they existed here (other than the Glenelg service, of course), have served the State well indeed. I commend everyone who has been involved in the trust's activities during its long history.

Now we see a considerable change. We see in the Bill before us the dissolution of the M.T.T., and we see this change in which the trust's activities, its whole organisation and its whole property are being transferred to the State Transport Authority. The Bill, as the Minister said, must be read in conjunction with two other measures on the Notice Paper: a Bill dealing with the South Australian Railways, which, of course, takes similar action with the railways organisation as it now stands in this State, and a Bill dealing with the Transport Authority itself. That Bill dissolves the Transport Control Board and transfers its operations to the State Transport Authority.

When legislation was dealt with in this Council in 1974, it was stated that this next step would be taken in due course, and the Minister has indicated that there will be a need in the future for final legislation, which will complete the changeover to the one authority.

When the Government considers the final legislation, I hope it will, through its senior officers and planning staff in the Transport Authority, carefully consider what has happened in New South Wales. In that State in 1969, it was decided to make a changeover almost identical to that proposed in this State. A State Transport Authority was set up in Sydney under Mr. Shirley. Many people thought at that time that that was a progressive move that would bring tremendous advantages to public transport in New South Wales, but I am afraid that those predictions have not been fulfilled.

There has recently been considerable publicity about the mess that New South Wales public transport is in. Considerable criticism is being levelled at the new authority. One report even indicated that, after Mr. Shirley's resignation, the Government was seriously considering going back to something like the old system, under which the Minister had direct control and the operation was more of a departmental operation. That precedent ought to be carefully considered before the Government here plunges into the planned changeover. Clause 14 provides:

Sections 30 and 31 of the principal Act are repealed and the following section is enacted and inserted in their place:

30. The authority may operate motor omnibuses within the State and may, with the consent of the Minister, operate motor omnibuses outside the State.

This is going too far. The functions of the State Transport Authority are mainly to serve South Australians' transport needs within the State, whether people travel by rail or by road. The State Transport Authority should be restricted to operations within the State. I realise that, after the Government absorbed some private bus services in Adelaide a year or two ago, the Municipal Tramways Trust became involved in interstate work. When I asked questions on the matter, I was told that the interstate work was charter work which was a carry-over from the private charter work carried out by private operators before the take-over.

That is all very well, but I also understand that careful consideration of the legal position at that time would have revealed that it was arguable whether the M.T.T. had the legal right to do that. The matter was not pursued at that time because the South Australian Railways had the same power, and it was feared that, if the challenge against the M.T.T. was successful, the S.A.R. would have taken the place of the M.T.T. in that work. Such a challenge could have been frustrated by that move, although the morality of such a move would have been questionable. So, the matter was not taken any further at that time, but the whole question should now be carefully considered.

I have been told that, of the 300 Volvo buses on order to the M.T.T., about 80 buses are suitable for interstate charter work. I have also been told that the M.T.T. has been very keen to extend its charter work to other States. I do not believe that this kind of work should be carried out by the State Transport Authority.

The Hon. T. M. Casey: Why?

The Hon. C. M. HILL: The Minister, with socialistic leanings, may want the State to extend its octopus-like operations into all possible fields and to run private enterprise out of business. The Minister may try to tell me that the operations of the M.T.T. on interstate work have been highly profitable, but I point out that the dissection of the results of the M.T.T. on this work can be challenged; it is difficult to know the costing procedure for one section of a Government instrumentality of this kind.

I therefore intend to endeavour to amend this Bill to restrict the new authority to operations within this State. Clause 12 deals with the right that the State Transport Authority is acquiring to operate new tramway systems in the future.

Clause 15 deals with the position arising when a new bus service is to be instituted and provides that five years notice shall be given to the road authority. Doubtless, this is to permit either the local council or the Highways Department to plan for the necessary road construction and to take into account the costing of road maintenance and similar matters. Incidentally, I know from my own experience that the road maintenance costs on bus routes are considerably greater than the maintenance costs on normal roads, because of the presence of heavy M.T.T. buses.

From my reading of the Bill, it appears that the authority can install a new tramway service without the knowledge of the relevant road-making authority or without the knowledge or consent of the relevant local government body. I question whether or not that is taking the matter too far. It is not only the matter of road-making and road maintenance costs that are involved when it comes to laying a tramway service: there are other important factors such as road traffic control when tramlines are installed in the centre of a street, and there is the whole question of maintenance, not only of tram tracks but also of the immediately adjacent roadway, all of which becomes part of the actual construction pattern (certainly, that area in the immediate vicinity of the rails).

Consideration should be given in this legislation to ensuring that the relevant local government body or the road authority, where the Highways Department is involved, should consent to the installation of a tramway system. I do not believe that the State Transport Authority should have the right to move in without any notice at all, especially when one looks at the consideration given in clause 15 to the procedure of adequate notice being given to local road authorities when a new bus service is to be introduced. Perhaps there has been an oversight on the part of the Government; I do not know, but I ask the Minister whether he will consider this issue and refer to it in his reply to the debate so that, based on his reply, I can further consider the matter in the Committee stage.

They are the only two matters I wish to raise in relation to the Bill. As I said earlier, the Bill is part of the pattern of transferring services generally to the new Transport Authority. The Bill must be read in close conjunction with the other measures that are on the Notice Paper and, therefore, at this stage, I am willing to support the second reading.

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

ABORIGINAL LANDS TRUST ACT AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

It is consequential on the enactment of the Community Welfare Act, 1972, which repealed and, to a substantial extent, superseded the Aboriginal Affairs Act, 1962. In consequence, some of the provisions of the Aboriginal Lands Trust Act have become obsolete or anomalous and in need of amendment to render them meaningful for the purpose of bringing out a consolidated version of the last mentioned Act for inclusion in the new edition of the public general Acts. Section 6 of the Aboriginal Lands Trust Act provides, *inter alia,* that the Governor may, whenever he thinks it fit so to do, appoint additional members of the trust not exceeding nine upon the recommendation of Aboriginal reserve councils constituted pursuant to regulations under the Aboriginal Affairs Act, 1962. The Act last referred to was repealed by the Community Welfare Act, 1972, under which regulations have been made providing for "Aboriginal councils". The present composition of the trust includes "additional members" who have been appointed by the Governor on the recommendation of certain Aboriginal communities recognised by the department, the members of which ordinarily reside on land owned by the trust, while Aboriginal reserve councils as constituted pursuant to regulations under the repealed Aboriginal Affairs Act, 1962, no longer exist. This situation could well lead to doubt as to whether the trust is validly and properly constituted as provided by the Act.

There are other references to the repealed Act which need corrective legislation such as references to persons of Aboriginal blood within the meaning of that Act, such persons now being included in the definition of "Aboriginal" in the Community Welfare Act, 1972. The amendments made by this Bill are consistent with the provisions of the Community Welfare Act and regulations made thereunder and with existing policies of the Government. The Government hopes that it would be possible for an edition to be published of consolidated South Australian Statutes from 1837 to 1975, and that the anomalous and obsolete provisions of the Aboriginal Lands Trust Act would be dealt with by corrective legislation that would render the Act more meaningful before the cut-off date for that edition. This Bill has been drafted so as to allow the Act to operate under the existing administration and policies and, to enable it to be incorporated in the new edition, it would be necessary for it to be passed and in force this year. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 2 of the Bill amends section 6 of the Act by amending subsection (1) so as to enable the Governor to appoint additional members of the trust (without a limitation on their number) from persons recommended by Aboriginal councils established pursuant to regulations made under the Community Welfare Act and by such Aboriginal communities as are recognised as such by the Minister and the members of which ordinarily reside on land owned by the trust. The limit on the number of additional members is removed because of a steady increase in the number of Aboriginal communities who would wish to be represented on the trust. The clause also removes from that section the reference to a person of Aboriginal blood within the meaning of the repealed Aboriginal Affairs Act, 1962, substituting in its place a reference to an Aboriginal within the meaning of the Community Welfare Act which defines an Aboriginal as including a person of Aboriginal blood.

Clause 3 amends section 9 by way of precaution to ensure that the acts and proceedings of the trust could not be challenged on the ground that a person appointed as an additional member at any time before this Bill becomes law was not properly qualified for such appointment. Clause 4, paragraphs (*a*), (*b*) and (*d*) merely make amendments to section 16 that are consistent with the earlier clauses. Clause 4 (*c*) strikes out the second proviso to subsection (1) of section 16 as that subsection is now redundant, there now being an Aboriginal council in the North-West Reserve, and the first proviso to this section as amended by clause 4 (*b*) would apply to it as to any

other Aboriginal reserve within the meaning of the Community Welfare Act. Clause 5 makes a consequential amendment to section 18.

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

ACTS INTERPRETATION ACT AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

The remaining Parliamentary sitting days for this year will afford Parliament the only opportunity of considering and dealing with corrective legislation connected with the preparation of the new edition of consolidated South Australian Statues which is to include all the unrepealed public general Acts from the year 1837 to (and including) the year 1975, and as, on the last sitting day for this year, there would be some Acts which, in consequence of some enactment or the exercise of some statutory power, would still contain references and provisions which have become anomalous, inoperative or inconsistent with changes in the law, this Bill is designed to provide some machinery whereby such anomalous, inoperative and inconsistent references and provisions, which have not been dealt with by Parliament in the time available, could still be rendered meaningful by the exercise of a regulation-making power conferred on the Governor and to be exercised only for the purpose of achieving the same result as a consequential amendment that would have the effect of bringing an Act in which the anomaly or inconsistency exists into line with the change in the law.

Some of these anomalies, inconsistencies, etc., have arisen, or could arise, from recent or future repeals or proclamations or from other instruments authorised by Statute. The Bill amends the Acts Interpretation Act by enacting a new section 52, which will confer on the Governor a power by regulation to direct that any specified provision, word, passage or reference in any Act shall be read as some other specified provision, word, passage or reference, as the case requires, but this power is to be exercised only to the extent necesary to achieve the same result as a consequential amendment that would bring a provision of another Act which has become incapable of interpretation or inconsistent with a change in the law into line with that change in the law.

The safeguards against improper use of the regulation-making power are: (*a*) that, as the power is to be exercised by regulation, the regulation would be subject to disallowance by either House of Parliament; (*b*) that the power can be exercised only to the extent necessary to make such provision as is consequential on and consistent with the change in the law; and (*c*) any such regulation would always be subject to challenge before the courts on the ground that the regulation-making power was not validly exercised. It is also to be noted that any such regulation would not specifically amend an Act but only provide the machinery whereby any specified anomalous or inconsistent provision, word, passage or reference is to be read as some other provision, word, passage or reference in such a way that renders the Act meaningful in consequence of the change in the law.

It is intended that, in any consolidated version of an Act, references to such regulations (if any) as affect the Act will be noted by footnote on the appropriate pages of the consolidated Act. The Bill will greatly assist the preparation of consolidation of Acts for inclusion in the new edition if it is passed by both Houses before the last day of sitting for this year.

The Hon. J. C. BURDETT: I support the second reading of this Bill. I am very much in sympathy with what is said to be its purpose. In the second reading explanation we see:

The Bill will greatly assist the preparation of consolidation of Acts for inclusion in the new edition . . .

Many of us have for a long time been saying that such consolidation is very much needed, if not overdue. I should not like to take any action that would hold up the consolidation. The purpose of the Bill is fairly clear and simple—to enable various discrepancies, inconsistencies, and so on that have not yet been picked up to be corrected by regulation, so that the consolidation will be in order. I have spoken to the Parliamentary Counsel involved in the consolidation and he has informed me that there are some Acts that he has not yet been able to look at. It is, therefore, necessary to introduce this Bill to enable the discrepancies that we have been dealing with, largely by way of the Statute Law Revision Bill (General), to be made good by regulation. With all of those things I am very much in agreement, but in other respects this Bill alarms me considerably. It seems to me to be a dangerous kind of Bill to have indefinitely on the Statute Book. Whatever the safeguards, it enables the Government by regulation to change words in Statutes. The second reading explanation also states:

It is also to be noted that any such regulation would not specifically amend an Act but only provide the machinery whereby any specified anomalous or inconsistent provision, word, passage or reference is to be read as some other provision, word, passage or reference in such a way that renders the Act meaningful in consequence of the change in the law.

To say that such a regulation would not specifically amend an Act is a distinction without a difference. This Bill would enable the Government by regulation to change, in certain circumstances and with certain safeguards, words in Statutes, and that really is a fundamental matter of Parliamentary government. It is alarming that the Government should in any circumstance be able by regulation to change the words in Acts of Parliament. As I have said before, I do not doubt the sincerity of the Government in this matter but it seems to me possible that in, say, 10 years time some other Government may find this legislation a handy way of changing the law by way of regulation only, and at that time some of the safeguards, as pointed out in the second reading explanation, may well not come to the minds of the people concerned. So I think there should be an expiry date for this measure. I have discussed the matter with the Parliamentary Counsel and foreshadow an amendment to make the measure expire on December 31, 1976. The Parliamentary Counsel have informed me that that is a suitable date and, if the publication was not finished by that date, it would be possible for Parliament to extend the time. At this stage, I support the second reading.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Power to bring inconsistencies, etc. in Acts into line with current law by regulation."

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

After "52" to insert "(1)"; and, after subsection (1), to insert the following new subsection:

(2) The power conferred by subsection (1) of this section on the Governor to make regulations shall expire on the thirty-first day of December, 1976.

I have given the reasons for this amendment; I do not think I need repeat them.

The Hon. D. H. L. BANFIELD (Minister of Health): I appreciate the honourable member's concern about this matter. I have conferred with the Parliamentary Counsel and we find that the consolidation could not be completed by December, 1976. Would the honourable member be prepared to seek leave to amend his amendment by substituting "1977" for "1976"? We think that by that time we could finish the consolidation.

The Hon. J. C. BURDETT: I seek leave to amend my amendment in that way.

Leave granted; amendment amended.

Amendment as amended carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

STATUTE LAW REVISION BILL (HOSPITALS)

Second reading.

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

That this Bill be now read a second time.

It is part of the law revision programme in connection with the proposed publication of the consolidated public general Acts from 1837-1975, which, as honourable members have already been informed, the Government hopes will soon be a reality. There are a number of factors which make corrective legislation necessary or desirable and, as honourable members are aware, many Acts that have been amended or repealed refer to, or are referred to in, other Acts which often need consequential amendment or the removal of anomalies or inconsistencies. Acts, the interpretation or construction of which has been affected by the exercise of statutory powers or administrative action, often need corrective legislation to bring them into line with the effect of the exercise of such powers or of such administrative action.

The intention is to incorporate in the new edition all the corrective legislation passed in 1975, but in the Statute Book there will always be certain matters that would need further consideration before receiving legislative attention and there will be last minute errors and anomalies which could occur for some reason or other and which would occur too late to remove by corrective legislation during this year. It would, therefore, be impossible to reach a stage of this work when all references in all Acts are up to date as on the same day. However, when these are detected in any Act that is included in the new edition, they will be dealt with by annotation in footnotes or marginal notes, where appropriate. This Bill seeks mainly to repeal two Acts which have become completely inoperative as from July 1, 1975, with the introduction of the Medibank hospital programme and to make a number of amendments to other Acts which are consequential on recent enactments by Parliament or on the recent exercise of statutory powers. I seek leave to have the explanation of the clauses of the Bill and of the second schedule inserted in *Hansard* without my reading them.

Leave granted.

EXPLANATION OF CLAUSES

Clause 1 is formal. Clause 2(1) repeals the Acts set out in the first schedule. Those Acts are the Hospital Benefits Act, 1945, and the Hospital Benefits (Amending Agreement) Act, 1948. Those Acts provided for an execution of agreements between the Commonwealth and the State relating to hospital benefits, but those agreements probably ceased to have any effect when the Commonwealth introduced legislation covering the field of hospital benefits as from January 1, 1963. However, with the introduction of the Medibank hospital programme from July 1, 1975, specific provision has been made that all prior arrangements relating to the payment of hospital benefits should be absorbed within the new arrangements provided by the Health Insurance Act, 1973-1975. In these circumstances, even if there had been doubt as to whether the 1963 legislation of the Commonwealth effectively ended the operation of the State Acts, there seems to be no doubt that they have been completely inoperative as from July 1, 1975, and are therefore being repealed. Clause 2(2) deals with the case where an Act expressed to be repealed by this Bill is repealed by some other Act before this Bill becomes law. This is an eventuality that is possible and this provision enacts that, in such a case, the enactment by this Bill that purports to repeal that Act has no effect.

Clause 3 (1) provides that the Acts listed in the first column of the second schedule are amended in the manner indicated in the second column of that schedule and, as so amended, may be cited by their new citations as specified, in appropriate cases, in the third column of that schedule. Clause 3(2) deals with the case where an Act expressed to be amended by this Bill is (before this Bill becomes law) repealed by some other Act or amended by some other Act in such a way that renders the amendment as expressed by this Bill ineffective. That is another eventuality that could well occur. Clause 3(3) deals with the case where an Act amended by this Bill is repealed by some other Act after this Bill becomes law but the repeal does not include the amendment made by this Bill.

EXPLANATION OF AMENDMENTS TO SECOND SCHEDULE

Community Welfare Act, 1972-1975: This amendment is consequential on a proclamation made under the Public Service, 1967-1974, and published in the *Gazette* on April 11, 1974, by virtue of which the title of the permanent head of the then Prisons Department was changed from Comptroller of Prisons to Director of Correctional Services. The amendment brings the reference in section 82(4) of the Act to the Comptroller of Prisons into line with the change of title made by the proclamation.

Criminal Law Consolidation Act, 1935-1975: These amendments have become necessary in consequence of the enactment of the Community Welfare Act, 1972, which repealed and superseded the Social Welfare Act, 1926-1965, and in consequence of the making of a proclamation under the Public Service Act which was published in the *Gazette* on April 11, 1974, by virtue of which the title of the permanent head of the then Prisons Department was changed from Comptroller of Prisons to Director of Correctional Services. The amendment to section 77 (7) substitutes for the reference to a reformative institution as defined in the Social Welfare Act a reference to a home as defined in the Community Welfare Act and for the reference to the Minister of Social Welfare a reference to the Minister of Community Welfare. The amendment to section 77a(8) makes a similar substitution for the reference to an institution as defined in the Social Welfare Act. The amendments to section 276(2), section 351(3), schedule 2 and schedule 10 substitute for references to the Comptroller of Prisons references to the Director of Correctional Services.

Crown Lands Act, 1929-1975: The amendment to section 232h (1) arises from a passage erroneously inserted in that section by section 33 of the Crown Lands Act Amendment Act, 1974. That passage is already contained in that paragraph and is therefore redundant and is being struck out by this amendment. The amendments to the fifth and ninth schedules substitute "hectares" for "acres" and these amendments are consistent with other amendments made by the Crown Lands Act Amendment Act, 1974.

Electoral Act, 1929-1973: The amendment to section 118a (4) is consequential on and consistent with other amendments made to the Electoral Act by the Electoral Act Amendment Act (No. 2) 1973.

Juvenile Courts Act, 1971-1974: The two amendments to the Juvenile Courts Act are consequential on a proclamation made under the Public Service Act, 1967-1974, and pulished in the *Gazette* on April 11, 1974, by virtue of which the title of permanent head of the then Prisons Department was changed from Comptroller of Prisons to Director of Correctional Services.

The Hon. J. C. BURDETT: I support the second reading. I was provided yesterday with a copy of the Bill and the second reading explanation, and I have had an opportunity of checking the Bill. The remarks I made regarding Statute Law Revision Bill (No. 2) are also applicable to this Bill: it is a part of the exercise necessary to prepare the Statute Book for the proposed consolidation. I have examined in detail the Statutes amendment. The Bill does only what is set out in the explanation, and I therefore support the second reading.

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

STATUTE LAW REVISION BILL (GENERAL)

In Committee.

(Continued from November 11. Page 1777.)

Clauses 2 and 3 passed.

First schedule passed.

Second schedule.

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

To strike out "Wills Act, 1936-1975" in the first column, to strike out "Section 7—Section 7 is repealed." in the second column; to strike out "Wills Act, 1936-1975" in the third column; and in the second column on page 10 to strike out all the words in lines 2 to 6, and insert:

Section 3—

At the end thereof insert "Part III—General Provisions." commencing on a separate line.

The first amendments on page 9 and the first amendment on page 10 are designed to achieve consistency in the amendments proposed by the present Bill and those proposed by the Wills Act Amendment Bill and the Wrongs Act Amendment Bill recently passed by the Council.

Amendments carried.

The Hon. T. M. CASEY: I move:

In the second column on page 10 to strike out proposed new section 26a and insert the following new section:

26a. Where proceedings lie against an insurer or nominal defendant under Part IV of the Motor Vehicles Act, 1959, as amended, this Part applies to the insurer or nominal defendant is if he were the tort-feasor for whose wrongful act he is liable.

This amendment is designed to remove a deficiency from the proposed redraft of section 26a. When section 26a of the Wrongs Act was enacted, the only action that lay against a nominal defendant was an action in a hit-run car, that is, a car where the driver could not be identified. However, since the introduction of the Motor Vehicles Act, 1959, there has been an action against a nominal defendant where the driver was uninsured. The proposed amendment to section 26a widens the provision to cover these more recent forms of action allowed by the Motor Vehicles Act.

Amendment carried; schedule as amended passed.

Title passed.

Bill read a third time and passed.

PAY-ROLL TAX ACT AMENDMENT BILL

(Second reading debate adjourned on November 11. Page 1780.)

Bill read a second time.

In Committee.

Clauses 1 to 11 passed.

Clause 12—"Enactment of Part IVA of principal Act."

The Hon. R. C. DeGARIS (Leader of the Opposition): As the Minister did not reply to the second reading debate, I ask why the Government has chosen the course it has taken on this matter instead of following the approach taken in New South Wales and Victoria. I asked the Government to consider this matter previously. As it now stands, the Bill will adversely affect people employing between eight and 12 employees, although it will not make any difference to the larger employers. I thought the approach taken in Queensland and Victoria was a better one; it would not affect Government revenue to any great extent. Will the Minister say whether the Government has considered this matter and why it has adopted this approach?

The Hon. B. A. CHATTERTON (Minister of Agriculture): The Government has considered the alternative approach. As the Leader has said, some States have adopted one approach, whereas others have adopted the approach taken by the South Australian Government. South Australia's approach was taken merely because of a Treasury decision that it was the most suitable approach for South Australia to take.

The Hon. R. C. DeGARIS: I wonder whether the Treasury has considered the matter and whether the Treasurer understands the adverse effect that the Bill will have on employers who employ a small number of people. I should like to receive from the Government an undertaking that an employer who pays wages of $800 a week, or only one-twelfth of the total exemption, will be exempted from having to forward a return. It is annoying for people who employ seasonal workers (I refer, for instance, to employers in the fruitgrowing and shearing industries) and who may have a wages bill of only $800 a week or $1 600 a fortnight for short periods to have to submit returns. It seems foolish that people who have such a wages bill for only a limited part of the year should have to furnish a return. Although I realise that difficulties may be involved in this matter, I think the Government could give an undertaking that no action will be taken against people who employ persons for only a limited portion of the year and who do not forward returns. I should like to see a provision that people in the category to which I have referred need not submit a return. There may be loopholes in such a provision; I do not know.

The Hon. R. A. GEDDES: I support the Hon. Mr. DeGaris in relation to the request he has made. Last year, a constituent reported to me that, because of adverse weather conditions, he had to pay more than the $400 statutory amount, making it necessary for him to furnish a pay-roll tax return. After he had written to the department pointing out the facts, much correspondence, extending over about six months, started between this gentleman and the department.

The Hon. R. C. DeGaris: They got bogged down in red tape.

The Hon. R. A. GEDDES: Yes, in bureaucratic red tape. Eventually, the person concerned went to the department and explained personally his position (at much cost

to himself, having had to come from the North of the State). In its last letter to my constituent, the department said that it would not be necessary for him to submit returns in future but that it was essential for him to keep all his wages records for the next five years. It seems therefore that the request made by the Hon. Mr. DeGaris is reasonable. It would be appreciated if an assurance could be given that the department will regard leniently the case of any person in the industries to which the Hon. Mr. DeGaris referred who finds himself in this situation.

The Hon. B. A. CHATTERTON: The points raised by honourable members may have merit. I cannot give any assurance now, but I will take up the matter with the Treasurer to see whether something can be done. It would appear that there are unnecessary administrative complications. However, because there may be difficulties of which I am unaware, it would not be proper for me, without first consulting with the Treasurer, to give the assurance that has been sought.

The Hon. R. C. DeGARIS: Under those conditions, I ask the Minister whether he would be willing to report progress, so that he can take up the matter with the Treasurer and see whether an amendment can be drafted to deal with the matter. It is a needling point with many people.

The Hon. B. A. CHATTERTON: I am agreeable to progress being reported.

Progress reported; Committee to sit again.

Later:

The Hon. B. A. CHATTERTON: Before progress was reported the Hon. Mr. DeGaris requested an assurance that certain potential taxpayers, mainly those engaged in rural industry, would not be obligated to make application for registration each year only to be informed that they were not required to register. Their apparent obligation to register arose from the fact that they paid wages in excess of $800 a week for a brief period.

I am now in a position to convey to this Committee a firm assurance from the Treasurer to the effect that, where it can be shown that the obligation to pay wages is of an obviously intermittent character and does not exceed $3 200 in any one month, the employer will not be required to register.

The Hon. R. C. DeGARIS: I am pleased that the Minister has given that undertaking. There is only one thing left. Seeing that this undertaking has been given, I ask that, when the pay-roll tax legislation is next amended, an amendment be drafted to include this undertaking in the legislation. I do not insist on that requirement at the present time, as I am willing to accept the undertaking that has been given, and the Government can deal with this matter when it next seeks to amend this legislation.

The Hon. B. A. CHATTERTON: I am sure that the Government will do that. It seems to be the obvious development to flow from this assurance.

Clause passed.

Remaining clauses (13 to 22) and title passed.

Bill read a third time and passed.

LOTTERY AND GAMING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 11. Page 1765.)

The Hon. R. C. DeGARIS (Leader of the Opposition): Although this is a relatively small Bill, the time taken to research the principal Act and all the amendments made to that Act has been considerable. The reason for the Bill is the amalgamation between the metropolitan racing clubs, resulting in the formation of a new club, the South Australian Jockey Club, which was also the name of one of the clubs involved in the amalgamation. Section 31b of the principal Act provides for each of the clubs previously in existence (the Adelaide Racing Club, the Port Adelaide Racing Club and the South Australian Jockey Club) to nominate a person to be a member of the South Australian Totalizator Agency Board. Because of the amalgamation, changes are required in the principal Act to overcome an anomaly. As far as I can see, the Bill fulfils the purposes set out in the second reading explanation, and I support the second reading of the Bill. A welter of Bills always appears near a break in the session or near the end of a session. This does not allow honourable members an opportunity to complete to their own satisfaction their research on legislation before the Council. Because I support the principle behind the Bill, I support the second reading.

The Hon. C. M. HILL: I, too, support the second reading of the Bill. I wish to refer to the method of appointment of members of the new board. New section 31b (6) provides:

On and after the declared day the board shall consist of five members appointed by the Governor of whom—

(*a*) two shall be appointed on the recommendation of the Minister, one of whom shall be appointed to be the Chairman;—

I have no quibble with that—

(*b*) one shall be appointed on the recommendation of the Minister after consultation with the controlling authority in relation to horse racing (except trotting);

(*c*) one shall be appointed on the recommendation of the Minister after consultation with the controlling authority in relation to trotting; and

(*d*) one shall be appointed on the recommendation of the Minister after consultation with the controlling authority in relation to dog racing.

I have little doubt that the Minister wants to give the impression that the people appointed under paragraphs (*b*), (*c*), and (*d*) will enjoy the confidence of the three controlling authorities but, under the Bill, the Minister can consult each authority and can then appoint someone who he believes has some knowledge of the various sports but who may not enjoy the confidence of those authorities. I do not believe that this is the best approach.

Some years ago a precedent was set, whereby an authority submitted a panel of three names to the Minister, who accepted one of them. By that method, the Minister had some control, but the authority was assured that the appointee would be acceptable to it. It is possibly the Minister's intention that that principle can apply here, but it need not apply. If the Minister is not on particularly good terms with one of the authorities, he can hold the consultation and then appoint someone who is not acceptable to the authority. It would be preferable for the Minister to choose from a panel of names that are acceptable to the authority. The approach adopted in the Bill could lead to bad relationships between the Minister and the new board and to bad relationships between the Minister and the authorities.

The Hon. A. M. Whyte: As is the case in the trotting industry.

The Hon. C. M. HILL: True, as the honourable member points out, that is the case in the trotting industry. I know that it is too late for anything to be done about this, and this is doubtless the Government's policy in bringing forward the machinery in this way. I make the

point that, when these other boards are formed, the Government should consider the old methods of appointment. If the Government does that, it will be assured that all members of the board enjoy the confidence of the respective authorities, while at the same time the Minister reserves for himself some play in the actual appointments, because he can choose any one of the names on a panel. I believe that old method is far preferable to this method.

Having made that point, I simply stress as a follow-on point that I trust that the Minister will be more careful in his selection of appointees and that he will not make final decisions about selections until he has assured himself that an appointee will, at least, enjoy the confidence of the membership of the controlling body of the respective authorities.

The Hon. T. M. CASEY (Minister of Lands): I do not know what the Hon. Mr. Hill is getting all het up about. He knows well that, if the Minister in charge were to nominate someone to join a board who was not acceptable to the controlling body, whether it be the gallopers, trotters or the dogs, the Minister would never live that down in this Council. He would be subject to questioning to the nth degree, by the Hon. Mr. Hill himself. I can assure the honourable member that this matter will be dealt with in the way that has been suggested, namely, that the man who has been nominated by the Minister will have the confidence of that controlling body that he will represent on the board.

Any Minister would adopt that same attitude. It is unfortunate in one respect, as the Hon. Mr. DeGaris has said, that sometimes Bills do come in at a late stage of the session. Nevertheless, I assure the honourable member that this is an important measure, because of the existing situation involving the amalgamation of the galloping clubs in South Australia into one body, namely, the South Australian Jockey Club. The situation is that, if a present member of the board died without this legislation having been passed, for example, it would be difficult to replace him. In those circumstances it is desirable to have such a measure passed during the session.

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

STATE TRANSPORT AUTHORITY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 11. Page 1784.)

The Hon. C. M. HILL: This is the second of the three transport Bills. In the first one, the Municipal Tramways Trust was dissolved, and in this one the Transport Control Board goes to the guillotine. I do not know why (it has not been explained in the second reading explanation) the Government has decided to dispense with the board and to incorporate its activities under the one umbrella cover. I do not know whether it has ever had any complaints about the Transport Control Board.

If a need for a change was stressed by the Minister to the members of this Council, they could judge whether or not it was a good move in the best interest of the State. I know the Government is entitled to implement its own policies in these areas but, although my view has always been that the public transport instrumentalities in metropolitan Adelaide should be amalgamated, the country transport services never present any problems at all and they should stay as they are. I refer to the country passenger bus services.

However, the Government has decided to dissolve the Transport Control Board and incorporate its activities in the new State Transport Authority, and this Bill is the result of that decision. There are two points I raise on the Bill. The first relates to clause 10, which deals with licensing. Subclause (7) of that clause states:

. . . a person shall not operate or in any way hold himself out as being willing to operate any vehicle for the purpose of transporting any passenger for hire (*a*) unless he is a licensee or is employed by a licensee to operate a vehicle; or (*b*) otherwise than in accordance with any commission attached to a licence held by him or held by his employer. Penalty: Five hundred dollars.

Taxis in metropolitan Adelaide would fall within that net. The Minister has not referred to the taxi industry or to the Metropolitan Taxi-cab Board. Will the Minister state the Government's intention with regard to the future of the taxi industry in this State? I do not think it has given any cause to be swallowed up by this ever-growing Government authority. The Metropolitan Taxi-cab Board does a splendid job, and I take the opportunity to compliment its Chairman, Mr. Walter Bridgland. I want to know what the Government intends to do about it.

There is an exemption clause and it would be possible for the Government to exempt the taxi board from the provisions of this Bill. Will the Minister, therefore, tell me, when he replies, whether the Government will give an undertaking that at this stage, on the proclamation of this measure, the taxi board will be exempted from these provisions? That is an important matter and, if the Government is not prepared to give such an undertaking, this Bill should be amended to exclude the taxi board from the operations of the new authority.

My second point concerns the taking over of existing licences for road passenger bus operators and the granting of new licences to such people. Will the general approach of the authority be similar to that of the former Transport Control Board? I recall that, when these people applied for licences or for renewals, they were always concerned that they had to enter into fairly lengthy hire-purchase agreements for the purchase of their buses, which are expensive vehicles, and often the financing had to be undertaken by the operators themselves to acquire their vehicles.

The point of concern always was that, if the period of the licence or of any possible renewal of a licence was not as long as the period for payment of the hire-purchase agreement money, such operators could lose their licences and be considerably in debt. That would have been unfavourable to the operators. The licensing authority always kept that point in mind, and I shall be satisfied on that point if I obtain an assurance that the arrangements that the new authority intends to carry on in regard to licences for passenger operators, and for the renewal of licences, will be identical to the arrangements that have existed in the past. I think they have been satisfactory.

I do not think any unexpected hardship should be caused simply because the licensees, through no fault of their own, find there is a change in the authority under whose control they operate. That is a fair point. In no way are they causing this change: they simply wake up tomorrow, so to speak, to find that the authority is a new and separate authority from the past one. Therefore, those people need the assurance of Parliament that no undue hardship will fall upon them because of this change and because of this legislation. They are my two points, and I would appreciate hearing the Minister deal with them when he replies to this debate.

In conclusion, I commend the members of the Transport Control Board for their past services. I did not hear the Minister mention them. This is more than a machinery measure of change: it means something more than that to those people. Over the years the members of the Transport Control Board have done a splendid job; they have been dedicated to serving the people, and the board has been staffed by sincere and hard-working people. Because this measure dissolves that board and the axe falls upon it, I do not think that those people who have served on the board and worked for it should go without special mention. I am pleased to commend those people for the service they have given. I support the second reading.

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

SOUTH AUSTRALIAN RAILWAYS COMMISSIONER'S ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 11. Page 1784.)

The Hon. C. M. HILL: This is the third and final act in the transfer of these interests to the new authority. With this Bill, what remains of our railway system in this State after the sell-out—

The Hon. Anne Levy: Do you want the millstone back?

The Hon. C. M. HILL: I would like $150 000 000 worth of assets back. That was a conservative estimate of the asset value of everything given (so to speak) to the Commonwealth for a mere benefit in cash of $10 000 000.

Members interjecting:

The Hon. C. M. HILL: What else was given, apart from the $10 000 000? Some undertakings were given by Mr. Whitlam, but he might not be there to honour them.

The Hon. A. M. Whyte: It is repayable on call by the Commonwealth.

The Hon. C. M. HILL: Unless everything is completed—

Members interjecting:

The PRESIDENT: Order! I understand this is the last Bill for the night, and we do not wish to embark upon a debate on a Bill to take over the country railways. The Hon. Mr. Hill.

The Hon. C. M. HILL: One views the measure with a tinge of sadness, because it involves a dedicated and efficient group of men, the staff of the South Australian Railways, from the Commissioner down. I include in that the Commissioner who left the service during the period of the present Government and who, I believe, was forced out by this Government. He could not live under its control and direction, and I can hardly blame him for that. I commend that Commissioner and those before him, as well as the present Commissioner, for the service they have given as true railwaymen.

I also commend the senior officers and staff and the employees, for whom I have a high regard. At this time of change when the office of Commissioner is to be dissolved and control is to pass to a board, the majority of the members of which are not railwaymen, one cannot help but look back upon the service these people have given and wonder whether the efficiency traditional in the railways will continue in the future under the new form of control.

It is a moment of great change and the metropolitan railway services, the remaining sections under the present control, are being transferred to the board. I cannot let the opportunity pass to place some blame on the Government. Because of the Government and its policies there has not been a great deal of upgrading of metropolitan rail services in the past five years. When we look back over those years we recall the unhappy sight of the railway section of the Metropolitan Adelaide Transportation Study Report in 1970. From memory, that involved an expenditure of $32 000 000. It was scrapped by the present Government when it came to office.

I have heard little about plans for the underground railway, which is an essential link in any future rapid rail transit system installed in metropolitan Adelaide. Indeed, all the progress made by this Government in relation to metropolitan railways in the past five years centres around the Christies Beach line. At one stage it was to have been electrified, but that project has been deferred. There was to have been a magnificent terminal at Christie Downs, but one hears little about that. The record of the present Government in relation to metropolitan railways has been quite deplorable.

The Hon. C. J. SUMNER: Will the honourable member give way?

The Hon. C. M. HILL: Yes.

The Hon. C. J. SUMNER: The Hon. Mr. Hill has mentioned the M.A.T.S. plan and the Government's non-support of it over recent years. Does he still support the implementation of the plan?

The Hon. C. M. HILL: I support the implementation of those sections of it to which the Liberal Government agreed in 1968-69. One of the principal aspects of that plan was the installation of a rapid rail transport system for metropolitan Adelaide.

The Hon. C. J. SUMNER: Will the honourable member give way?

The Hon. C. M. HILL: Yes.

The Hon. C. J. SUMNER: Is the honourable member prepared to give details of the exact sections of the M.A.T.S. plan he is referring to that he still supports, including details of the freeway scheme?

The Hon. C. M. HILL: I support the north-south freeway within the M.A.T.S. plan, immediately west of the city.

The Hon. D. H. L. Banfield: What about to the east?

The Hon. C. M. HILL: I asked a question the other day concerning the total sum of money spent by the Labor Government since 1970 on acquisition of property on the north-south freeway route. I was told that more than $17 000 000 had been spent. I asked a question recently regarding a news item about the triangular piece of land just down from Flinders University, bounded by Sturt Road, Marion Road, and South Road. The Government had said in its announcement that it could not put a bus terminal there because the land was required for freeway purposes.

When I asked whether the Government meant the Noarlunga freeway, as shown in the M.A.T.S. plan, the answer was that that was so. I mention these points only to highlight that all the Government rubbish in 1970 about scrapping the M.A.T.S. plan gave it some short-term political advantage, but in the long term it has been proved that Government members are political hypocrites in this regard. I turn now to the interjection of the Minister of Health regarding a proposal for a freeway east of the city. That part of the M.A.T.S. plan was never agreed to.

The Hon. D. H. L. Banfield: Because it went through the Liberal area.

The Hon. C. M. HILL: It would have gone, first, through the District of Norwood, then, further north, it would have gone near Gilles. It would have gone through the eastern end of the Unley District and finally through the Mitcham District.

The Hon. D. H. L. BANFIELD: Will the honourable member give way?

The Hon. C. M. HILL: Yes.

The Hon. D. H. L. BANFIELD: Can the honourable member say why he dropped that one? This was the only one of the M.A.T.S. plan projects that the honourable member scrapped.

The Hon. C. M. HILL: It was not the only one, and I will tell the Minister why we would not accept it. It was because we did not agree with the planners' proposal.

The Hon. M. B. CAMERON: I rise on a point of order. I understood that the Council was discussing a Bill relating to the South Australian Railways. I wonder whether what is now being discussed is relevant to that Bill.

The PRESIDENT: I was about to take that point myself. The Hon. Mr. Hill has been provoked into talking about the Metropolitan Adelaide Transportation Study plan, which has nothing to do with the Bill now before the Council. I therefore ask the Hon. Mr. Hill to return to the Bill.

The Hon. N. K. FOSTER: I rise on a point of order. The fact is that the Hon. Mr. Hill was taking advantage of a ruling that has been introduced in the Council, at your suggestion, Mr. President, and the honourable gentleman on my left asked him to give way. He was complying with a ruling which you, Sir, suggested, and which you now want to invoke.

The PRESIDENT: That is not a point of order. The honourable member was asked whether he would be willing to give way, but he was led up the wrong way.

The Hon. C. M. HILL: I will get back on the rails.

The Hon. C. J. Sumner: What about answering my question?

The Hon. C. M. HILL: I am sorry, but I cannot remember it.

The PRESIDENT: Order! The honourable member had better return to the Bill.

The Hon. C. J. Sumner: I want an answer to my question about the M.A.T.S. plan. What parts of it are you still supporting? You referred to the north-south freeway. What about the ring route around the park lands?

The Hon. C. M. HILL: The Liberal Government and I never supported a park land ring route system. Soon after the Labor Government assumed office, the Premier got hold of the Minister of Transport and said, "Look here, for heaven's sake squash all that talk of a freeway through Norwood for good, and do something about that route." The Government transferred the plan, and approved of the scheme running along the park lands. The aesthetic damage that that project will do, if ever it is implemented, is immeasurable.

The Hon. M. B. CAMERON: I rise on a point of order. I thought we had already been through this process. It seems to me that we are getting away from the subject matter of the Bill that the Council is now debating. Will you, Sir, direct the Hon. Mr. Hill back to the Bill?

The PRESIDENT: I direct the Hon. Mr. Hill to return to the subject matter of the Bill. I am watching the clock, and it is getting late.

The Hon. C. J. Sumner: You still haven't answered my question.

The Hon. C. M. HILL: I support the Bill and hope that this transfer that the Bill invokes will in due course prove to be a successful change in transport control in this State. I believe the new board, if it goes about its task as I think it will (I know some of the board members, and I have tremendous confidence in them and in Mr. Flint), will prove successful in its direction and control of the railways system. I most certainly hope that that is the case.

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

ADJOURNMENT

At 11.25 p.m. the Council adjourned until Thursday, November 13, at 2.15 p.m.