LEGISLATIVE COUNCIL

Tuesday, April 5, 1977

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

QUESTIONS

COUNCIL AMALGAMATION

The Hon. R. C. DeGARIS: I seek leave to make a brief explanation before asking a question of the Chief Secretary, as Leader of the Government in the Council.

Leave granted.

The Hon. R. C. DeGARIS: A local government poll was conducted in the Kadina area recently to determine whether two councils should amalgamate. About 630 people voted against, and 140 voted for the amalgamation. However, the total vote was slightly less than 40 per cent of all ratepayers who were entitled to vote. I am told that about 800 of the ratepayers in the district concerned are absentee ratepayers who live other than in the district, and that the proponents of the "No" case tried to get the addresses of the people who were not living in the area to inform them of the poll and to advise them of the issues. The names, but no addresses, were given to them, and it is claimed that only 1 200 ratepayers in the district actually knew that the poll was in relation to an amalgamation and was about to be conducted. Given the facts that I have enumerated, is the Government satisfied that a poll of just less than 40 per cent of ratepayers is reasonable grounds for proceeding with the amalgamation?

The Hon. D. H. L. BANFIELD: I understand that the poll was conducted in accordance with the Act of Parliament which passed through this Council. It is also true to say that there was voluntary voting in this election and that the election was carried out by the electoral officer. There have been occasions when the voting for election of council personnel has been less than 4 per cent, and the ratepayers concerned have had to accept the persons elected in those circumstances. I consider that, as the poll was conducted in accordance with the provisions of the Act, the Government would have to accept the decision of the people.

ROYAL ADELAIDE HOSPITAL

The Hon. C. M. HILL: I seek leave to make a statement before asking the Minister of Health a question.

Leave granted.

The Hon. C. M. HILL: I refer to the frightening situation which apparently occurred at Royal Adelaide Hospital on Sunday night and which was publicised in yesterday's press. I refer to June 22 last year, when it was announced in the press that a youth of 16 years of age faced a charge over an attack that occurred at Royal Adelaide Hospital. Part of that report is as follows:

> Police have charged a 16-year-old absconder from McNally Training Centre with the rape of a nurse, 19, at the Royal Adelaide Hospital on Sunday. The hospital administrators have called a meeting of R.A.H. staff to discuss security at the hospital following the incident. The nurse allegedly was raped in a women's lavatory on the fourth floor of the hospital at about 9.30 p.m. on Sunday.

The public at that time expected some further improvement in the security arrangements at Royal Adelaide Hospital. A report on the front page of yesterday's *Advertiser* was headed "Hospital patients terrified by visiting bikies." Part of the report states:

> About 15 bikies terrified patients last night while visiting an associate in a surgical ward of the Royal Adelaide Hospital. During scenes which lasted about 15 minutes, the bikies allegedly broke bottles, pulled down curtains and used abusive language in the S5 ward which contained 32 beds, most occupied at the time. Many of the patients were elderly. Police made three arrests. Police said seven patrols involving about 12 police went to the hospital about 7.30 p.m. after a call from the hospital.

I point out that I am not criticising the police in any way in regard to these matters, but obviously there is a need to improve security arrangements at Royal Adelaide Hospital, and I believe that the people claim, quite rightly, that patients should not have to contend with the behaviour that was alleged to have taken place on Sunday evening. We all can appreciate the serious consequences that can occur to patients who are ill. That behaviour, of course, can endanger their health further and, in some cases, may endanger life itself, so I ask the Minister whether any changes were made nine months ago as a result of that first incident in relation to security arrangments at the hospital and, if so, what they were. Secondly, what are the plans for improved security, after the experience of Sunday evening?

The Hon. D. H. L. BANFIELD: Let me say at the outset that the report in the *Advertiser* was grossly exaggerated. The position is that the problem arose in the waiting room more so than in the ward itself. Let us be quite clear as far as all that is concerned. The board of management and the senior staff of the hospital are constantly concerned about the protection of patients, visitors and staff from undesirable persons entering the hospital. To provide adequate protection is not a simple matter. If any attempt was made to deny entry to such persons, the hospital undoubtedly would be accused of discrimination—persons who ride motor cycles are not necessarily undesirables. In these circumstances, such visitors have to prove to be a nuisance before action can be taken against them. The Hospital Board has sought and accepted the advice of the Police Department on measures which should be adopted to combat these nuisances. The procedures adopted are considered to have been effective and better than any of the alternatives which were considered. Following the incident on April 3, further discussions have taken place with senior officers of the Police Department and some refinements to the procedures have been suggested. It is expected that these will result in a reduction in the response time by the Police to calls from the hospital for assistance. It is considered that measures currently adopted to protect persons and property within the Hospital are the best available. To answer the honourable member about what security measures have been taken, I say that if they were made public I think that that would only weaken the security. For those reasons, I am not prepared to make them public.

HEALTH FUND BOARDS

The Hon. F. T. BLEVINS: I ask leave to make a short statement prior to asking a question of the Minister of Health.

Leave granted.

The Hon. F. T. BLEVINS: The text of a report by David O'Reilly in the *Australian* of April 1 headed "Public may be given say in health" is that the Federal Government

has some sway about the election or selection of directors of health funds. Although I will not read all of the report, I want to read some paragraphs by way of explanation. The report states:

The Federal Government is to examine a plan giving contributors compulsory representation on the boards of private health funds. An interdepartmental committee has been set up to consider whether legislation should be introduced to give contributors a say in the workings of the funds.

It goes on to state:

It has been set up because of widespread criticism of the closed nature of many of the funds' administrations. The Minister for Health, Mr. Hunt, is believed to be concerned about the lack of information in his department on exactly how the funds select their directors. Public criticism of the funds has increased recently since more people were forced to enter private funds under the Medibank arrangements.

The article then goes on to state what steps the Federal Government is taking to find out how people are selected as directors of health funds. Obviously, I have every trust in this Government's ability to find out that information but I would prefer in South Australia that the Minister of Health should find out that information for the edification of the Council. My questions are: (1) Who are the directors of the National Health Services Association and the Mutual Hospital Association, the two main funds in South Australia, and what are their occupations? (2) What qualifications are required to be a director of these health funds, and do the present directors have these qualifications? (3) How long have the present directors of these funds held their directorships? (4) What is the present method of electing directors? (5) If the contributors do not have a direct vote in the election of directors, is there any intention of changing the system to give contributors a vote?

The Hon. D. H. L. BANFIELD: These funds are, of course, private funds but I will make every endeavour to find out the answers to the honourable member's questions.

The Hon. R. C. DeGARIS: Will the Chief Secretary say whether he favours the procedures for appointment or election of directors to the voluntary health insurance organisation boards of directors that allow all contributors to have the opportunity to vote?

The Hon. D. H. L. BANFIELD: I do not know that it is for me to have to say whether I favour this sort of thing: it is a matter involving the contributors.

DROUGHT RELIEF

The Hon. A. M. WHYTE: I seek leave to make a short statement prior to asking several questions of the Minister of Agriculture.

Leave granted.

The Hon. A. M. WHYTE: The Federal Government some months ago made a provision of $10 000 000 for drought relief in South Australia, conditional on $1 500 000 being supplied for the same purpose out of State funds. We are all agreed that it was a very good investment in any circumstances. Can the Minister say how much of the $1 500 000 State requirement has been spent; has there been any flow-on of the $10 000 000 provision by the Federal Government to the agricultural community of South Australia? Is it also a requirement that this application should be a last resort application? If so, is it a requirement of the State Government or of the Federal Government that this restriction should apply?

The Hon. T. M. CASEY: I think the honourable member should have directed his question to me. However, I will get the information for him.

DRUGS

The Hon. C. M. HILL: I seek leave to make a statement prior to directing a question to the Minister of Health.

Leave granted.

The Hon. C. M. HILL: My questions concern the matter which arose in this morning's press concerning drugs that were obtained by a female patient at Hillcrest Hospital. In regard to this matter, again I go back to an incident last year, namely, the one reported in the press on October 23, in statements that were attributed to Dr. B. J. Taylor, the medical officer in charge of drug and alcohol addiction treatment at that hospital. The newspaper article states:

The clinic where opiate addicts were treated at the Hillcrest Hospital had become "almost a bartering place for drugs", a doctor at the hospital said yesterday.

He was quoted further as saying:

"We have uncovered considerable abuse of the system," Dr. Taylor said. "It was a very serious situation. It has involved mainly hashish, but I know from previous experience that heroin was offered to patients. They had reached the stage of overt trading in drugs at the clinic. There was indifference to what we saw whether we were looking for it or not. We know that some patients are turning up and trying to undermine other patients on the programme by selling them drugs."

Yesterday Dr. Zacharia at a meeting referred to rather similar problems at Hillcrest Hospital. An article in this morning's paper, headed "Heroin 'Sold to Girl in Hospital' ", states:

Heroin had been sold to a 17-year-old girl drug-addict patient in Hillcrest psychiatric hospital, an Adelaide doctor said yesterday. The drug had been illegally supplied to the girl while she was in hospital trying to break her habit.

Dr. Zacharia said the girl had been able to maintain her three-dose-a-day heroin habit while in hospital. She had come out of hospital in a "worse state" than when admitted. The girl had claimed other patients at the hospital undergoing treatment for drug addiction had supplied her with heroin.

Both of these reports refer to very serious matters indeed. I believe there is considerable disquiet among the public about this question. Can the Minister of Health say whether any investigation was undertaken as a result of the report of last October and, if it was, what was the result of that investigation? Further, has the Minister today ordered an investigation into the situation reported in this morning's paper, and will he report to Parliament in due course any action that he intends to take?

The Hon. D. H. L. BANFIELD: It was very good of Dr. Zacharia to get up at a luncheon and refer to this case! However, when he is asked for particulars by the department, so that we can check the case, it is a different matter! The statement he made did not fit any patient that we had at Hillcrest Hospital. When asked for further particulars in this area, he refused to give them. When we want to do something about these allegations, if they are correct, Dr. Zacharia does not want to give the details. Obviously, he has not got them. So, his statement cannot be relied on. If he was fair dinkum, he would enable the department to examine the position. He makes a statement because it sounds good at a luncheon, but he is not willing to back it up when we ask for details. So, we cannot rely on what Dr. Zacharia said yesterday. I point out that Hillcrest Hospital is not a security hospital, and visitors cannot be prevented from seeing patients there. The patients are in hospital voluntarily, and no restrictions are placed on their movements while they are in hospital. Does the Hon. Mr. Hill want to restrict the admission of visitors to the hospital? Does he want us to restrict the

movements of patients? If he does, let him say so. In these circumstances, it is possible that drugs may have been introduced to patients but, without keeping patients away from visitors in an ordinary hospital, it is inevitable that from time to time this situation may occur. Many patients at Hillcrest Hospital are outpatients and, of course, they may get their treatment in the morning; they can then leave the grounds and contact pushers in the area. We have no control in these circumstances. If there is contact with drug pushers, all we can do is to try to persuade patients to keep away from the pushers. However, if the Hon. Mr. Hill wants to pursue that matter, I am willing to hear his comments and ascertain his attitude on the restrictions we should apply to patients in all hospitals about whether they should be entitled to receive visitors or not.

The Hon. J. R. CORNWALL: Further to that question, I desire to ask three questions of the Minister. First, is it a fact that the voluntary nature of Hillcrest is a pattern followed in private institutions throughout South Australia and in both public and private institutions in other States? Secondly, is it a fact that Dr. Zacharia, the gentleman reported in this morning's press, made his statement while addressing a businessmen's luncheon organised by the Liberal Party, is an endorsed candidate for that Party for the next election of this Parliament?

The Hon. C. M. Hill: Not only that—he's a future member.

The Hon. D. H. L. Banfield: Of what—at Hillcrest?

The Hon. J. R. CORNWALL: Finally, in these circumstances does the Minister consider that this statement may well be a shoddy attempt to play Party politics with a serious matter that should be well above Party politics?

The Hon. D. H. L. BANFIELD: When I read the report, I was naturally concerned about Dr. Zacharia's statement and I immediately tried to have investigations made. As I reported to this Council earlier, Dr. Zacharia was not willing to give any further information to me so that we could follow through this matter. Therefore, it is only logical that we must assume it was a political speech and an attempt to embarrass the Government. As I pointed out, these are voluntary patients. In reply to the honourable member's first question, such a situation could occur in any hospital where patients are voluntary, because visitors are allowed and no-one would want to see the situation to be otherwise. In reply to the honourable member's third question, the Hon. Mr. Hill said that Dr. Zacharia would be a future member, but he did not say whether he would be a future member of this Parliament or a future patient at Hillcrest. Certainly, if this is the way he carries on, sooner or later he will become a visiting member at Hillcrest. If this is the best he can do in order to get notoriety and if he is not willing to follow up his statements, I am sure that the public will recognise him for what he is.

The Hon. N. K. FOSTER: I seek leave to make a short statement prior to addressing a question to the Leader of the Opposition.

Leave granted.

The Hon. N. K. FOSTER: No-one, including honourable members opposite, are more concerned about the problem in relation to drugs than are members on this side of the Council. If such allegations as have been made are true or otherwise, such a situation could be enacted in any doctor's waiting room. There is no legislation in this State under which people are prevented from meetings, are denied the right of assembly or the right to visit. Therefore, because of the question asked by the Hon. Mr. Hill, and because of the existence of a Royal Commission investigating the problems of drugs, raised by the Hon. Mr. Hill on behalf of Dr. Zacharia—

The Hon. C. M. Hill: I did not bring it forward on his behalf—I brought it forward because it was on the front page of today's press.

The Hon. D. H. L. Banfield: He is not prepared to back it up.

The PRESIDENT: Order! The Hon. Mr. Foster.

The Hon. N. K. FOSTER: I am concerned that a so-called responsible citizen in the community can make such a statement. Certainly, I did not know what knowledge the Minister had on this matter when I read that report. Therefore, will the Leader of the Opposition encourage Dr. Zacharia to make known his evidence to the Royal Commission and, if he is unwilling to do that voluntarily, can we assume that he has no real regard for the problem that confronts many people in the community today? However, if my memory serves me correctly, the power to subpoena a witness is vested in the Royal Commissioner, and I hope that, if the doctor refuses to give evidence, he is subpoenaed to appear before the Commission. Is the Hon. Mr. DeGaris, as Leader of the Liberal Party in the Council, willing to answer that question?

The Hon. R. C. DeGARIS: I always have much difficulty in understanding exactly what the Hon. Mr. Foster is asking. First, I think he asked whether I would encourage Dr. Zacharia. In that respect, I will give Dr. Zacharia all the encouragement he requires. The Hon. Mr. Foster also asked whether I would ask Dr. Zacharia to give evidence before the Royal Commission. However, I am sure that Dr. Zacharia is quite capable of making a decision on that matter himself. I have no doubt that there are other matters associated with his profession as a doctor that may preclude Dr. Zacharia's making certain statements on behalf of his patients.

The Hon. A. M. WHYTE: I ask leave to make a short statement prior to asking a question of the Minister of Health.

Leave granted.

The Hon. A. M. WHYTE: I am greatly disappointed at the display in the House placing significance on the political views of Dr. Zacharia. Regarding the accusation that has been made about this terrifying situation whereby drugs have been supplied to an inmate of an institution, I ask the Minister whether he intends, regardless of the doctor's political views, to investigate this accusation, and I also ask—

The PRESIDENT: Order! Members of the public are not allowed to enter beyond the gate. I must ask the gentleman concerned to leave.

The Hon. A. M. WHYTE: I ask the Minister what precautions will be taken to make sure that what has been alleged is not true.

The Hon. D. H. L. BANFIELD: I regret that the honourable member disagreed with the political implication that arose as a result—

The Hon. A. M. Whyte: I thought it was very low.

The Hon. D. H. L. BANFIELD: So did I, but not until I checked and found that Dr. Zacharia was not prepared to follow the matter through so that we could find out where the problem was. I also thought that Dr. Zacharia's attitude was very low in not giving us this information so that we could check the matter. As I have said, the patients are mainly outpatients. They attend the clinic in the

morning and then go their own sweet way. Pushers are liable to be picked up at any time, and the police are doing all they can to pick up pushers when they can get information about them. The police will continue to do so, but at no time is anyone encouraged to go to Hillcrest to get rid of his wares. I agree that it is fairly low when someone is prepared to make a statement but not give us information in a confidential way so that, if these things are happening, we can follow them through to make sure that they will not happen in future.

The Hon. A. M. Whyte: Are you investigating it?

The Hon. D. H. L. BANFIELD: Of course I am, and the first thing we find is that we have come up against a brick wall from Dr. Zacharia, who made the allegation. We can investigate the matter more fully if we get the information from Dr. Zacharia, but so far he has not been prepared to give it to us.

The Hon. A. M. Whyte: What about—

The PRESIDENT: Order! The question has been answered.

"DOLE BLUDGERS"

The Hon. N. K. FOSTER: I seek leave to make an explanation before directing a question to you, Sir.

Leave granted.

The Hon. N. K. FOSTER: Allegations have been made in the Council recently in which the dreadful term "dole bludgers", which, unfortunately, many honourable members think is applicable to people in the community who are unfortunate enough not to have jobs, has been used. Realising that your initiative, Sir, regarding the Standing Orders of this place is somewhat renowned I consider that the term "dole bludgers" should not be encouraged by the media. I was shocked yesterday to hear a radio broadcast, on which this term was accepted as meaning anyone in the category of person to which I have just referred. That term has also been used in this Chamber. One honourable member denies having used it; apparently, his pen was quicker than *Hansard's*. The fact remains that the term is one which that honourable member has now agreed should not be used in this place and which, if I applied it to you, Sir, or anyone else here, you would say was unparliamentary and should not be used again—a ruling with which I would agree. The use of this term is widespread amongst members of the Federal Government Party and amongst Opposition members in this State.

The Hon. R. C. DeGaris: Hear, hear!

The Hon. N. K. FOSTER: If he would listen, the Leader would know that I said, "Opposition members in this State". As a first step towards ensuring that such a term is not applied to the more unfortunate people in the community, will you, Sir, consider the term as being unparliamentary, and rule that members opposite or their Federal colleagues should not continue to use the term in relation to members of the community who are, through no fault of their own, unable to obtain a job? I do not agree with the policy of the Liberal Party—

The PRESIDENT: Order!

The Hon. N. K. FOSTER: I ask you, Sir, seriously to consider this matter.

The PRESIDENT: I can only say that I cannot control the use of that expression outside this Chamber. Regarding its use in the Chamber, it all depends on the context in which the term is used.

RYE GRASS TOXICITY

The Hon. M. B. DAWKINS: I seek leave to make a short statement before asking the Minister of Agriculture a question.

Leave granted.

The Hon. M. B. DAWKINS: I direct this question to the Minister of Agriculture, although possibly a part of it may be interpreted as belonging to the Minister of Local Government. However, I think my directing it to the Minister of Agriculture is the better course of action. There has been some disquiet in the Mid North recently regarding the prevalence of toxicity in rye grass and the stock deaths that it has caused. I believe that burning is the most economically successful way of controlling this toxicity. From memory, I understand that burning late in the day is more effective than burning early in the day. I also understand that there are differing requirements in various council areas regarding the times at which one can burn in order to solve this problem. Will the Minister examine this matter to see whether it is possible to co-ordinate burning procedures between various district council areas that are affected by this toxicity?

The Hon. B. A. CHATTERTON: I agree that the toxicity problem with rye grass is of much concern. We are carrying out research on this problem in South Australia, and the Western Australian Agriculture Department is also trying to solve problems associated with toxicity. The control measure outlined by the honourable member is quite a good method of stopping the spread of this problem. I believe that permission has been given to individual landholders to burn their rye grass in situations where they would not normally burn because of the problems associated with the toxicity. However, I will check the exact details for the honourable member and bring down a reply as soon as possible.

POKER MACHINES

The Hon. F. T. BLEVINS: I seek leave to make a statement before asking a question of the Minister of Health, representing the Attorney-General or the Premier.

Leave granted.

The Hon. F. T. BLEVINS: In yesterday's edition of the *Whyalla News* there was an advertisement for the sale of poker machines, as follows:

> Poker machines for sale. Ten cent or 20 cent for $250. Phone 45 8272 over Easter.

Although I have absolutely no personal objection to poker machines (indeed, I would not mind having one in my own house), I—

The Hon. C. M. Hill: Do you object to their being installed publicly?

The Hon. F. T. Blevins: I am asking my question of the Minister of Health, not of the Hon. Murray Hill, who is out of order, or of the honourable gentleman at the back, who is also out of order.

The PRESIDENT: Order!

The Hon. F. T. BLEVINS: I have no objections privately to poker machines, although I am aware of the Government's policy regarding them, which I support. I am also aware of the law, which I thought prohibited the use of poker machines. Will the Minister ascertain whether the sale of poker machines in that progressive place, Whyalla, or indeed in the whole State, is illegal? Will anyone who buys one of these poker machines that have been advertised for sale in Whyalla or anyone who purchases a machine for use in his own private home be breaking the law?

The Hon. D. H. L. BANFIELD: I will seek legal advice on the matter. As a layman, I understand that one is not breaking the law if one has a poker machine in one's own house, provided that one does not use it for illegal purposes. However, I am only a layman, and I have no doubt that the lawyers in this place might disagree with me in this respect. I will refer the matter to my learned colleague, the Attorney-General, and bring down a report.

PORT ADELAIDE CELL BLOCK

The Hon. C. M. HILL: I ask leave to make a statement prior to directing a question to the Chief Secretary.

Leave granted.

The Hon. C. M. HILL: I ask my question of the Chief Secretary as Minister in charge of corrective services in the State. In Max Harris's recent report in the *Sunday Mail* he refers to a letter that he received, and that letter was printed in full. It dealt with the condition of the cell block in the Port Adelaide Gaol.

The Hon. D. H. L. Banfield: Is there a gaol at Port Adelaide?

The Hon. C. M. HILL: I will come to that in a moment, if the Chief Secretary is confused.

The Hon. D. H. L. Banfield: No. You said "Port Adelaide Gaol", and all I asked you was whether there was a gaol at Port Adelaide. Is there a gaol at Port Adelaide?

The Hon. C. M. HILL: It is the cell block.

The Hon. D. H. L. Banfield: You did not say that.

The Hon. C. M. HILL: Last week the Chief Secretary accused members on this side of being toey.

The Hon. D. H. L. Banfield: No, I did not say that. I said that your toeyness was showing.

The Hon. C. M. HILL: As the Hon. Mr. Dawkins says, the Chief Secretary is more than toey today: he is very prickly. This letter has serious implications. It was written to Max Harris by a person who claimed to be the Police Medical Officer for the Port Adelaide area. The gentleman said that he had held that position for 20 years, and he referred to (and I hope this will clarify the matter for the Chief Secretary) the cell block at the Port Adelaide Police Station. It was the condition of those cells that greatly concerned the medical officer. He said:

> They have not changed, with the possible exception of the application of some paint, in my time, and must be structurally as they were at the time the building was originally constructed over 100 years ago.

He went on to say that there was no separate provision for females or juveniles. He referred to the toilet facilities as being extremely bad. He said that the urinal was completely exposed to the weather and that the ablution facilities consisted of a sink with a small hot-water unit in the locked fingerprint room. That room is used by prisoners after they have been fingerprinted. He said that he had brought the condition of this block to the attention of local members of Parliament and he claimed that they had made inspections and promises but, as yet, nothing had been done.

The Hon. M. B. Cameron: None of them would be a Liberal Party member.

The Hon. C. M. HILL: No. It is an area served by Labor members. The medical officer, understandably, is extremely upset, and he refers to examples of public expenditure by the Government and to the Government's having its priorities out of order. He referred to matters on which the Government was spending money and he made particular reference to an alleged expenditure of $200 000 at Adelaide Zoo, whilst nothing was done about this cell block at Port Adelaide. He said that the estimated cost of work at the cell block was only $35 000. The final paragraph of the medical officer's letter states:

> This situation is hardly in keeping with the State Government's professed deep sense of satisfaction at their accomplishments to help the underprivileged.

The Hon. J. E. Dunford: What's your question?

The Hon. C. M. HILL: Naturally, Max Harris was extremely upset at receiving that letter, and I think that everyone who genuinely wants to help the underprivileged must have been upset about the matter. Will the Chief Secretary agree that the situation at Port Adelaide regarding this matter is as bad as is claimed in this letter, and will he say what plans he has put in train to have the position rectified?

The Hon. D. H. L. BANFIELD: It is of interest to know that this building has been there for 100 years, that the present Government has been in office for 10 years, that the Liberals were in office for the 90 years before we came to office, and that the building has deteriorated only in the past 10 years. What did the Liberals do in the 90 years when they were in control?

The PRESIDENT: Order! I think the Minister should answer the question.

The Hon. D. H. L. BANFIELD: This Government inherited many substandard buildings in various areas. The cell block at Port Adelaide is one of those, and we are doing something about it as quickly as possible.

LEASE RENTALS

The Hon. R. C. DeGARIS: Has the Minister of Lands a reply to the question I asked recently about lease rentals?

The Hon. T. M. CASEY: I have investigated the matter raised last week concerning the charge of $15 being made for information on subdivision of leasehold land and advise that the Lands Department introduced this charge in September last year. The charge was introduced to cover part of the administrative costs involved in the investigation which must be undertaken before an inquirer can be advised what rental would apply to a perpetual lease on subdivision. It was also introduced to limit inquiries to those with a genuine intention, because of the increasing magnitude of work involved in providing the information. It is considered reasonable to provide this information where a genuine transfer is contemplated to enable the parties to negotiate the transfer with the knowledge of the conditions which will apply to the new lease that would issue to the transferee. If a formal application is lodged as a result of the original inquiry, the basic transfer fee of $15 is waived.

CAR PARKING

The Hon. C. M. HILL: I seek leave to make a short statement prior to directing a question to the Minister of Lands, representing the Minister of Works.

Leave granted.

The Hon. C. M. HILL: I understand that some of the staff here in Parliament House, who were able previously to park their cars in the area immediately to the north of Parliament House and between Parliament House and what was then the Government Printing Office, are now having difficulties with their parking arrangements. I believe that some of the staff are able to park their cars

in front of the building now but there is not room for all of them to park. As we know, members enjoy the privilege of having under-cover space beneath the Festival Plaza. Previously, as honourable members know, arrangements existed with the Army authorities for space on the parade ground to be made available to either staff or members to park their cars when places could not be found in the areas I have just mentioned. My question to the Minister of Works, who, I think, is in charge of these arrangements, is: so that the staff will not be disadvantaged by the building work that has taken place, will he investigate the possibility of renegotiating with the Army so that space on the parade ground may be obtained for those people who are in difficulties now to park in that area?

The Hon. T. M. CASEY: I will refer the honourable member's question to my colleague the Minister of Works and bring back a reply.

The Hon. N. K. FOSTER: I seek leave to make a statement before asking a question of the Leader of the Council.

Leave granted.

The Hon. N. K. FOSTER: It seems that the area to which the Hon. Mr. Hill has referred as the under-cover parking area is available to members of the public attending the Festival Theatre complex as well as to members of both Houses. Twice in the past week I have noticed that members of the public were parked in the public sector (if I may use that term) and they had young children in pushers; they could find no way other than on a traffic lane to get out of that complex unless they made some attempt to negotiate the stairs with their pushers. Twice in the past week I have seen two very near misses in the complex involving women with young children in pushers. Will the Minister of Health take this matter up with the appropriate Minister to see whether something urgent can be done in this matter concerning those people with young children? I do not know why those who designed the plaza failed to provide for this, but most certainly safe access must be found for those members of the public with young children in pushers.

The Hon. D. H. L. BANFIELD: I shall be happy to inquire into the matter.

LOCAL GOVERNMENT 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.
It follows upon representations that have been made to the Government relating to the recent legislation providing for full adult franchise in local government elections and polls. I seek leave to have the rest of the second reading expanation inserted in *Hansard* without my reading it.

Leave granted.

REMAINDER OF EXPLANATION

These representations have centred upon aspects of the "property" franchise. The Government feels that a case does exist for somewhat widening this franchise. It has therefore been decided to enable both non-resident owners and non-resident occupiers to vote in local government elections and polls. Under the existing legislation the right to vote is conferred on a non-resident ratepayer if he is the sole ratepayer in respect of the property; if there were a number of non-resident ratepayers, they had to elect a nominated agent. The new amendments extend the provisions relating to non-resident votes so that they apply both to ownership and occupation. The Government is most anxious that the legislation should meet with the maximum possible general acceptance and should be as easy as possible to administer. The Bill therefore introduces a number of machinery amendments to simplify and facilitate administration and seeks to place a number of minor points, upon which doubt was entertained in some quarters, beyond the reach of argument.

Clauses 1 and 2 are formal. Clause 3 makes two amendments to section 5 of the principal Act. It was felt that, where a person is to be nominated for local government office, it may cause difficulties, especially in the case of the first elections to be held under the new system, to wait until the formalities of enrolling have been completed. Accordingly the Bill provides that a person is an elector (and therefore eligible for nomination to local government office) if he is entitled to be enrolled as an elector for the relevant area, whether or not he has actually been so enrolled. New subsection (10) is inserted out of an abundance of caution to avoid any possible argument that, upon the commencement of the new provisions, a member of a council who does not happen to be an elector for that council is disqualified from office.

Clauses 4, 5 and 6 make amendments to the principal Act consequential upon the introduction of the new definition of "elector". As this definition now embraces those who are "entitled to be enrolled" there may be difficulty in establishing at a given time just how many electors there are in a particular area or ward. Thus there may be problems in administering provisions that require a request for a poll to be supported by a stipulated proportion of the electors for a particular area or ward. These amendments seek to overcome this problem by relating these proportions to the total number of assessments in the area or ward in question. Clause 7 makes a typographical correction.

Clause 8 expands the qualification for enrolment as an elector in the manner that I have described above. The existing Act provides only for the enrolment of a non-resident ratepayer when he is the sole ratepayer in respect of the property (subject to some exceptions that I need not go into here). The Bill provides that a person is entitled to enrolment whether he be a non-resident owner or a non-resident occupier of ratable property. Of course where there is more than one owner, or more than one occupier, the provisions of subsection (3) will apply and all the owners or all the occupiers must elect an agent to vote on their behalf at elections, meetings and polls. It will be noticed that subsection (3) is amended to enable the joint owners or joint occupiers to nominate an agent although one or more of their number already has a vote by reason of residence within the area or ward. New subsection (8) provides that where a nominated agent holds a number of separate nominations he may vote in respect of each nomination. This provision is inserted to dispel any doubts or argument on this matter.

Clause 9 enables the voters' roll to be prepared in respect of a ward only. In the case of some polls or elections a voters' roll for the whole area may not be necessary. Clause 10 corrects a printing error and substitutes the phrase "returning officer or deputy returning officer" for the phrase "person presiding at the polling place". The former terminology is more widely recognised and accepted in

local government circles. Clauses 11 and 15 amend sections of the principal Act which relate to the right to vote at elections and polls. The purpose of the amendment is to make it quite clear that the voting rights are subject to the provisions disentitling electors to vote where their qualifications arise after the closing day fixed in respect of the election or poll, and also to the provisions enabling an elector to exercise more than one vote where he is entitled to vote both in his own personal capacity and as a nominated agent, or in respect of a number of separate nominations.

Clauses 12 and 16 are consequential upon the amendments that provide for the compilation of a voters' roll in respect of a ward only. Clauses 13 and 17 amend sections dealing with the declaration of an election or poll. At the moment the retiring officer is to make the declaration at the "close of the election" or the "close of poll". It is felt that these provisions would be clearer if they stated that the declaration was to be made at the "close of counting". Clause 14 amends section 457 of the principal Act. This section at present provides that any lease of parklands must be approved by a meeting of electors. The Adelaide City Council grants many short-term leases of parklands in each year and it is manifestly inconvenient for each such proposal to be referred to a meeting of electors for the area. The amendment therefore provides that a lease of up to three months does not require the approval of electors.

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

VERTEBRATE PESTS ACT AMENDMENT BILL

The Hon. B. A. CHATTERTON (Minister of Agriculture) obtained leave and introduced a Bill for an Act to amend the Vertebrate Pests Act, 1975. Read a first time.

The Hon. B. A. CHATTERTON: I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This short Bill amends the principal Act, the Vertebrate Pests Act, 1975, by deleting the designation in that Act of the Permanent Head of the Department of Lands as the Chairman of the Vertebrate Pests Control Authority. This amendment will enable implementation of the recommendation of the Committee of Inquiry into the Public Service under the chairmanship of Professor D. C. Corbett that the administration of the Vertebrate Pests Act be transferred to the Minister and Department of the Public Service concerned with primary industry, that is, at present, the Minister of Agriculture and the Department of Agriculture and Fisheries.

Clause 1 is formal. Clause 2 provides that the measure shall come into operation on a day to be fixed by proclamation. Clause 3 amends section 5 of the principal Act by deleting the definition of "Permanent Head". Clause 4 amends section 8 of the principal Act by providing that the Chairman of the authority shall be the person holding or acting in an office determined by the Governor. This will obviate the need for amendment of the Act if there is any future change of administrative titles.

The Hon. A. M. WHYTE secured the adjournment of the debate.

FORESTRY ACT AMENDMENT BILL

The Hon. B. A. CHATTERTON (Minister of Forests) obtained leave and introduced a Bill for an Act to amend the Forestry Act, 1950-1974. Read a first time.

The Hon. B. A. CHATTERTON: I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

It amends the principal Act, the Forestry Act, 1950-1974, in two areas related to its administration. First, the Bill provides for abolition of the Forestry Board. Although its title might suggest otherwise, the Forestry Board has an advisory function only, while the Minister of Forests is, under the principal Act, the body corporate holding and managing the forests and other property and the day-to-day administration is performed by the Woods and Forests Department under the Director, Woods and Forests Department. It is considered by the Government that decisions which now require a recommendation of the Forestry Board would be equally well made by the Minister drawing upon such advice from within the Department as he considers necessary.

Secondly, the Bill deletes references to the Conservator of Forests. The Director, Woods and Forests Department, is presently the officer appointed to be the Conservator of Forests. The principal Act provides that the Minister may only act with respect to certain aspects of the management of forests upon the recommendation of the Conservator. This requirement, which is in effect that the Minister may only act upon the recommendation of his permanent head, is also considered to be inappropriate today and the Bill provides that the principal Act be amended accordingly.

Clause 1 is formal. Clause 2 provides that the measure shall come into operation on a day to be fixed by proclamation. Clause 3 amends section 2 of the principal Act by deleting definitions of the Forestry Board and the Conservator of Forests.

Clause 4 repeals section 6 of the principal Act which establishes the Forestry Board. This clause also repeals section 7, which provides for the appointment of the Conservator of Forests and other officers, and substitutes new section 6 providing for the appointment of officers and employees for the purposes of the principal Act. Clause 5 amends section 8 of the principal Act, by providing for delegation by the Minister to any officer or employee appointed for the purposes of the Act rather than the Conservator of Forests.

Clause 6 amends section 10 of the principal Act by providing that the Minister may lease any part of a forest reserve and fix the rent and other terms of the lease without the recommendation of the board, the board being abolished by clause 4 of the Bill. Clause 7 amends section 11 of the principal Act in the same way. Section 11 at present provides for the granting of licences and other interests in forest reserves by the Minister upon the recommendation of the board and, in the case of a licence to use forest reserve for grazing or agriculture, requires the recommendation of the Conservator. Clause 8 amends section 12 of the principal Act by removing the requirement that the Minister may establish and operate timber mills only on the recommendation of the board.

Clause 9 amends section 13 of the principal Act by removing the requirement that the Minister may sell or dispose of trees or timber only on the recommendation of the board and certification by the Conservator that the trees or timber are properly available. Clause 10 amends section 18 of the principal Act by deleting a reference to the board. Clause 11 amends section 19 of the principal Act by providing that the Minister, rather than the board or the Conservator, provide technical assistance to bodies and persons engaged in forestry. The Minister under section 8, as amended, may delegate this function.

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

NOISE CONTROL BILL

Adjourned debate on second reading.

(Continued from March 30. Page 3027.)

The Hon. D. H. LAIDLAW: I support the second reading of this Bill, because noise problems in our community are largely caused by technological progress of the twentieth century. These problems, which are increasing, should be controlled. However, I intend to move amendments at the Committee stage.

This Bill covers noise emitting from industrial and non-domestic premises, domestic noise, machine noise, and noise within factories; the last mentioned type of noise is already covered in the Industrial Safety, Health and Welfare Act. I understand that it is intended to place this matter under the new noise control legislation.

I am disappointed to note that the Government has given no estimate of the cost of administering this noise legislation. Extra staff and inspectors will be needed. Further, the Government has not said to what extent industries will have to modify their activities as a result of this Bill. The Minister has simply stated that the community is now willing to make the investment necessary to commence restoring qualities such as quiet, although such an investment does not contribute to material growth. The Labor Government seems to have adopted the view that, since this is socially desirable, it should introduce it, and it should worry about the cost and the consequences afterwards.

This kind of legislation has already been introduced in four other States, but its scope varies considerably from State to State. Victoria and Tasmania control noise with their environmental protection Acts, passed in 1970 and 1973 respectively. Those Acts contain specific noise sections. The Western Australian Noise Abatement Act was introduced in 1972, and the New South Wales Noise Control Act was introduced in 1975.

New South Wales has an all-pervading Act which aims to stop noise before it can start. A statutory commission administers this Act. Any premises creating noise spreading outside the boundaries of those premises are liable to be scheduled under the Act. The sale of excessively noisy equipment is prohibited, and new equipment must conform to selected noise levels. Much responsibility is left to the subjective judgement of courts. Although the New South Wales Act provides for objective regulations, none have yet been gazetted.

By contrast, the Western Australian Act aims to define when noise becomes a nuisance and the Act provides for regulations to stop it. In his defence, the accused person must prove either that the prescribed level was not exceeded or that the noise was unavoidable for safety reasons.

The sections of the Victorian and Tasmanian Acts devoted to noise are small and, as in Western Australia, the detailed provisions will be spelt out in regulations. The Victorian Act provides that any person who emits or suffers to be emitted objectionabe noise within the meaning of the regulations shall be guilty of an offence. Victoria has drafted regulations to cover domestic noise, and it is considering controls over motor vehicles and noise from industry. Tasmania differs from Western Australia by providing specified maximum levels for specific equipment, such as earthmovers, power tools and lawn mowers, and these maximum levels vary according to the time of day.

I refer now to the matter of motor vehicles. The other four States included motor vehicles within the ambit of noise legislation and, in the evidence given to the recent Select Committee in another place, only one expert witness suggested otherwise; that was the Road Traffic Board, which wants vehicular noise left within the Road Traffic Act, but the board may be slightly biased on the subject.

Dr. Carolyn Mather, the President of the Australian Acoustical Society, said when giving evidence to the Select Committee:

> If it is left to an authority (namely, the Road Traffic Board) to deal with the situation it can result in little being done. As this Bill purportedly encompasses every noise source other than motor vehicles and matters covered at the Federal level, aircraft for instance, it would be desirable to cover motor vehicles.

Despite the weight of expert evidence and the practice in the other four States, the Government has decided inexplicably to exclude motor vehicles from this Bill, even though motor vehicles are the source of most complaints about noise. For example, in a sample test taken recently at the boundary of a factory with which I am associated, the noise emitting from the factory reached 55 decibels. By comparison, noise from motor vehicles travelling along an adjoining road reached 72 decibels; light trucks, 75 to 80 decibels; oil tankers, 82 to 92 decibels; and semi-trailers 85 to 95 decibels. Yet motor vehicles are not included.

The Chairman of the Road Traffic Board said in an article in the *News* in July, 1975, that 1 200 prosecutions for undue motor vehicle noise had been issued in the previous 12 months, although the main cause was the type of exhaust system, rather than driving techniques. I suspect that the board wants the chance to make amends and to control driving noise effectively in the future and that the Minister of Transport successfully supported this view in Cabinet discussions.

The Government, having decided to exclude motor vehicles from this Bill, has nevertheless reached an unhappy compromise. Tip trucks, pre-mix concrete trucks and trucks that use their engines for some purpose other than propulsion are included in this Bill. So, too, are trailers and caravans and ordinary motor vehicles when they leave a public road and enter on to industrial and other non-domestic premises. This part of the Bill is a mess, and I propose to move an amendment at the Committee stage to include motor vehicles generally.

I refer now to Part III of the Bill which deals with industrial and other non-domestic noise. There are two matters within this Part with which I disagree. The first is the definition of "non-domestic premises", which is as follows:

> any premises, or premises of a class, not being domestic premises, for the time being declared by proclamation to be non-domestic premises for the purposes of this Act:

When this Bill was introduced orginally in another place industrial noise alone was referred to in Part III. Witnesses appearing before the Select Committee complained that other sources such as hotels, discotheques and ovals

would be excluded. To clarify the situation, the Government included the term "non-domestic premises".

Hotels, discotheques and ovals can be included by proclamation, but I believe that this leaves far too much to the discretion of the administrators of the Act. In some areas it could lead to corruption, which occurs far too often in this State. Therefore, hotels and discotheques should be named as non-domestic premises for the purposes of this Act, and I intend to move accordingly. There is power under the Act to exempt when the owner or licensee or occupant cannot reasonably conform.

My second objection relates to the point of measuring industrial and other non-domestic premises. Under clause 10, noise shall be measured at a place outside the boundary. This could be at a boundary fence, depending on the whim of the inspector, even though the nearest residence or work place that is affected is some distance away.

I believe noise should be measured from the point where the annoyance effectively occurs, and I intend to move an amendment accordingly. The cost to some industries to comply with this legislation will be high, and honourable members will have read a recent statement by Mr. McKinnon, Chairman, Industries Assistance Commission, that few, if any, Australian industries are competitive with their oversea counterparts. Under my amendment the objects of this Part of the Bill will be achieved at far less cost to industry and the community generally.

I wish to give three examples. Broken Hill Associated Smelters at Port Pirie is surrounded by a swamp, a wharf, a river and similar industrial premises. It must operate around the clock to remain a viable operation. If the noise emitted at night is measured at the boundary fence at B.H.A.S., it may well exceed the maximum permitted decibel count, but the nearest residence is some distance away, where the decibel reading will be substantially reduced. In this instance noise causes no real annoyance at the boundary fence.

Consider also the Electricity Trust, which is contemplating construction of a new power station on swamp land near Port Augusta. Coal-burning power stations are fairly noisy. If a decibel reading is taken at the boundary fence surrounding the station, the operation would almost certainly infringe the provisions in this Bill. The trust would therefore be unable to operate this power station unless it gained a permanent exemption or adopted the subterfuge of buying the nearby swamp land in order to remove the boundary fence from the centre of the generating station to a distant position.

My third example concerns the newly completed bus depot at Morphettville. I am advised that the noise level at the bus depot boundary, which is adjacent to the road, exceeds the requirements laid down in the proposed regulations to this Bill, and that theoretically, if this Bill passes, the depot could be closed down by the Minister. Some residents in the neighbourhood would be delighted at the prospect, and doubtless would exercise political pressure to achieve this end.

The Minister has said that the inspectors will act reasonably in deciding where to measure the noise. However, there are no houses nearby and at the point of the nearest house the bus depot would apparently comply with the regulations. To avoid public disquiet and minimise the degree of bureaucratic discretion, it would be preferable for the Bill to state that noise would be measured at the nearest house or place of employment.

Clause 12 deals with noise within industrial and non-domestic premises which, as I mentioned previously, is already covered by regulations of the Industrial Safety, Health and Welfare Act but is to be transferred to the noise control legislation. I commend this action because, as I said in regard to motor vehicles, all noise other than that controlled by Federal powers should desirably be covered by one State Act.

Severe penalties are imposed upon an employer who permits a workman in his place of employment to be exposed to noise during any day above the prescribed maximum level. Inspectors will have power to grant exemptions, and I trust that they will act with a realisation of the need to maintain employment at the present time. In South Australia many older factories or segments within them have old equipment that is too noisy. It should be replaced, because old equipment is usually too labour-intensive to survive in the fiercely competitive conditions prevailing at present. These operations are only marginally profitable and an edict to spend the funds necessary to conform to this legislation could prompt employers to close operations. I hope inspectors will act with caution with this aspect in mind.

Clause 14 provides that, where an employer provides an employee with gear to minimise the effect of noise, that employee shall not disregard such aids, and a penalty of $25 is imposed. This relates principally, I believe, to the wearing of ear muffs. I commend the Government for introducing this clause because I recall in years past providing free safety glasses to employees in the machine shop at Mile End. Some employees objected to wearing them and, when we insisted, the unions attacked us strongly on the grounds that we were prejudicing the freedom of the individual. It was so shortsighted because we were trying only to safeguard the employees' safety. Without the insertion of this clause, the same confrontation would probably occur over the wearing of ear muffs.

Clause 16 deals with machine noise, and a machine for the purpose of this Act includes any contrivance that is capable of emitting noise. It covers such items as speed boats, lawn mowers, chain saws, air compressors, swimming pool filters and air-conditioners. It especially excludes motor vehicles. I have already foreshadowed amendments to include motor vehicles and motor cycles within the Act. In administering this Act, care must be taken when prescribing maximum noise levels, otherwise the cost of producing items such as domestic air-conditioners may become prohibitive.

Part V deals with domestic noise. Henceforth the occupier of domestic premises shall not, without reasonable excuse, allow excessive noise to be emitted from his premises. Noise is excessive if it unreasonably interferes with people in other premises or it is the loudest audible noise and exceeds the maximum decibels permitted for the area.

Domestic noise can arise, of course, from a multitude of sources—barking dogs, crying children, the anguished wails of frustrated husbands, revving engines of motor vehicles which are otherwise excluded from the Bill when on public roads, swimming pool filters and air-conditioners. All will have to be curbed or measured in decibel terms in future in order to meet the requirements of this Bill.

I am especially concerned about restrictions that may be placed on domestic air-conditioners. I am told that over 100 000 refrigerated air-conditioners and about 70 000 evaporative air-conditioners are installed in domestic premises in South Australia. Because of the hot summer that we have in South Australia, it is more desirable for these to be allowed to continue to operate here than it is in, say, Victoria or Tasmania.

The cooling industry states that noise four metres away from the back of a wall-mounted refrigerated air-conditioner measures 59 decibels on high operation and 54 db on low operation, whereas the noise four metres away from the back of an evaporative air-conditioner, which should be placed near an open window or door for efficient use, measures 48 db on high operation and 40 db on low operation. I quote these figures because the draft regulations that I have been shown propose a maximum noise level in residential areas of 45 db between 7 a.m. and 11 p.m. and 40 db between 11 p.m. and 7 a.m.

If this provision is enforced, many occupiers of home units and flats, or people who live in congested areas, which are probably the lower-income areas, will be precluded from using a refrigerated air-conditioner on hot nights, and possibly on hot days as well. This would be most unfortunate. Kelvinator Australia Limited recently spent over $500 000 in conjunction with the Commonwealth Scientific and Industrial Research Organisation on research to lower the noise level of these units, and other manufacturers have also tried to minimise noise.

The Hon. C. J. Sumner: What about their energy consumption?

The Hon. D. H. LAIDLAW: Does not the honourable member want air-conditioners? I think air-conditioning is one of the most desirable things of modern life.

The Hon. C. M. Hill: Doesn't the Hon. Mr. Sumner want the people in trust homes at Elizabeth to have air-conditioners?

The Hon. C. J. Sumner: Not necessarily. What about their effect on the power supply?

The Hon. M. B. Cameron: Surely there isn't that great a demand. Isn't the Hon. Mr. Sumner happy with air-conditioners?

The Hon. C. J. Sumner: I don't have any.

The Hon. D. H. LAIDLAW: With respect to the Hon. Mr. Sumner, I still express my own opinion that domestic air-conditioners are very desirable things to have in a hot climate.

The Hon. C. J. Sumner: I think they are absolutely unnecessary. They're a waste of resources.

The Hon. C. M. Hill: What about the poor women in the trust houses at Salisbury?

The PRESIDENT: Order! No doubt this is all very interesting to the Hon. Mr. Hill and the Hon. Mr. Sumner, but they can have this conversation outside the Chamber.

The Hon. D. H. LAIDLAW: I have a humble view that individuals ought to be able to spend their savings in the way they like best, and it seems that 170 000 of them have chosen to buy air-conditioners. As I said before the Hon. Mr. Sumner interjected, Kelvinator Australia Ltd. in conjunction with C.S.I.R.O., has spent over $500 000 on research to lower the noise level of refrigerated air-conditioners, and other manufacturers have also tried to minimise noise levels. It is therefore unlikely that technology can produce the answer to the noise problem at an economical cost.

I therefore suggest that the Minister should reconsider the maximum levels to be set for residential areas. When the draft regulations are laid on the table, honourable members opposite will have an opportunity to consider them. Otherwise, in striving for perfection in noise restraint, the Government may cause much inconvenience to occupants of small premises who, despite the wishes of the Hon. Mr. Sumner, want to keep cool on hot nights.

I should also like to comment on the harsh penalties that have been imposed for some breaches of this legislation. When excessive noise is emitted from industrial and other non-domestic premises, or when an employee is subjected to excessive noise, the maximum penalty is $5 000. As I read the Bill, that could be $5 000 a day.

Furthermore, when an incorporated body is convicted, every manager in that company can likewise be convicted, unless he can prove that the offence was committed by the company without his knowledge or consent. The onus will be on the accused managers to prove that. This seems to be extremely harsh. Undoubtedly, large companies would have the resources to idemnify their convicted managers, but small struggling companies might not be able to support their managers. I will therefore move an amendment in Committee to reduce the maximum penalties and to remove the liabilities imposed on managers of companies.

The Hon. M. B. Cameron: It's like using a sledge-hammer to crack a nut.

The Hon. D. H. LAIDLAW: That is so, and it is quite unnecessary.

Finally, I commend the Government for binding the Crown to the provisions of the Bill. This does not happen very often, and I deplore the fact that under the New South Wales legislation, which I believe was introduced by a Liberal Government, the Crown may be exempted. I cannot comprehend why excessive noise emitted while operating on behalf of the Crown is any less obnoxious than noise created by the public.

I support the second reading so that the Bill can go into Committee, at which stage I shall move certain amendments that I have already foreshadowed.

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

UNITING CHURCH IN AUSTRALIA BILL

In Committee.

Clauses 1 to 4 passed.

Clause 5—"Interpretation."

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

> Page 2—After line 32, insert new definition as follows:
> " 'the Presbyterian Church continuing to function after the appointed day' means the Presbyterian Church continuing to function after the appointed day under the Scheme of Union of the 24th day of July, 1901, as amended, within the meaning of the Third Schedule to the Presbyterian Trusts Act, 1971."

On behalf of the various people concerned about this matter, the Select Committee has agreed to this amendment, as it has to amendments to other clauses that have been printed.

The CHAIRMAN: This amendment has been recommended by the committee?

The Hon. D. H. L. BANFIELD: Yes.

Amendment carried; clause as amended passed.

Clauses 6 to 9 passed.

Clause 10—"Amendment of constitution."

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

> To strike out paragraph (*b*).

Again, this amendment has been recommended by the committee on behalf of all concerned.

The Hon. M. B. DAWKINS: Is this matter also taken up in clause 12? I notice that there is similar wording in clause 12 (2).

The Hon. D. H. L. BANFIELD: We are amending clause 12 by inserting other words, and I think this ties it up.

Amendment carried; clause as amended passed.

Clause 11—"Constitution of the Trust."

The Hon. D. H. L. BANFIELD moved:

Page 5—After line 27 insert new subclause (7) as follows:

(7) In the absence of the Chairman from a meeting of the Trust, or in the event of there being a vacancy in the office of Chairman of the Trust when a meeting of the Trust is held, the members present at the meeting shall elect one of their number to act as Chairman at that meeting.

Amendment carried; clause as amended passed.

Clause 12—"Powers and duties of Trust."

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

Page 5, line 32—After "Act" insert "and notwithstanding anything in this Act or in the Basis of Union the determinations declarations and interpretations on matters of doctrine worship government and discipline made from time to time in accordance with the provisions of the Constitution for the Church for the time being in force in that regard".

I understand that this was suggested by the parties concerned, and the Select Committee accepted the recommendation.

Amendment carried; clause as amended passed.

Clauses 13 to 18 passed.

Clause 19—"Saving provision."

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

Page 7—After line 17 insert new subclauses (3) and (4) as follows:

(3) Nothing in subsection (3) of section 20 of this Act shall vest in the Trust any property to which the Presbyterian Church continuing to function after the appointed day is or becomes entitled.

(4) Nothing in this Act shall deprive the Church or any of the Uniting Churches or the Presbyterian Church continuing to function after the appointed day of any rights by virtue of the operation of the Presbyterian Trusts Act, 1971 and without limiting the generality of the foregoing the inclusion or exclusion of any incorporated association as a prescribed Presbyterian Association shall not deprive the Church or any of the Uniting Churches or the Presbyterian Church continuing to function after the appointed day of any right by virtue of the operation of the Presbyterian Trusts Act, 1971.

This amendment is a recommendation of the Select Committee and has been agreed to by the parties.

Amendment carried; clause as amended passed.

New clause 19a—"Smith of Dunesk and General Assembly (Clare Trusts) Inc."

The Hon. D. H. L. BANFIELD moved to insert the following new clause:

19a. For the removal of doubts it is declared that this Act shall have no operation with respect to:

(*a*) The property subject to a certain deed of gift made in 1853 between Henrietta Smith of Dunesk, Scotland and the Free Church of Scotland;
or

(*b*) Property vested in the General Assembly (Clare Trusts) Inc. by virtue of the Will of Arthur Albert Harmer late of 109 Bruce Street, Nedlands in the State of Western Australia, retired teacher, deceased

except any of such property to which the Church or any of the Uniting Churches is or becomes entitled otherwise than by virtue of the operation of this Act.

Nothing in this section shall be construed so as to give this Act any application to any property which it would not otherwise have.

New clause inserted.

Clause 20—"Vesting of certain property in the Trust."

The Hon. D. H. L. BANFIELD: This clause caused much debate.

The CHAIRMAN: I think we might amend the clause where there are no difficulties and then discuss the clause as a whole.

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

Page 8, line 4—After "and" insert "subject to".

The committee has approved this amendment.

Amendment carried.

The Hon. D. H. L. BANFIELD moved:

Page 8, line 5—After "to" insert "or otherwise by virtue of the operation of".

Amendment carried.

The Hon. J. C. BURDETT: During the Select Committee hearings, I became convinced that there ought to be an amendment to make clear in the third schedule of the Presbyterian Trusts Act that the commission established by that Act could specifically have regard to whether it was practical or equitable in all the circumstances to provide and maintain a Presbyterian place of worship for the Presbyterian Church of Australia in the city of Adelaide. Later, I shall speak in more detail about the matter.

During the course of the sittings of the Select Committee, it became apparent that three members of the committee were of the same opinion as I was and that three members were of the contrary view. A Select Committee that is evenly divided and where there is no casting vote presents a somewhat curious position. I am not in favour of the Bill unless the third schedule is amended or unless there is an effective amendment made to it. If I had simply supported the Bill and moved the amendment in the report stage, the amendment would have been negatived. However, as I opposed the Bill, unless this amendment was made, I could, and did, oppose clause 20, one of the main machinery provisions in the Bill. The voting was equal, and thus the clause was negatived.

This was the only way in which I, and the two colleagues who supported my viewpoint, could drive home in the Select Committee stage that we opposed the Bill unless it was amended. At this stage, I need not, and do not, oppose clause 20. I am not opposed to union, but I believe that justice must be done between the parties. In due course I will move an amendment and, in the light of that, consider my attitude to the third reading.

The Hon. M. B. DAWKINS: I favour clause 20 being retained. I understand the move to excise it is a machinery move to enable a further amendment to be moved but I believe the clause is vital to the success of the Bill because it provides the machinery and the legal authority for the necessary functioning of the Uniting Church in this State. I believe clause 20, as it has been amended, has been agreed to by all parties. I understand that on November 30 last the solicitors for the continuing Presbyterian Church stated:

We have been instructed by Mr. Matheson, on behalf of the Planning Committee for the continuing Presbyterian Church, that the committee approves in so far as it concerns continuing Presbyterians the November 23, 1976, print of the Bill with the alterations and amendments set out below and that it offers no objection to the rest of the Bill.

The amendments referred to are the ones that we have carried. I hope that that situation continues and that the problems that have arisen in the past few days can be solved without anything approaching litigation. I also indicate that I would be opposed to any amendments to the Presbyterian Trusts Act of 1971, which I believe should remain as it is and which I believe all the parties have agreed should remain as it is.

The Hon. ANNE LEVY: I, too, support clause 20 as amended. As has been stated by other speakers, this clause is the crux of the Bill. It sets up a property trust for the new Uniting Church and, under clause 20, property from the trusts in the Methodist Church, the Congregational Church and the Presbyterian Church is vested in the trust of the Uniting Church. The whole Bill makes nonsense without this clause. All those who are uniting in the Uniting Church want this clause in the Bill. There is a group of Presbyterians who have decided not to unite but to remain as continuing Presbyterians, but not one of those people who gave evidence before the Select Committee opposed this clause, whether Methodists, Congregationalists, uniting Presbyterians, or continuing Presbyterians.

I draw to honourable members' attention that in clause 20 (3) there is provision that that subsection will not be proclaimed with the rest of the Bill; it will not be proclaimed until the Property Commission has completed its task of a just and equitable distribution of Presbyterian property between those who join the Uniting Church and those who are continuing as Presbyterians. The procedure followed at present is that the General Assembly set-up has three negotiators from both sides to reach agreement on the division of property, and the Property Commission, which consists of three members from each side and also three independent members, has the job of arbitrating if agreement cannot be reached.

This Property Commission is set up by the 1971 Presbyterian Trusts Act and, according to that Act, a Supreme Court judge must concur in the division of property and agree that it is just and equitable before the actual division occurs. So clause 20 is essential for the Bill to have much meaning, but the rights of the continuing Presbyterians are fully protected by the addition of the phrase in subclause (3) that that subsection will not be proclaimed with the rest of the Act but will await the division of property according to the Property Commission and approved by a Supreme Court judge. I support the clause.

The Hon. M. B. CAMERON: It is clear that the reason for the opposition in the Select Committee to clause 20 was that it was the intention of those members of the committee who opposed it to indicate that they would be moving amendments to the Bill later. So, as has been indicated by the Hon. Mr. Burdett, he does not oppose clause 20 at this stage; so debate on this matter should rest on an amendment that has been placed on file by the Hon. Mr. Burdett. At this stage I do not intend to debate the matter; I believe we can proceed with a particular part of the report without further debate, because the reasons for this action being taken really rest on the amendment.

The Hon. D. H. L. BANFIELD: I think we should let the debate rest at this stage because there does not seem to be any real opposition to clause 20. However, there are many people outside Parliament who do not realise what the position is—they may or may not read *Hansard*. There should be some explanation in *Hansard* about clause 20 and, for that reason, I will read extracts from correspondence I have received from the Uniting Church in Australia, Synod of South Australia, from the Rev. Keith Smith (Chairman, Joint Planning Committee), the Rev. Michael Sawyer (Secretary, Congregational Union), the Rev. R. K. Waters (Secretary, South Australian Methodist Conference) and the Rev. Norah Norris (Clerk, General Assembly, Presbyterian Church of South Australia). The letter reads as follows:

> You will be aware that the report of the Select Committee of the Legislative Council on the Uniting Church in Australia Bill, 1976-77 was presented on March 30, 1977. Because of a tied vote in the Select Committee, clause 20 was struck out. This matter is of paramount importance to the Uniting Church and we wish to present the following information to assist you in deciding how you will vote on the issues raised. The Uniting Church in Australia Bill is primarily designed to establish a trust which will hold property for the Uniting Church in this State. The new church will be inaugurated on June 22, 1977. Property from the Congregational and Methodist churches and from most of the Presbyterian churches in this State will be vested in the Uniting Church Property Trust under the provisions of clause 20. (The division of Presbyterian property between the Uniting Church and the continuing Presbyterian church is provided for in the Presbyterian Trusts Act, 1971).
>
> From this, you will realise that clause 20 is crucial to the Uniting Church. Unless this clause is included, the property of the Congregational, Methodist and Presbyterian denominations will be frozen. In fact, without it, there is little point in passing the remainder of the Bill. The total number of local church properties involved is over 600 and, in addition, there are institutions and agencies of the church which would be adversely affected. The result would be a complete paralysis of the church's activities as they relate to property. We have taken legal advice on the effect of the omission of clause 20 and have been told that this clause is essential for the operation of the Uniting Church. Negotiations over this Bill have been detailed and protracted. Legal advisers and representatives of the uniting churches and those who will form the continuing Presbyterian church spent the greater part of November finalising details of the Bill in order to produce an agreement in writing by all the parties, prior to the matter going to the Select Committee. It would appear that questions in regard to clause 20 arose from a concern in the Select Committee that Presbyterian property would be disposed of to the disadvantage of the continuing Presbyterian church. We draw attention to the provision of clause 20 (3) which makes vesting subject to the provisions of the Presbyterian Trusts Act, 1971. We want to assure you that nothing in the Bill in any way lessens the protection provided for the Presbyterian minority under the Presbyterian Trusts Act . . . The omission of clause 20 from the Bill would effectively prevent the operation of the church and result in widespread disappointment to over 40 000 communicant members who are looking forward to participating in the life of the Uniting Church.

That is signed by the people I have already mentioned. It is true to say that the Select Committee was evenly divided on this matter and this action was taken to enable discussion to take place.

The Hon. R. C. DeGARIS (Leader of the Opposition): We all realise that clause 20 is a vital part of the Bill, and the Hon. Mr. Burdett said that when he spoke. It has been covered by the Chief Secretary when he said that the recommendation from the Select Committee to delete clause 20 was a means whereby other points might be raised.

Clause as amended passed.

Clauses 21 to 27 passed.

Clause 28—"Extra-territorial application."

The Hon. D. H. L. BANFIELD: I oppose this clause. This again is a unanimous decision of the Select Committee.

Clause negatived.

Clauses 29 to 31 passed.

Clause 32—"Registration of interests of trusts in land."

The CHAIRMAN: I point out that, because clause 32 is a money clause and, as such, cannot be voted on by this Committee, the normal procedure is that a message should be sent to the House of Assembly transmitting the Bill and indicating that this clause is necessary. Provided that no honourable member objects, I intend to follow that procedure. Are there any objections? Since there are no objections, that procedure will be followed.

Clauses 33 to 40 passed.

Clause 41—"Saving provision."

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

In subclause (2) before "purposes" to insert "other".

This is a recommendation of the Select Committee, and it was accepted by all parties.

Amendment carried; clause as amended passed.

Clauses 42 to 45 passed.

New clause 46—"Power of commission to direct disposition of certain property."

The Hon. J. C. BURDETT: I move to insert the following new clause:

46. (1) Notwithstanding any provisions of the Presbyterian Trusts Act, 1971, or any other provision of this Act, the Commission shall consider the question of whether it is just, equitable and practicable for a church property, to which this section applies, within the City of Adelade to be held and maintained by, and for the benefit of, the Presbyterian Church continuing to function after the appointed day and if it decides that question in the affirmative, it shall have power to direct that any such church property be vested in the Presbyterian Church continuing to function after the appointed day or any body duly constituted as trustee for that Church.

(2) Any such direction may be made upon such conditions as the Commission considers just and shall have effect according to its terms.

(3) In this section—

"church property" means a church together with land and buildings appurtenant thereto:

"church property to which this section applies" means a church property that is subject to the provisions either of this Act or of the Presbyterian Trusts Act, 1971:

"the City of Adelaide" means the area constituted as the City of Adelaide under the Local Government Act:

"the Commission" means the Commission established under the third schedule to the Presbyterian Trusts Act."

In the Select Committee I moved to amend the third schedule. This amendment in lieu thereof provides a new clause which, in effect, does the same thing; namely, to provide that the Property Commission set up under the Presbyterian Trusts Act, 1971, shall consider the question of whether it is just, equitable and practicable for a city church to be held and maintained by and for the benefit of the Presbyterian Church. This Bill is not a mere formality, and the inquiry of the Select Committee was not a formality. The Bill, in conjunction with the Presbyterian Trusts Act, changes the trusts under which church property was held.

If the Bill passes, property which was given to or devised or bequeathed to the Methodist Church, the Congregational Church, or the Presbyterian Church (in the latter two cases in regard to some property only) will in future not be held in trust for those churches at all but in trust for the Uniting Church. I am quite certain, and some evidence was given in this regard, that many of the donors would never have given their property if they had known that it would pass not to the church of their choice but to a new denomination. The Uniting Church will clearly be a new denomination; the faith set out in the Basis of Union is, for example, clearly not the same faith as that propounded in the Westminser Confession, one of the main credal pronouncements for Presbyterians.

I do not support any change of trusts unless I am satisfied that justice has been done to all parties. I was not satisfied during the Select Committee hearing that the continuing Presbyterians (they will be, in the future, simply "Presbyterians") received a fair deal in South Australia. Admittedly, the formalities were fair, and in each congregation it required only a one-third vote of communicants to continue, but I am satisfied that over the years a massive propaganda campaign was waged in favour of union and that some Presbyterians have only recently became aware of the consequences. In particular, I am disturbed that there will no longer be a Presbyterian church in the city of Adelaide. I am aware that the churches involved in the union do not have the concept of a cathedral church, which concept applies in the episcopal churches. However, it is important that Presbyterians be able to worship in Adelaide.

It is worth referring to the national situation. In South Australia it was only a fairly small minority of Presbyterians who voted to continue. In New South Wales, more than 50 per cent voted to continue (that is, not to go into the Uniting Church). In Victoria, about one-third voted to continue, and in Queensland the figure was about the same. On a national basis, about one-third of Presbyterians will continue in the Presbyterian Church. The Presbyterian Church will still be one of the major denominations in Australia.

Perhaps we should refer to the position in Canada, where a similar thing happened some years ago. In that country, the Uniting Church has become weak, while the continuing Church has become a strong denomination. The question of a place where Presbyterians can worship in the city of Adelaide is important. We can see its importance especially when we refer to the question of oversea visitors or interstate visitors. In the capital cities of the Eastern States there will be Presbyterian churches, but there will not be such a church in Adelaide. When Presbyterian visitors come from interstate or overseas there will not be a place in the city of Adelaide where they can worship according to the Presbyterian practice. Including North Adelaide for this purpose, there will be in the Uniting Church seven places of worship, but there will be none in the Presbyterian Church.

It did not seem to me that the third schedule of the Presbyterian Trusts Act which, in effect, sets out the terms of reference for the Property Commission (and, therefore, for any subsequent appeal to a court) gave any specific power, if it gave any power at all, to the commission (and, therefore, subsequently the court) to consider a city church for the Presbyterian Church of Australia. If the Bill already provides the power, this amendment does no harm; it simply clarifies the matter.

The amendment does not pre-empt the decision of the commission or the court; in no sense does it require a city church to be provided—it only requires consideration to be given to that issue, having regard to justice and equity. Obviously, the vote taken in any congregation would be taken into account. But this issue of a city church cannot be considered merely on a congregational basis. There is a need to consider the requirement of a place to worship in the city for the Presbyterian Church of Australia. I make clear that the continuing Presbyterians did not request me to move this amendment. I have done what I have done entirely from my own assessment of the evidence that was brought before the Select Committee. It has been said that the parties have agreed, that the trust that this Bill seeks to change has been settled, too. However, an agreement is no more sacred than a trust. Terms of reference of commissions are frequently changed after the commission involved has embarked on its hearings. The Royal Commission inquiring into the Juvenile Courts Act is a recent example of this, and I suggest that the issue of the provision of a place of worship in the city of Adelaide for the Presbyterian Church was not considered when the third schedule to the Presbyterian Trusts Act was prepared. If that had been

thought of I believe it would have been included. Parliament has been asked for approval to the Bill, and it has every right to ensure that additional matters be considered.

The Hon. JESSIE COOPER: I support the new clause. I was a member of the Select Committee, and I think it fair to say that a significant percentage of witnesses who appeared before the committee emphasised the fact that, to exist, a church needs a church building in every major district in which it functions. In pursuit of this thought I believe that Parliament should direct to the responsible commission the concept that the capital city of this State is an area in which the Presbyterian Church should in all fairness, in the splitting-up of church property, be allowed one church.

As the Hon. Mr. Burdett stated, the Uniting Church will have seven city churches, if the churches in North Adelaide are included. The Uniting Church people who can be looked upon only on their evidence before the committee as being antagonistic towards the existence of the continuing Presbyterian Church, have refused to contemplate any compromise on that score. This amendment that Parliament is now being asked to accept is merely to support a matter which should be discussed by the appointed commission. The cost involved in providing one city church, the funds available for that purpose, and the equity of the proposal in relation to the numbers following the various groups, even when balanced against other assessments, are matters that can be determined only by the Property Commission. Indeed, it is only reasonable and proper that Parliament should include this amendment in the Bill, thus in fairness drawing the attention of the commission to what will possibly be a continuous cause of friction and, perhaps, the seed of great injustice.

Parliament is being asked to do no more than ensure that the rights of minorities are observed. I emphasise again that this is only an amendment recommending to the commission that this matter be well examined. To refuse the recommendation of close examination of this problem involving church union may leave an ulcer damaging to a section of the Christian church. I can see no reason to object to the thorough examination of this problem. In fact, I believe that nothing but a general antagonism to Christianity and to the Christian church structure can be the basis for arguments against this amendment.

The Hon. F. T. Blevins: What an incredible statement.

The PRESIDENT: Order! The honourable member can speak later.

The Hon. F. T. Blevins: I am appalled. That is a disgraceful statement.

The Hon. JESSIE COOPER: The honourable member has made it clear that he knows nothing about Christian affairs.

The Hon. F. T. Blevins: You're not showing much Christianity now.

The Hon. JESSIE COOPER: The honourable member is no judge. Therefore, if this amendment should fail, I could not support the Bill as a whole.

The Hon. ANNE LEVY: I strongly oppose the new clause. I, too, was a member of the Select Committee which took evidence from the interested parties. I deny the statement by the Hon. Jessie Cooper that representatives of the Uniting Church showed antagonism or intransigence in this or any matter before the committee. Can the honourable member quote the page in the evidence of the Select Committee to support her statement? Having

recently studied the evidence in detail, I cannot support her statement whatsoever about the proceedings of the Select Committee. The Property Commission, which was established by the 1971 Presbyterian Trusts Act, has the task of dividing Presbyterian property. I stress that its task is to divide Presbyterian property.

The Hon. Mr. Burdett suggested that the Uniting Church will have seven city churches, and suggests that seven churches is more than it should need. I do not wish to comment on that, but other people too have suggested that the Uniting Church will not need all its churches, although other Uniting Church representatives do not hold that view. Whatever that position is, the Property Commission can deal only with what is currently Presbyterian property. The future of what are at present Methodist or Congregational churches is irrelevant to that commission and outside the scope of the 1971 Act. Similarly, it is outside the scope of the honourable member's amendment, which is concerned only with what is currently Presbyterian property.

Notwithstanding the elegant legal phraseology in the honourable member's amendment, the Committee should not be fooled by it in discussing church property within the city of Adelaide belonging to the Presbyterian Church. There is only one church now in the category of being a Presbyterian Church that is subject to negotiation or decision by the commission, that is, Scots Church. It is Scots Church which is referred to in the amendment and in the general discussion. The advertisement that appeared in last Friday's press shows clearly that it is Scots Church that is referred to by the contending parties.

As was set out in the third schedule of the 1971 Act, each Presbyterian congregation was to vote on whether it would stay Presbyterian or unite with the Uniting Church. The Scots Church congregation voted overwhelmingly in favour of union (329 votes in favour, 87 against, which is 79 per cent saying "Yes"). The procedure in the third schedule of the Act seems loaded in favour of the continuing Presbyterian Church. I say that as someone who has no affiliation with any of the churches involved, but as a reader of this legislation, which was passed before I became a member of this Chamber. It seems to more than lean over backwards to be fair to the continuing Presbyterian Church.

It is based on the Free Kirk of Scotland Act of 1901, apparently, and it provides that, if one-third of the congregation wishes to be continuing Presbyterians, the congregation and its property as a whole are to stay as continuing Presbyterian, and anyone who leaves that congregation to go to a Uniting Church congregation will receive no share of those assets at all. One should note again that the requirement for union was not a simple majority, but at least two-thirds had to vote for union before it could occur. However, in congregations where more than two-thirds wish to join the Uniting Church, special provisions are made for the minority who do not wish to unite. If they are a viable number, they are to be found a church, or joined with other minorities from the uniting congregations, to form a viable congregation, and a church and facilities are to be provided for them.

The continuing Church is also to be provided with office and administration accommodation, and a theological college for training its ministers. There is also in the legislation a clause concerning schools, but this does not apply in South Australia where there was only one Presbyterian school for each sex. So, I maintain that, if there is any bias in the 1971 Act between the uniting and continuing Presbyterians, it is certainly to those who are continuing as Presbyterians. It was with these rules set up

that the vote took place in 1972. Every attempt was made to see that the electorate was informed as to the issues and ground rules that applied before voting.

Nearly 80 per cent at Scots Church voted for union, and, as stated by the Hon. Mr. Burdett, in South Australia the vast majority voted for union. Only three congregations in the metropolitan area voted at least one-third against union and they are thus remaining as continuing Presbyterians. In the country areas, about half the congregations in the South-East voted to remain as continuing Presbyterians, and one or two congregations elsewhere throughout the State voted similarly.

It is true that, as explained a short while ago, in catering for minorities, the Property Commission can allocate a church to a group made up of minorities from several uniting congregations, so that despite the vote that took place at Scots Church the Property Commission could award this building and facilities to the continuing Presbyterians if it considered this to be just and equitable—

The Hon. R. C. DeGaris: Is that what this amendment does?

The Hon. ANNE LEVY: The Hon. Mr. Burdett's amendment is making it mandatory.

The Hon. R. C. DeGaris: No, it isn't.

The Hon. ANNE LEVY: I beg the honourable member's pardon. It provides that "the commission shall consider" this question of whether Scots Church should remain with the continuing Presbyterians.

The Hon. R. C. DeGaris: They have to consider it.

The Hon. ANNE LEVY: It makes it mandatory that they consider it. I am saying that it can occur under the third schedule of the Presbyterian Trusts Act of 1971, where the Property Commission must take into account all minorities wishing to continue as Presbyterians in congregations that have decided to join the Uniting Church.

The Hon. R. C. DeGaris: But they need not do so if they don't want to.

The Hon. ANNE LEVY: They need not consider that topic specifically. Their brief is to consider a just and equitable division of the property.

The Hon. R. C. DeGaris: There doesn't seem to be much difference in it, does there?

The Hon. ANNE LEVY: There is a considerable difference between making it possible and making it mandatory for them to do so.

The CHAIRMAN: If it is mandatory, the courts come into it at some stage.

The Hon. ANNE LEVY: Yes, the law can come into it if it is mandatory.

The Hon. R. C. DeGaris: Can't the law come into it now, though?

The Hon. ANNE LEVY: No. The terms of reference for the Supreme Court judge are that the distribution of property is just and equitable, taking all the factors into consideration. If one looks at the numbers involved, one see that in Scots Church at the time of the voting only 87 people voted against union and to remain as continuing Presbyterians. Throughout the whole of the metropolitan area, 791 people voted against union. However, this was, of course, a secret ballot, and the churches involved had no knowledge of who voted which way.

In preparation for union, statements of intent were being asked for to indicate whether people wished their names to remain on the roll of a uniting church, or whether they wished to go on to a roll of continuing Presbyterians. The numbers have change since the 1973 vote. In 1975, only 341 people throughout the whole metropolitan area said that they wished to remain as continuing Presbyterians, and by 1977 the number had further dwindled, and only 209 individuals from uniting congregations said that they wished to remain as continuing Presbyterians. So, these minorities, which must be catered for by the Property Commission, seem to consist of only 209 people.

Although naturally the terms of reference for the Property Commission include a consideration of the nearly 800 people who voted in that manner in the church union vote in 1973, even though some may have changed their mind since, it is important for this Committee to note that, when the Bill was being negotiated on, both the uniting Presbyterians and the continuing Presbyterians agreed that the 1971 Presbyterian Trusts Act would not be changed. Considerable documentation is available to confirm this. In the negotiations leading up to the drafting of this Bill, there was general agreement that the conditions of the 1971 Presbyterian Trusts Act would in no way be varied.

This was officially stated by representatives of both groups to the Select Committee. Also, they were in complete agreement with the Bill, except for the minor amendments that we have already considered. Neither side requested an amendment to this Bill of the nature of the one before the Committee. It is certainly true that certain individual witnesses spoke about the desirability of continuing Presbyterians having a city church, but no official spokesman for the continuing Presbyterians requested the Select Committee to act in any way to achieve this. In fact, they made it clear that the Protestant churches do not have a concept of a cathedral church, as do the Episcopal churches, and that the siting of a church in no way affects its stature or status within the Protestant denominations. Parliament has a duty to protect minorities, but it also has a duty to respect the wishes of the majority and it should give greater weight to official representatives than it gives to isolated individuals. I stress that no official representative of the continuing Presbyterians requested such an amendment. The amendment would alter the groundrules for the division of property, and negotiations for the division of property are already under way.

The voting in each congregation took place on the agreed groundrules established in 1971, and it is hardly fair to alter these groundrules now. The vote in 1972 might have been different had such a clause been put in the 1971 Act. It clearly relates to Scots Church and may have influenced the voting in Scots Church. I remind honourable members that in this State we have no established church, and our State is a secular one. Freedom of religion is an important principle in our society, and the State does not interfere or take sides between various denominations.

I do not think we should appear to be taking sides for one group of Presbyterians against another group of Presbyterians. Putting this clause in the 1971 Act would be adding bias in favour of the continuing Presbyterians. We must remain neutral in any negotiations and discussions that may occur, whether they be acrimonious or harmonious, and we must leave alone the groundrules which were agreed to by both groups in 1971 and which were also agreed to by this Parliament in 1971. I oppose the new clause.

The Hon. M. B. CAMERON: I oppose the new clause. The Hon. Miss Levy, an ardent feminist, indicated that, as part of the Presbyterian Church property, there were two schools, one for boys and one for girls, but I point

out that one school is now co-educational and that the other is moving towards that. There are no longer separate schools for boys and girls.

The Hon. ANNE LEVY: Will the honourable member give way?

The Hon. M. B. CAMERON: No.

The Hon. Anne Levy: I was well aware of what you have said.

The Hon. M. B. CAMERON: I wanted to draw the matter to the honourable member's attention and I should not like her to be unaware of the broad attitude of Presbyterians towards these matters. I listened with interest to the Hon. Mr. Burdett, and a figure that surprised me was the number in New South Wales who disapproved of the Uniting Church. I imagine that the honourable member used figures for congregations rather than for people because my information is that in New South Wales 21 104 voted "Yes" and 12 696 voted "No", whereas in congregations 150 voted against uniting and 184 voted for uniting.

The Hon. J. C. Burdett: I said "people".

The Hon. M. B. CAMERON: My figures are official and reliable. Over the whole of Australia that is the position regarding people, not congregations. Presbyterians do not act as a hierarchical church. They have not the same situation regarding cathedrals and the various situations that other religions have on a central point or focus in the city of Adelaide. This has always been the case, and all Presbyterians will agree with me that Scots Church in Adelaide is not regarded, and never has been regarded, in any way different from any other congregation in Australia. We do not regard it as a central point. From time to time it is highlighted as such in press releases, but that is not the position.

In the voting on the Uniting Church, each congregation has been considered separately. This amendment is to some extent based on a cathedral concept, the concept of a central church, and, as some group in Adelaide may be denied the right to worship in a place that it considers part of its church, we must put in the Bill the same provision for every congregation in the State that has the same problem. We would have to go through place by place, unless we saw a city church as a central point, and that has never been the case.

Unless we put in a provision that this must be considered place by place, it is right and proper that it should be left to the Property Commission to consider the matter along with every other congregation in South Australia where it is considered that there is a need for a place of worship or sufficient support for one. I understand that, by the amendment, the commission could consider any property that formerly belonged to either Methodists or Congregationalists in Adelaide. Everything would be thrown into the net. I do not believe that it would be proper to direct that a group within the city of Adelaide, continuing Presbyterians, should receive this. If we did it for that group, we should do it for others. If we carry the amendment, a minority of Methodists may demand that they have a separate point of worship.

All minorities are being considered by the Property Commission, but it is not right to name one group. If we name any, we should name them all. If we direct on the basis of Presbyterians, the only direction in which we can put them is towards Scots Church, and I do not believe that a congregation should be treated differently from any other congregation in the State, because people have made clear that they want to join the Uniting Church. I understand that a group that is small indeed will be remaining with the Continuing Church in that congregation. I regret my difference with some colleagues, but I do not believe that we should take up the interests of one group. We should leave the position broad, and not give any direction through Parliament.

These matters are properly considered outside Parliament by the commission, obviously operating on a very fair basis. It is clear from what has already been said that the whole uniting of these churches has been done fairly. I found the people I have spoken to from the Uniting Church to be very fair-minded about the whole agreement. They are not against the Continuing Church or, from what they have said to me, they are not opposed to the Uniting Church or in any way hostile to it. If they were, I would be very sad because religion has caused much conflict over the years in various places. I trust that that sort of feeling does not exist, particularly among Presbyterians, because they are such relatively peace-loving people. I ask the Committee not to support this new clause but to leave the Property Commission, a commission operating on a fair basis, to make the distribution of property of the Presbyterian Church and of the Uniting Church in the best possible manner for all people involved, including minorities.

The Hon. J. R. CORNWALL: After that learned contribution from the Hon. Mr. Cameron, there is probably very little left to say. He is far more expert in these affairs than I. I make clear that I speak as a member of the Select Committee and not from any basis of bias. I do not want to canvass the rights and wrongs of the ecumenical union. I sat on the Select Committee with an open mind, though not a vacuous one. The Hon. Mr. Burdett made clear in explaining this amendment that it was a unilateral action. That should be clear in members' minds. The Hon. Mr. Cameron said, among other things, that he felt the uniting people had been fair-minded in their dealings; I certainly agree with that, from what I have heard, but I add that it seems to me that the majority of the continuing people have also been very fair-minded and reasonable in their dealings.

We come to the matter of a city church. The amendment states that the commission "shall" consider the question, etc., and that is important to note. The words following open it up further, because it was obvious during the deliberations of the Select Committee that the only Presbyterian city church available was Scots Church. In answer to the question, "Are you in favour of the Uniting Church?", the people at Scots Church voted 345 "Yes" and 74 "No". It seems to me that in any sort of reasonable democratic situation we would have to go along with that as an overwhelming majority wishing to unite. The Presbyterian Trusts Act, 1971, which is the basis on which all the negotiations have proceeded to date, states in the third schedule, at paragraph 4 (1) (*e*):

> The said commission in making its determinations as aforesaid shall have regard to the just and equitable rights of minorities and shall, *inter alia*, . . .

So there is already room for manoeuvre by the term *inter alia*: if there is any disagreement, it is possible for it to go to the Supreme Court.

The so-called massive propaganda campaign to which the Hon. Mr. Burdett referred, is at best a matter of contention; it depends much on whom one talks to as to whether it is considered a just case was put for both the uniting and the continuing people. The other thing to which he referred, to bolster his argument, was the situation in other States. That is not very relevant in South Australia because it is interesting to note the figures of the 1971 census. From them, it is clear that the Methodist Church in South Australia has

always been numerically stronger than the Presbyterian Church. In 1971, for example, those claiming to be Methodists numbered 215 328 on the census form; those claiming to be of the Presbyterian denomination numbered 29 912. After union, on the projected figures, I understand that the Uniting Church will represent about 22 per cent of the total Christian denominations in South Australia, whereas the Continuing Church will represent less than one per cent. I am sure there are currently adequate provisions for minority groups to be looked after.

It has been pointed out before that the whole basis of negotiation over almost the last six years has been the Presbyterian Trusts Act, 1971, and I think that perhaps the matter is best summarised in one of the many letters I have received in the last week or two. I have not been able to talk to the writer of the letter so I will not cite the name, but I am impressed by the argument put forward. The letter states:

> I am also aware that, under provisions of the Presbyterian Trusts Act, 1971, every effort is already being made to provide for the very small minority of the Scots Church Adelaide congregation (and other minorities) who wish to remain Presbyterian. I was glad therefore to note that the Select Committee did not approve the suggested addition to the third schedule of the 1971 Act,

That matter came up today in a rather different form in this amendment. The letter continues:

> Publicity in the press during the past few days has probably obscured the fact that the vast majority of Presbyterians in South Australia is looking forward to joining with the Methodists and Congregationalists to form the Uniting Church: a church which will have a membership in this State of almost 40 000. The continuing Presbyterian Church will probably have a membership in the State of less than 1 000, of whom only about 300 would be in the entire city metropolitan area, and it would be a pity if unrealistic claims by those few were to result in a miscarriage of justice for many.

I am convinced that the interests of continuing Presbyterians are adequately looked after in this legislation and also, as I said earlier, I am convinced that the basis of negotiation has been the Presbyterian Trusts Act, 1971. Although the negotiations have proceeded with some acrimony, by and large they have been conducted fairly and reasonably. Minority interests have been protected. For those reasons, I oppose the amendment.

The Hon. M. B. DAWKINS: I have received many letters and phone calls on this matter, and I point out that it is not often that I agree with the Hon. Miss Levy, but I do agree with her descriptions of the elegant phraseology of the Hon. Mr. Burdett. Despite the fact that the Hon. Mr. Burdett and I differ on this matter, I hold him in great respect. The eloquent phraseology of my colleague contains sting, which I shall point out. New clause 46 provides that the commission "shall consider": it does not say "may". New clause 46 provides:

> . . . the commission shall consider the question of whether it is just, equitable and practicable for a church property, to which this section applies, within the city of Adelaide to be held and maintained by, and for the benefit of, the Presbyterian Church continuing to function after the appointed day and if it decides that question in the affirmative—

and here is the bite—

> it shall have power to direct that any such church property be vested in the Presbyterian Church continuing to function after the appointed day . . .

The latest figures I have for Scots Church show that 461 people favoured union, while 10 people opposed it. I therefore cannot support this new clause. By and large, the negotiations were carried on amicably until perhaps the last few days. I hope that any differences that have arisen will be quickly resolved. Under the Presbyterian Trusts Act of 1971, if one-third of the people said "No", they carried the day. I understand that the Uniting Church bent over backwards to see that the wishes of continuing Presbyterians were properly catered for.

I therefore cannot support this new clause, which would mean that the commission would have power to direct that Scots Church—or any other church—should stay in the Presbyterian Church and not become part of the Uniting Church. I have always believed that a church consists of a worshipping congregation; it is not merely the buildings. Of the worshipping congregation at the present time, 461 people favour union while 10 people wish to remain continuing Presbyterians. In view of those figures and in view of the possibility that some church (whether Scots Church or any other church) could by this amendment be required against its will to remain in the Continuing Church, I cannot support the new clause.

The Hon. F. T. BLEVINS: I cannot understand why we should be involved in what appears to be a demeaning squabble among so-called Christians. I would prefer to have nothing whatever to do with the whole question.

The Hon. M. B. Dawkins: You do not have to be involved.

The Hon. F. T. BLEVINS: The Hon. Mrs. Cooper seemed to suggest that I appeared to know nothing about the question; she is correct. I have no interest whatever in who gets the "bickies" in this squabble. Further, I do not have any interest in Christianity, because I find the doctrines hard to swallow. When I hear some Christians such as the Hon. Mrs. Cooper and the Hon. Mr. Burdett squabbling, it only reinforces my desire to have nothing at all to do with the matter. On this issue, I would prefer to adopt the following attitude: a plague on both their houses—the Uniting Church and the Continuing Church. They should sort out their own problems. But I have to make a decision, however reluctantly. My decision, as always, is on the side of democracy. Because about 80 per cent of the people at Scots Church have voted to unite, their church should go with them. I therefore oppose the new clause.

New clause negatived.

First, second, third and fourth schedules passed.

Title passed.

Bill read a third time and passed.

FISHERIES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 29. Page 2949.)

The Hon. A. M. WHYTE: When this Bill was debated earlier this session the Hon. Mr. Carnie, who has had much experience with the fishing industry as a former member for Flinders, made some comments and I am guided to some extent by his views. As the Minister pointed out, this is a simple and short Bill altering the Fisheries Act and designating power, which it has been said belongs to the Minister, to the Director of Fisheries. I agree with the Hon. Mr. Carnie that the responsibility for allotting licences should be the prerogative of the Minister. Under this Bill that power is to be vested with the Director by clause 5, which amends section 34 of the principal Act. Clause 34 provides:

> (1) A person who applies for a fishing licence or a licence to employ and complies with the provisions of this Act applicable to his application, shall be entitled to be granted such a licence unless there are grounds for refusing it in accordance with this Act.

(2) The Director may refuse an application for a licence—

(*a*) if the applicant does not comply with any relevant requirement of this Act or is not a fit and proper person to exercise the rights which would be granted by the licence;

or

(*b*) if the refusal is necessary for the purpose of giving effect to any administrative policy approved by the Minister for the conservation of any species of fish or the proper management of any fishery.

(3) If the Director refuses an application for a licence he shall give written notice of the refusal to the applicant.

In this Bill the actual powers are reversed. The Director may grant a fishing licence or refuse a licence, and the Director shall not grant an applicant a fishing licence unless he is satisfied that the granting of that licence will not prejudice the proper management of the fishery in relation to which the licence is applied for.

The Hon. Mr. Carnie made the point clearly, and I agree, that the Minister should have that power in his control of the industry. While the Bill is now before this Council there are several matters I should like to take up, because there is room for improvement within this industry. There is room for much more research than has been carried out. There is room also for greater protection of fisheries within Spencer Gulf. The gulf contains areas that would more appropriately be described as fish nurseries. There is little protection of these nurseries and in areas closer to shore there is much over-utilisation of these areas. Fishermen defend their enterprise by saying that, "If we do not do it, then during the tourist season the fly-by-nighters will come in and take out the spoils from these areas."

However, in many areas they overdo their activity and there is no protection or anything to say that such areas cannot be fished to the extent that is common at present. Therefore, there is need for greater control in several areas. Honourable members may be conversant with the nursery areas in relation to the prawn fishing industry. We have two areas, one which is completely prohibited in relation to prawn fishing, and the second area, which has limited access.

It is well known and hotly disputed that prawn trawlers have been fishing within the nursery area. The spoils were taken from that nursery but it took several days before action was taken to have those boats removed. Such a situation disappoints fishermen who try to play the game fairly. Certainly, it is hoped that a recurrence of such intrusions can be prevented and policed more effectively. I have little to say about the Bill itself other than to support the comment of the Hon. Mr. Carnie regarding clause 5, which in its present form should be deleted. I support the second reading.

The Hon. M. B. CAMERON secured the adjournment of the debate.

ABORIGINAL LANDS TRUST: SECTIONS NORTH OUT OF HUNDREDS

Consideration of the following resolution received from the House of Assembly:

That this House resolve to recommend to His Excellency the Governor that, pursuant to section 16 (1) of the Aboriginal Lands Trust Act, 1969-1975, sections 439 and 488, north out of hundreds, be vested in the Aboriginal Lands Trust; and that a message be sent to the Legislative Council transmitting the foregoing resolution and requesting its concurrence thereto.

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

That the resolution be agreed to.

I seek leave to have the explanation of my reasons inserted in *Hansard* without my reading it.

Leave granted.

REASONS

Sections 439 and 488 now contain about 9 050 hectares and are located about 50 kilometres East-South East of Leigh Creek. The land, which is now known as Nepabunna Mission, was originally leased to F. Walker, A. Walker and J. H. Servante under pastoral lease 1667 as from December 31, 1867. The run was called Mt. McKinlay and consisted of 110 square miles of land. Throughout the following years several persons leased the property until August 22, 1907, under the lease held by J. R. Coory and G. James, the run became known as Mount McKinlay Pound. On January 1, 1931, the area was joined with other land held under pastoral leases 1103, 1104, 1126A, 1209, 1275, 1299 and 1426, to form the Balcanoona Run. Pastoral lease No. 1928 was then issued in respect of the whole parcel of land. The lease contained a clause allowing Aborigines to use about 30 square miles of the run and this area then became known as Nepabunna Mission.

On receipt of an application by the then lessee for the issue of a new lease in lieu of pastoral lease 1928, the opportunity was taken to have the mission area excluded from the new lease, thereby providing substantially greater security for the occupants. The offer of the new lease, excluding 36 square miles of land for Nepabunna Mission, was accepted in 1963. Subsequently, on August 1, 1964, a separate miscellaneous lease numbered 13433 was issued to the Minister of Aboriginal Affairs in respect of the mission land, for a period of 21 years. On the same date the area was sub-leased to the United Aborigines Mission Incorporated. It was then that the area was numbered as section 439 north out of hundreds. However, a road was recently surveyed across the mission, running from east to west, dividing it into two pieces. Consequently the southern smaller section was allocated the separate section No. 488 north out of hundreds on August 26, 1975.

In 1973, the Nepabunna Aboriginal Council Incorporated, requested that the mission land be transferred to the Aboriginal Lands Trust, subject to the trust's leasing the land back to the council. No objection to this proposal has been offered by the Community Welfare Department, and the Aboriginal Lands Trust has agreed to the land being vested in the trust under the provisions of the Aboriginal Lands Trust Act. Miscellaneous lease 13433 has now been absolutely surrendered to the Crown as a necessary step to enable the vesting to proceed.

A plan of these sections is exhibited for the information of honourable members. In accordance with section 16 of the Aboriginal Lands Trust Act, the Minister of Lands has recommended that sections 439 and 488 north out of hundreds be vested in the trust, and I ask honourable members to support the motion.

The Hon. A. M. WHYTE secured the adjournment of the debate.

ABORIGINAL LANDS TRUST: HUNDRED OF BONYTHON

Consideration of the following resolution received from the House of Assembly:

That this House resolve to recommend to His Excellency the Governor that, pursuant to section 16 (1) of the Aboriginal Lands Trust Act, 1966-1975, section 241, hundred of Bonython, be vested in the Aboriginal Lands

Trust; and that a message be sent to the Legislative Council transmitting the foregoing resolution and requesting its concurrence thereto.

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

That the resolution be agreed to.

I seek leave to have the explanation of my reasons inserted in *Hansard* without my reading it.

Leave granted.

REASONS

Section 241 which contains an area of about 84·98 hectares is situated on Murat Bay near Ceduna and is adjacent to section 197 which is an Aboriginal reserve. The area is known locally as Duckponds or Murat Bay Reserve. Originally section 241 was part of section 197 which section was declared to be an Aboriginal reserve on September 20, 1956. However, in response to a request from the Murat Bay District Council this section was excised from section 197 as the council wished to utilise the land as a refuse dump. Subsequently, the land was proclaimed as a refuse reserve on September 10, 1970.

In November, 1974, the Aboriginal Lands Trust made a request that, as section 241 had never been used as a refuse dump and that the council had no plans to ever do so in the future, the land be again vested in the trust so it could be put to use as an Aboriginal reserve. As the district council confirmed it no longer required the land, it was resumed on December 11, 1975. The request by the trust is supported by the Community Welfare Department and the Lands Department. A plan of the sections is exhibited for the information of honourable members. In accordance with section 16 of the Aboriginal Lands Trust Act, the Minister of Lands has recommended that section 241, hundred of Bonython, be now vested in the trust and I ask honourable members to support the motion.

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

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

ABORIGINAL LANDS TRUST: HUNDRED OF TATIARA

Consideration of the following resolution received from the House of Assembly:

That this House resolve to recommend to His Excellency the Governor that, pursuant to section 16 (1) of the Aboriginal Lands Trust Act, 1966-1975, sections 928, 929 and 930, hundred of Tatiara, be vested in the Aboriginal Lands Trust; and that a message be sent to the Legislative Council transmitting the foregoing resolution and requesting its concurrence thereto.

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

That the resolution be agreed to.

I seek leave to have the reasons for my motion inserted in *Hansard* without my reading them.

Leave granted.

REASONS

These three sections, adjoining each other, cover an area of 0·6070 hectares, and are located in the north-western corner of the park lands which surround the township of Bordertown. In 1871, an area of about 532 acres surrounding Bordertown was surveyed as park lands, and in 1883 the first gazettal of park lands was made in respect of an area of 449 acres. For many years, Aborigines had camped on the north-west corner of the park lands, which are located on section 951.

In response to a request from the Tatiara District Council, on behalf of the local Aborigines Protection Committee, a small portion of the park lands was resumed on July 12, 1951, for allotment to three Aborigines. Two of the Aborigines were ex-servicemen and, together with their families, had resided in the area for some considerable time. Consequently, sections 928, 929 and 930, each covering about half an acre, were created and allotted under Aboriginal leases each for a term of 14 years as from October 18, 1951, at an annual rental of one peppercorn if demanded.

In 1965, an inspection of the sections for the purpose of giving consideration to the renewal of the leases revealed that none of the lessees had any further real interest in the leases. In fact, two of the lessees were no longer residing in the area. However, at that time it was thought that the substandard house occupied by the only remaining lessee was located not on section 928 but on the adjoining park lands comprised in section 951. No further action was therefore taken to renew the leases. In 1974, the Aboriginal Lands Trust requested that the three sections be vested in the trust for use by Aborigines and to enable the standard of accommodation of the remaining occupant to be improved. The location of the house was questioned, resulting in an investigation by a Lands Department surveyor which revealed that the house is, in fact, located on section 928. The request by the trust is supported by the Community Welfare Department. A plan of the sections is exhibited for the information of honourable members. In accordance with section 16 of the Aboriginal Lands Trust Act, the Minister of Lands has recommended that sections 928, 929 and 930, hundred of Tatiara, be vested in the trust, and I ask honourable members to support the motion.

The Hon. A. M. WHYTE secured the adjournment of the debate.

ABORIGINAL LANDS TRUST: HUNDRED OF MURRABINNA

Consideration of the following resolution received from the House of Assembly:

That this House resolve to recommend to His Excellency the Governor that, pursuant to section 16 (1) of the Aboriginal Lands Trust Act, 1966-1975, sections 32 and 33, hundred of Murrabinna, be vested in the Aboriginal Lands Trust; and that a message be sent to the Legislative Council transmitting the foregoing resolution and requesting its concurrence thereto.

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

That the resolution be agreed to.

I seek leave to have the reasons for my motion inserted in *Hansard* without my reading them.

Leave granted.

REASONS

Sections 32 and 33 contain a total area of 127·9 hectares. For many years, these sections were held under separate Aboriginal leases. The leases were issued under the Crown Lands Act, which provides that the Governor may lease to any Aboriginal native or the descendant of any Aboriginal native any Crown lands not exceeding 65 hectares (formerly 160 acres) in area for any term of years upon such terms and conditions as he thinks fit. Leases were issued to allottees from time to time on a terminating basis at rentals of one peppercorn if demanded, and they contained right of renewal. The lease over

section 32 expired on the September 2, 1968, having been held by the lessee since September 3, 1954. On expiry, the lessee indicated he did not wish to renew the lease. In the case of section 33, the lease expired on February 29, 1972. However, the lessee, who had held the lease since March 1, 1958, did not exercise his right of renewal. Little interest had been shown in making use of the agricultural or grazing potential of either section.

Following expiry of the leases, an application to lease the land was received by the Lands Department from a relative of the former lessee of section 32. The Government's view of that, as these sections have been leased by various Aboriginals over many years, the Aboriginal people have a special interest in the land, and it considers that the Aboriginal Lands Trust, with its knowledge of the needs and abilities of Aboriginals, is the appropriate body to administer future occupation of the area. The method of passing title to the trust has been examined. It would not be appropriate to take action under the Crown Lands Act as this would involve the trust's paying full market value for the land. It is considered that the sections should be vested in the trust under the provisions of the Aboriginal Lands Trust Act. The Aboriginal Lands Trust has agreed to the sections being vested in the trust under that Act. Shortly after the trust had agreed to accept the land, the former lessee of section 33 indicated that he intended to apply to the trust to lease that section. The trust has been asked to give due consideration to the applications mentioned. A plan of the sections is exhibited for the information of honourable members. In accordance with section 16 of the Aboriginal Lands Trust Act, the Minister of Lands has recommended that sections 32 and 33, hundred of Murrabinna, be vested in the trust, and I ask honourable members to support the motion.

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

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 30. Page 2995.)

The Hon. C. J. SUMNER: This Bill, introduced in the Council by the Hon. Mr. Burdett, deals with the penalties relating to the distribution and production of child pornography in this State. The Government and I oppose the Bill, for the simple reason that we do not consider it to be necessary. Although the Government has made its position clear on the dissemination in the community of child pornography, I will restate it. The Government is opposed to the production and distribution of this material in South Australia.

The Government believes that the existing legislative provisions of the Police Offences Act and the Criminal Law Consolidation Act adequately cover the situation. One can only speculate on the reasons why the Hon. Mr. Burdett has introduced the Bill at this time. The issue of child pornography receives much attention in the press, and I have no doubt that the Hon. Mr. Burdett thought that this was an excellent opportunity to give the Government a bit of a bashing about something that he thought might have some electoral appeal, and without any real consideration on his part of the legislation which is already in force in this State and which the Government and I believe adequately covers the situation.

The Hon. Mr. Burdett thought that he could score some political points by introducing this Bill, just as the Opposition in the Lower House thought that it could score political points by its urgency motion on the subject. In fact, it was implied in what the Hon. Mr. Burdett said that the Government was taking insufficient action against child pornography.

It is clear that the Government acted swiftly in this matter, and that the Premier did so when it came to his attention. The Premier, when this matter was debated in another place last week, pointed out that, before the outcry in the press, he had taken up the matter at a Federal level, and had asked other State Ministers and the Federal Minister for Customs and Excise, who obviously had the responsibility in this area in relation to the importation of such material, to take up the matter. He thought that action should be taken to stop the distribution of this literature not only in South Australia but in Australia generally. That action was taken by the Premier before the matter was raised publicly in the press in this State.

The Hon. M. B. Cameron: He's wonderful, you know. He's terrific!

The Hon. C. J. SUMNER: Is the honourable member willing to deny what I have said?

The Hon. M. B. Cameron: He rushed in and did all sorts of things after it was brought to his attention. I can understand it: you have a bit of hero worship.

The Hon. C. J. SUMNER: In his Ministerial statement on this matter in another place last Tuesday, the Premier said:

At the board's request—

that is, the request of the Classification of Publications Board in this State—

I, at a Ministerial meeting in Sydney in February, requested that the Commonwealth, in notifying us about publications that have been submitted to the Commonwealth Board of Review through importation, should make an extra classification regarding publications containing sadism or paedophilia in order that the board in South Australia could deal with those matters separately from the kind of restrictions that it otherwise applied on the advice of the Commonwealth authorities.

The Hon. R. C. DeGaris: You're objecting to a little more strength in the Act, aren't you?

The Hon. C. J. SUMNER: No, the Government is saying that there is sufficient legislation in existence now adequately to cover the situation. If the Leader will bear with me for a short time, I will explain to him my attitude on the matter. The Premier wrote to the Classification of Publications Board after he had discussed the matter with the Chairman of the board and asked it to pay particular regard to child pornography in this State. The Premier said the following to the board's Chairman:

I have been aware for some time of the tendency for pornography depicting children to become less of a rarity in Australia and for some of it to be "hard core" compared with early samples which often comprised photographs of nude children who were not involved in sexual activities. In view of the intimation that your board was seeking special advice from Commonwealth classification authorities if they discovered pornography involving either sadism or paedophilia, I raised the matter at the last conference of State and Commonwealth Ministers concerned with classification matters. It was agreed that such material would be marked with an asterisk on future lists of Commonwealth classifications sent to you on the understanding that such titles would be given an additional restriction that they might not be advertised or displayed even in "sex shops".

More recently there has been considerable publicity regarding paedophilia and I think it is evident that current community standards are such that material depicting hardcore paedophilia should be refused classification by the

Classification of Publications Board thus rendering any vendor of such material, in this State, liable to prosecution by the police under the provisions of section 33 of the Police Offences Act. I am therefore writing to say that my Government would be pleased if your board would adopt such a policy in the circumstances.

The Hon. R. C. DeGaris: Why didn't you oppose this about three years ago?

The Hon. C. J. SUMNER: Because, as the Leader well knows, I was not a member of the Council three years ago.

The Hon. R. C. DeGaris: But you are arguing now for the Premier.

The Hon. C. J. SUMNER: I am debating this matter from my own point of view. First, the Premier raised the matter with Commonwealth and State Ministers who were dealing with the subject before the press publicity occurred on it, and he asked the Commonwealth and other State Ministers to take special action to ensure that the attention of the local Classification of Publications Board was specifically drawn to that material.

The Hon. R. C. DeGaris: It should never have been sold in South Australia in the first place.

The Hon. C. J. SUMNER: It should never have been introduced in South Australia. On the question of whether it can be sold, if that material had not been classified by the Classification of Publications Board and if anyone had complained, the matter would have been taken up and prosecutions launched.

The Hon. M. B. Cameron: You wait for complaints. You don't do anything about it.

The Hon. C. J. SUMNER: Obviously, the Hon. Mr. Cameron is criticising the police. The police are aware that, if a publication has not been classified and if they see this material on sale, it is their duty to report the matter to the Attorney-General and allow him to decide whether a prosecution should be launched.

Members interjecting:

The Hon. C. J. SUMNER: Perhaps the Hon. Mr. DeGaris may care to table, in the Council, examples of child pornography that have been classified and distributed under the aegis of the Classification of Publications Board. If he does that, perhaps I can take notice of him, but he has not done it so far. The position is that the material has not been classified, and there is no indication that the board would classify the hard-core pornography of paedophilia. If that is the case, the police could take action and report the matter to the Attorney-General, but, so far as there has been an abuse, it has not been of great consequence. When the matter was drawn to his attention in the press, the Premier took action at the conference of Australian Ministers and he referred the Government's views to the Classification of Publications Board. To say that the Government has done nothing about the matter is nonsense. It has acted quickly to try to remove any suggestion that this material could be distributed in South Australia.

The other matter I wish to mention is that recently, when journalists conducted a survey on the availability of this material in shops in Adelaide, they could not find any such material. They went on a search, in view of comments that had been made, asking for material of this kind, but they could not find any. Therefore, it is clear that distribution of this material had not been very widespread.

The difficulty about the Hon. Mr. Burdett is that he has tried to raise this matter, I believe, to get publicity for what he considers will be popular with the voter. His second reading speech contained several inaccuracies and omissions. He said that the only effective means of prosecuting persons who seek to sell pornographic literature at present is by proceeding under section 33 of the Police Offences Act, and that is the position. But there are provisions in the law, particularly in the Criminal Law Consolidation Act, that deal with the photographing of children in the production of such material. It is interesting to note that the Hon. Mr. Burdett has not referred to those provisions.

The Hon. F. T. Blevins: That is almost misleading the Council.

The Hon. C. J. SUMNER: I have said that there were several inaccuracies in and omissions from his speech. He did not draw the attention of the Council to provisions that deal with the situation. I do not suggest that the Hon. Mr. Burdett is unaware of this, because he is a lawyer of some standing and experience, but he deliberately omitted reference to provisions in the Criminal Law Consolidation Act that deal with this subject. There are many of them, and I will mention the most important. Not all of them are strictly relevant but, taken as a whole, they deal with using children in the production of this type of material.

Section 50 deals with unlawful carnal knowledge of any person under 12 years of age. Section 51 deals with an attempt or an assault with intent to commit carnal knowledge with a person under the age of 12 years. Section 52 deals with carnal knowledge of a person above the age of 12 years and under the age of 13 years. Section 55 deals with unlawful carnal knowledge of a person on or above the age of 13 years and under the age of 17 years. Section 58 deals with gross indecency with a person under the age of 16 years. Section 61 deals with the unlawful taking of a person under the age of 16 years out of the possession and against the will of his parents. Section 64 deals with the procuring of a person to have unlawful carnal connection with any other person. Section 2 of the Kidnapping Act deals with the kidnapping of a child under the age of 18 years. The most important provision in the Criminal Law Consolidation Act is section 58 (1) (*b*).

The Hon. C. M. Hill: There is no definition of sexual offences in the Bill as drawn.

The Hon. C. J. SUMNER: I do not think it is necessary.

The Hon. C. M. Hill: It is. That is why your provisions do not apply.

The Hon. C. J. SUMNER: Which provisions?

The Hon. C. M. Hill: The provisions to which you have referred in the Criminal Law Consolidation Act.

The Hon. C. J. SUMNER: Why?

The Hon. C. M. Hill: Because they do not specifically refer to this kind of offence.

The Hon. C. J. SUMNER: They do not have to do that. There is no evidence that any prosecutions under any current sections have failed for that reason.

The Hon. C. M. Hill: You have never tried to prosecute for them.

The Hon. C. J. SUMNER: The reason is that nothing has been drawn to the attention of the police. Again, the Hon. Mr. Hill, like the Hon. Mr. Cameron, is criticising the police. I said that the matter had not been drawn to the attention of the police, and the honourable member said that that was irrelevant. If it has been drawn to the attention of the police, the police are not doing their job and following the matter up. That is clearly the implication in the statement by the Hon. Mr. Hill. The important section of the Criminal Law Consolidation Act is section 58. It provides:

(1) Any person who, in public or in private—

(*a*) commits any act of gross indecency with or in the presence of any person under the age of sixteen years:

(*b*) incites or procures or attempts to procure the commission by any such person of any act of gross indecency with the accused or in the presence of the accused, or with any other person in the presence of the accused:

(*c*) is otherwise a party to the commission of any act of gross indecency by or with or in the presence of any such person or by or with any other person in the presence of such person or by any such person with any other person in the presence of the accused—

shall be guilty of a misdemeanour, and liable, for a first offence, to be imprisoned for any term not exceeding two years, and for any subsequent offence to be imprisoned for any term not exceeding three years.

There is already provision for a prison sentence of two years for any act of gross indecency with the accused or any other person in the presence of the accused. That section, I believe, would cover the situation of a person using children for photographing and other means to produce the pornographic material.

The PRESIDENT: Would it cover the mere photographer?

The Hon. C. J. SUMNER: I doubt whether it would in that situation but it would certainly cover all the other situations of indecency involving paedophilia, sadism and the heavy pornography that has been raised as the major problem in this area. Section 58 clearly covers the situation of a photographer who arranges for young children to have intercourse in front of him or to commit buggery on each other, or to masturbate each other. It does not matter whether there are two young children (say, nine years old) involved, or whether there is an older man and a young boy or girl.

The PRESIDENT: What if one person does the inciting and someone else photographs?

The Hon. C. J. SUMNER: That situation is covered by section 58.

The PRESIDENT: The photographer takes a photograph and the assistant does the inciting.

The Hon. C. J. SUMNER: Presumably, a prosecution would lie against the assistant in the joint commission of the offence. He comes within section 58 (1) (*b*) in any event.

The PRESIDENT: Is that an offence indictable under section 58?

The Hon. C. J. SUMNER: Yes, it is a misdemeanour; it would be indictable. I believe also that the question that you, Mr. President, directed to me was perhaps more directed to the point whether simple nude posing would be an act of gross indecency. I think the incitement or procuring would be covered in the situation of just a photographer and a child, a straight-out photographing of the child, in these circumstances. Whether it would be an act of gross indecency is open to question. My view is that probably it would not be an act of gross indecency, just to photograph a child in a nude position, but it almost certainly would be if photographed with his penis erect, with bondage or with a vibrator, or anything of that kind.

Of course, the determination of this would be a matter for the court, in the circumstances. The main difference between section 58 and the Hon. Mr. Burdett's Bill is that the "act of indecency" in his Bill is designed to include "the assumption or maintenance of any attitude or pose calculated to give prominence to sexual or excretory organs". In my opinion, the matter of publication and distribution is adequately covered by section 33 of the Police Offences Act. The question of engaging children in the production of this material is sufficiently covered by the sections I have outlined and in particular section 58.

The second reading explanation of the honourable member contains other inaccuracies: I refer to the reference to the case of *Popow* v. *Samuels* (reported in 4 South Australian State Reports, at page 584). The honourable member seemed to wish to give the Council the impression that the law was in a state of some uncertainty as to whether expert evidence could be called as to the propensity of a particular article to deprave or corrupt a person, whether expert evidence could be called to establish whether there was a tendency to deprave or corrupt a person reading or watching such material. The honourable member seemed to think that expert evidence of this kind should not be able to be called. He was supporting the majority in *Popow* v. *Samuels* (Mr. Justice Zelling and Mr. Justice Walters) who said that evidence could not be called to establish the situation under section 33 of the Police Offences Act. The Chief Justice felt it could be called.

The Hon. Mr. Burdett seems to be thinking that the law in this respect is uncertain, but I point out that leave to appeal against the decision of the majority in *Popow* v. *Samuels* to the High Court was refused; so, if he is worried about the fact that experts can come along and give evidence that material would not deprave or corrupt someone and thereby escape liability under the Act, his fears are groundless because the law, as established by the South Australian Supreme Court and apparently agreed to by the High Court, clearly indicates that that is not the case. In fact, that was applied by the Chief Justice in a later case that he referred to. The Hon. Mr. Burdett shakes his head. I am not quite clear whether his second reading speech is not as clear as it could be or whether he is shaking his head unnecessarily.

The situation, as far as I am concerned, is as I have outlined, that the existing law relating to this matter is adequate. Section 33 is adequate, and section 58 of the Criminal Law Consolidation Act is adequate in dealing with the production of this material. I can only think that the Hon. Mr. Burdett has raised this in order to get some additional publicity. There is no question about the Government's stand on this matter. I have explained the action taken. Unless the Classification of Publications Board does not take into account community standards or indeed the letter from the Premier, this material will not be classified and, if it is found sold and distributed anywhere in the State, it will be subject to prosecution on the fiat of the Attorney-General.

The Hon. J. A. CARNIE: We have just heard one of the greatest cases of an attempted cover-up in this Council. The Hon. Mr. Sumner spent about 20 minutes trying to convince us that the Government, and in particular the Premier, acted swiftly and positively in an attempt to control child pornography in South Australia. The Premier did a great deal of grandstanding, but he did not do anything to try to control child pornography in South Australia. I do not believe that any decent, normal person in South Australia could fail to be disgusted at the thought of children being used to pose for pornographic photographs and at the thought of publications readily available showing children in acts of gross indecency. Apparently, since the press publicity about this matter, publications involving child pornography have disappeared from the bookshops. No doubt once the furore dies down they will soon reappear, because the existing law is virtually powerless to stop it.

The Hon. C. J. Sumner: That is not correct.

The Hon. J. A. CARNIE: Then, why has something not been done before? Why has the Premier waited until the fuss has blown up?

The Hon. C. J. Sumner: He did not wait.

The Hon. J. A. CARNIE: Should the Government not be the leader in such a matter?

The Hon. F. T. Blevins: It should not go into every porn shop. Why didn't you bring it to the Premier's notice 12 months ago? The reason is that you do not go into these shops; nor does the Premier.

The Hon. J. A. CARNIE: The main recourse of the Police Force is under section 33 of the Police Offences Act. As Mr. Burdett pointed out, it is very difficult to provide proof that a subject is indecent, because consideration must be given to the type of person and the age of the person who reads the material. Even if a conviction can be obtained, the penalties at present are inadequate. This was shown in a recent case which brought the whole matter to the attention of the public. The case involved a person who took photographs of two children in indecent sexual acts. He was fined $400 and put on a $100 good behaviour bond.

The Hon. M. B. Cameron: The parents have lost faith in the law.

The Hon. J. A. CARNIE: Yes.

The Hon. F. T. Blevins: Was that the maximum penalty?

The Hon. J. A. CARNIE: No.

The Hon. F. T. Blevins: Then, you are criticising the court.

The Hon. J. A. CARNIE: Perhaps this is a case where there should be minimum penalties.

The Hon. D. H. L. Banfield: Does this Bill provide for them?

The Hon. J. A. CARNIE: I am giving my own view. I am sure that the person concerned, who was fined $400, had been making large sums through selling these photographs; in such circumstances, a fine of $400 would mean nothing to him. If the law is to have any teeth, the penalties must be increased, and that is what this Bill does. Further, it spells out in greater detail what an act of indecency is. It is a sad reflection on our community that it took a case like this to arouse the public and the Parliament out of the apathy we have had.

The Hon. F. T. Blevins: Not apathy. We have had no knowledge of it.

The Hon. J. A. CARNIE: I am sure that we are all greatly impressed by the noble attitude of the Hon. Mr. Blevins! It is obvious that child pornography has been around for a long time, but it took the involvement of children of our own city to make us do something about it. Where the children come from should make no difference at all. The fact that children anywhere are being exploited in this way should be sufficient to concern us. The point is that the legislation should not be restricted to children in this State. This aim can be achieved if the importation of this material is made illegal. If we in this State can in some small way stop this kind of exploitation, we should do so. In general, I support the concept that adults should be able to read and view what they wish to, but this concept is overridden in this case by the fact that the pornography involves the exploitation of people who, because of their age, cannot protect themselves. It is the responsibility of Parliament to see that such people are protected, and this Bill goes a long way toward achieving that aim. The relaxation of censorship was regarded as an experiment. If the Government found that certain aspects were not working, the laws could be tightened or perhaps further relaxed in appropriate areas; the law should not be inflexible. For example, I refer to the fact that film classification needs reviewing. When I was a member of the House of Assembly, I supported the classification of films so that "R" films could be shown, but there are now areas where the law could be tightened. I am beginning to doubt seriously whether "R" films should be shown at drive-in theatres. At Taperoo, "R" films shown at a drive-in theatre are clearly visible at a youth club next door.

Child pornography is another area where the law should be tightened but, instead of the Government's doing something about it, what do we see? We see the Premier grandstanding, as usual. An article in the press quoting the Premier is headed "Tighter S.A. control on child porn". Another newspaper report is headed "Ban child porn". Further, a later press article is headed "Dunstan moves to outlaw child porn". That sounds as though the Premier is doing something about child porn but, in fact, all that the Premier has done is to write to the Chairman of the Classification of Publications Board suggesting that publications featuring child pornography should be banned from sale in South Australia. He said that current community standards were opposed to child pornography, and I agree with that view. The Premier can write to the Classification of Publications Board, but that board is not bound to do anything about it if it does not wish to. In fact, the board does not intend to act on it. On the following day the Chairman of the board announced that the board had deferred a decision on child pornography. She said that no date had been fixed for a meeting. So far as I know, no meeting has yet been held. Obviously, nothing is intended to be done at this stage. At about the same time another *Advertiser* headline stated, "Move to outlaw child pornography". That headline sounded much the same as the others that I had read but, in fact, it was the only headline which I read and which had any meaning, because it is a headline referring to this Bill.

This is the first positive action we have seen towards the banning of child pornography in South Australia, despite the Hon. Mr. Blevins's claim that the Premier has acted. The Premier has not acted, and this Bill is a positive move going some way towards the banning of this pernicious practice in South Australia to which the Government pays lip service only. The Premier makes statements, which lead to headlines, but in real terms he has done nothing at all. I congratulate the Hon. Mr. Burdett on having the courage not to sidestep the issue but to bring this Bill before the Council, thereby facing the problem head-on. There is no question that the Hon. Mr. Burdett has the support of the majority of people in South Australia, and I have much pleasure in supporting this Bill.

The Hon. F. T. BLEVINS secured the adjournment of the debate.

ADJOURNMENT

At 5.53 p.m. the Council adjourned until Wednesday, April 6, at 2.15 p.m.