LEGISLATIVE COUNCIL

Tuesday, February 28, 1978

The Council met at 2.25 p.m.

The CLERK: I have to inform the Council of the untimely death of the President, Hon. F. J. Potter.

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

That nominations to fill the vacancy of President of this Council be taken forthwith.

Motion carried.

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

That the nomination for the position of President of this Council be the Hon. Arthur Whyte.

The Hon. D. H. L. BANFIELD: I have much pleasure in seconding the nomination.

The CLERK: Does the Hon. Mr. Whyte accept?

The Hon. A. M. WHYTE: I humbly submit myself to the will of the Council.

The CLERK: Are there any other nominations? There being no other nominations, I declare the Hon. A. M. Whyte duly elected as President of this Council.

The Hon. A. M. WHYTE was then escorted to the Chair by the Hon. D. H. L. Banfield and the Hon. R. C. DeGaris.

The Hon. D. H. L. BANFIELD: I congratulate you, Sir, on your election as President of the Council. You have served this Council with distinction over a number of years, and you are well qualified to hold the very high office to which you have been unanimously elected. I am sure that you have the qualities of impartiality, fairness, courtesy and tolerance that have been shown by your illustrious predecessors in this high office. I know that your efforts, as President of the Council, will be successful. We assure you of support from this side of the Chamber, and I know that you will have the support of the whole Council.

The Hon. R. C. DeGARIS: I have much pleasure, on behalf of Liberal Party members in the Chamber, in supporting the remarks that have been made regarding your elevation to this high office as President of the Council. As the Minister of Health has said, you have, in your service to this Parliament, endeared yourself to everyone who has served here. Over the years, you have had a difficult role to perform, being the member representing the vast Northern areas of the State. You have applied yourself extremely well to that task, and we have all appreciated your contributions to the Council. On behalf of members on this side of the Chamber, I offer you my heartiest congratulations, and wish you every success in your new office.

The PRESIDENT: I thank the Leader of the Government and the Leader of the Opposition for those kind words. Also, I thank all honourable members for the honour they have bestowed upon me today by electing me to the President's Chair. I am aware that confidence in the fairness of the President is an indispensable condition for the successful working of Parliamentary procedures. I intend to protect honourable members' rights collectively and individually. In return, I seek the assistance and wholehearted support of honourable members to maintain the prestige and dignity of this Chamber.

The Hon. D. H. L. BANFIELD: I have to inform the Council that His Excellency the Governor will receive the Council for the purpose of presenting the President forthwith, and I move :

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

Motion carried.

[Sitting suspended from 2.30 to 2.52 p.m.]

The PRESIDENT: I have to report that, accompanied by honourable members, I proceeded to Government House and there presented myself, as President, to His Excellency the Governor and claimed for the Council the right of free access to and communication with His Excellency and that the most favourable construction might be placed on all its proceedings. His Excellency was pleased to reply:

I congratulate you on your election to the office of President of the Legislative Council, and the honourable members on the choice they have made. I should like to say that I share with you and with all other honourable members of the Council a feeling of deep personal loss at the death of the Hon. Frank Potter and express a high tribute to his ability and commitment.

The PRESIDENT read prayers.

DEATH OF THE HON. F. J. POTTER

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

That the Council expresses its deep regret at the untimely death of the former President, Hon. Frank Potter, and places on record its appreciation of his meritorious public service and that, as a mark of respect to the memory of the late honourable gentleman, the sitting of the Council be suspended until the ringing of the bells.

The late Frank Potter was elected to the Legislative Council on March 7, 1959, and became President of the Council on August 5, 1975. In the course of a distinguished Parliamentary career, Frank Potter was a member of the Executive Committee and a joint Vice-President of the Commonwealth Parliamentary Association (S.A. Branch) and represented the South Australian Parliament at the conference in Nassau in 1968. Among other activities, Frank Potter was President of the Australia-Canada Association from 1969 to 1973, President of the National Marriage Guidance Council of Australia from 1960 to 1970, and President of the South Australian branch organisation from 1970 to 1975. A graduate in arts and law, Frank Potter was admitted to the bar in 1948. Subsequently, he became a member of the Faculty of Law and was a member of the Council of the University of Adelaide from 1962. I am sure all honourable members of this Chamber will join with me in expressing our deepest sympathy to Mrs. Potter and her family.

The Hon. R. C. DeGARIS (Leader of the Opposition): I, too, express my deep regret on my own behalf and on behalf of members of the Liberal Party at the untimely death of the Hon. Frank Potter. As the Minister of Health has said, the Hon. Mr. Potter entered Parliament in 1959, at the same time as the Hon. Mrs. Cooper. The Hon. Mrs. Cooper and the Hon. Mr. Potter were the longest serving members in this Chamber. The honourable member served the Parliament on many committees and, in particular, his work on the Commonwealth Parliamentary Association has been much appreciated as was the work he undertook on the Subordinate Legislation Committee.

Apart from his service to the community as a Parliamentarian, the Hon. Mr. Potter had to his credit much community service outside Parliament. I refer to his keen interest in matters concerning the family and his work with the Marriage Guidance Council, of which he was President for a long period and for which work he was recognised not only outside the bounds of South Australia

but outside the bounds of Australia. I wish to extend my deepest sympathy, together with the sympathy of members of my Party, to Mrs. Potter and the Potter family.

The Hon. C. M. HILL: Apart from being a Parliamentary colleague, the Hon. Mr. Potter was a very close friend of mine. He was a devoted family man, and a respected member of the legal profession. His public service included more than his Parliamentary duties. He contributed to, and involved himself in, many associations within society. He tendered wise counsel in his community work and was always humane and understanding in his opinions and endeavours.

His contribution to the life of the South Australian Parliament, and the Legislative Council in particular, was long and honourable. He brought to bear as a legislator the same extreme honesty which characterised his whole life. In his work here he gave deep and thoughtful consideration to all issues, he treasured and respected his right to independence, and he displayed both courage and tolerance at all times. He was a true Liberal. I mourn his loss and extend my sympathy to his widow and his family.

The PRESIDENT: I, too, should like to say a few words in addition to those already spoken in sympathy and in recognition of the great work that the Hon. Frank Potter performed, not only as President of this Chamber but also as a true South Australian who did his utmost to better the lives of people in our community. I join with the three previous speakers in adding my sympathy to the words they have spoken and offering my condolences to the Potter family. I ask all honourable members to stand in their places as a mark of respect to the late honourable member.

Motion carried by members standing in their places in silence.

[Sitting suspended from 3 to 3.15 p.m.]

SITTINGS AND BUSINESS

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

That Standing Orders be so far suspended as to enable the calling on of Orders of the Day: Government Business to be postponed until 3.50 p.m.

Motion carried.

QUESTIONS

NORTHERN ADELAIDE WATER SUPPLY

The Hon. N. K. FOSTER: I seek leave to make a short statement before asking a question of the Minister of Agriculture.

Leave granted.

The Hon. N. K. FOSTER: Last weekend I was in the Virginia, Two Wells, and Angle Vale area, where I spoke to people engaged in primary production. It appears to be a matter of concern that in these drought conditions there is competition between those engaged in grapegrowing, those engaged in almond growing, and those concerned with glasshouses and vegetable production with overhead irrigation. Can the Minister say whether any investigations are being made on behalf of some primary producers in the area as to whether or not there should be an increase in water quotas in areas where almonds are growing? Has there been any investigation into this form of production in the northern Adelaide plains area, and can the results of any such investigation be made known to the Council?

The Hon. B. A. CHATTERTON: The administration of water resources in that area is the responsibility of the Minister of Works, through his Water Resources Branch. It is therefore appropriate if I refer the honourable member's question to the Minister. I understand that the honourable member is seeking clarification as to whether almond growers in that area would be allocated further water resources. I believe that that is extremely unlikely, but I will check with my colleague to ascertain whether or not that is the case.

ADELAIDE-MANNUM MAIN ROAD

The Hon. J. C. BURDETT: I seek leave to make a brief explanation before asking a question of the Minister of Lands, representing the Minister of Transport, about the Adelaide-Mannum main road.

Leave granted.

The Hon. J. C. BURDETT: On November 30, 1977, the Minister of Health replied to a question I had asked about this road during the debate on the Appropriation Bill. The Minister's reply stated:

> While there is some roughness at the junction of the old seal and new work, the "ridge" mentioned is a visual phenomenon rather than a significant level difference.

I would challenge the Minister to make that statement after driving on that road. The Minister's reply continued:

> Accident records do not suggest that it is a hazard.

A report of a Royal Automobile Association survey of the road published in the *South Australian Motor* of March 1, 1978, states:

> The Association believes reconstruction is urgently required. The necessity to rethink the environmental issues and a general shortage of road funds has caused a delay in progress. Work was to have started in 1977.

The Minister's reply, given on November 30, 1977, stated that there would not be any start in the near future on reconstruction of the road. The Minister's reply referred to the ridge, which is dealt with in the R.A.A. report as follows:

> There was an alarming drop from the pavement to the road shoulders over much of the journey. This, with badly broken pavement edges, and poorly maintained and narrow shoulders, presented hazardous driving conditions.
>
> Three road sections—namely Tea Tree Gully-Inglewood; Inglewood-Chain of Ponds and Tungkillo-Palmer—were considered to have significantly high accident rates.

In view of this survey conducted by the Royal Automobile Association, will the Minister reconsider his decision not to start any work soon on the reconstruction of the Adelaide-Mannum main road?

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

SLAVE LABOUR

The Hon. J. E. DUNFORD: I seek leave to make a short statement before asking a question of the Minister representing the Attorney-General.

Leave granted.

The Hon. J. E. DUNFORD: I have been advised by officials of a trade union to which I still belong that there was an article in the press recently about the conduct of a defendant in Queensland being actionable where a case involving organised slave labour and slave labour camps was dismissed. That was all they were able to tell me

because there was not much publicity given to the matter. Most people, including employers, were concerned that in 1977 people could be kept against their will in appalling sleeping conditions and working for long hours in the timber industry with hardly any remuneration. I believe the food was poor. The people concerned were given tobacco but no money, and they were assaulted physically by their employers.

This caused an outcry throughout Australia, and indeed the case went so far as to get international recognition. We know that the laws today sometimes do not provide for what we expected to happen about 100 years ago. Before the formation of trade unions and legislation to protect workmen was introduced into Parliament, this kind of conduct was not uncommon. It seems to me (I do not know and that is why I am asking the question) that the prosecution of the people who run these slave camps might have been aborted because there was no appropriate legislation to deal with the matter. Will the Attorney-General investigate the reason why the prosecutions were dismissed and not gone on with, so I believe, and whether, as a result of that case, legislation, either in the form of an amendment to the Industrial Code or otherwise, should be introduced in South Australia to cope with that sort of thing in South Australia and to ensure that offenders can be prosecuted?

The Hon. D. H. L. BANFIELD: I will bring the honourable member's question to the attention of the Attorney-General and bring down a reply.

SCHOOL TEACHERS

The Hon. D. H. LAIDLAW: I seek leave to make a statement before asking the Minister of Agriculture, representing the Minister of Education, a question about the large number of unemployed teachers.

Leave granted.

The Hon. D. H. LAIDLAW: On February 7 last I asked a question in which I pointed out that the President of the South Australian Institute of Teachers had suggested that one way of using some of the 1 400 teachers at present unemployed in South Australia would be to make teachers at present employed take their long service leave when it became due. On Friday last, I received a letter from Mr. Gregory, President of the South Australian Institute of Teachers, pointing out that the institute wanted to receive a copy of the Minister's reply as the matter was of concern to its members and to unemployed teachers. I ask the Minister when I may expect to receive a reply to my question so that I can forward it to the Institute of Teachers and to other interested persons.

The Hon. B. A. CHATTERTON: I will contact the Minister of Education and see whether he can bring back a reply as soon as possible.

PRAWN FISHING

The Hon. F. T. BLEVINS: I seek leave to make a brief explanation before asking the Minister of Agriculture a question about prawn fishing.

Leave granted.

The Hon. F. T. BLEVINS: I read in the weekend press that a group of prawn fishermen meeting at Cowell had decided on a total closure of Spencer Gulf for two weeks. The management committee of A.F.I.C. subsequently endorsed the decision. The press report also hinted that the resolution was likely to embarrass the Government. Will the Minister of Fisheries say whether any embarrassment has been caused by the action of these prawn fishermen?

The Hon. B. A. CHATTERTON: Certainly, the Government is not embarrassed by this decision. In fact, as I indicated to the Council earlier, the Government hoped that next year there would be a properly organised total closure of Spencer Gulf to enable the prawns to grow to a more marketable size. This action by the prawn fishermen shows that they are obviously willing to contemplate the same sort of action. The closure of the gulf for two weeks is more of a gesture than a practical solution regarding the problem of small prawns. Certainly, closure of the gulf for that length of time will not have any significant effect on the size of the prawns that are caught.

Another important point that should be made is that the whole question of a closure of the gulf is one that affects the economics of the prawn industry and not the basic conservation of the stock. The whole purpose of the closure is to try to get the small prawns to grow to a larger size so that they fetch a better market price. It is not a decision that is relevant to the survival of the stock or the conservation of that species. It is purely a tool for economic management of the resource.

AGE OF CONSENT

The Hon. J. C. BURDETT: I seek leave to make a statement before asking the Minister of Health, representing the Attorney-General, a question about the Federal Royal Commission on Human Relationships.

Leave granted.

The Hon. J. C. BURDETT: At paragraph 45 on page 27 of the third volume of the final report of the Federal Royal Commission on Human Relationships is a table setting out the age of consent regarding unlawful carnal knowledge or sexual intercourse in Australia, the age given for South Australia being 16 years. The footnote gives the authority as being section 49 of the Criminal Law Consolidation Act. Section 49 (3) thereof provides:

> A person who has sexual intercourse, or attempts to have sexual intercourse, with a person of or above the age of 12 years and under the age of 17 years shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding seven years.

The section goes on to provide two specific special defences that are based on the age of 16 years. However, there is no doubt from the section that the age of consent in South Australia is 17 years, as stated in the Act, and not 16 years as stated in the report. Already, one person has complained to me that she had read the report and, on the faith of it, made a misleading statement to an official body to the effect that the age of consent in South Australia was 16 years. Other persons may well be (and may be entitled to be) misled, in the sense that they are entitled to assume that this report, which has received so much publicity, is correct. Does the Minister know the source of the information from South Australia stating that the age of consent is 16 years, and will he consult the Federal Attorney-General and seek to have the report corrected?

The Hon. D. H. L. BANFIELD: I will refer the honourable member's question to my colleague.

YORKE PENINSULA WATER SUPPLY

The Hon. M. B. DAWKINS: I seek leave to make a short statement before asking a question regarding water supplies on Yorke Peninsula.

Leave granted.

The Hon. M. B. DAWKINS: If I may digress for a few seconds, Mr. President, I congratulate you on your appointment to that high office and wish you well for the years to come.

My question refers to the Carribie basin, on the western portion of the southern tip of Yorke Peninsula. It is a small basin that has been considered over the years as a possible source for the further supply of water on southern Yorke Peninsula. I ask the Minister representing the Minister of Works whether he will ask his colleague what progress, if any, has been made with plans for the development of the Carribie basin in order to reduce the strain on the demand in that area from the general supply from the big main and to improve the water supply on southern Yorke Peninsula, especially the western portion of it. Doubtless, the Minister of Works would be aware of representations that have been made over the years concerning the development of that relatively small basin in the area for the improvement of those supplies. Will the Minister's colleague further investigate the feasibility of using this basin to improve the situation on southern Yorke Peninsula and reduce somewhat the strain on the present source of water?

The Hon. T. M. CASEY: I will refer the matter to my colleague and bring back a reply.

EMERGENCY TELEPHONES

The Hon. N. K. FOSTER: Has the Minister of Lands a reply to the question I asked some weeks ago regarding emergency telephones on the South-Eastern Freeway?

The Hon. T. M. CASEY: Free emergency telephones are only installed on roads to facilitate urgent action in emergencies, namely, when there has been an accident requiring the attendance of the police, an ambulance, road workers, or equipment and vehicles to clear or repair the road. The service provided on the South-Eastern Freeway follows these principles and has been extended to provide some assistance in the case of vehicular breakdown on the basis that a stationary vehicle in an emergency stopping lane is a potential hazard.

All emergency telephones on the South-Eastern Freeway are connected to the R.A.A. breakdown service switchboard. The switchboard is manned on a 24-hour basis, but the operator is unable to provide calls other than to emergency services, that is, the police, Highways Department, St. John Ambulance, Fire Brigade, and tow truck organisations. Whether an incoming call from an emergency telephone is from an R.A.A. member or not, the R.A.A. will arrange assistance. However, non-members are advised that they are required to meet the cost and are quoted the approximate amount involved.

The emergency telephones on the South-Eastern Freeway have proved successful for their intended use and it is not proposed to extend the facilities at this time. The Highways Department has released information on the operation of the emergency telephones on the South-Eastern Freeway. However, as this took place several years ago, endeavours will be made to gain further press coverage on this subject.

LIFE ASSURANCE

The Hon. R. C. DeGARIS: I seek leave to make a brief explanation prior to asking the Minister of Health a question about the State Government Insurance Commission.

Leave granted.

The Hon. R. C. DeGARIS: In this morning's newspaper, the Premier announced the Government's intention to move S.G.I.C. into the area of life assurance. I ask the Minister to ascertain whether the Premier would be more careful in his statements on such matters. In his announcement the Premier went beyond fair comment in relation to the mutual societies, which have operated successfully on behalf of the community and industries in South Australia for many years.

The Hon. D. H. L. BANFIELD: I will refer the question to the Premier and bring back a reply.

HEALTH BENEFITS

The Hon. J. R. CORNWALL: I seek leave to make a brief statement prior to asking the Minister of Health a question about medical benefits.

Leave granted.

The Hon. J. R. CORNWALL: The *National Times* at the weekend contained a report about the extraordinary complexity of the medical benefits schedule. Apparently, more than 8 000 items are listed, and I have obtained a copy of this fairly remarkable document. The point is made in the report that it is impossible for the average patient to check on the fees being charged for any particular procedure. This is brought about principally by the fact that in many cases the schedule benefit number is listed on the account, and it is an extraordinarily complex thing. The point is often made that, because of the present position in health insurance, there is big scope for the patient to abuse the system, but I think the point ought to be made clearly that, because of the complexity of this document and the inability of, I suppose, 99·9 per cent of patients to understand the procedures listed, there is a possibility of all sorts of abuse by unscrupulous doctors. For example, these items are included, referring to general practitioners:

Surgery consultations, brief consultation in hours.
General practitioner, surgery consultations after hours.
Standard consultation in hours.
Standard consultation after hours.
Long consultation in hours.
Long consultation after hours.
Prolonged consultation in hours.
Prolonged consultation after hours.
Brief home visit in hours.
Brief home visit after hours.
Standard home visit in hours.
Standard home visit after hours.

The document also refers to visits to nursing homes to see two patients, similar visits for three or more patients, and consultations at hospitals, seeing two, three or more patients. It seems to me that some of the items listed, particularly under the section "Plastic and cosmetic", may well be unnecessary operations. An example is "mammaplasty, augmentation, prosthetic (unilateral)", which I understand, in simple terms, means building the boob on one side. The all-States fee for that is $240 and the benefit is $235.

As I do not wish to appear sexist, I point out that on the next page the document mentions an item "Hair transplants, multiple punch or similar technique, involving not more than 40 punch grafts". The all-States fee is $35·50 and the benefit is $30·50. For hair transplants, multiple punch or similar technique, involving more than 40 but not more than 100 punch grafts, the all-States fee is $71. For hair transplants, multiple punch or similar technique, involving more than 100 punch grafts, the all-States fee is $156.

I presume that the beneficiaries of these procedures would be mainly the male of the species. Will the Minister of Health, at the next Health Ministers' conference, take up with his Federal and State colleagues the possibility of simplifying the present document, which is quite beyond the ability of the average patient to understand and must inevitably lead at least to the temptation of gross abuse, if not actual abuse?

The Hon. D. H. L. BANFIELD: The document referred to by the honourable member is issued for the benefit of doctors in calculating the fees they can charge, and I agree that patients, when they receive an account for, say, "item No. 45", would not have a clue what that item was unless the doctor told them. It is also possible that a number could be wrong and the patient might not know where to check. I will certainly take the matter up for the honourable member to find out whether the document can be simplified, so that patients can have something that they understand more readily.

PEANUTS

The Hon. ANNE LEVY: I seek leave to make a short statement before addressing a question to the Minister of Health concerning peanuts.

Leave granted.

The Hon. ANNE LEVY: A report appeared in the weekend press dealing with an outbreak of infection to the Queensland peanut crop. The infection is *aspergillus flavus,* which I understand results in the infected peanuts becoming poisonous and highly detrimental to anyone who might eat them. The report stated that the Queensland Peanut Marketing Board was checking all peanuts sold through it and could reassure the public that any peanuts handled by it would not be so infected. However, the report also stated that not all peanuts in Queensland are sold through the board. Therefore, these peanuts would not have been checked for the presence of this fungus. Can the Minister ascertain whether or not Queensland peanuts sold in South Australia have, in fact, come through the Queensland Peanut Marketing Board, thereby reassuring South Australian consumers that any such peanuts are safe to eat?

The Hon. D. H. L. BANFIELD: I did not see the report in the weekend press, but I shall certainly alert my officers to the position if they are not already watching it (although I assume they are) and obtain a report for the honourable member.

STOCK FEED

The Hon. N. K. FOSTER: I seek leave to make a short statement prior to directing a question to the Leader of the House concerning possible stock feed contamination.

Leave granted.

The Hon. N. K. FOSTER: I am reluctant at this stage to refer to any names of products or companies involved in this matter, and I do not intend to do so. I refer to a matter that may have arisen about two or three years ago involving the destruction of stock poultry as a result of contaminated feed, although I do not want to canvass the more serious aspect of that matter today. Can the Minister say whether, if a similar situation occurred today, it would be obligatory on the part of the stock feed manufacturer or the distributor to notify the department of such a situation?

The Hon. D. H. L. BANFIELD: I will have inquiries made.

The Hon. N. K. FOSTER: I want to know whether the department has to be notified.

The Hon. D. H. L. BANFIELD: I assume it does, but I will check on the situation. If the honourable member has a specific instance, I shall be happy to discuss the details with him.

MOTOR FUEL RATIONING BILL

Adjourned debate on second reading.

(Continued from February 23. Page 1766.)

The Hon. C. M. HILL: May I add my congratulations to you, Sir, on your election to the high office of President today. I support the concept that a Government of this State should be armed with legislation so that, in the event of an emergency involving a lack of fuel, the Government can introduce rationing swiftly, so that the minimum delay results and essential services can be assured of reliable fuel supplies in the interests of the community.

The Government is trying to achieve that aim through this Bill. I do not intend to speak at great length on it, because several honourable members have already contributed to the debate, and I support the points they have raised. Two principles emerge from the debate so far. The first principle concerns country consumers and their need for the 44-gallon drum to be considered by the Government in an emergency as a consumer item. If the Government has the power to include such a container under the permit clauses of the Bill, it will be necessary for the Bill to be amended.

As the Bill now reads, such containers would not be included in Part II, which deals with permits, but would be involved in Part III, in relation to bulk fuel. However, many country people look upon such containers as consumer items, and it would be only fair for the Government to agree to amend the Bill before it finally passes through Parliament so that those who are accustomed to obtaining fuel in such containers would be under the same permit system as applies to consumers in townships and in the metropolitan area.

A second point has been raised in the debate: what is the position where there is a shortage of supply while at the same time there is a considerable quantity of fuel stored in refineries, such as the one at Port Stanvac, and possibly in storage tanks at ports such as Port Pirie and Port Lincoln? It seems to be only fair for the Government to be armed with some power to take whatever action it thinks fit to ensure that at least some of that fuel, which might in those circumstances be tied up through industrial disputes, is put through the general system, so that our essential services could continue.

The Hon. N. K. Foster: Haven't you heard of the trade union movement?

The Hon. C. M. HILL: I would hope that in those circumstances there would be general co-operation from the trade union movement, but not everyone within that movement always thinks along the same lines in times of industrial trouble. I am further reinforced in my thinking on examining the first sentence in the Minister's second reading explanation, which states:

> The ever-increasing demand upon the world's energy resources and the uncertainty of future supplies of such resources, particularly crude oil, has led Governments to consider legislating to ensure the maintenance of essential services in the event of the supplies of such energy resources becoming unobtainable or in critically short supply for one reason or another.

That is, in effect, saying that, for all the possible reasons that might occur, if there is a shortage of fuel in South Australia, the Government is seeking through this Bill to be given the necessary powers to act, so that essential services do not suffer. Yet the Government then produces a Bill like this and leaves completely out of the picture a situation that could occur, with bulk fuel remaining in storage while consumers and essential services face shortages. Either the Government has overlooked that situation or it is not genuine in introducing this Bill, in view of the sentence in the second reading explanation that I have quoted.

Government members, including those close to the trade union movement, should seriously consider at least going as far as giving the Government power to regulate, if the Government thinks fit, at the appropriate time. It would be a gesture of sincerity on the Government's part if it was willing to consider this aspect. During the Committee stage we shall have the opportunity of debating problems that may occur when this Bill becomes the first permanent legislation to govern situations of the kind I have referred to. As the Minister said, for some years these situations have occurred; legislation has been brought forward, but nothing permanent has really resulted. In general, I support the second reading of this Bill, which I hope will be further improved after extended debate in committee.

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

UNIVERSITY OF ADELAIDE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from February 23. Page 1767.)

The Hon. M. B. DAWKINS: I do not intend to speak at length on this Bill, which is necessary for the good government of the university. It is also necessary that the university should have to all intents and purposes complete autonomy in running its affairs, but it definitely has to be run in accordance with the terms of the principal Act. My association with the university is somewhat peripheral, going back many years ago, when I was a student at the Elder Conservatorium, which is part of the university. For the most part, I support the Bill but, like some of my colleagues, I am concerned about clause 15, which inserts new subsections in section 22 of the principal Act. Clause 15 provides:

> Section 22 of the principal Act is amended—
>
> *(a)* by inserting in subsection (1) after paragraph *(f)* the following paragraph:—
>
> *(fa)* prescribing, with the concurrence of the Adelaide University Union, the fees for membership of the union, and providing for the collection and recovery of those fees by the University on behalf of the union; ;

I think the Hon. Mr. Burdett said that this provision to all intents and purposes seeks to extract a compulsory union fee from students. I am concerned about that situation. Clause 15 *(b)* provides for the admission of persons to an honorary degree of Doctor of the university. Most universities provide for honorary degrees for distinguished services, but Adelaide University has not provided for such degrees in the past because there has been concern about the possibility of such degrees being awarded in circumstances where they were not completely deserved. Now, under this provision, the university is coming into line with other universities, and I do not have any great objection to the provision. I am, however, concerned with new paragraph *(fa)*. Amendments are being prepared, after considerable discussion with students and staff of the university and, I hope, with Government members.

I hope these amendments will prove acceptable to all concerned and will benefit the whole of the legislation. At this stage, while expressing my concern with some portions of the Bill, I will support the second reading.

The Hon. F. T. BLEVINS: I support this Bill in its entirety. It is the result of a consensus of opinion arrived at after years of consultation among all persons at the Adelaide University. If everyone concerned is happy with the Bill as it stands now, this Council should not interfere with those wishes without very good reason. However, I certainly do not go along with the proposition that any organisation that needs an Act of Parliament to govern its activities can present Parliament with a draft for a Bill and say, "Here is what we want—pass it." That would be arrogant and impertinent. The people as a whole have a right to say what should appear in an Act of Parliament, not just the group concerned. I am satisfied that with this Bill the people as well as the university have had their say, as evidenced by the Bill's passing through the people's House, the House of Assembly, and I think it is arrogant and impertinent for members of this Council, who have not been democratically elected, to interfere with the decision of another place in this or any other matter.

Like Mr. Dawkins, I did not intend to speak on this Bill because I was certain there were enough academics and pseudo-intellectuals in this place to bore the Council to death before the Bill either passed or was thrown out. The contribution of Mr. Carnie was so distorted and inaccurate regarding some student activities that I have been forced, in the interests of truth, to make this small contribution. Before dealing with the misrepresentations contained in Mr. Carnie's speech, I wish to say a few words about universities in general. As a socialist and a member of the working class, I and many others like me saw education, and particularly a university education, as somehow being the way in which the working class would become aware of its class position and, once aware of that position, it would want to do something about changing the present system. That has only one basic principle—that one person has the right to exploit everyone else for his own personal gain.

Of course, this rather naive faith in a university education could not last. The working class is realising that universities are just another type of factory, turning out future workers stamped with a particular label that generally commands a particular price. For example, a B.A. is worth $X in life's income, an M.A. is worth $Y, a Ph.D. is worth $Z and, if one is labelled a "drop-out", that is a disaster and the labour market will not want very much to do with him. Rather than students being provided with a critical view of society, as socialists hoped would be the case, the universities, and indeed the whole educational system, seem content to rationalise the dominant accepted social values rather than challenge them. This has been a most disenchanting experience for those people whose subjective view of universities was that of an ivory tower, that of believing the university was dedicated to the preservation and transmission of knowledge and truth.

An increasing number of workers now realise that universities are not like that at all. In fact, universities appear to them to be the sole province of the wealthy who run them and are employed in them on salaries and under working conditions over which industrial workers can only drool, and whose children in the main attend them and graduate into commerce and industry and do nothing more useful than make money, bash workers, and vote Liberal. However, I think the universities are worth defending even though at the moment for every Don Dunstan they

turn out they unfortunately also turn out 10 John Burdetts and John Carnies.

Mr. Carnie's speech was typical of his speeches in this Chamber, in that it bashed anything even slightly progressive or liberal. His speech dealt with compulsion, and other honourable members also dealt with compulsion. It is significant that the so-called advocates of non-compulsion, like members opposite, are not fighting to have membership of the sports association, for example, voluntary. I would be more impressed with their arguments if they were. At least, it would show some consistency, but the Liberal Party's objections are not really against compulsion: what it wants to do is simply to smash the A.U.S. and the students association if it can.

The Liberals, through their clubs in the universities, have been unable to convince the students in open debate that they should disaffiliate from the A.U.S., so now they are using any other methods they can, including this Council, through their stooges on the Opposition benches, to achieve their aim. One would think that the proper and decent thing for the university Liberal Club to do would be to continue to attempt to persuade their fellow students on the campus to their way of thinking; but then, if these students had any notion of rightness and decency, they would not be in the Liberal Club. Suspecting that most of what Mr. Carnie was saying was rubbish, I took the trouble to get a copy of the financial statement of the Students Association of the University of Adelaide for the year ended December 31, 1977. At this stage, I seek leave to have this inserted in *Hansard* without my reading it.

The Hon. M. B. Cameron: How long is it?

The Hon. F. T. BLEVINS: It is a financial statement; you can look at it, if you want to.

Leave granted.

STUDENTS ASSOCIATION OF THE UNIVERSITY OF ADELAIDE

GENERAL ACCOUNT

Financial statement for the year ended December 31, 1977

Public Affairs Committee (Budget $1 500)—			$	$	$
Grants:					
Liberal Club for Orientation Week			31·50		
Liberal Club for travel in connection with Australasian Liberal Students Federation Conference			100·00		
Women on Campus			56·00		
Women on Campus			55·25		
Women on Campus—Registration and fares			92·00		
Soweto Students Tour Fund (Barney Mokgatle)			100·00		
National Conference for a Democratic Constitution			20·00		
Campaign Against Nuclear Energy			133·12		
S.A.I. for LaTrobe Valley Speakers			32·00		
Labor Club for expenses—H. V. Evatt Memorial Lecture by Bill Hayden			11·00		
Far North Queensland Committee			200·00		
Queensland Bail Fund			25·00		
Student Initiatives in Student Health			200·00		
Political Economy Group			45·00		
Posters			62·70		
Payment for pasting up			7·50		
Airfare—part cost of bringing Michael Danby			76·00		
Sundries—trunk calls etc.			38·52		
				1 285·59	
Cultural Affairs (Balance of fund $350·40—Budget $200·00)—					
Union Gallery for loss on Margaret Roadknight			15·00		
Women's Street Theatre			50·00		
Grant to Arts Society Magazine			100·00		
Food booklet			44·50		
Poster Exhibition—expenses			137·54		
Books			14·40		
Less amount written off for cheque not cashed—Union Gallery (1976)		Jnl. cr.	−7·69		
				353·75	
Education and Welfare Committee ($4 350)—					
Friends of the Earth		1 000	1 025·11		
Education Group		750	175·45		
Part Time Education Group		500	88·88		
Bowden/Brompton Group		250	201·95		
Greek Social Action		250	206·60		
Orientation Camps		1 600	6 255·39		Fees: 5 050·37
O/Camps 1978—					
Deposit			30·00		
Printing			5·70		
				7 989·08	
Media Committee—Budget		29 900			
On Dit Editor—salary to be deducted		−3 000			
Printer—salary to be deducted		−2 000			
		$24 900			

On Dit	1st Term	2nd Term	3rd Term	Total	
Paper	1 652·00	1 591·60	1 254·40	4 498·00	
Ink & chem	802·50	715·50	1 017·00	2 535·00	
Plates	441·59	315·00	250·50	1 007·09	
Collating	347·00	151·80	414·00	912·80	
Lay-out	488·00	506·00	671·00	1 665·00	
	3 731·09	3 279·90	3 720·65	10 617·89	Ads 1 689·70

Financial statement for the year ended December 31, 1977—continued

		$	$	$	$
Printers overtime for extra colour printing					Sund. 14·00
Sundries:—					
Camden art		60·56			
Letraset		703·47			
Phone		416·04			72·95
Photography		158·42			
Prizes		42·00			
Other		359·51			
Bulk Postage		139·35			
Transport		80·50			
Commission on ads		46·20			
			2 006·05		
Purchase of Headliner			1 950·00		
				14 573·94	
Radio		Budget 7 000		5 618·84	
Video		200		222·65	
Bread and Circuses		700		1 077·99	CSC 538·00
Orientation Guide		2 000		1 049·30	Ads 460·00
Social Activities Committee		3 100			
Lunchtime & SAUA nights		1 600	1 644·18		Crs. 144·50
			568·72		Crs. 116·50
Campus Activities contribution		400	200·00		
Fares advanced & reimbursed			21·00		Crs. 20·00
Prosh		250	235·79		Crs. 94·10
Orientation Week		850	554·63		Crs. 287·00
				3 224·32	
A.U.S. Committee		3 100			
Travel		1 750	1 395·95		
Other:—Sundries	220	1 350	78·08		
Service Fee	80		80·00		
Education	200		40·95		
Women	200		123·01		
National	100		22·00		
I'National	100		11·00		
I'com.Del.	100		84·20		
O.S.S.	150		160·41		
Race Relations			25·00		
*Cult. Affairs	200				
				2 020·60	Cr. 72·60
A.U.S. Fees—(N.B. 3rd term fees withheld pending outcome of legal action)				14 820·00	
Executive committee		500		482·56	Cr. 105·30
President's expenses		500		429·46	
Elections		1 000		1 006·69	Cr. 401·00
Administration					
Printing and Stationery		5 500		12 743·60	Cr. 9 974·91
Refund of materials returned to Agfa Gevaert					379·80
Printer—					
Contract				6 800·00	
Overtime				1 654·50	6 180·00
Casuals				215·34	
Phone		1 000		895·83	364·82
Maintenance and		900		904·00	
Repairs				511·58	
Petty Cash				124·09	
Postage		1 500		175·65	
Sundries				762·16	148·80
Sundries Letraset				280·93	
Balance of Papua/New Guinea a/c paid to University for Students Competence in English Course—also proceeds of Time-Life Commissions and Lost Property Sales				1 671·04	1 751·54
Contingencies		2 000			
Bank Interest				163·09	163·09
Union Grants—1977 budget					66 670·00
Less amount repaid to Union				14 000·00	
				$95 056·58	$94 682·08

Reconciliation

	$		$
Balance as at 31/12/76	364·60		
Plus receipts as above	94 682·08		
	95 046·68		
Less payments	95 056·58		
Debit balance	9·90	Balance at bank	4 450·21
Dishonoured cheque	10·10	Unpaid cheques	4 470·21
Debit balance	$20·00	Dr. balance	$20·00

The Hon. F. T. BLEVINS: From this financial statement, members will see that the only payments from the students association that could in any way be called political amount to about $4 331. As the total union fees collected for 1977 were $747 000, the proportion used politically was very small—0·0059 per cent; or, expressed in cash terms, from a 1977 union fee of $99·50 only about 60c a student was paid into causes that could be called political. I repeat, 60c out of $99·50, and I have shown how I have calculated that sum.

The Hon. J. A. Carnie: By leaving out Friends of the Earth.

The Hon. F. T. BLEVINS: No, I have not. The $4 331, as honourable members will see if they look at the financial statement, consists of $1 285·59 to the Public Affairs Committee and $2 020·60 to the A.U.S. committee; and it includes $1 025·11 to the Friends of the Earth, which will make Mr. Carnie happy. To say that it does not include that means that Mr. Carnie is not correctly informed. The amount paid out by students is about 60c out of a $99·50 union fee. Mr. Carnie said that the figure was $7·98 but he gave no detail of how he arrived at that ridiculous figure. If Mr. Carnie still insists that his figure of $7·98 is correct and mine of 60c is wrong, he should show us precisely how he calculated his figure. In other words, I say to the Hon. Mr. Carnie, "I have shown you mine; now show me yours."

Without a doubt the main object of the Opposition's hatred of any progressive thought or activity at universities is the A.U.S., and the Hon. Mr. Carnie's contribution was mainly misrepresenting that organisation and smearing its constitution and its defenders. Two things about A.U.S. are perfectly clear. First, no student council can be forced to affiliate against the wishes of a campus. If a campus decides by referendum that it does not wish to affiliate, it does not have to do so. Several campuses around Australia are not, by choice of the students, affiliated with A.U.S., and I support their right to please themselves.

The Hon. M. B. Cameron: Is any outside printing done?

The Hon. F. T. BLEVINS: The honourable member can test whether the financial statement is correct. Then, when he makes his contribution tomorrow, the honourable member will be able to enlighten the Council. Secondly, once a student council has affiliated, it, not individual students, is recognised by A.U.S. as a constitutional body. The constitution of A.U.S. is quite clear on this. I refer honourable members to part 4a thereof, which is the relevant part, as follows:

> The council may, upon application by the governing student council of a student body in an Australian tertiary institution, admit such council as a constituent organisation by due amendment to the first schedule hereto.

For some reason, the Hon. Mr. Carnie cannot seem to grasp that, because individual membership cards are given out by A.U.S. Individual cards are given out solely for the purpose of obtaining discounts, student travel, and so on. In no way does it confer individual membership on students. The A.U.S. constitution, to which I have referred, is clear on this. Whether this should be the case is another argument, but students have at all times the right, through their elected representatives on the A.U.S. governing body, to work to change the constitution, or, by referendum, they can get out of A.U.S. altogether.

The Hon. Mr. Carnie quoted a case of a Gordon Laverick, who applied to the union council, as an individual, to have the $2·50 affiliation fee paid to A.U.S. returned to him as he had a conscientious objection to paying it. My information is that Mr. Laverick was told that the question had nothing to do with the union council, as the student association was autonomous within the union, and that Mr. Laverick should take up the question with the students' association and/or A.U.S. The treatment of Mr. Laverick's appeal seems perfectly reasonable to me and at all times within the authority of the union council. In other words, he went to the wrong body. That did not seem very bright on his part.

The Hon. Mr. Carnie also had something to say about a ballot to disaffiliate the Adelaide campus from A.U.S. in 1975. The Hon. Mr. Carnie was not happy that 110 votes in that ballot had been ruled informal by the students' association. Of course, that is not correct. In fact, the returning officer, who was at that time the Secretary of the union, ruled that the ballot box from the medical school common room was invalid because the person who was supervising the box was telling voters to vote in a certain way. The significant thing about this is that the returning officer was selected for the position on a motion moved by Mr. Tim Cooper and seconded by Mr. Mark Vogt, both of whom are members of the Liberal Club.

The Hon. C. J. Sumner: They appointed him.

The Hon. F. T. BLEVINS: They got the umpire they wanted, but then groaned about his decision. Apparently, Mr. Laverick did not inform the Hon. Mr. Carnie about that. In any event, even if the ballot box from the medical faculty had been valid and they had all been in favour of secession, which is highly unlikely, the result would have been no different. Adelaide University would still have remained affiliated to A.U.S. Incidentally, 1 483 votes, not 1 100 votes, were cast. I think that whoever is giving the Hon. Mr. Carnie his information owes him an apology.

I will be here all day if I continue to correct all the inaccuracies in the Hon. Mr. Carnie's speech. I think I have given sufficient information so that anyone who is interested in the debate will take the Hon. Mr. Carnie's contribution with a large grain of salt. To some extent, I do not blame the Hon. Mr. Carnie. It is obvious that he knows little or nothing about the running of the university, and, being advised by Liberals who are associated with known ballot riggers, this is hardly a guarantee of accuracy.

The Hon. J. E. Dunford: He knows a bit about ballots, though.

The Hon. F. T. BLEVINS: It astonishes me that the people from the Liberal Club who tried to rig this later ballot at the university did not do it effectively. I should have thought that they would have at least inherited a small degree of expertise about rigging ballots from their relatives and ancestors in this Council.

The Hon. Jessie Cooper: Wrong again!

The Hon. F. T. BLEVINS: Certainly, one of the relatives sat in this place for 20 years. Also, the Hon. Mr. Foster told me that they gave some advice to the Hon. Mr. Hill years ago. He bought hundreds and hundreds of copies of the *Sunday Mail* in an attempt to rig a ballot. I can only say that anyone who is game enough to buy hundreds of copies of the *Sunday Mail* deserves to win a ballot.

I support the second reading, and urge all honourable members to do the same. The university wants the Bill; the Government wants the Bill; and only a tiny minority of extreme right-wing malcontents have any objection to it. We all know that that type will go to any lengths, legal or illegal, to disrupt the smooth working of the university. I hope that you, Sir, and your colleagues will not allow yourselves to be used in this way, contrary to the wishes of the university and the people.

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

CONTRACTS REVIEW BILL

Adjourned debate on second reading.
(Continued from February 22. Page 1706.)

The Hon. J. C. BURDETT: I rise to speak to this Bill. I strongly support the principles of the Bill. In principle, the Bill acknowledges that often equality of bargaining power does not exist and that in some circumstances the courts should have the power to review contracts which are unjust.

The second reading explanation goes too far when it says that in this age of big business and standard form contracts equality of bargaining power rarely exists. This is palpable nonsense. In the case of most contracts for the sale of real estate, there is equality of bargaining power. The same applies in regard to most partnership agreements, most commercial lettings and many contracts of no particular generic kind. Equality of bargaining power exists in the vast majority of contracts for the sale and purchase of goods and for the provision of services and this would be one of the largest categories of contract.

To say that equality of bargaining power rarely exists is vastly to overstate the case, and I am not even sure that it is possible to state criteria which enable one accurately to gauge equality of bargaining power. However, I do agree that there will be many occasions where one party to an agreement is clearly in a much stronger position than the other. The rather glib second reading explanation later brushes aside the existing remedies in regard to harsh and unconscionable contracts in one sentence:

> The courts have provided relief in certain sorts of unconscionable bargains but judicial innovation is too slow to take account of the reality of 20th century conditions.

It is totally unrealistic to write off the value of the existing equitable remedies with a short, simplistic, and smooth statement such as this. The second reading explanation is careful to exaggerate the incidence of contracts where there is not equality of bargaining power and equally careful to minimise the efficacy of existing remedies. In fact, the court at the present time exercising its equitable jurisdiction has very wide powers to act where there has been any element of harshness or unconscionability. The only real area where the court is limited in its powers is that its powers of rectification of a contract are inadequate.

Before passing on to particular matters, let me make clear that I support the principle of the Bill in providing relief for persons who have genuinely been the victims of harsh and unconscionable contracts. A substantial body of evidence presented to the Select Committee in another place suggested that there would be considerable uncertainty in the area of contracts if this Bill was passed. This is undoubtedly true. Until there has been a substantial number of cases, people concerned in the area of contracts would have no idea how this Bill would be interpreted. I have no desire to protect people who seek to make harsh and unconscionable contracts, but the definition of "unjust" is so wide that persons having perfectly proper motives may well be caught. The definition of "unjust" gives no real test of what is "unjust" and gives little assistance to the court.

I suppose that, as I am a member of the legal profession, from a professional point of view I should support the Bill in its present form because it would undoubtedly be a veritable gold mine for lawyers. The Bill is so uncertain in its terms and such incomplete consideration has been given to its effects on other Statutes that this legislation will be a fruitful source of expensive and long-winded litigation for many years to come. However, I think most lawyers would prefer Statutes to be good Statutes and not bring the law into disrepute.

Some of the amendments to the original Bill passed in another place following the Select Committee report do not help the problems of the Bill: they make them worse. One amendment added to the definition of contract is the present clause 3 *(c)*:

> any instrument
> (i) transferring title to land or
> (ii) creating any interest in land.

This will probably have the effect of excluding instruments transferring title to assets other than land. I think the proposed amendments exclude bills of sale, consumer mortgages, and share transfers. This suggestion was made in another place and appears from the debate not to have been understood. One of the canons of construction is *expressum facit cessare tacitum* (forgive my legal pronunciation—most judges laugh at you if you use the Ciceronian pronunciation). According to my rusty Latin, this means "What is expressly mentioned makes what is not mentioned give way". Another of the canons, *expressio unius est exclusio alterius,* means that the express mention of one thing excludes others, so the amendment piously included to refer to instruments transferring land probably excludes instruments transferring other things, in particular the ones which I have mentioned.

Clause 7 (1) refers to any other person who may have become interested in the subject matter of the contract. These words are confusing, and surely the test should relate to persons who are adversely affected by an order. In clause 7 (4) *(a)* the word "contract" should read "proceedings", because that part of the Bill is talking about litigants.

One of the most serious reservations which South Australians will have about the Bill is in regard to the Real Property Act or the Torrens title system as we affectionately know it. One of the main benefits which Sir Robert Torrens gave to our system of lands titles was that of indefeasibility. The certificate of title is a mirror of title. What the certificate of title says you have, you do in fact have, subject only to those encumbrances endorsed on the title. This has been one of the main strengths of the Torrens title system.

Whether Sir Robert Torrens dreamt it up himself or whether it arose from the Roman-Dutch system of titles really does not matter very much. The South Australian Act has been frankly copied in all other Australian States and in many British Commonwealth countries. It would be a complete tragedy if, in the home of the Torrens title system, one of its basic principles (namely, indefeasibility of title) was destroyed or seriously affected. Clause 5 of the Bill provides:

> "This Act has effect notwithstanding the provisions of the Real Property Act, 1886-1975".

Other provisions in the Bill throw some doubt on the previously clear and firm policy of indefeasibility. Even the Select Committee report acknowledged this danger and paid lip service to the doctrine of indefeasibility of title, but the Bill as it stands by no means puts this issue beyond doubt.

To take a simple example, A sells his house to B. A transfer is executed and registered and B is registered on the title. Subsequently, it is discovered that A's title is able to be attacked under the Bill. The position under the Bill appears to be that B can lose his title to the house. He has to be compensated, but this is not what he wanted and not what he is entitled to. Many other examples could be given. Other Acts where there is inter-relationship between them and this Bill are important. These include the Bills of Sale Act, Consumer Credit Act, and Land and

Business Agents Act.

The Select Committee report, in another place, says that it has become apparent from overseas experience and from the committee's investigations that there is an overriding need for a massive campaign of education about any such measure as this. I, of course, agree with this, but a large part of the need for the Bill would have been avoided if there had been a massive campaign of education about what can be done in this area under the existing law.

I am not even sure that the Bill constitutes the correct approach to the whole problem. The Select Committee appears to have been well conducted and to have performed some valuable work. However, a task such as this, namely, to propose a Bill which renders all contracts and some other instruments liable to review is beyond the resources of a Select Committee. Much valuable evidence was given but the Select Committee was not the appropriate body to assess it. What is necessary is a continuing body with ample research facilities available to it.

Both the Law Society of South Australia and the Housing Industry Association, and there may have been others, suggested that the concept of protection in the area in which the Bill seeks to operate should be submitted to the South Australian Law Reform Committee for report and recommendation. I strongly agree with this. This has been a usual and proper approach for complicated legislation in recent years. Not only should the Bill be submitted to the Law Reform Committee but the question of whether or not this Bill is the best way of tackling the problem should also be submitted to that committee.

It is indeed a pity that we are the only State in Australia without a permanent Law Reform Commission with statutory authority and a permanent secretariat and permanent access to research facilities. (Victoria, strictly speaking, does not have a Law Reform Commission but it does have a Law Reform Commissioner.) It has been my Party's policy, for some years, to set up a permanent Law Reform Commission. The Government has opposed this concept, but it could at least have used the facilities which it does have readily available. The only proper way to have investigated this complex issue properly was to have referred the matter for recommendation and report to the Law Reform Committee which has, certainly, better facilities than anyone else to research the issues involved and assess the material collected and make a proper recommendation.

Some of the amendments recommended by the committee have made it clearer than ever before that some more sophisticated reference was needed. The Hon. Mr. Justice King, a member of the Law Reform Committee, did make a submission to the Select Committee, but this was clearly a personal submission and not the work of the committee.

Since the committee was established in 1969 it has dealt with 35 assignments. Some of the assignments have been on Bills, for example, the Foreign Judgments Bill (the assignment was in 1969). Some have been on very broad subjects, as this Bill is on a very broad subject, for example "The Law Relating to Women and Women's Rights—in 1970". Also many bits and pieces, some of them quite circumscribed were assigned, for example, the Motor Vehicles Act in 1971, the reform of the law of intestacy and wills in 1974 and so on.

Surely, this present vital, important, far-reaching and extremely complicated subject should have been submitted to the body most able to deal with it and recommend accordingly. Why was it not so referred? I think the answer is obvious. This Government has always wanted to be first cab off the rank with this kind of legislation. It did not want to refer it to the Law Reform Committee, because this might have taken time; it might have deprived the Government of its precious first; the Government might not have liked the answer it got and the recommendations of the committee would have been unlikely to be as apparently dramatic in effect as the Government wanted. No—the Government had to do it itself. It did not really care how good or bad the legislation was—but it had to be first, it had to have this dramatic legislation on the Statute Book.

I think it appears clearly from reading the Select Committee's report that no-one is in a position at this time to amend the Bill to make it a better Bill. Some of the amendments, as I have said, recommended by the committee, have only made confusion worse confounded. I certainly do not pretend that I can patch up this Bill in Committee at this time. This is not a Committee Bill—at any rate not yet. The whole concept needs much more investigation. Therefore, I move:

> That all words after "That" in the motion "That the Bill be now read a second time" be left out and the following words inserted:
>
> the Bill be withdrawn with a view to the Government referring it to the South Australian Law Reform Committee for its report and recommendations regarding the implementation of the objects of the Bill and that the Bill be redrafted to allow for its interrelationship with other Acts.

There is precedent both in this place and in another place for this kind of amendment at the second reading stage. I am sure that this is the correct way to deal with this Bill.

The PRESIDENT: Is the motion seconded?

The Hon. C. M. HILL: I second the motion and reserve my right to speak at a later stage.

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

The Hon. D. H. L. BANFIELD (Minister of Health): Although I do not wish to place you under undue pressure today, Sir, is it permissible for the Hon. Mr. Hill to oppose the motion, which he has done, in effect, by seconding the Hon. Mr. Burdett's amendment? So that there will not be later argument (this matter need not be decided immediately as a determination can be given tomorrow), I seek a ruling as to whether or not the Hon. Mr. Hill can reserve his right to speak without seeking leave to continue his remarks?

The PRESIDENT: Standing Order 179 provides:

> It shall be competent to a member when he seconds a motion or amendment without speaking to it, to address the Council on the subject of such motion or amendment at some subsequent period of the debate.

I rule that the honourable member was in order.

RESIDENTIAL TENANCIES BILL

Adjourned debate on second reading.

(Continued from February 22. Page 1711.)

The Hon. R. C. DeGARIS (Leader of the Opposition): I believe that this Bill now is almost at the stage of being a complete Committee Bill, but not for some time has a Bill caused so much concern in the minds of both tenants and landlords as has this Bill. I believe that the strong opposition from both tenants and landlords forced the Government to agree to refer the Bill to a Select Committee of another place for report.

The fact that, attached to the Select Committee's report, are five foolscap pages of amendments which were eventually made by the House of Assembly to the Bill,

clearly indicates that the public concern originally expressed to all members was soundly based. The second reading explanation given to this Council contains political window dressing as well, and I refer to two statements in the explanation. The Minister stated:

> The Bill proposes a substantial revision of the law regulating the relationship of landlord and tenant . . . It is a significant measure. It is the first attempt in Australia . . .

I agree, it is a revision of the law but, having studied the Bill carefully, I believe it consolidates existing Statute law with the writing in of certain common law concepts, rather than a substantial revision of the existing law. The Minister also stated:

> From the point of view of tenants, the present law in this area does not recognise the inequality of bargaining power of landlords and tenants in respect of their agreements. A tenant has no security of tenure, his common law rights can be abrogated by standard-form agreements.

Two factors have caused a revision of the position between landlord and tenant under this Bill. One is the question that has arisen in the relationship between landlord and tenant concerning bond money, and the second concerns the security of tenure for the tenant. Both those two matters are dealt with by this Bill.

I agree that the two areas should be examined in the modern context, as there has been some conflict, although there has not been great conflict in these two areas. In supporting the second reading, I indicate that in Committee there are still questions that must be explored before the Bill passes into law. In his second reading explanation the Minister stated:

> Housing is a basic human need. In our society all people need to obtain and to be reasonably secure in housing of an acceptable standard. It is a crucial Government responsibility to see that this need is met. The present law is not assisting the meeting of this need.

I strongly challenge that statement. I agree that it is the Government's responsibility to see that the housing needs, which cannot be met by the private sector, are met. That has been recognised by all Parliaments in Australia for many years, but to say that the existing law is not assisting the crucial responsibility of the Government to meet this need draws the long bow too far.

The private sector in this State deserves much credit for the job it has done in providing a relatively high standard of accommodation; more than that, there has been a noticeable lack of any real and sustained conflict in the community between the landlord and the tenant. This is, of course, to the credit of both landlord and tenant. I often think that in our legislation we tend to over-react to complaints, and I believe that in the first draft of the Bill this was the case: the Government over-reacted to complaints received from landlords in regard to tenants and from tenants in regard to landlords.

If legislation is over-repressive, the very thing that the Government sets out to correct can be made worse. For example, in legislation like this, it is possible to drive away capital from providing accommodation; or, to compensate for increased costs, the landlord must increase his rental charges. So, if the Government over-reacts, there will not be so much money invested in providing accommodation in the private sector and, in addition, the cost to the landlord will increase and the cost to the tenant will also increase. So, in this field of legislation, caution must always be to the forefront. We have seen in this State a spate of consumer legislation which, in the view of many informed people, has added more to costs in respect of the consumer than the protection has been worth. I think many honourable members would agree with that statement.

If an existing practice is working satisfactorily in the interests of landlords and tenants, is there any reason for legislation to make that practice illegal? For example, I know of one landlord, who has five flats, whose bond is much higher than that prescribed by this Bill. On the other hand, his rental charges are less than one would expect. His reason is that he attracts the type of tenant he desires. At the same time, the landlord does not mind children in his block of five flats, but he has found that, if two of the five tenants have children of the same age or of about the same age, he inevitably has trouble. This shows how difficult it is to lay down hard and fast rules for every landlord and every tenant.

The Hon. J. R. Cornwall: Do the children hold wild parties?

The Hon. R. C. DeGARIS: The landlord's attitude is reasonable. In view of the case I have made out, I believe it is necessary to allow any tribunal (and I do not accept the concept of a tribunal) to work within guidelines that are as wide as possible. Actually, I believe it is unnecessary to establish a tribunal to handle these questions, because the existing court system is satisfactory. With the establishment of a tribunal, we will not have people with the same legal background handling the work, and there will not be the same expertise as there is in the case of the present court system. If Parliament finally agrees to the concept of a tribunal system, we must insist on a right of appeal to a court.

This Council should not hurry in considering this Bill, which is a Committee Bill. If the original Bill were now being considered, I would say it should be dealt with very carefully at the second reading stage and the Committee stage but, by and large, this Council can support the general principles of this redrafted Bill. As there was considerable criticism of the original Bill and as the amended Bill went through the Lower House quickly, it is necessary to allow people who have an interest in the Bill to digest its implications. I support the second reading.

The Hon. J. C. BURDETT secured the adjournment of the debate.

ADJOURNMENT

At 4.54 p.m. the Council adjourned until Wednesday, March 1, at 2.15 p.m.