LEGISLATIVE COUNCIL

Tuesday, March 14, 1978

The PRESIDENT (Hon. A. M. Whyte) took the Chair at 2.15 p.m. and read prayers.

PETITION: MINORS BILL

The Hon. R. A. GEDDES presented a petition signed by 143 residents of South Australia, praying that the Legislative Council would reject any legislation that deprived parents of their rights and responsibilities in respect of the total health and welfare of their children.

Petition received and read.

PERSONAL EXPLANATION: CONSTABLE O'LEARY

The Hon. J. R. CORNWALL: I seek leave to make a personal explanation.

Leave granted.

The Hon. J. R. CORNWALL: Last Thursday (March 9), by means of a statement and a series of questions, I attempted further to clear the name of former constable John James O'Leary.

In the course of that explanation and those questions, I made references to Stewart Cockburn, of the Adelaide *Advertiser*. I also made clear that I was acting as a private member and had not discussed the matters which I raised with the Premier or the Chief Secretary, nor had I obtained any information from them. That is still the position.

On Thursday evening, March 9, photocopies of two articles by Stewart Cockburn in the *Advertiser* of July 28, 1972, and August 10, 1972, were left in my box at Parliament House. They were accompanied by a note from the author which began:

> John, suggest you read these carefully. Hopefully you may see fit to offer me an apology in the House next week . . .

Yesterday I received a more formal and detailed letter from Mr. Cockburn. In it he asked for a retraction. Failing that, he said, "I shall ask some other member of the Legislative Council if he will defend my good name and reputation." As to the other matters contained in that letter, I shall cover them in my explanation.

Had it not been for Mr. Cockburn's request I would have let the matter rest. However, because of his request I must make an explanation of my position. In the last four days I have considered Mr. Cockburn's request for an apology very carefully. While I believe without reservation that he acts at all times from what he considers his sense of duty, I do not agree with the moral or ethical bases from which he apparently forms his code.

Because I regard my decision not to offer an apology as an important matter of principle, I hope the Council will allow me time to detail my reasons. As my own comments about Mr. Cockburn referred principally to "recent weeks" I had to consider these events as well as his actions in the O'Leary matter. With the indulgence of the Council, I will outline reasons why I believe that on several occasions he has exceeded the normally accepted ethics of his profession.

During my explanation I said that Mr. Cockburn had been the prime informant in the action (the police investigation) against O'Leary. I also said that Mr. Cockburn "has become notorious in recent weeks for scandal mongering and character assassination by innuendo and rumour. However, that is apparently not a recently acquired talent." That was correctly attributed to me in a report in the *Advertiser of* March 10, 1978. However, in the same article I was reported as saying that Mr. Cockburn appeared to have carried out "his own personal Royal Commission into police corruption". That quote should have been attributed to J. J. O'Leary, Constable 1675, from a statement of August 21, 1972. That is shown clearly in the *Hansard* report of my questions.

On Thursday evening, March 9, after his note had been delivered, I had a lengthy discussion with Stewart Cockburn which we both agreed was entirely "off the record" and "without prejudice". In preparing this statement I have tried scrupulously to adhere to those undertakings, especially as I am acutely aware that I am speaking under privilege. I know that in any reply Mr. Cockburn will observe the same principle. Two weeks earlier I held a discussion with Mr. Cockburn in a public place in the presence of several people on which no such limitations were placed. Nevertheless, I do not intend to refer to this conversation, either. Any further references to Mr. Cockburn or any other persons will be on the basis of written or published material or matters which are known to me from other sources.

Mr. Cockburn claimed in his letter to me that O'Leary "has been honest enough and generous enough, despite the fearful personal damage he has suffered, to acknowledge that I had a job to do." Some job it certainly was. So much so that almost six years later Mr. O'Leary is still trying to clear his name. What Mr. Cockburn must answer is whether the O'Leary inquiry was initiated as a result of a sensationalised and inaccurate report in a student newspaper or because of his own direct approach to the Police Commissioner. In the O'Leary matter I first cite a report on what is commonly known as the "Duncan case" written by Mr. Cockburn in the *Advertiser* on July 28, 1972:

> I met Mr. Foss (editor of *Woroni*) and with an Adelaide student who does not wish to be named, I accompanied him on some of his investigations."

During these investigations three men answering the descriptions of Mr. Cockburn, Mr. Foss, and the Adelaide student referred to by Mr. Cockburn, interviewed several people. I have sighted evidence that there were clear inferences in Mr. Cockburn's line of questioning that some innocent persons who were known to the interviewees had accepted bribes or engaged in acts of prostitution. I believe that constitutes behaviour outside the ethics of journalism. These matters have been very recently raised again in depositions and transcripts by Mr. O'Leary, not by me. In the same *Advertiser* article (July 28, 1972) Mr. Cockburn, wearing his respectable hat again, stated:

> For the police the serious thing about all these allegations and innuendoes is that their reputation as members of Australia's finest law enforcement agency is being tarnished without any evidence being produced which could justify charges in a court of law against even one man.

Thirteen days later, August 10, 1972, Mr. Cockburn wrote:

> Only one man seemed to me to be making a significant business of buying or selling real estate in his spare time . . . and even in his case, suspicion may be entirely baseless, unjust and inspired by malice.

Despite this apparent lack of evidence, Mr. Cockburn was prepared to become the prime informant against an innocent man. I referred to O'Leary's comment on this last week. But let me turn to more contemporary events. I quote from an article in the *National Times* of March 6-11, 1978, by Anne Summers and Diana Georgeoff, headed

"How the Rumour Mill Pursued the Governor":

> On January 26 Cockburn published an opinion column which was seen by Adelaide's elite—and those general readers who could guess its import—as having particular significance.

In this acticle, showing amazing prescience, he offered four hypothetical examples of people who could, on Mr. Cockburn's judgment, constitute security risks or be unfit for public life. I do not intend to reiterate the "hypothetical" cases. However, I again quote the *National Times*:

> It now seems clear that of the four hypothetcal examples this one (number three) was pursued because . . . to some it presented the best possibility of tarnishing a government . . .

Mr. Cockburn is on record (*National Times*, March 13-18, 1978) as saying, "Publishable facts should be printed subject only to considerations of fairness, responsibility and the public interest." I believe that his actions against the Governor fail his own tests. They were unfair because they concerned private matters which occurred before the Governor's appointment. They were irresponsible because at best they could only cause titillation, at worst character assassination.

They were certainly not in the public interest, because Mr. Cockburn must have known that without committing an act of criminal libel he could only write enough to pander to the prejudiced and prurient minority in the community. On his own admission in the *National Times*, one of his prime informants was, would you believe, "the wife of an Adelaide dentist". Surely private muck-raking or "trial by ordeal" are very different from legitimate investigative journalism. From his actions in this case, I believe that Mr. Cockburn considers it proper for him to take any course which will not only tend to unfairly tarnish the State Government but improperly diminish the Premier's public standing. I deplore his lack of professional propriety in the matter.

I said earlier that I am prepared to accept without reservation that Mr. Cockburn acts at all times from what he perceives to be his sense of duty. However, I totally reject his perception of that duty. As to his claim that he has been defamed by me, I totally reject it. My answer to Mr. Cockburn is that, if he connot stand the heat, he should not light the fires of gossip in backyard incinerators. Stewart Cockburn is a senior journalist on a mass circulation daily newspaper with adequate right of reply. I give this Council an undertaking that if, in his reply, he can refute the matters which I have raised today I will tender an apology.

Members interjecting:

The PRESIDENT: Order!

The Hon. J. R. CORNWALL: Perhaps in that reply he could also explain the *Advertiser's* extraordinary action in paying a retainer to former 5DN journalists Ryan and McEwen. The synopsis of the evidence which they compiled on a story attempting to link the Premier with Abe Saffron was considered by senior Macquarie Broadcasting News executives and A.J.A. representatives who sighted it to be not only false but outrageous and reprehensible. It was considered to be a hybrid link between *Star Wars* and *Alice in Wonderland*. Yet Ryan and McEwen were retained by senior executives at the *Advertiser* without the knowledge of even the chief of staff, a professional journalist of complete integrity. May I conclude by saying I have always been very cynical about conspiracy theories. But personally, when a senior journalist and a handful of unnamed newspaper executives appear to attempt to destabilise a democratically elected Government, I start to feel a bit scared.

QUESTIONS

WINGATE ROAD

The Hon. N. K. FOSTER: I seek leave to ask a supplementary question to the question I asked on March 9, of the Minister representing the Minister for Planning concerning Wingate Road.

Leave granted.

The Hon. N. K. FOSTER: Can the Minister ascertain whether or not there has been any change in town planning proposals to alter land use in areas east and west of that portion of Wingate Road lying north of the Gawler River?

The Hon. B. A. CHATTERTON: I will refer the honourable member's supplementary question to the Minister for Planning and bring down a reply.

PIMBA-ANDAMOOKA ROAD

The Hon. R. A. GEDDES: I seek leave to make a brief statement before directing a question to the Minister of Lands, representing the Minister of Transport, concerning the Pimba-Andamooka Road.

Leave granted.

The Hon. R. A. GEDDES: In response to inquiries made of the Highways Department in respect of the resurveying of the Pimba-Andamooka Road in 1976 (the road was badly damaged following heavy flooding at that time), the department stated that it hoped to proceed with the realignment once the Stuart Highway route was determined, and that minor work such as the provision of rubble on the worst of the sandhills and on some dangerous corners would be undertaken in 1977. The Stuart Highway route, at least as far as Pimba, is now established, and there seems to be no reason why the new Andamooka Road cannot be surveyed. Therefore, will the Minister consider the provision of good quality rubble on the worst patches of the existing road, and will he consider some assistance with the almost impassable streets within the township itself?

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

JOB APPLICATION

The Hon. N. K. FOSTER: Has the Minister of Health a reply to my recent question concerning a job application?

The Hon. D. H. L. BANFIELD: The form referred to by the honourable member requires a job applicant to agree to be medically examined at any time by the company's medical officer. This is probably a fairly common requirement, which does not infringe any law. The question of whether or how an applicant answers questions put by the examining medical officer is a matter for the applicant to decide.

MONITORING SERVICES

The Hon. C. M. HILL: Has the Minister of Health a reply to my question concerning monitoring services?

The Hon. D. H. L. BANFIELD: A summary of news services and some current affairs programmes on radio and television is kept for reference purposes in precisely the same way as clippings from newspapers. The summaries are intra-governmental documents. However, a resumé of subject matter is provided to the Opposition

through the Parliamentary Library. During the month of January last, the monitoring unit was closed down for urgently needed servicing and maintenance and resumed full working again on January 31, 1978.

INDUSTRIAL DEMOCRACY

The Hon. D. H. LAIDLAW: I seek leave to make a brief statement prior to addressing a question to the Minister of Health, representing the Premier, on industrial democracy and employee directors.

Leave granted.

The Hon. D. H. LAIDLAW: On February 20, during an address to a seminar on industrial democracy at Mount Eliza Staff College, the Premier stated:

> It is my Government's long-range policy to provide employees with one-third of the representatives of boards of statutory authorities. During the term of this Parliament we will do all we can to facilitate the wishes of employees who seek board representation.

The next day, in answer to a question on industrial democracy in another place, the Premier stated:

> I can inform (The Leader of the Opposition) that so impressed are his Federal colleagues with the industrial democracy of this State that I have had a request from the Federal Minister—

he was referring to Mr. Macphee (Minister of Productivity)—

> that he should address a world conference on industrial democracy organised by this Government to be held at the end of May.

On the following day in the House of Representatives, Mr. Macphee made a statement to clarify the Liberal Government's policy regarding employee directors. Again, I quote from *Hansard:*

> The Premier of South Australia, as I understand it, had spoken about prescriptive and enabling legislation and said that there will not be prescriptive legislation; he will only facilitate the appointment of employees on the boards of companies. I believe that if that is the Premier's policy he is starting at the wrong end . . . We believe that in fact it would be counter-productive to improved employee-employer relations for emphasis to be placed on employee-directors . . . There is no evidence of which I am aware that the quality of work life or productivity improvement is increased by having worker directors.

In view of the statement on February 22 by the Federal Minister for Productivity, will the Premier agree that, far from being so impressed by the industrial democracy policy of this State, the Federal Liberal Government has a view with regards to employee directors that is diametrically opposed to that of the Premier?

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

ROSEWORTHY AGRICULTURAL COLLEGE

The Hon. R. A. GEDDES: On February 7, I asked the Minister of Agriculture, representing the Minister of Education, a question regarding Roseworthy Agricultural College. Has he a reply?

The Hon. B. A. CHATTERTON: My colleague reports that, since the report referred to appeared, the situation regarding student accommodation at Roseworthy Agricultural College has changed. The change has been brought about by two factors: first, the election by a large number of possible new first-year students to defer entry to the college until 1979, and, secondly, the choice by a large number of new first-year students to live off college during their course. Subsequent to these events, the college now expects to be able to meet all requests for on-college accommodation in 1978.

The question of transport facilities to and from Gawler for students is being explored, and, if sufficient demand from students develops, arrangements will be made to provide transport in a manner similar to that now available to staff. A charge is made to staff for this facility, and similar provisions would apply to students. The college is at present building eight new houses on the college to provide additional residential facilities for students. It is expected that an additional 40 students will be accommodated when this project is completed in May, 1978.

CREDIT UNIONS

The Hon. F. T. BLEVINS: Has the Minister of Health, representing the Attorney-General, a reply to my recent question regarding credit unions?

The Hon. D. H. L. BANFIELD: The Attorney-General reports as follows:

> There is no legislation in South Australia that prevents Waterside Workers of Australia Credit Union Limited from making loans in excess of $3 000 to its South Australian members. There is no legislative restriction on the amount that any credit union in South Australia can loan to its members. I understand that the statement referred to by the honourable member was based on a misunderstanding of various pieces of South Australian legislation. I further understand that the credit union is now aware of the correct situation.

STRATA TITLES

The Hon. C. M. HILL: Has the Minister of Health, representing the Attorney-General, a reply to my recent question regarding strata titles?

The Hon. D. H. L. BANFIELD: I am advised by the Attorney-General that the proposed amendments to the strata title legislation, including the matter raised by the honourable member, are awaiting drafting. It is hoped that a Bill will be introduced during the next session of Parliament.

GRAPE JUICE

The Hon. J. R. CORNWALL: Yesterday, the Minister of Agriculture announced that the Agriculture and Fisheries Department would undertake a study of the grape juice market. Can the Minister provide details of the work to be undertaken in that respect? He also announced a trade mission to the Middle East, and I ask the Minister what is involved in that project.

The Hon. B. A. CHATTERTON: Yesterday, I announced that the Government had made available $5 000 to enable the Agriculture and Fisheries Department to undertake a study of the grape juice market. This is a general study that will investigate, in broad outline, the various market outlets for grape juice. It will study the various products which are now available or which could be made available. The two major ones are the bottled carbonated grape juice, and a cheaper product which is still grape juice but which is packed in cardboard cartons.

It will also find out whether there is an extensive market for blends of grape juice and other fruit juices. Following

this, we will examine particular markets, particular market outlets, and any other related factors that arise from this preliminary work. We are also organising a trade mission to the Middle-East of people concerned with grape juices to examine the markets there at first hand in regard to the potential that exists in those countries.

AGE OF CONSENT

The Hon. J. C. BURDETT: I understand that the Minister of Health has a reply to a question I asked a considerable time ago regarding the age of consent.

The Hon. D. H. L. BANFIELD: It is less than three weeks since the honourable member asked the question.

The Hon. J. C. Burdett: That is a considerable length of time.

The Hon. D. H. L. BANFIELD: Of course it is. A period of 10 minutes can be a long time: it can be a lifetime. The Attorney-General has informed me that he does not know the source of the information from South Australia which prompted the Royal Commission to show the South Australian age of consent as being 16 years and not 17 with special defences but based on the age of 16 years. This discrepancy is being brought to the attention of the Royal Commission.

PENSIONERS

The Hon. C. M. HILL: Has the Minister of Health a reply to my recent question regarding pensioners?

The Hon. D. H. L. BANFIELD: Pensioners from country areas attending the dental department, Royal Adelaide Hospital, are reimbursed fares incurred in travelling to the department. They are required to produce their rail or bus ticket (and their entitlement card). Having done this, they are reimbursed their fare. Those pensioners who live in distant areas where aeroplane travel is considered to be the most reasonable means of transport (namely, Kangaroo Island, Port Lincoln) may, upon written application to the Administrator, Royal Adelaide Hospital, be considered for reimbursement of their fare.

ROSEWORTHY COLLEGE

The Hon. M. B. DAWKINS: On March 2, I asked the Minister of Agriculture a question supplementary to one asked by my colleague the Hon. Mr. Geddes regarding Roseworthy College. Has the Minister a reply?

The Hon. B. A. CHATTERTON: I have a reply from the Minister of Education which is identical to the reply already given to the Hon. Mr. Geddes, and I seek leave to have it incorporated in *Hansard* without my reading it.

Leave granted.

Reply to Question: Roseworthy College

Since the report referred to appeared, the situation as regards student accommodation at Roseworthy Agricultural College has changed. The change has been brought about by two factors; first, the election by a large number of possible new first-year students to defer entry to the college until 1979; and, secondly, the choice by a large number of new first-year students to live off college during their course. Subsequent to these events, the college now expects to be able to meet all requests for on-college accommodation in 1978.

The question of transport facilities to and from Gawler for students is being explored, and, if sufficient demand from students develops, arrangements will be made to provide transport in a manner similar to that now available to staff. A charge is made to staff for this facility, and similar provisions would apply to students. The college is at present building eight new houses on the college to provide additional residential facilities for students. It is expected that an additional 40 students will be accommodated when this project is completed in May, 1978.

MOTION FOR ADJOURNMENT: PARLIAMENTARY PRIVILEGE

The PRESIDENT: The Hon. Mr. DeGaris has informed me in writing that he wishes to discuss, as a matter of urgency, a matter relating to Parliamentary privilege, and, in accordance with Standing Orders, it will be necessary for three members to rise in their places as proof of the urgency of the matter.

Several honourable members having risen:

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

> That the Council at its rising do adjourn until tomorrow at 1.30 p.m.

Under our Standing Orders, it is necessary, in discussing a matter of urgency, to move a motion that the Council do adjourn until some time that is not the usual time that the Council meets. After the matter has been raised, the motion that the Council at its rising do adjourn is withdrawn.

That is the only way, under our Standing Orders, in which a matter can be raised, but I believe that the question I want to discuss is of such importance that it should be aired in this Council. In a lengthy explanation of a question to the Minister in this Council representing the Chief Secretary, concerning the resignation of Constable O'Leary, the Hon. Mr. Cornwall expressed certain views about an Adelaide journalist, Mr. Stewart Cockburn. Today, the honourable member sought leave to make a personal explanation and leave was granted. However, it was not a personal explanation: it was another attempt at character assassination.

The Hon. J. R. Cornwall: You didn't listen.

The Hon. R. C. DeGARIS: I listened all right. At this stage I mention that personal explanation, because it has to do with the matter that I wish to raise regarding the use of Parliamentary privilege. I make clear at the outset that I do not hold any particular brief for Mr. Cockburn. At times I have disagreed vigorously with the views that he has expressed in his newspaper column. Whilst I have disagreed with Mr. Cockburn on several matters, I have no doubt whatsoever that he has always acted honourably in his profession as a journalist.

The Hon. N. K. Foster: Will you tell the Council on what subjects you disagreed with him?

The Hon. R. C. DeGARIS: Yes, if the honourable member wants me to do that, I will do it. One matter on which I disagreed entirely with Mr. Cockburn was when he said that we in this State now had a fair electoral system. At present, in South Australia we have the most gerrymandered system in Australia. Anyone who knows anything about mathematics knows that that is true. However, the statement by the Hon. Mr. Cornwall—

The Hon. N. K. Foster: On what other matter did you disagree with him?

The PRESIDENT: Order! I ask the Hon. Mr. Foster to let the member speaking have a fair go. Every member will get that, provided he lets the member speaking have a fair go.

The Hon. R. C. DeGARIS: The statement by the Hon. Mr. Cornwall last Thursday relating to Mr. Cockburn can be seen only as an attempt to discredit Mr. Cockburn, to engage in character assassination under the privilege of Parliament. To substantiate this claim, I will quote statements made by the Hon. Mr. Cornwall in the introduction to his question. My first quote is:

> Information has come to me privately (and I stress that no part of it whatsoever has come from the Premier or the Chief Secretary, nor have I discussed the information with them) that Mr. Stewart Cockburn was the prime informant for the action against Mr. O'Leary.

The second quote is:

> I quote part of a report to the officer in charge, Region G, dated August 21, 1972, from J. J. O'Leary, Constable 1675, paragraph 7, which states:
>
> > The chart prepared by Superintendent Lenton is quite explicit but not completely accurate. He has apparently been misled by Mr. Stewart Cockburn, a journalist from the *Advertiser.*

The third quote is:

> Is the Minister aware that the quote states:
>
> > Cockburn appears to have carried out his own personal Royal Commission into police corruption in South Australia.

The fourth quote is:

> The disturbing fact about his inquiries and findings is that all allegations made by him and Mr. Paul Foss, editor of *Woroni,* are completely unfounded and cannot be substantiated. Mr. Cockburn then elected to forward such material to the police, an action which I feel lowers his ability and capacity as a journalist.

The story of Mr. Stewart Cockburn's involvement in the O'Leary affair can be seen from two published reports in the *Advertiser,* one of July 28, 1972, and the other of August 10, 1972.

For the sake of this exercise, both should be read, as they are the only two published articles by Mr. Cockburn on the so-called O'Leary affair. The first article, dated July 28, 1972, by Stewart Cockburn and headed "Students to hit at Duncan case", states:

> A sensational 5 000-word illustrated article on the Duncan case is being prepared for publication this week-end in "Woroni", the student newspaper at the Australian National University, Canberra.
>
> It is being written by the editor of "Woroni", Mr. Paul Foss, a postgraduate student in his early twenties, who has just spent a week in Adelaide checking material for the article.
>
> A similar article by Mr. Foss will, I understand, be published almost simultaneously in the student newspaper "National U", the organ of the Australian Union of University Students, in Melbourne.
>
> Mr. Foss holds a master's degree in chemistry and is studying for his Ph.D.
>
> His visit to South Australia was financed by a special grant from the funds of the Student Representative Council at the ANU, which has commissioned the article.
>
> I am told that members of the ANU law school supported the grant.
>
> I met Mr. Foss last week and, with an Adelaide student who does not wish to be named, I accompanied him on some of his investigations.
>
> Mr. Foss told me he was himself a homosexual and that he had no objection to his name being published. He also agreed to be photographed by "The Advertiser".
>
> I believe most of his discussions in South Australia were with fellow homosexuals.
>
> He did not show me any of the material he was preparing, but he said that some of the statements made to him about policemen by homosexuals were defamatory.
>
> His intention when he left Adelaide was to publish the statements in detail, even though "they will certainly be libellous."
>
> Subsequently he and fellow students at the ANU would probably distribute "Woroni" in South Australia.
>
> Students at the University of Adelaide also plan a street distribution of "National U" on Tuesday.
>
> There appears to be a planned campaign by some homosexuals to implicate a police witness at the Duncan inquest in police decoy activity along the banks of the Torrens and in other places before May 10.
>
> Mr. Foss says he has some "really spicy stuff" to print as a result of his visit to South Australia.
>
> Mr. Foss told me: "Any policeman who wishes to, can sue me. I would like to get any of them in the witness box."
>
> Mr. Foss says the "chase for information" in the Duncan case is being continued in Sydney, Melbourne, Adelaide and Canberra.
>
> He himself planned to interview homosexuals in Melbourne and Sydney this week and to show them photographs of policemen in South Australia.
>
> For the police, the serious thing about all these allegations and innuendoes is that their reputation as members of Australia's finest law-enforcement agency is being tarnished without any evidence being produced which could justify charges in a court of law against even one man.

That is the first article; Mr. Foss came to Adelaide, saw Mr. Cockburn with some homosexuals resident in Adelaide, and laid certain allegations before Mr. Cockburn of police corruption and bribery. Any self-respecting journalist, when faced with that, would necessarily make inquiries. Mr. Cockburn knew that Mr. Foss and his group intended publishing these allegations in their university papers. On August 10, 1972, the following article by Stewart Cockburn and headed "S.A. police bitter over gossip" was published in the *Advertiser:*

> Homosexuals in South Australia are bitter at what they claim is a history of persecution against them by police and the community in general.
>
> However, news that the South Australian Police Association is considering suing sections of the student and interstate Press for allegedly defamatory articles about the Duncan case reflects a growing bitterness by police at what they consider an unwarranted general campaign against them going far beyond the evidence.
>
> Several thousand copies of the papers published interstate have been distributed and sold in South Australia during the past week.
>
> Their publication followed a visit to Adelaide recently by Mr. Paul Foss, editor of "Woroni," the Australian National University student newspaper to interview South Australian homosexuals and research other materials on the Duncan case.
>
> Some of the student allegations appear to deserve inquiry.
>
> However it is time to say bluntly that much of their material is based on unsubstantiated statements by unnamed informants, on inaccurately researched facts from which unwarranted deductions are drawn.
>
> We are certain neither the Government nor the police are "running dead" in investigating the Duncan case.

The Hon. N. K. FOSTER: I rise on a point of order, Mr. President. Maybe my observation with regard to the speech now being made by the Hon. Mr. DeGaris is somewhat suspicious, but it seems to me that he is reading from a prepared speech and he has given a copy to the

gallery. Would the honourable gentleman be prepared to substantiate that query?

The Hon. R. C. DeGARIS: Both statements are inaccurate. No copies of my speech have been given to the gallery. I am quoting from two articles that appeared in the *Advertiser*, and I have given the dates. Those articles substantiate the integrity of the gentleman challenged in this Council. I intend reading the articles. I will not seek leave to have them incorporated in *Hansard* without my reading them, because the Council should fully understand the information on which the allegations have been made. The article continues:

> The situation was well summed up for me yesterday by Professor Alex Castles, Professor of Law in the University of Adelaide.
>
> "It should always be remembered that the police are easy targets for unfair criticism," he said.
>
> "Like other Government officers, a policeman cannot normally defend himself in public.
>
> "As a result, innuendo and rumour, without concrete proof, may go unanswered, even though these hit at the public standing and morale of the Police Force.
>
> "Too often, I fear, we fail to give our police a fair go."
>
> The sort of thing the police have to contend with is illustrated by a series of telephone calls, some anonymous, and some from people well known in South Australian public life, which I and other journalists have received since the beginning of the inquest into the Duncan case. I received allegations against seven policemen. I have checked each allegation exhaustively and followed clues which led me to the offices of members of the Government; the Lands Titles Office; the University of Adelaide; and to houses and home units in the city and suburbs.
>
> I also talked with members of Adelaide's homosexual community.
>
> Accusations against one police officer of involvement in the Duncan case were so persistent and apparently circumstantial that I persuaded the informant to identify himself and come to my home on Sunday to repeat his accusations in the presence of a lawyer.
>
> The lawyer and I questioned him for two hours. At the end of that time we agreed—and the accuser admitted—that none of his allegations amounted to anything more than gossip and guesswork!
>
> In other words, none of the scandalous statements made to us justified suspicion of the man in question and none of it could provide any ground for charging anyone with an offence of any kind.
>
> Other allegations were made against seven policemen of dealings in real estate. The allegations came from four different sources.
>
> With a solicitor's clerk to guide me, I spent hours at the Lands Titles Office checking each allegation.
>
> In three cases, we found that the policemen in question did not even own homes of their own.
>
> In another case, the "real estate" deal involved purchase by a young policeman of a future modest home site in a suburb which is still being paid off.
>
> Two other policemen had small property investments, both heavily mortgaged, which were in no way incompatible with their salary status.
>
> Only one man seemed to me to be making a significant business of buying and selling real estate in his spare time.
>
> The Premier (Mr. Dunstan) says his activities are now being investigated officially; but this has nothing whatever to do with the Duncan case.
>
> Before impropriety is suspected, however, it must be remembered that policemen have the same civil rights as other citizens, many of whom engage in part-time real estate speculation in their spare time.
>
> The interstate student papers which referred to the case now being investigated made defamatory innuendoes about the man concerned.
>
> However, the author of the innuendoes has personally admitted to me that he has no information to justify them, and that they are based on simple guesswork.
>
> The author has told me he does not know whether the policeman concerned has inherited any of the capital used in the transactions he reports, or whether it may have come from share market or other legitimate speculation.
>
> He does not know how much equity the policeman possesses in his properties, or how much mortgage money is involved. So, of seven policemen named to me by citizens who wanted me to suspect impropriety in their behaviour, my inquiries show that only one could justify further inquiry; and even in his case, suspicion may be entirely baseless, unjust and inspired by malice.
>
> A number of other specific and circumstantial allegations made to me about policemen have failed to stand up to careful analysis and investigation and have proved false.
>
> In one case, a well-known university man who criticised the police both publicly and privately has retracted his criticism privately . . . but not yet publicly.

There is a little more of the article, which I will not read; they are the two articles covering this matter raised by the Hon. John Cornwall.

The interesting point in this is that, five days before Paul Foss published his article in the interstate university paper and had it circulated throughout South Australia, Foss advised Cockburn that he was going to publish his allegations, allegations which Cockburn had investigated and he had found, to the best of his ability, that there was no basis for them, with the exception of one, which he could not completely investigate. In other words, he was not perfectly satisfied.

Placed in the position of knowing that these allegations would be made, published, and distributed, Cockburn decided to go to the police, point out that this article would be published and would contain a lot of defamatory information, and advise the police of his investigations, which completely exonerated all the police officers except one.

The Hon. J. R. Cornwall: It was the wrong one.

The Hon. R. C. DeGARIS: It does not matter. The Hon. John Cornwall must face the fact that he has used this Council to try to denigrate and assassinate the character of a prominent journalist in this State. There is no way in which the actions of Cockburn can be criticised on the basis of integrity, and any journalist placed in that position and with the knowledge that the allegations that were to be published in a day or two were almost completely false and had been proved to be false would have given that advice to the Police Department, and that was done. I do not know of any man who is keener to see the name of O'Leary cleared than is Stewart Cockburn.

The Hon. J. R. Cornwall: He has a guilty conscience.

The Hon. R. C. DeGARIS: He has not and, if you check with O'Leary, you will find that the statement he made, quoted by the Hon. John Cornwall, was made before he fully understood. Cockburn was not the tool of Foss, as suggested by the Hon. John Cornwall: Foss was the man who had the information and brought it to Cockburn, who investigated it and found the allegations that were being made to be untrue. We now see this Council being used as a means of denigration of a prominent journalist on facts, which, if they had been checked, could have shown that the man acted with absolute integrity.

I believe that the privilege that members of Parliament enjoy is an important privilege; it is essential for the democratic process. Unfortunately, that privilege must be

exercised with extreme caution. Parliament has often been called coward's castle, a term of denigration which stems from the use of privilege by some members to discredit unfairly and unjustly members of the public. It is necessary that the privilege of Parliament be preserved as an essential ingredient in the protection of a free society, but the deliberate use of that privilege attached to Parliament to present unsubstantiated and inaccurate information must be deplored by every member here who values the institution of Parliament. I believe that that privilege has been abused not only by the statements made in explanation of a question last Thursday but also in the continuing personal explanation made by the Hon. John Cornwall today.

If we examine it, we see that the question asked by the Hon. John Cornwall on Thursday could have been just as effectively a question in the interests of O'Leary if he had not mentioned Cockburn's name at all. That is the essential point to understand. I believe that the important part of this question and of the explanation has very little to do with O'Leary; it has to do with the denigration of the character of Stewart Cockburn.

The Hon. J. R. CORNWALL: I am flattered that the Leader of the Opposition and the Opposition in general should take up the time of the Council in an attack upon a Government back-bencher. In my explanation last week, only a very small piece of it was taken up by any reference to Stewart Cockburn, and more than half, or about half, of those references were quotes from the document of which O'Leary was the author. The only quotes that could be directly attributed to me regarding Stewart Cockburn were:

> Information has come to me privately (and I stress that no part of it whatsoever has come from the Premier or the Chief Secretary, nor have I discussed the information with them) that Mr. Stewart Cockburn was the prime informant for the action against Mr. O'Leary. The allegations were that O'Leary had been taking bribes when in the Vice Squad. Mr. Cockburn has become notorious in recent weeks for scandal-mongering and character assassination by innuendo and rumour. However, this is apparently not a recently acquired talent.

That is the only reference I made personally to Mr. Cockburn in the whole of that series of questions, but, apparently, either Mr. Cockburn or his mouthpiece, the Hon. Mr. DeGaris, is so sensitive in this matter that they considered it should be discussed and raised against a Government back-bencher. I also explained earlier a question which has to be answered and which the Hon. Mr. DeGaris did not answer: whether the O'Leary inquiry would have been initiated at all as a result of the inaccurate report in a student newspaper. Surely the police would not call for an investigation as a result of that report. However, Mr. Cockburn got on his white charger and went off to see the Commissioner of Police, as a result of which a great deal of harm was done to the wrong man. The Hon. Mr. DeGaris made no mention of contemporary events because he was not prepared for my personal explanation. He has not covered 75 per cent of my personal explanation concerning far more contemporary events and the reprehensible actions of Stewart Cockburn over the past two months in indulging in character assassination. I make no apology for that. I am prepared to go outside this Council and repeat many things I have said here.

The Hon. R. C. DeGaris: You will go outside and repeat them?

The Hon. J. R. CORNWALL: I am happy to go outside and repeat many of the things I have said here. Referring again to Mr. Cockburn, he is a senior journalist on a mass circulation daily newspaper and he has an adequate right of reply. He is in a different position from that of an ordinary citizen. He is Adelaide's most senior journalist, and on occasions he has been able to override the Editor. There is no doubt whatever that he will have adequate right of reply, not only in his own newspaper but also in the Adelaide media generally.

It is ridiculous in this situation to suggest that he has not adequate opportunity to refute anything that I may have said today. Finally, I reiterate what I have already stated, that if Mr. Cockburn cannot stand the heat, then he should not go around lighting the fires of gossip in backyard incinerators, and I make no apology whatever for what I have said today.

The Hon. M. B. CAMERON: I did not intend to speak today; in fact, I was not aware that this motion was to be moved, but I certainly understand why it was moved. I refer to the action of the Hon. Mr. Cornwall today in purporting to give a personal explanation which, in fact, was a contemptible attack upon one man. It was not a personal explanation about what the Hon. Mr. Cornwall said on Thursday; it was a contemptible attack on one man and it is completely out of character for such an attack to be made in this Chamber.

I do not in any circumstances whatever support the misuse of this Council for that purpose. The Hon. Mr. Cornwall made another allegation that Mr. Cockburn is able, at times, to override the Editor of the *Advertiser*. I do not know what that fact had to do with the honourable member's personal explanation. Certainly, I would be interested to know where the Hon. Mr. Cornwall obtained that information. Is he on the *Advertiser* board? Does he work for the *Advertiser*, or perhaps he has a friend in the *Advertiser* who supplies him with information? What an incredible statement. The honourable member further stated in his personal explanation that the Chief of Staff of the *Advertiser* was unaware that certain people were to be hired by the *Advertiser*.

The Hon. J. R. Cornwall: That's common knowledge, and you know it.

The Hon. M. B. CAMERON: Whence did he get that information? It is just another rumour. The honourable member is as big a rumour monger as is anyone. That he should come into this Council and spread such a malicious rumour about the workings of one of the major newspapers in this State is incredible. It is a contemptible action. The honourable member is a rumour monger, and has done just what he has accused others of doing. He has brought certain matters into this Council under the guise of making a personal explanation, yet the matters raised and disclosed publicly are unrelated to the purport of the explanation. Is the honourable member saying that he has private knowledge of these matters by raising them under privilege? The honourable member stated that he was willing to make certain parts of his statement outside this Council, and I believe he should raise all of the matters outside this Council. If he does, I will think a little more highly of him, but the honourable member is unwilling to do that.

He would be unwilling to use the words he used in this Chamber outside of it. I will be interested to see whether the honourable member is willing to do that. If he does, I might withdraw some of my thoughts about him. However, I see no reason to do that because the honourable member has used and abused this Council by attacking a person, who has given no cause through any attack on the honourable member. Where has this person attacked the honourable member and caused such an attack to be made in such a personal way both on Thursday and today?

The Hon. J. R. Cornwall: Read my personal explanation.

The Hon. M. B. CAMERON: The honourable member's personal explanation went beyond anything raised in his statement on Thursday. The honourable member referred to facts that he said had been supplied to him by Mr. Cockburn. Mr. Cockburn has no way of replying under privilege and, if the honourable member is to have a debate with Mr. Cockburn on this subject, he should do it outside this Council. As the Hon. Mr. DeGaris stated, statements are made in this Chamber under privilege, which should not be abused.

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

That Standing Orders be so far suspended as to allow the Hon. Mr. Burdett to make his speech.

Motion negatived.

The Hon. R. C. DeGARIS: I am sorry that the Hon. Mr. Burdett cannot add his contributions. I seek leave to withdraw the motion.

Leave granted; motion withdrawn.

RACING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 9. Page 2077.)

The Hon. C. M. HILL: I support the Bill, which brings about one change to the Racing Act by increasing the size of the board from five to six members. The sixth member shall be a person nominated by the Greyhound Owners, Trainers and Breeders Association of South Australia, Inc. On November 25, 1976, the Minister, when introducing the Bill, said in his explanation that, when the association increased its membership and was truly representative of the greyhound industry, he would enlarge the board and allow the association to have representation on it. As he is now honouring that arrangement, I support the second reading.

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

DAIRY INDUSTRY ASSISTANCE (SPECIAL PROVISIONS) BILL

Adjourned debate on second reading.

(Continued from March 9. Page 2088.)

The Hon. M. B. DAWKINS: I support this short Bill, which is important to the dairying industry not only in South Australia but also throughout the Commonwealth. The Bill is a result of an agreement between the Commonwealth and State Ministers of Agriculture at Agricultural Council, and it extends the Commonwealth's dairy equalisation scheme. The Minister said that stage 1 of the legislation was introduced in July, 1977, and involved the compulsory equalisation scheme, which was designed to protect the domestic market.

Stage 2 of the legislation will bring about some production restraints that will identify a quantity of milk that will be known as a manufacturing milk entitlement. I commend the Minister of Agriculture for the opportunity to meet with him, together with the member for Victoria and the member for Mallee in another place, and other dairying industry representatives. This is perhaps contrary to Ministerial practice (I am referring not just to this Government), but in the past Governments have said, "We have discussed the legislation with the industry or or the organisation concerned, and it is satisfactory."

The Minister invited three Opposition members to discuss this matter with members of the industry, and I am satisfied that it requires the Bill and is in substantial agreement with it. As the Minister said, the effect of the Bill is to introduce a second stage to the equalisation scheme, which, while it brings about some restraint in productivity, places a tax on prescribed products. There will be a disbursement to the States, and I believe that South Australia's quota will be about 7 300 tonnes of butterfat, with the quota for the Commonwealth being, I believe, 145 200 tonnes.

When one considers all the milk that is used in the city of Adelaide and in the larger towns, and adds to it the quota of 7 300 tonnes, one can see that it will take care of more than 90 per cent of current production. The balance, which will be less than 10 per cent, could well be absorbed by cheese manufacture or something of that nature.

The legislation was, I believe, agreed to by all States except Victoria, which was somewhat opposed to it. I believe, however, that it will necessarily go along with the majority decision. It is required that this Bill should be passed this session so that the Commonwealth scheme may come into force and be effective from July 1, 1978.

The Bill is largely self-explanatory. The Treasurer is authorised to act as an agent of the Commonwealth, and he is also empowered to give grants to proclaimed dairy factories and dairy producers. Without further ado, I indicate that this legislation is needed for the dairying industry's benefit, and the quicker it becomes law the better. I support the Bill.

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

SOUTH AUSTRALIAN HEALTH COMMISSION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 8. Page 2019.)

The Hon. R. C. DeGARIS (Leader of the Opposition): The Bill contains four amendments to the Act, the first of which proposes that fees charged by incorporated health centres may be fixed by regulation upon the recommendation of the Health Commission. At present, the Act allows incorporated hospitals to fix fees by regulation on the commission's recommendation, but it does not allow health centres to do so. The application of this power to health centres as well as to incorporated hospitals seems to be reasonable.

However, while the matter of fees, fixed by regulation under the control of the Health Commission, is being discussed, I emphasise again, as I have done previously, that the new concept of the Health Commission seems to be assuming too great a degree of control over the hospital system in South Australia.

It is clear that, with this control being exercised through the commission, previous community involvement in the health services of this State will decline. When people begin to understand that the commission is a means whereby the Government can more easily intrude its thinking into the whole hospital system, and when people start to feel that this is a Government system and not one that belongs to them there will be a decline in that voluntary service. With that decline will also be a decline in the standard of service available under our hospital system and an increase in the cost of that service.

Although I have made this point many times before, I stress it again, because I believe that that is exactly what is

happening in South Australia at present. Through the advent of the Health Commission. Although one can argue that there are, in the concept of a health commission, things that are good, there is gathering melee about the attitude of people towards their community hospitals: in other words, people are saying that their hospital is no longer a hospital belonging to the district but is yet another Government institution.

A few years ago I made a close examination of the health services provided in Great Britain, Sweden and Holland. One of the things that struck me then was the lack of community involvement and the absolute reliance on the Government to provide all amenities necessary for health services. If one looks at the escalation of costs that have occurred in those countries, one can relate it to what is happening at present in Australia, and particularly in South Australia. The more we take away from community involvement, the more we add to the cost and further lower the standard of health services.

Although I do not object to allowing the commission to fix the fee charged by incorporated health centres, I stress once again the point that I have been making for some time regarding this matter.

The second amendment in the Bill will allow employees of incorporated hospitals and health centres that are not already involved in the State superannuation scheme to be so involved. Although I do not object to this, I refer to several speeches I have made on the matter of State superannuation and the final effect that the State superannuation scheme will have on future Budgets. In 10 years, because of the way in which the State contribution to the superannuation scheme is going, we will see not only an inevitable rapidly escalating increase in the amount of State money required but also an increase in the percentage of State superannuation that will be funded from the public purse.

Although it is reasonable to make available superannuation benefits to the employees in incorporated hospitals and health centres, I nevertheless remind honourable members that superannuation will impose an ever-increasing burden on future taxpayers in this State.

The next amendment is rather interesting, and I wish to comment on it. The second reading explanation states that the commission feels that conflicts of interest may well arise in relation to members of the boards and committees of management of incorporated hospitals and health centres, as, of course, such members will mostly be drawn from the local community. The explanation also states that the Bill therefore provides a similar conflict of interest provision in relation to hospitals and health centres as the principal Act now provides in relation to the commission itself.

Even this amendment, whilst it may seem perfectly reasonable, indicates again the degree to which the commission is pushing its will into local hospitals. Over the years, everyone knew who the Chairman of the local hospital was, who the members of the board were, and what tradesmen and suppliers dealt with the hospital in the normal course of events. Most of them provided goods to the hospital at about half price. Now we are imposing on hospitals a system where any member who may have a conflict of interest in the community may not vote on the board on certain matters. Again we see the imposition of red tape in the running of hospitals. I would not care if the local butcher was going to supply meat to the hospital, because all members of the communities know one another, but now we see large hospital administration intruding into relatively small hospitals.

The explanation also states that, finally, the Bill provides that certain employees of the Institute of Medical and Veterinary Science who work in the Queen Elizabeth Hospital or the Flinders Medical Centre shall become employees of those hospitals upon their incorporation under the Act. I have no objection to that. I support the second reading and hope that the Government has listened once again to my comments.

The Hon. C. M. HILL: I also support the Bill and the remarks made by the Hon. Mr. DeGaris. I notice in the Minister's second reading explanation that he indicated that it was proposed that the provisions of the principal Act dealing with incorporation would be brought into operation in July this year, so it is evident that much activity and planning are going on so that this target can be met.

I also notice that the Bill refers specifically to boards of management. I am still not satisfied about a point that I raised in this Council about two weeks ago about these boards. I have sought the Minister's explanation but his replies have not satisfied me. In my view, he has done some sidestepping. I feel that residents are dissatisfied and that there is a fear in some country areas that pressure was being brought to bear on hospital boards to include, as a member of the board, a member of the hospital staff. Members of boards objected that the commission, doubtless under the influence of the Minister or the Government, was insisting on this change occurring before the commission would grant incorporation.

It is all very well for the Minister to say that he has not power to insist in this way. There are ways and means of seeing that a member of the staff is included on a board before incorporation is granted. The board members are extremely upset about this imposition. They do not object to a member of the staff being a member of the board as long as that staff member is elected in the normal way and in accordance with the processes that have applied for many years. Because the Minister has had about a week to think about the matter, I again ask him whether he can make perfectly clear whether he agrees that there should be a staff member on the board and whether that member should be placed there before incorporation, or whether he can make perfectly clear the general policy of the commission on whether any pressure will be brought to bear on existing boards to comply with this change. I feel entitled to a further and clear explanation on this point, and I think this is the proper time to clear the matter up. I support the second reading.

The Hon. D. H. L. BANFIELD (Minister of Health): I thank members for their attention to the Bill. I disagree with what the Hon. Mr. DeGaris has said about community involvement. It is unfortunate that this rumour got about, when people were opposed to the introduction of Medibank. They hawked the rumour around the countryside and people believed that their services to hospitals would no longer be required.

The Hon. B. A. Chatterton: Who was putting the rumour around?

The Hon. D. H. L. BANFIELD: Not members from this side. I have been informed that members from the other side, in trying to defeat Medibank, went to the various voluntary organisations that were assisting with hospitals and told people, especially the ladies auxiliaries, that they would not be required if they allowed the introduction of Medibank. When I was at Lameroo only a fortnight ago, the Ladies Auxiliary was again concerned because it had been hearing from people that their services would no longer be required. I had to put the rumours down.

The Hon. C. M. Hill: Does it occur to you that members may have been invited there?

The Hon. D. H. L. BANFIELD: It occurs to me that you were invited there by people who were opposed to Medibank. That is the very reason why he went down, Mr. President. He got an invitation from the Australian Medical Association to go around the countryside. We have now got under the Hon. Mr. Hill's skin. He asked whether I knew that members were invited and, when I said that I did know and that it was at the invitation of the A.M.A., a point he did not know that I was aware of, it got under his skin.

Members interjecting:

The PRESIDENT: Order! The Minister listened in silence when other members were speaking. I do not mind some interjections, but it is not necessary to have a family quarrel.

The Hon. M. B. Cameron: The Minister is a member of the family.

The Hon. D. H. L. BANFIELD: I am not a member of the family of members opposite, and I am thankful for that. The honourable member has been kicked out of that family from time to time and has been invited back. We are never too sure whether he is in the family or outside it. Do not let the Hon. Mr. Cameron talk about family ties as far as he is concerned with the Liberal Party, because no-one knows from week to week which family he is in! Members are doing a disservice to the hospitals by going around saying that community involvement would no longer be necessary. The hospitals still want community involvement. Without it, they would not be able to continue in business. I now invite members opposite to tell the hospitals that. Tell the hospitals that they made a mistake, that they spoke at the behest of the A.M.A. previously, and that now they have seen their error. I hope honourable members opposite are willing to tell the hospitals that we still want community involvement.

The Hon. Mr. Hill asked whether I personally agreed that there should be a staff member on the board. In reply, I state that I agree that there should be a staff member on the board. The honourable member insisted on our having a committee, with representatives of local government and other groups, but no staff representative. Now, he says "provided they are elected in the normal way". What is the normal way? What is the normal way of electing the local government representative? Surely that representative is elected from local government. What is the normal way of electing an A.M.A. representative? Surely he is elected by the members of the A.M.A. What would be the normal way of electing the staff representative? Surely it would be by the staff. What is more normal than that? Does the Hon. Mr. Hill disagree with my reasoning? Does he think the workers should have no representation? He sits silent.

The PRESIDENT: The Minister is trying to tease the Hon. Mr. Hill into interjecting.

The Hon. D. H. L. BANFIELD: No. I want him to tell me what he thinks about this matter. We know that he believes there should not be a staff representative on the board. According to the Hon. Mr. Hill's reasoning, it does not matter how many business men and how many A.M.A. representatives there are, as long as we do not have a staff representative on the board. That is the honourable member's attitude, but it is not my attitude.

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

INSTITUTE OF MEDICAL AND VETERINARY SCIENCE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 8. Page 2020.)

The Hon. M. B. DAWKINS: I support this short Bill which, like the previous Bill, results from an arrangement between the Commonwealth and the States. The Bill makes necessary amendments to the principal Act, which began in 1937. Honourable members will be well aware that the institute has done very valuable work over the years in the fields of human health and primary production. The council of the institute, if I remember correctly, consists of a nominee of the Health Commission, two members of the Board of Management of the Royal Adelaide Hospital, two people nominated by the Council of the Adelaide University, one primary producer, and one veterinary surgeon. That board has done a great deal of valuable work over the years. The Minister's second reading explanation states:

> Under a new agreement between the Commonwealth and the State in relation to pathology services, the only way that the Commonwealth—

Is the Commonwealth being blamed again by the State Government?—

> will accept the sharing of costs of pathology services undertaken by the institute for recognised hospitals is if the institute raises charges for those services.

This means setting a charge for services performed for the Royal Adelaide Hospital which services, up to the present, in accordance with section 17 of the principal Act, the institute has been required to provide free of charge. As the Minister said, the main purpose of the Bill is to strike out section 17 (1) *(b)*, which provides:

> *(b)* Furnishing the Adelaide Hospital and any Minister of the Crown (without cost to the Hospital or Minister) such services in pathology, bacteriology and bio-chemistry and other allied sciences as the Board of Management of the Adelaide Hospital or the Minister requires:

Also, one or two consequential amendments are made to section 17 (2). Further, the definition of "Minister" is struck out by clause 3. This is in line with current practice, with which I do not necessarily agree. Clauses 4 and 6 change references to the "Adelaide Hospital", as it was known in 1937, to the "Royal Adelaide Hospital". This necessary Bill brings the work of the institute into line with the arrangements made between the Commonwealth and the State. I therefore support the Bill.

The Hon. D. H. L. BANFIELD (Minister of Health): I thank the honourable member for the attention he has given to the Bill. In his query as to whether the Commonwealth is being blamed, is the honourable member suggesting that the State, which has entered into an agreement with the Commonwealth for cost sharing, should pay the whole of the charges for pathology provided by the institute for the Royal Adelaide Hospital—a sizeable sum? He says the the Commonwealth is getting the blame for something that the Commonwealth has put its name to. It is prepared for cost sharing in regard to the Royal Adelaide Hospital. What insinuation is the Hon. Mr. Dawkins making? Are we not allowed to say that the Commonwealth wants to honour its agreement?

The honourable member sees something sinister about it, because the Commonwealth wants to abide by the agreement. The honourable member does not mind saying that the State should do this and do that out of its limited resources yet, when we introduce a Bill to enable the Commonwealth to carry out its side of the agreement, the honourable member is not happy about it. I am surprised at his statement, but I thank the honourable member for the interest he has shown in the Bill.

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

STATE TRANSPORT AUTHORITY ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from March 9. Page 2083.)

The Hon. M. B. CAMERON: This is a relatively short Bill that, on the face of it, does not appear to have any dramatic effect. However, there is something in it that I should like to raise—why borrowing is necessary and why it will be increasingly necessary in this department. It must be a matter of great concern to all honourable members to see the situation that has arisen in the State Transport Authority, which will lead to the use of this borrowing authority. I refer to the deficits of the State Transport Authority.

The Hon. J. E. Dunford: What about the Federal deficit?

The Hon. M. B. CAMERON: Do you want me to talk about that first?

The Hon. J. E. Dunford: You talked about it last time.

The Hon. M. B. CAMERON: I am content to talk about it, too, although I think it would embarrass the honourable member.

The Hon. J. E. Dunford: You would be embarrassed.

The Hon. M. B. CAMERON: No.

The Hon. J. E. Dunford: The last time you mentioned it you referred to it many times.

The Hon. M. B. CAMERON: Not at all. The State Transport Authority is reaching the stage where it is in danger of causing extreme financial difficulty to this State Government, because it is becoming one of the greatest burdens upon this State for many years. Not since the days before the transfer of the country railways to the Commonwealth have we seen something that is causing such problems and will lead to increasing financial problems for this Government; it will cause extreme difficulty in the next Budget, and that is one of the reasons—

The Hon. T. M. Casey: Do you know about the losses in Victoria?

The Hon. M. B. CAMERON: We shall be interested to know; I should like to know what the loss was in New South Wales on the city transport system, not the entire transport system, again under a Labor Government. I do not think the Minister should raise that matter in this Council.

The Hon. T. M. Casey: Why not?

The Hon. M. B. CAMERON: When this Government took office, the Transport Authority (I can be corrected on this) certainly was not running at a deficit. I am talking about the bus system within the metropolitan area. Since 1972-73, there has been an increase in the loss from $2 300 000 to $20 000 000, which is the estimated loss for this year. That is an enormous indictment of the management of our transport system, and this State will soon not be able to afford our metropolitan transport system without an incredible increase in rates and taxes or through borrowing; and with borrowing we inevitably end up with a worse situation.

This Government has a lot to answer for in allowing the run-down of the financial situation of our transport system to the stage where, first of all, it had to get rid of our country rail services because of a deficit problem and, in spite of the financial assistance from the Federal Government in that matter, it has now allowed our metropolitan transport system to get into almost exactly the same situation financially. One would think that the Government would have learnt its lesson but, no; it has turned its face blindly away from the past and allowed this situation to develop through lack of proper financial control, and this extends to almost every facet of this Government's management.

This department should have received the benefit of the transfer of the country rail services; it should not have been placed in this situation, because that is where the money came from. Instead of that, that money has been frittered away on items that are non-revenue earning. Our transport capital has gone, and we are now to proceed to borrow to get ourselves out of difficulty, and future Governments will be faced with enormous financial problems caused by the mismanagement of this Government, which must be the worst money manager that the country has seen since the depression, I mean—

The Hon. J. E. Dunford: What about Fraser?

The Hon. M. B. CAMERON: —since Mr. Whitlam.

The Hon. J. E. Dunford: What about the $5 000 000 000—

The ACTING PRESIDENT (Hon. M. B. Dawkins): Order! The Hon. Mr. Cameron.

The Hon. M. B. CAMERON: This Government is the worst financial manager we have had, and this is shown by the fact that it has the highest Budget deficit for many years, and probably for all time.

The Hon. J. E. Dunford: It is a hundred times less than the Federal Government's deficit.

The Hon. M. B. CAMERON: The State Government has not the first idea of how to run its financial affairs, and that is highlighted by the way in which it runs the transport system.

The Hon. C. M. HILL: I think the alarm expressed by the Hon. Mr. Cameron is fully justified. The whole area of the financial structure of the State Transport Authority is most unfortunate; the losses are increasing, as the Hon. Mr. Cameron has said, and there is an urgent need for much more information to be given to Parliament and to the public on what the State Transport Authority's plans are and also what its financial planning comprises.

It is undergoing tremendous changes at present. The metropolitan railways, which are now separated from the country system, which has been transferred to the Commonwealth, are being gradually amalgamated with our bus services, and these changes are involving much activity, but at some stage the public of South Australia must hear of some forward planning and master planning and some financial estimates of this whole new integrated metropolitan system.

The Bill's main object is to give the State Transport Authority the right or the power to borrow. The power is given to the authority to borrow either from the Treasurer or from another party. If the borrowing is to be from a party other than the Treasurer, the Treasurer's approval must be given and the Treasurer must commit himself to guarantee the repayment of that loan.

The same power already exists for the authority, but it is under the Bus and Tramways Act. All this Bill does is to transfer an existing power from the old Act to the new Act. I also understand that the old Act is gradually going out of existence and will be repealed over a period because it is only proper, with the amalgamation of the bus system and the rail system within metropolitan Adelaide, that the Act under which the bus system operates must ultimately be repealed and, as the railway and the bus systems of metropolitan Adelaide merge, so the systems will operate under one Act, the State Transport Authority Act.

I understand that Loan Council has delegated to the Premier the right to borrow up to $1 000 000 for such an authority. Such an amount can be borrowed once a year,

and I also understand that Loan Council must be advised by the Premier of any borrowing, and that the terms must be the normal terms associated with the terms normally coming under the umbrella of Loan Council. In supporting the second reading of the Bill, I hope that now that the general matter of the authority and its record in this State has been brought into the debate, it makes progress and ultimately provides metropolitan Adelaide with the kind of public transport service to which people are entitled.

The Hon. R. C. DeGARIS (Leader of the Opposition): I do not intend to say much on this Bill, except to take up a matter which I have raised in a question and which was raised also by you, Mr. President, when you spoke on the Bill. I refer to the Auditor-General's report for 1974-75 in which much detail is provided about borrowings by statutory authorities, 29 of them. However, in the past two Auditor-General's reports that information has been dropped. I believe the Bill should contain a provision ensuring that the Auditor-General's report covers this matter.

With the change of policy in all States, whereby authorities virtually have their own borrowing power, much Government activity could be excluded from investigation and report by the Auditor-General to Parliament. I should like to hear the Minister on this matter in his reply. Any honourable member who has examined the Auditor-General's report will find that what I am saying is true, that the information contained in the 1974-75 report is not extensive, but at least it is there. However, such information has disappeared entirely from the two successive reports, but it is important that all information in respect of any public borrowings is gathered by Parliament, whether it be by the Electricity Trust or any other statutory body. I am concerned about this matter, which has been raised by the Hon. Mr. Dawkins in debate and by me previously in this Council.

The Hon. T. M. CASEY (Minister of Lands): I will draw to the Government's attention the matters raised by the Leader; namely, that these matters have not been shown in the Auditor-General's report. I draw to the Leader's attention that most or all of the statutory authorities do furnish a report to Parliament once a year. Those reports have set out extensively all matters dealing with their operations during the year. Nevertheless, if the honourable member believes that it would be desirable for that information to be incorporated in the Auditor-General's report, I will draw the Government's attention to the matters raised by the Leader.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Power to borrow."

The Hon. R. C. DeGARIS (Leader of the Opposition): Although I do not wish to ask the Minister to report progress, I should like him to take up the question of reporting information about statutory bodies in the Auditor-General's report to Parliament. I should not like to see the Bill passed without a firm undertaking being given to the Committee about future procedures of financial reporting. I seek something more concrete than the Minister's assurance of his referring this matter to Cabinet in relation to the Government's intentions.

The Hon. T. M. CASEY (Minister of Lands): I can give an undertaking to the Leader that this matter will be referred to the authority for its report to Parliament. This has been indicated already by the Minister in another place, and I can give that same undertaking here. As I have already indicated, I will refer to the Government the matter raised by the Leader that these matters are not published in the Auditor-General's report and see what can be done.

The Hon. M. B. CAMERON: Over a period the authority has not published an annual report. I understand that there has been only one annual report since 1974. First, will the Minister see whether or not it is possible for the report to be published and, secondly, will it contain the information sought?

The Hon. T. M. Casey: I gave that undertaking.

The Hon. M. B. CAMERON: It is important that Parliament is able to assess the activities of the authority, especially in the light of the financial provisions that have arisen.

Clause passed.

Title passed.

Bill read a third time and passed.

BUS AND TRAMWAYS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 9. Page 2084.)

The Hon. C. M. HILL: Apart from making some amendments in relation to the metric system, this Bill involves the borrowing power that Parliament is now transferring to the State Transport Authority. Therefore, to complete the overall process, it is necessary for section 43 of this Act to be repealed.

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

CONSTITUTIONAL MUSEUM BILL

Adjourned debate on second reading.

(Continued from March 9. Page 2085.)

The Hon. M. B. CAMERON: In supporting the Bill, I wish to make a few critical remarks. My criticism arises from what I regard as a degree of carelessness that was perhaps brought to the Council's attention by the Hon. Mr. Foster, when he referred to what had occurred in relation to certain documents and other material that was taken out of what were normally secure places during the renovations to this building.

These were certainly items that would have been of considerable interest in any museum associated with Parliament. It occurred to me and, indeed, to many other honourable members that these were extremely valuable items of historical interest, which were being scattered around the corridors of this Parliament. Perhaps, as the Hon. Mr. Foster said, some may have been lost either because of carelessness or because people picked up such items and took them away. During the renovations, I noticed a considerable quantity of old furniture being removed from this place. I should be interested to know whether any of it was associated with the old Parliament House and, indeed, what has happened to it.

At one stage, the Hon. Mrs. Cooper asked a question regarding this matter. I do not regard the replies given to her as being satisfactory. Much material was lost during this period, a loss that we may perhaps regret in later years. This is always a problem that can occur.

I am not too sure what the concept of this constitutional museum will be. A glowing picture was painted by the Minister when introducing the matter in Parliament. It seems to me that we are to have something different from the normal museum, as most people understand it, and I

will be interested to see how the final concept turns out. I trust that we will not see yet another propaganda outlet for this Government, where we have photographs of Chairman Don, with glowing neon lights out front stating, "This is your present Government and Parliament at work."

I trust, too, that this museum will be what it is supposed to be: a constitutional museum and not one that will be used to promote existing Governments. I will be interested to see what the final outcome and cost are. If ever there was a time when we could have put aside a proposal temporarily, this surely would be it. As I have said earlier, considerable financial problems are arising in this State, and I would have considered this to be a project that could have been set aside temporarily. Certainly, the project should not have been proceeded with until it had been accurately costed.

I trust that the Government will not go willy nilly into something when we do not seem to know what its actual cost will be. I hope that in setting up the museum the Government will show a little more taste than that shown previously when proposals were put forward for putting new furniture in certain offices in this place, when furniture did not match the colour of the carpet of the rooms in which it was being put. I hope that all the old furniture will not be replaced with modern furniture.

I do not believe (and I say this because I am somewhat of a conservative in relation to museums) that a museum can be said to be such if it merely promotes an existing Government. The word "museum" certainly does not have that connotation.

Another aspect of the matter is that there are already plenty of items in the existing South Australian Museum on North Terrace that are being badly stored. Perhaps, instead of promoting this concept, we could give some thought to spending money in order to ensure that valuable items stored in the present museum are given better accommodation. I recall that during a campaign for an election held a long time ago a new museum building was promised. That promise and many other promises have been broken by the Government. This has happened so often that one gets confused—

The Hon. N. K. Foster: You're always confused.

The Hon. M. B. CAMERON: It is difficult, sitting opposite the honourable member, for one not to get confused, because he goes on and on. That promise was made in, I think, 1975, but nothing has happened since.

The Hon. N. K. Foster: How do you know that?

The Hon. M. B. CAMERON: Perhaps that promise should be honoured rather than the Government's proceeding with this constitutional museum. This Government is good on ideas and concepts but not at taking action.

The Hon. N. K. Foster: What did your mob do?

The Hon. M. B. CAMERON: It started building the Festival Theatre, something for which this Government has claimed credit. It is incredible that the Labor Government should have done so. It wanted to knock down Government House so that the Festival Theatre could be built. I saw in the *News* recently that a gentleman in another place took the credit for that project. In fact, Sir Thomas Playford was the first one to raise the concept of a festival theatre, and the building of our Festival Theatre was started during the term of office of a Liberal Government. So, members opposite should not talk about what Liberal Governments have not done. The former Liberal Government took much action in consideration of the arts.

The Hon. B. A. Chatterton: Are you sure that it wasn't earlier than what you have said?

The Hon. M. B. CAMERON: I am sure. This happened during Sir Thomas Playford's term of office. He started talks with the Adelaide City Council, so Government members had better not raise that matter. They may be embarrassed by my knowledge of it, because I have researched the matter.

Getting away from that, we now have a new concept and, whilst I am not a cynic, I will be interested to see what a great project it will be. I would say that it would be finished just before the next election. There will be photographs of Chairman Don opening it, and inside there will be spotlights on the wall and photographs of Cabinet.

The Hon. C. M. Hill: And the people will see that he stays there.

The Hon. M. B. CAMERON: Yes. That will be the best place for him. I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 6 passed.

Clause 7—"Terms and conditions upon which members of the Trust hold office."

The Hon. C. M. HILL: I move:

> Page 2 line 24—After "Governor" insert "of whom two shall be appointed by the Governor from a panel of three persons nominated by the person who is for the time being Leader of the Opposition in the House of Assembly".

The amendment provides that, of the five members, two shall be appointed by the Opposition Parties. I went into detail on the matter in the second reading debate and I think that, in the interests of fairness and justice, the Government ought to accept the amendment. It would not involve the Government in losing control of the board, because the Government would appoint three members and the Opposition Parties would appoint two. I shall move a further amendment to reduce the term of service on the trust from three years to two years, because Governments change and the nominess of an Opposition today may be the nominees of a Government tomorrow. Because of this, and at the same time not wanting to involve too much change amongst board members, if the term is two years, the existing terms can run on and changes can be made when the terms expire.

The Hon. T. M. CASEY (Minister of Lands): The Government cannot accept the amendment. We oppose it very strongly, because it is intended that the persons appointed to the trust will be responsible for the management of the museum and that they will be competent in various professional fields. It would be absolutely wrong and frustrating if it was to be seen that persons nominated had political interests.

The Hon. N. K. FOSTER: I oppose the amendment. The Premier has made clear statements that the museum will not be a political set up. It could not be suggested that people on boards had no political interest. However, it is another thing when it comes to direct political affiliation. The jocularity shown by members opposite, who have the numbers here to accept responsibility, shows a lack of responsibility.

Perhaps one could say that this is the initial stage in regard to what is necessary in the interests of the State. Where is there a record of the agricultural or mining history of the State or of how wheat and grain were transported in a unique way? There are hardly any photographs or explanations covering the loading of ships. Wagons and drays were taken to the wharves and men loaded the ships manually. Hawker and Wilpena Pound were productive wheatgrowing areas, but—

The CHAIRMAN: Order! I think the honourable member is making a second reading speech.

The Hon. N. K. FOSTER: I have consciously and

deliberately done just that. To you, Sir, I apologise, but not to any other member. The Opposition is saying, "Unless we have our way, we do not want to be a party to it." I oppose the amendment, because it does nothing constructive toward achieving the aims of the Bill.

The Hon. M. B. CAMERON: I am sure the Hon. Mr. Foster is genuine in his desire that a constitutional museum be established, but the problem does not lie there: it lies in the fact that the Opposition does not trust the Government. If honourable members examine appointments that the Government has made to boards, they will see why the Opposition has moved this amendment. I refer to the Underground Waters Appeal Tribunal to which the President and Secretary of a Labor Party branch at Virginia—

The Hon. N. K. FOSTER: I rise on a point of order, Mr. Chairman. That has nothing to do with the Bill. I could retaliate by naming members of the Liberal Party who are involved in similar matters.

The CHAIRMAN: That is not a point of order. The Hon. Mr. Cameron is closer to the amendment than the Hon. Mr. Foster was.

The Hon. M. B. CAMERON: I am making a valid point when I say that the President and the Secretary of a Labor Party branch, who were close friends of the Hon. Mr. Sumner, were the only two people appointed to the tribunal by the Government. That meant that other areas did not have any appointees, and those two were political activists. This matter was brought up in the middle of an election campaign, and is a political gimmick.

The Hon. N. K. Foster: You are a liar.

The Hon. M. B. CAMERON: I am not. I ask the honourable member to withdraw that statement.

The Hon. N. K. FOSTER: I spoke to the honourable member last week. I apologise for calling him a liar, but I could call him a lot worse which would befit him.

The Hon. M. B. CAMERON: I have not mentioned any names. I have merely alluded to an occurrence.

The Hon. N. K. Foster: You know damn well what I said to you.

The Hon. M. B. CAMERON: I do not intend to mention names. It is irrelevant. I am talking about the Government's actions. This matter was raised in the middle of an election campaign.

The Hon. N. K. Foster: You are a liar.

The Hon. M. B. CAMERON: I ask the honourable member to withdraw that statement.

The Hon. N. K. Foster: I withdraw it.

The Hon. M. B. CAMERON: This was brought up as an election gimmick. It was dreamed up in the Premier's office. I have grave suspicions about the museum, because I wonder whether it will turn into just another propaganda outlet. In the interests of fairness, the Government should give the Opposition the opportunity to nominate members of the trust.

The Hon. C. J. Sumner: Do you believe that a Liberal Government would rig it?

The Hon. M. B. CAMERON: No. We should ensure that no Government can use the museum as a propaganda outlet. There is a danger that it could be so used. I shall be interested to see what use or misuse is made of the museum.

The Hon. J. C. BURDETT: I support the amendment. The Hon. Mr. Cameron has said that the Government's record in connection with political appointments to positions, which should be above politics, is appalling.

The Hon. C. J. Sumner: Name them.

The Hon. J. C. BURDETT: I do not intend to emulate the Hon. Mr. Cornwall and use this place as a coward's castle. The Hon. Mr. Cameron has given some good examples, and there are plenty of them. If the Government claims that it can make non-political appointments, why cannot the Opposition? The Minister said the Government intended to appoint the most suitable and most qualified people. The Opposition is as good as the Government at choosing the best qualified people. If it was clear that not all appointees on the board were to be Government appointees, I think that both sides would vie with each other in appointing the best people.

The Hon. R. C. DeGARIS: The Hon. Mr. Foster said it was necessary for the Government to have the right to appoint these people because what were required were archivists. I point out that Division III comprises two clauses that deal with the appointment of staff. That is where we want our experts in preserving materials. The trust will act as a board of management of the constitutional museum, and the Opposition is just as likely to choose experts, who know and understand the constitutional history of South Australia, as is the Government. In this case it is reasonable that the Opposition should have the right to nominate two members of the trust of this museum.

The Committee divided on the amendment:

Ayes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, K. T. Griffin, C. M. Hill (teller), and D. H. Laidlaw.

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

Pair—Aye—The Hon. Jessie Cooper. No—The Hon. C. W. Creedon.

The CHAIRMAN: There are 9 Ayes and 9 Noes, an equality of votes. I give my casting vote to the Noes.

Amendment thus negatived.

The CHAIRMAN: Does the Hon. Mr. Hill wish to proceed with his other amendments?

The Hon. C. M. HILL: No, I will not move any more amendments.

Clause passed.

Clauses 8 to 13 passed.

Clause 14—"Functions and powers of the Trust."

The Hon. R. A. GEDDES: I move:

Page 4, line 18—After "Museum" insert "as a museum of the constitutional and political history of the Government, including the local government, of the State".

In the speech of the Hon. Mr. Foster, he suggested that we and the citizens of the State have not been doing enough to preserve the history of the past. The honourable member specifically referred to local government and I am not ashamed to move, in view of that remark, this amendment. It is interesting to note that, after all the words printed about the Constitutional Museum Bill, for the first time, if the amendment is passed, the words "a museum of the constitutional and political history of the Government, including the local government, of the State", will be included.

The purpose of the Bill is to preserve the constitutional history of this Parliament over the past 140 years. Yet, as I stated in the second reading debate, local government areas were declared to be operating long before Parliament was established. Local government has a just claim for its history to be preserved, and it is only correct for the Government to draw attention to the history of local government in this way.

I refer to the present display in the Adelaide Town Hall of maps by Colonel Light, as well as a model of the first council chamber of that time. In having all governmental history under one roof, it would be practicable for local

government to be included.

The Hon. T. M. CASEY: I have much sympathy for the honourable member's amendment, especially as I know how interested he is in local government. As he indicated, the museum is to house the constitutional history of the Parliament of this State. The Government recognises the importance of local government in South Australia, but there simply would not be sufficient room to do justice to both our constitutional history and local government history, and the honourable member would appreciate that. Plans have been drawn up for the constitutional museum taking up all available space. I, too, should like to see a museum established to preserve the history of local government, and doubtless it will come in the future. However, in view of the practicalities and the shortage of space available (I am sure the honourable member has been through the old Legislative Council building), although I am sympathetic to what the honourable member seeks to do, it would not be possible to incorporate the history of local government in that building when all the space will be taken up to present information about the constitutional history of Parliament. Therefore, I cannot accept the honourable member's amendment.

The Hon. R. A. GEDDES: It is amazing for the Minister to say, even before the Bill is passed and before authority is given to the Government to establish the museum, that there will not be enough room. The Minister said that plans have been drawn and that, knowing what the needs will be, there is not room for local government history. What a ridiculous statement. The history of the formation of Scotland, of the Celts coming down through Europe and Ireland and the wars of Scotland are all contained in a room much smaller than the old Legislative Council Chamber. That display is visited by thousands of tourists and schoolchildren annually. It is a graphic display of history in that part of Europe. How can the Minister say that plans have been drawn and that there is insufficient room before the Bill is even proclaimed? That is a distortion of fact, and I am amazed that the Government has instructed the Minister to give such a ridiculous excuse. Although the Minister said he would like to see local government have its own museum, will not the Government say that local government is a separate authority and can look after itself? This opportunity will be lost to us.

The Hon. N. K. FOSTER: The honourable member used my name to support his amendment, which I oppose. He has been a member of this Council for over 10 years, but has never previously thought of anything like this. The amendment is not what I suggested when I spoke on this matter last week. No good purpose can be achieved by it.

I suggested that assistance should be rendered to local government through the provision of trained officers and archivists to search the dungeons and tunnels containing a wealth of information at Port Adelaide. Indeed, this amendment may inhibit what I suggested the other day, and I oppose it. Space is at a minimum in the old Legislative Council building. Parliament cannot through this amendment say to local government that it has the right to do with local government relics what is likes. That is not the way to go about it. That has been the tragedy of the past. Provision must be made later for a separate Bill to provide for assistance to local government in this matter.

The Hon. J. C. BURDETT: I support the amendment, which, after all, is an enabling provision only. It would appear that, as the Bill stands, it would not be possible to have in the constitutional museum any items pertaining to local government. The amendment merely enables that to be done if the trust in charge of the museum decides to do so. It is, therefore, a perfectly sensible amendment.

I was horrified to hear the Minister advance, as an argument against the amendment, the fact that the plans for the museum had already been drawn and that items to go therein had already been decided on. This makes a mockery of and is an insult to Parliament. Indeed, it is holding the Parliament to ransom. The arguments advanced by the Hon. Mr. Geddes were perfectly sound, and his amendment merely seeks to make it possible for, and to give some encouragement in relation to, some items relating to local government to be put in the museum. I therefore support the amendment.

The Hon. N. K. FOSTER: I reiterate my opposition to the amendment. This Parliament has been the custodian of relics and records of this place, but it has been unable to carry out its responsibilities in that regard. I remind members that I have in my possession volume 2 of the records to which I have already referred and which would have been taken to the dump had I not commandeered it. As this Government should not have to be the custodian of local government material, I must oppose the amendment.

The Committee divided on the amendment:

Ayes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, M. B. Dawkins, R. C. DeGaris, R. A. Geddes (teller), K. T. Griffin, C. M. Hill, and D. H. Laidlaw.

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

Pair—Aye—The Hon. Jessie Cooper. No—The Hon. C. W. Creedon.

The CHAIRMAN: There are 9 Ayes and 9 Noes. There being an equality of votes, I give my casting vote for the Ayes.

Amendment thus carried; clause as amended passed.

Remaining clauses (15 to 26), schedule and title passed.

Bill read a third time and passed.

CLASSIFICATION OF THEATRICAL PERFORMANCES BILL

Adjourned debate on second reading.

(Continued from March 9. Page 2087.)

The Hon. C. M. HILL: The Government has adopted a doctrinaire approach in relation to this Bill. It seems to take the view that, simply because the R classification system operates with films and publications, it can apply the classification to theatrical performances and all will be well.

The current issue that gives rise to the Government's action goes much deeper than theory. Considerable difference exists between reading material, looking at photographs, and viewing films, on the one hand, and attending and watching live stage performances on the other hand. There is a considerable difference between publications printed all over the world and channelled into the market through many and diverse channels (this applies almost equally to films) and the limited number of promotors, producers or controlling boards that are responsible for live artists' performances in Adelaide.

I support the Bill, but only because I see little alternative. It is the best that the Government can and will do. However, I have serious fears about what will happen if the Bill passes. My worst fear is that there will be a proliferation of R theatre performances. Whereas now there is an occasional presentation that undoubtedly

should be classified as R, in future there will always be R theatre and people will be given a considerable choice. If box office returns are down, producers and companies will turn to R productions. The situation will become worse than it is now, not better, in my view. The Government's attitude seems to be, "If this is what the people want, let them have it."

The Hon. J. R. Cornwall: Why will they turn to R productions?

The Hon. C. M. HILL: They will do that because there will be such a range of them that it will become almost the norm, as is the case now with R films. My second fear is that this Government will never change its attitude in this whole area of pornography. I will quote several sentences from a letter that the Premier wrote to some ladies on the controlling body of the National Council of Women. I am sure that I will not be making public any confidence regarding this matter. A copy of the letter has been circulated to many members and supporters of the council. In replying to their letter of protest, the Premier stated, in the last paragraph of his letter:

> Community standards vary with the passage of time and it seems that there have always been "elders", pressure groups or religious persons who try to impose the standards of their youth and/or peers upon the succeeding generations. If the pendulum of morality is to swing back, it will do so with or without my intervention: the attitudes of Governments in this regard are really reflections of community wishes.

The last sentence bears testimony to the fact that the Dunstan Government is satisfied, in this area, to reflect the wishes of the community. That concept is commendable for a Government in a democratic society when we are talking about issues and public opinion and when we are reflecting public opinion on most issues, such as health, education, transport and agriculture.

However, in the past few years, with humanity having difficulty in managing itself in an age of affluence, with people having difficulty in educating their children in an era of vast educational opportunity, and with families encountering disunity and drugs in this State, which is supposed to be the best State in which to live, the people do not expect their Government to simply reflect such uncertainty and paradoxical conflicts, such frustration, and such family disunity.

In this area, the community expects leadership and example from the Government. People want the Government to establish guidelines, with specific emphasis on good taste and high standards. They want the Government to lift its sights. If the Government simply drifts with the tide, it makes no worthwhile contribution to assist concerned South Australians who have difficulty in finding social contentment and who worry deeply about their children and the future of this State.

The Bill almost puts a mark of queer respectability on the R classification for live theatre. It telegraphs the message that, if patrons want a special thrill, they must follow the Government's pre-arranged signal and watch for the R classification. This is another first for the Dunstan Government, and the Government deserves condemnation for it. It is quite true to say that, despite a groundswell of public opinion for the Government to adopt a more responsible attitude, it shows little sign of changing or improving its record. That was exemplified in the Government's reaction to the Hon. Mr. Burdett's Bill on child pornography.

The Hon. D. H. L. Banfield: Was that the one in which he was reducing penalties?

The Hon. J. C. Burdett: I was not.

The Hon. C. M. HILL: My third fear is that the Bill insults our best professional theatre in South Australia. To think of the South Australian Theatre Company as having to yield to this new law, perform for the classification board, and await its judgment is a damaging, retrograde and absolutely laughable situation. Under the present board and the present director, the company has presented sensitive theatre, with understanding, maturity and professionalism. Reasonable people should have no complaints, or few complaints, about its standards.

Now, having reached a pinnacle of success, for which I and, I know, most other South Australians congratulate it, the company enters this new era of quite ridiculous scrutiny. Therefore, I will vote for this measure, as I have said, with little enthusiasm. The action which the Minister in charge of the arts in this State, the Premier, should have taken in this matter of the occasional objectionable live theatre performance was to have informed the promoter or the controlling board that he objected to the particular presentation or part of it. Few theatre interests would be unco-operative in such circumstances. As an example, I cite the case of the punk rock play *East*. The Premier should have told the Festival of Arts Board that the festival could well do without that performance, or at least without that part of it that was extremely vulgar and in poor taste. If board members thumbed their noses at such a warning, the future of those members would be uncertain, to say the least. That was all that was necessary, not this Bill.

I state quite categorically that, when the Liberal Party returns to Government in this State, if the festival board gives its blessing to vulgarity and filth on the Adelaide stage, the members of that board will not be enjoying for long the free seats, receptions, and all the other privileges that go with board membership. The present measure flows from a theoretical and doctrinaire approach. The people of this State (among them, particularly the parents) want to see an approach to this problem based on an understanding of the community's concern, on common sense, and on pragmatism. However, we have in place of that this Bill, which, according to the Minister, is the best that the Government can do. Well, we will see.

The Hon. R. C. DeGARIS (Leader of the Opposition): This Bill takes the system of classifications existing now in relation to films and publications into the field of live theatre. We have been hearing for a long time the base statement by the Labor Party ("base statement" is hardly right, but the basic plank of its policy) that people should be allowed to read and see what they like. To have some control over what people can see and read, we have adopted a system of classification. However, whether the Government likes it or not, people cannot read and see what they like. We have in South Australia a system of censorship, whether the Government likes that phrase or not.

There is no policy that people are able to read and see what they like; any reference to such a policy is emotional window dressing for a section of the public. All that happens so far is that a classification is given to a publication or a film. If a film is not classified, any operator who shows the film leaves himself liable to prosecution. If a book is not classified, the seller of such a book is liable to prosecution. Under the system so far, the policy, as a fundamental plank of the Labor Party, is nonsense.

It is time the Government said clearly that it believes in censorship, no matter how minor it is. I do not object to censorship, because I believe it is necessary. I am not criticising that. But let us be honest about it and realise that we have censorship in South Australia. All that is happening with books that are not classified, such as child

pornography, is that they can still be bought in certain bookshops under the counter but at double or treble the price. I do not believe this Bill will do anything except some window dressing.

Will the Government give an R classification to a play depicting child pornography? Will that be a conscious decision? Will every play be classified R? I believe something approaching this situation will happen in this State, just as practically every film must have an R classification to draw people to the theatre. We will find exactly the same thing happening in connection with the live theatre, with almost every production classified R. On balance, I believe the Bill may as well go out. Although I will not ask the Council to divide on the second reading, I intend calling against the Bill, first, as a protest against the intrusion of classification into live theatre and, secondly, because the classification system is not working and we may as well admit straight out that we have a censorship system.

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

[Sitting suspended from 5.25 to 7.45 p.m.]

CONSTITUTION ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

This short Bill is introduced as a consequence of certain advice given the Government by its legal advisers. Briefly, this advice suggests that section 71 of the Constitution Act, 1934, and the corresponding previous enactment have, since 1856, operated so as to render formally invalid most of the instruments to which it relates. Section 71 provides:

> No officer of the Government shall be bound to obey any order of the Governor involving any expenditure of public money, nor shall any warrant for the payment of money, or any appointment to or dismissal from office be valid, except as provided in this Act, unless the order, warrant, appointment, or dismissal is signed by the Governor, and countersigned by the Chief Secretary.

An examination of a sample of relevant Executive Council minutes going back for 80 years suggests that very few, if any, could properly be described as being "countersigned by the Chief Secretary", and hence there is a distinct possibility that they would all be invalidated by the provision.

In passing, there appears to be no real doubt that the constitutional requirements that should precede actions by His Excellency have *de facto* been complied with. Thus, in the very words of section 33 of the Acts Interpretation Act, His Excellency has invariably acted with the advice and consent of the Executive Council. However, this does not gainsay the apparent effect of section 71 of the Constitution Act, and in the Government's view any doubt in the matter should be resolved as soon as possible.

Clause 1 is formal. Clause 2 amends section 71 of the Constitution Act by substituting for "the Chief Secretary" the passage "a Minister of the Crown". The effect of this amendment is to ensure that the strict terms of section 71 can be complied with without requiring the presence of any particular Minister of the Crown at every Executive Council meeting. Clause 3 formally validates the instruments referred to in section 71 that may be invalidated by operation of that section. In addition, any such instruments that may have been invalidated by the corresponding previous enactment, that is, section 33 of the Constitution Act of 1855-6, have also been validated.

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

BOTANIC GARDENS BILL

Adjourned debate on second reading.

(Continued from March 9. Page 2078.)

The Hon. R. A. GEDDES: I support the principles of the Bill. As the Minister said in his second reading explanation, the old Botanic Garden Act has become obsolete and it has been considered necessary to draft new legislation under which the botanic gardens can continue to operate. Clause 13 explains in detail the role of the Botanic Gardens Board. That role, which is really a replica of the role of the former Governors of the Botanic Garden Board, is to establish and manage public botanic gardens on land vested in or placed under the control of the board.

Clause 13 (1) *(f)* provides that it will be a function of the board to perform any other functions of scientific, educational or historical significance that may be assigned to the board by regulation. It is of interest that botanic gardens have always played their part over the century in man's thirst for knowledge. In that regard, it was interesting to read in this evening's *News* that some research workers, having already discovered the history of agriculture back to the year 7000 B.C., are looking for the first farmer. Part of the report in today's *News* is as follows:

> Earliest evidence of domestic plants and animals—and many types of agriculture—goes back to more than 7000 B.C.

One can imagine the curiosity of man, who observed the effects of nature even before he learnt to read and write. Because man's food came from the land, some botanic or biological interest was engendered. A point of fascination to me is that, in the history of the world's colonisation, from Europe to the Americas and later to the Pacific and Australia, many of the ships of discovery had botanists on board. It was their role to collect samples, seeds, and other information, including that on the types of botanic plants, flowers, and trees that grew in parts of the world that were strange to Europe, and to make a record of them.

They brought home many specimens and I have gathered, from reading about the fascination of botanic gardens, that the French and Spaniards brought their seeds and knowledge to Paris, a magnificent display of plants having been evident there until the revolution occurred. During the revolution, those concerned about possible destruction of this valuable display smuggled plants to Kew Gardens, in London, which now contains the widest samples of plants in the world.

I have read that, during the years of revolution in China, one species of tree became extinct because of lack of care. It was not until Chairman Mao, by his communistic methods, brought stability to China that there was a chance to realise that a rare species of timber had been lost. An appeal was made to the directors of Kew Gardens, where the tree was growing, to provide seeds. Again, a particularly rare tree that had been lost was again allowed to be grown in China. Also, a particularly rare bird was lost during those years, and an earl in Great Britain had some of the birds breeding. Some of these birds were taken back to re-breed in their homeland.

The Bill is about botanic gardens in South Australia, of which I am proud. We have the main Botanic Garden in North Terrace, a garden at Mount Lofty that was opened

in recent years, and another at Wittunga, in Blackwood. Those gardens are open to the public and contain beautiful trees, flowers, and shrubs that the uninitiated can enjoy. Those who wish to learn, with the assistance of the scientific knowledge that the botanic garden administration can provide, can do so. They are a source of information and pleasure for all people.

I compliment all those who have worked to make the botanic gardens what they are, and I hope that they will continue their work. He who stoops to plant a tree is a man who deserves public recognition, because plants grow slowly, as does nature herself, and South Australia is building up in the botanic, horticultural, zoological, and biological fields for future generations.

I am concerned about certain provisions in the Bill. First, it provides that the board shall consist of eight members appointed by the Government. In the past, a member was appointed from this House to be a Governor, with one or two members from the House of Assembly. Now, there is no reference to the fact that there shall be members from this or the other place on the new board. Because of the provision of clause 7 (1), I ask the Minister what traditional recognition will be given to members of Parliament being entitled to be on the board. Alternatively, does the Government intend that members of Parliament will not be on the new board and that the eight members will be people who are specialised in this field.

The Hon. B. A. Chatterton: I understand that there is one member from the Government and one from the Opposition, and that will continue, but not with any reference to the House from which they come.

The Hon. R. A. GEDDES: That could change at the whim of the Government. I have not considered an amendment, pending getting the Minister's explanation, but it is fair and reasonable that there should be representation from Parliament on the board. Clause 15 is the other matter that the Opposition finds it difficult to agree to. It provides that the board will be subject to the general control and direction of the Minister. However, the Botanic Gardens Board will have power to borrow money, ostensibly up to $1 000 000, from the private sector, subject to the approval of the Treasurer. The Treasurer will not be the Minister in charge of the legislation, but the board will have to convince him of the need, go to the private sector and obtain the money, and then explain to the Treasurer and the Auditor-General how it will spend the money.

That probably is the most important Ministerial control, and it is provided for in clause 17, but we seem to have two Ministers. I am concerned, because I list botanic gardens in the same academic or educational field as I list the university. It has always been regarded as secrosanct that a university should have much freedom and not be at Ministerial or political whim or fantasy. True, universities operate within their financial budgets, but that is not my point.

Once the money is granted to the university, it is recognised that the university should then be free to exercise its academic rights. I place botanic gardens on a similar plane. Botanic gardens in European cities have for centuries been faithfully reproducing the marvels of nature. The annual report to Parliament of the Governors of the Botanic Garden under the old Act said that they were thinning out the wonderful plane trees in the area north of the North Terrace Botanic Garden, because of problems of water stress. If the board considered it necessary to remove more of those plane trees, if the people heard of it and wrote letters to the press, if *This Day Tonight* raised the matter, and if pressure was brought to bear on the Minister, could it be that the trees would not be removed, even though the board's reasons were legitimate? Clause 15 provides that the board shall be subject to the general control and direction of the Minister, and I am most concerned about this provision. Clause 17 give the board authority to borrow money from the Treasurer or, with the consent of the Treasurer, from any other person, for the purpose of performing its functions under the legislation. I point out that the administration of this legislation will be under the control of the Minister of Education.

The Hon. C. M. Hill: Perhaps the legislation should be under the control of the Minister responsible for the arts.

The Hon. R. A. GEDDES: We had a little difficulty with flowers during the Festival of Arts. Perhaps these flowers are a little more sacrosanct. Clause 26 confuses me. Why is it that the moneys required for the purposes of this legislation shall be paid out of moneys provided by Parliament for those purposes, whereas clause 17 give the board power to borrow money?

The Hon. B. A. Chatterton: The Government has to provide money for salaries and ordinary running expenses.

The Hon. R. A. GEDDES: The only moneys that the Constitutional Museum will get are through borrowing from the private sector, but the Board of the Botanic Gardens will be able to borrow from two sources. We are getting a surfeit of Bills with statutory authority to borrow money, and the Bills have varying financial provisions. Perhaps the Minister should examine this matter, so that we do not have a constitutional crisis. I support the principles behind the Bill, but I reserve my decision on the clause dealing with the composition of the board and on clause 15.

The Hon. J. R. CORNWALL: It would be remiss of me if I did not say a few words as a member of the board. I agree with most of what the Hon. Mr. Geddes said early in his speech. In fact, I thought it was elaborate praise, and I thank him kindly for his words about those who have assisted the Botanic Garden over many years. I am a humble servant of the board. His comment relating to there previously being a board member from this place and one from the House of Assembly is not correct. The convention has always been that there should be one Government member and one Opposition member. In fact, I think I am right in saying that, historically, the Hon. Mr. Chatterton was the first Labor Party member of the Legislative Council elected to the Board of Governors.

Regarding the comments of the Hon. Mr. Geddes about finance, I point out that the procedure outlined in clause 15 is the standard procedure for boards of this nature, and that the borrowing provision is essential. The Director is, of course, a public servant. In any financial considerations, there can be no money without responsibility, and no responsibility without money. The board has to be a statutory authority if it is to have the power to borrow money, and that is quite different from funding through the Public Service. I support the Bill.

The Hon. C. M. HILL: I, too, support the Bill, and I compliment the Director and the board members for the service that they have given. We are fortunate to have a person of the ability of Mr. Lothian, and no doubt he is well supported by the board members. Regarding the Hon. Mr. Cornwall's reference to the convention of having a Government member and an Opposition member on the board, it is a pity the Government could not maintain that convention in regard to the Constitutional Museum, which we dealt with earlier today. I do not know whether the Hon. Mr. Cornwall believes that he will be reappointed to the new board. I hope the convention will be maintained when the new board is appointed under this Bill.

Having perused the previous Act, I am pleased to see that it is being repealed completely and that this Bill is being introduced in its place. It was time for considerable change, and the Government's approach in introducing entirely new legislation is the best course. On the other hand, there has not been a tremendous change in the principles behind the approach to administering botanic gardens.

I notice the quorum of the board has been increased from three to five but the number of the board members remains the same, at eight. I also commend the director and the board upon the manner in which they are developing their gardens in the hills surrounding Adelaide; their activity and treatment of their new venture in the Blackwood and Mount Lofty areas deserves high commendation. I hope that with the passing of time when there are old disused quarries, as there will be in the Adelaide Hills, possibly similar treatment of the beautification of those areas can be allotted to the Botanic Gardens Board, and then I hope that in the future we shall have several of those sites in the Adelaide Hills which, once beautified, can become world famous attractions. One remembers the Butchart Gardens in Canada, which have been established in an old disused quarry area. It is a magnificent sight to behold. That sort of thing can be achieved in disused quarries in the Adelaide Hills because of our excellent climate for such development.

I have some minor queries. First, I wonder whether in clause 13 (2) *(f)* the disposal of any interest in real or personal property which is set down there as being the function of the board should be qualified as being subject to clause 14, which provides:

> The board shall not dispose of any interest in land vested in it, nor shall it be divested of the control of any land placed under its control except in pursuance of a resolution passed by both Houses of Parliament.

I wholeheartedly support that check within the legislation, but that is a point that may be raised in Committee. I also wonder whether the question of the regulations concerning car parking may be somewhat extreme. For the first time, the regulations will apply to the Botanic Gardens Board. Under the old Act, there are no provisions for regulations.

The Hon. C. J. Sumner: There is an expiation fee.

The Hon. C. M. HILL: Not so much that, but in regard to an offender parking on ground controlled by the board, where it was proved that it was parked on such land, it shall be presumed in the absence of proof to the contrary that the vehicle was so parked by the owner of the vehicle. It is a form of owner onus, and local government encountered difficulties in the same sort of situation. In some respects, it may be harsh and it should be considered seriously in the Committee stage before it is finally agreed upon.

The Hon. J. R. Cornwall: The Director will not be pleased to hear you say that.

The Hon. C. M. HILL: My complimenting him may help. I heard my colleague the Hon. Mr. Geddes query the fact that the statutory body is to be placed under the control of and subject to the general direction of the Minister; I think he perhaps criticised that. My own view of statutory bodies is that they should all be under the general control of a Minister and, if Parliament has any query about the statutory body's activities, we should be able to direct a question in Parliament to the responsible Minister, who must be able to accept the responsibility for a particular statutory body. I am not displeased to see clause 15 in the Bill.

I support the measure and hope that the future of the Botanic Gardens Board and the Director of the gardens will be a feature of the Adelaide scene, and that we shall see more beautification in the Adelaide Hills area.

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

LOCAL GOVERNMENT ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 9. Page 2083.)

The Hon. K. T. GRIFFIN: In making my first speech in this Council on this Bill, the Council is no doubt fortunate that I shall not have the opportunity to speak on general topics of a hobby horse nature, as I could have done if I had taken my seat at the beginning of the session. Instead, I speak on this Bill, which allows me to pursue local government matters.

Local government is an important part in the lives of people in South Australia, a level of government in which I have some interest. I trust that you, Mr. President, will allow me a little latitude in speaking on the Bill in circumstances which one may not regard as ordinary. I am pleased that I have been approved by both Houses of this Parliament and by my Party to fill the casual vacancy caused by the unfortunate and untimely death of the late President, Frank Potter. Mr. Potter gave long service to the people of South Australia in this Council, to the work of Parliament generally, in the practice of the law and in community organisations. He was a person very much involved with his family. I hope I shall be able to serve this Council, this Parliament, the community, and the law in no less a manner than the late Mr. Potter did.

To find oneself one week quietly going about one's own affairs and profession and the next week to be sitting in this place is somewhat bewildering, and requires a considerable adjustment in one's affairs if one is to take a responsible part in the work and deliberations of this Council. I thank members on both sides for the kindness and consideration they have shown me so far, and for their assistance in helping me to come to grips with this new work. I also record my thanks to my own Party for selecting me to fill the vacancy and for demonstrating a large amount of support for me in this task. I have no illusions about the difficulty of the task or of the adjustments I shall have to make to cope with it.

Local government is an integral part of government in Australia. It is important because of its closeness to the people it serves. As was said in the report of the Local Government Act Revision Committee on Powers, Responsibilities and Organisation of Local Government in South Australia, which was presented in 1970:

> No other form of government can hope to be as close to the people or to have such a thorough knowledge of what people want. It is not always realised how close local government, in fact, is to the people it serves. A predominant feature of local government is the ready accessibility for the ratepayer not only of the elected member—the mayor, the chairman, the alderman or the councillor— but also of the council clerk. The impression which the local citizen gains of his own local council can make or mar his impression of his government as a whole.

I see no reason to doubt that those in local government will continue to be so accessible to the people they serve. It must be remembered that local government is a profession requiring expertise amongst those who are its employees, and an understanding of ordinary people, their needs and aspirations amongst those who serve as members of a council.

Also, it requires much voluntary service that is readily

given by those in local government. My Party holds the view that community development and the needs of the community are best served by a partnership between Government and the individual and that voluntary organisations and local government play a significant part in that work, achieving a rapport and involvement with people that Government departments and agencies rarely achieve.

The Local Government Act Revision Committee report states that the existence of local government relieves the State of what would otherwise be a heavy burden of administration. It also states that it gives a decentralisation of administration in matters of local importance, and it provides the State with the benefit of a large pool of voluntary assistance at local executive level.

The necessity or desirability of local government can be questioned, and the Royal Commission into Local Government Areas in 1974 answered that question by stating:

> Could central government take over the tasks currently carried out by local bodies? There is little doubt that it could—but in our opinion, and we believe, in the opinion of practically all witnesses who gave evidence before it, it could not do so as successfully as local government.

Local government in South Australia has had a long history. In fact, local government in Australia originated in South Australia when, four years after the settlement of the colony, the first municipal Act was passed in 1840, and the Adelaide Council was elected on October 31, 1840. A further two years passed before other colonies developed local government. That is a lead that we can be well proud of, and a lead that I hope our own State can regain in local government.

It may be that local government suffers a disability in that it is the creature of first colonial and then State Government, where the limits within which it could work and develop have been set down. Of course, in Europe and in the United States in particular, local government has often had a longer existence than national and State Governments.

Local government in Australia has not involved itself in such a wide area of community activity as it has in other countries. There are several reasons for this that I need not elaborate on now. In South Australia, notwithstanding the contribution of local government, the Local Government Act Revision Committee report stated:

> Local government can be a very potent force in achieving community development. Local government has in fact achieved community development both interstate and overseas to a much greater extent than it has been able to achieve in South Australia. The reason is to be found very largely in the shortcomings of the existing legislation in this State.
>
> If local government in South Australia were given powers that are available to local government interstate and overseas, it would respond to the opportunity.

I have no doubt that that is one of the contributing factors, and that local government would respond to that opportunity. There is a need to entrust to local government a broader range of responsibilities in the context of a refined Local Government Act. There is no doubt that the Act is a complex maze of provisions that bewilder or confuse councillors in many cases.

The PRESIDENT: Order! I notice a person smoking in the gallery, and I ask him to desist. The Hon. Mr. Griffin.

The Hon. K. T. GRIFFIN: There is no doubt that the Local Government Act is a complex maze of provisions that bewilder the ordinary councillor and in many cases their professional officers and advisers as well, and I can speak from personal experience of this. In its conclusion the Local Government Act Revision Committee stated:

> The range of matters which local authorities and their ratepayers have brought before the committee by way of criticism and complaint of the existing Local Government Act covers the whole range of local government activities in South Australia. Without exception, every branch of local government activity in this State has led the elected members and officers of the local authority to complain about the existing state of the Act.
>
> Not one council in South Australia is operating, or could operate, within the limits laid down by the existing Act. Without exception, every local authority in South Australia has been forced to disregard the law as it at present stands. The committee is satisfied that this is a reflection, not on the local authorities, but on the hopelessly outmoded state of the present Local Government Act.

Having acted for some local district councils I know from my own knowledge and experience what those complexities and limitations are, and to the frustrations that the Act can create. It is encouraging that work is being undertaken to update the Act and that this Bill contains many matters which have been raised and which require attention by local government throughout South Australia. However, one wonders whether this piecemeal amendment of the Act is the best way of dealing with all the problems. It is preferable in my view to re-write the whole Act, to give it some consistency, and to simplify many of its procedures and language. In fact, that was the recommendation of the Local Government Act Revision Committee which concluded:

> Many of its procedures [the procedures of the Act] although appropriate for the nineteenth century conditions for which they were originally drafted, are out of touch with the need for speedy decisions which are the characteristics of the present age.
>
> The existing Act is too complex and confusing. In far too many cases its provisions can only be found by engaging in a paper-chase through numerous sections that are often hundreds of sections apart and that have no cross-references.

Of course, the committee stated:

> Care must be taken to ensure that all changes that are effected are in the proper course of development of local government and are within its practical attainment.

If one were to examine some of the provisions of this Bill one would note that, unfortunately, the opportunity has not been taken to update some of the language of the Act, particularly in relation to the by-law making powers of councils. The attempt to collate the by-law making powers into some more logical and understandable sequence has not in my view been achieved. In most instances the by-law making powers have merely been rearranged in sequence and have not been redrafted. Let me give several examples. In the proposed new section 667, paragraph 3, subparagraph XXXVI, council has power to make by-laws:

> Subject as aforesaid, for requiring and regulating the carrying of a lighted lamp inside licensed passenger vehicles whilst plying for hire after sunset.

Again in the subsequent subparagraph there is a provision empowering a council to make by-laws, as follows:

> . . . for regulating and licensing chimney-sweeps; for prohibiting the sweeping for hire or reward of chimneys by unlicensed persons; and for fixing a tariff of the rates to be paid to licensed chimney-sweeps.

Again, the next subparagraph states:

> For controlling and licensing boot-blacks.

I am not sure whether people still expect to have their shoes cleaned by others in this day and age. In the following subparagraph there is reference to "aviation stations". Further, there is a by-law making power to

make by-laws as follows:

> For the prevention of the use of steam whistles at factories or other establishments so as to be a nuisance to any person.

Two other examples are contained in that section, one is for the regulating of displays in public streets and roads of dissolving views, magic lantern exhibitions and cinematographic pictures, and subsequently:

> . . . the regulation in public bathing houses of hot and cold baths and shower baths, vapor and medical baths, the requisites to be supplied, and the funds to be paid therefor.

In rearranging the sequence of the by-law making powers of councils, it is unfortunate that the opportunity has not been taken to revise the language as well as to excise powers that are outmoded and include new necessary powers.

I wish to refer particularly to several aspects of the Bill. The first is regarding the procedure for giving effect to alternative proposals of the Local Government Advisory Commission on boundary changes. It is interesting to note that in 1936, on this State's centenary, there were 34 municipalities and 108 district councils, making a total of 142 local government bodies. In 1977, some 40 years later, there were 39 municipalities, one of which was Monarto, and 94 district council areas, making a total of 133 local government bodies. The position during that period had remained relatively unchanged, notwithstanding some substantial developments in this State.

I support the concept expressed in proposed new section 42a establishing an arbiter of disputes as to council boundaries, with that arbiter having a power not merely to advise but also to initiate. Although there have been some amalgamations and boundary changes in consequence of the report of the Royal Commission into Local Government Areas in 1974, there have not been significant changes. It was obvious from that report that the Royal Commission was of the view that there needed to be significant realignments of boundaries as well as numerous amalgamations in order that local government would more effectively serve the community. That commission concluded:

> Over the years there has been a tendency for powers and duties, which, in the past, have been the preserve of local government, to be taken over and exercised by central government. We believe that among the reasons for this take-over is the fact that local government has been too fragmented or at least not sufficiently strong to resist the challenge by the central government and, more particularly, that local government simply has not, for whatever reason, carried out many of the duties that have been subject to take-over.

The Commission continued:

> It follows, in our opinion, that to prevent the further transfer of powers and duties to central government, local government must be sufficiently strong both to resist the proposals to transfer power, and to ensure that as far as possible the particular duties are presently being carried out adequately, not only by some, or even most, councils, but by all councils. The plain fact of the matter is that some councils are not in a position to exercise fully all of their functions. We believe that it is of prime importance that they should do so. To enable this to occur, local government must be stronger, and one of the methods by which this can be achieved is to correct the boundaries. Each and every unit will then become an effective link in the total local government chain.

In accepting this conclusion, one does not downgrade the work that has been undertaken over the past decades by thousands of dedicated volunteers and staff in local government. Rather, it is an acceptance that change is necessary for local government to meet the challenges of the present and the future. It seems to me that the Royal Commission into Local Government Areas was seeking to enhance the status of local government and the contribution that it could make, and enable it more effectively to resist the attempts by central government to whittle away the powers of local government. That, in my view, is a most desirable principle.

The fact that there have been relatively few boundary changes in the past 40 years suggests that there is a natural reluctance to venture into what, for many, may be an unknown relationship, but nevertheless this must be undertaken if the objectives of those who hold local government in high regard are to be achieved. This view is also supported by the Local Government Act Revision Committee, although it made the point that, although amalgamations and boundary revisions should be facilitated and encouraged, local authorities must be protected against too frequent applications of this nature, for boundary disputes are unsettling.

In the light of that background, it seems to me to be desirable that the Local Government Advisory Commission have some power of initiation as outlined in proposed new section 42a, although some care ought to be taken in requiring a vote of 40 per cent of the electors against a proposal of the Advisory Commission to defeat that proposal, even if it bears no resemblance to a proposal covered in a petition.

Regarding the provision affecting defaulting councils, there is no doubt that there ought to be machinery by which the State Government can become involved if a council has defaulted in the exercise of its responsibility and powers, and a local community is left somewhat rudderless. The proclamation contemplated by proposed new section 45b must not be made unless there is a serious problem. Of course, in most instances there must be an opportunity for the local community ultimately to be able to express its view through the ballot box.

There seems to be at least one major deficiency in the proposed new section, and that is that, when the proclamation that a council is a defaulting council has either been revoked by a subsequent proclamation or expires after 12 months from the making of the proclamation and the council then ceases to be a defaulting council, it may well be left without some members of a council. If the council members have been suspended from office in accordance with the clause, their term of office may expire during the period of suspension. There is no express provision in that event to deal with a fresh election. The question could be raised, "Is there to be any provision that allows the procedures for fresh elections to be set in train at the instigation of the administrator before his appointment expires?" Under the proposed section, he assumes the power of the council, but I am not convinced that that is sufficient to deal with the difficulty to which I have referred.

The provisions relating to enrolment reflect recent significant changes in the Act. As the franchise is broadened, so will the tendency be for council elections to become more political. I hope they do not become Party political, which would have a detrimental effect on local government work. It is always important that those who are voting at local government elections should vote for the individual and not for the political Party that he or she may represent or to which he or she may belong.

As the franchise is broadened, so will the interest in the work of local government widen and so should the influence of local government widen. Also, as the franchise is broadened and more people participate in local government, there may be a need for a court of disputed returns but, hopefully, recourse to that court will be very much limited.

The only other principal area to which I have already referred is that relating to by-laws. If a council is to achieve a wider influence and to participate more fully in community development as and when the same becomes obvious and necessary, it is important that the by-law making power is able to be exercised more speedily and by a procedure that does not inhibit so much as it has done and, therefore, the procedures outlined in the Bill are generally procedures that I would support. There are a number of relatively minor matters in the Bill, and there are some on which in due course I will be seeking to move amendments. However, for the present, I generally support the Bill.

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

WATERWORKS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 9. Page 2086.)

The Hon. J. A. CARNIE: I rise to speak briefly in support of this Bill and, in doing so, wish to make one or two points mainly in support of remarks made last week by the Hon. Mr. Cameron when he spoke in the debate. As he explained, the Bill points to a problem that could be occurring in other Acts, because the penalties in the Waterworks Act have not been altered since 1932 and now we have increases of up to 500 per cent. In supporting the measure, I ask the Government to check whether other Acts are in the some category and, if they are, to introduce amendments in such a way that we will not have increases of the magnitude of those in this Bill.

Obviously, there would be difficulty in legislating to index penalties such as these, and I accept that. I am not pointing to this particular Government, because the Act has applied since 1932. However, I ask the Government to keep a closer check than has been kept in the past.

The Hon. C. M. HILL: I also support the Bill and commend the Hon. Mr. Cameron and the Hon. Mr. Carnie for criticising the Government because of the vast increases in the penalties.

The Hon. T. M. Casey: All that the Hon. Mr. Cameron does is criticise. He never makes a worthwhile contribution.

The Hon. C. M. HILL: The Government should be ashamed of itself for bringing in these vast increases. Clauses 6 to 16 inclusive contain increases of from $10 to $50, $20 to $100, $10 to $200, $10 to 50, $40 to $100, $20 to $50, $10 to $100, $40 to $200, and $10 to $50. I ask why, after eight years in office, the Government does not keep its legislation up to date. It is a lazy Government. As proof of that, it will adjourn next week until July, yet it has not been able to deal with legislation such as this.

The Hon. C. J. Sumner: Aren't you going overseas?

The Hon. C. M. HILL: I am not.

The PRESIDENT: Order! I have tolerated some interjections, but we do not want the debate to get out of hand.

The Hon. C. M. HILL: It annoys me to find that, in 1965 and 1970, when Labor Governments came to office, we heard much talk about working hard and about big legislative programmes. Those Governments were going to turn the clock around and introduce an immense programme compared to Liberal Governments' programmes. If the Government was not so lazy and if it had attended to legislation of this kind, we would have had amendments during the past eight years to bring the penalties up to a reasonable figure. The Government is getting lazy, and that is a sign of a Government that has been in office for too long. However, such laziness will not escape the watchful eye of the electors.

The Hon. T. M. CASEY (Minister of Lands): The Hon. Mr. Hill never ceases to amaze me. After we had come to office in 1965, we were unceremoniously thrown out by the Hon. Tom Stott. We came back in 1970 with a substantial majority in the House of Assembly. For the 33 years from 1932 until 1965, Liberal and Country League Governments did nothing to correct the anomalies that the Hon. Mr. Hill is complaining about. He is complaining that the Government is not keeping up with the time factor, but his Government did nothing. It is audacious for the Hon. Mr. Hill to suggest that the present Government has done nothing. Many times when we introduce a measure to increase costs commensurate with the inflation rate, we get opposition from members on the other side. Nevertheless, I was pleased to hear that the honourable member supported the Bill. The criticism of the Government in this case is ludicrous, to say the least.

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

BOTANIC GARDENS BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2129.)

The Hon. ANNE LEVY: I endorse the remarks made by other honourable members regarding the valuable contribution to the community made by the Botanic Garden throughout its history. I particularly refer to the co-operation that has always existed between the Botanic Garden and Adelaide University. The Botanic Garden exists not only for aesthetic pleasure of the community but also for a serious scientific purpose. When I was a staff member of Adelaide University we enjoyed great co-operation with the Botanic Garden, which provided specimens that could be used in classes.

This co-operation existed between the Botanic Garden and not only the department of the university in which I was employed but also the botany department and other departments that required scientific material.

Perhaps the Botanic Garden could consider publishing a taxonomic guide. The wide range of species on view is not readily understandable on a taxonomic basis to someone who has not done detailed taxonomic study. Without in any way suggesting that a voluminous taxonomic textbook should be produced, I believe that a simple taxonomic guide would help visitors who wish to appreciate not only the Botanic Garden's aesthetic qualities but also the scientific significance of the exhibits there. Clause 21 (3) provides:

> A member of the board who is an employee of the board shall be deemed not to have any direct or indirect interest in any matter relating to employment by the board by reason of the fact that he is an employee of the board.

Such a provision was not in the old Act. Once this new provision becomes law, it will be possible for worker participation in the true sense to be implemented at the Botanic Garden. If a staff member is appointed a board member pursuant to clause 7, that person will be a full member of the board with complete voting rights on all matters coming before the board. Such a clause can be regarded as an enabling clause. I welcome it as an indication that the Government is pursuing its policy of

staff involvement in all statutory bodies.

The Hon. R. A. Geddes: Is the Director isolated from the clause?

The Hon. C. M. Hill: I certainly hope not. If anyone should go on the board, it should be the Director.

The Hon. R. A. Geddes: Is the Director regarded as an employee?

The Hon. ANNE LEVY: I do not know. The inclusion of clause 21 (3) would cover the case of any employee who became a board member and would enable that person to function as a full member of the board with rights equal to those of other board members. Perhaps the Minister will answer the honourable member's question. I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

Clause 6—"The Board of the Botanic Gardens."

The Hon. R. A. GEDDES: Because honourable members have several questions to ask, it would be appreciated if the Government would allow progress to be reported.

Progress reported; Committee to sit again.

CONSTITUTION ACT AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2127.)

The Hon. R. C. DeGARIS (Leader of the Opposition): A considerable amount of public interest has been displayed in this Bill. At 9.15 a.m. today I was informed that the Bill would be coming before the Council. There is no doubt that section 71 has not been complied with in all appointments made by Executive Council over a number of years. This is not a matter that has been done deliberately. The question often arises as to what the word "countersigned" means in regard to section 71.

Most of these documents going before Executive Council were placed there with the signature of the Chief Secretary and signed by the Governor. The question immediately arises: "What do we mean by the word 'countersigned'?" Is it sufficient or should the Chief Secretary sign every document after the Governor has affixed his signature? Over the years also, as common practice, other Ministers have signed documents for and on behalf of the Chief Secretary. That is the procedure that has occurred.

It is worth noting that in 1862 a similar Bill passed both Houses to validate actions taken, I believe, in the same way as in this Bill now before us. One wonders why a mistake made in the early years of our history has continued to be made by Executive Council over many years. Maybe the problem can be seen as one in which the Premier at the time was both the Premier and the Chief Secretary, and the signature carried the necessary countersignature required by section 71. It is here that I raise some doubt as to whether in the actual interpretation of section 71 a valid countersignature has been made. I have no information on that point to place before the Council. I am informed that Executive Council has made a blanket validation covering all appointments made as from today. This may well make clause 3 of the Bill unnecessary, but there are other matters that arise here. First, there is the question of long service leave, and whether people who have been wrongly appointed by Executive Council documents are affected in regard to their long service leave. Has that point been covered by the blanket validation?

For example, in the blanket validation made today by Executive Council, what is the position of people who have been appointed for many years? I do not believe that Executive Council can make retrospective validation. What is the position in regard to long service leave? Many cases can be examined in regard to exactly what this blanket validation does, and whether it covers all the problems that have arisen through this discovery in the Royal Commission now sitting into the Salisbury affair.

The question must arise now in the blanket validation whether the Government has overlooked any particular point. For example, one can run through the Statutes and find many boards that have been appointed for certain purposes under many Acts of Parliament. They may or may not be covered by the Executive Council blanket validation. On the other hand, the validation made by the Executive Council may affect a person or persons who should have a claim against the Government. Whilst so far I have looked at the position briefly in regard to certain areas where the validation is necessary, there may well be in the validation in this Bill some person who is unjustly treated. I cannot state a case in this Council where that may occur, but it may well be that some person who has a reasonable and a valid claim against the Government will be prevented by this legislation from pursuing that claim.

The Hon. C. J. Sumner: How?

The Hon. R. C. DeGARIS: I said I do not know how; nevertheless, let me point out that this point gives me some concern. Retrospective legislation, no matter what form it takes, cannot be taken lightly; it cannot be passed quickly through the Council without an examination of every possible facet because, if we fall into the trap of accepting retrospective legislation simply because a Government made a mistake—

The Hon. D. H. L. Banfield: Not a Government—a number of Governments.

The Hon. R. C. DeGARIS: That is a semantic point only. If a Government—

The Hon. D. H. L. Banfield: Many Governments.

The Hon. R. C. DeGARIS: I am saying that if a Government has made a mistake (whether it is many Governments or one Government does not matter) and validates in retrospect, it affects the position of a person who has a natural case in justice to be corrected, and if that case is swept under the carpet and cannot receive natural justice, we are making a mistake in passing this legislation. I cannot cite a case to this Council under this legislation that could occur but I am not satisied that it could not occur. I press that point strongly. This Council must be absolutely sure that, in passing this legislation, no person is adversely affected in the natural course of justice to achieve something in law that may be there to justify his achieving it. Therefore, as this is a validation measure, retrospective, I feel there is no great hurry for the Bill to be passed; it does not really matter whether it passes tonight or tomorrow, because the validation is retrospective and, irrespective of when it is done, that validation has exactly the same force, whether it is done tonight or tomorrow.

I ask the Minister who leads the Government in this Council whether he would agree to an adjournment of this debate on the second reading to allow every honourable member fully to acquaint himself with any difficulty that may occur in the retrospective validation that this Bill envisages. I do not think any member should overlook the importance of the action we are taking now. There are no problems in handling the Bill tomorrow. The validation will be retrospective irrespective of when the Bill passes this Council. The only other clause deals with the Chief

Secretary not needing to be the person who countersigns these documents with the Government: any Minister of the Crown can do that countersigning. I take the view strongly that the change that has taken place in regard to the administration, particularly in relation to the office of Chief Secretary, has not been in the interests of good government.

I have taken the view strongly that the role of the Chief Secretary in our system is most important because at present, with the Premier of this State, we have a board of directors handling about $1 200 000 000 a year. The Premier is not only chairman of the board of directors; he is secretary to that board. I believe the position of Treasurer and the position of Secretary to Cabinet and Executive Council should be separate Ministerial portfolios. In other words, there should be a division of power in relation to Cabinet, the Premier, and the Treasurer. I have always held that view, and I always will hold that view.

The former Chief Secretary's Department was extremely efficient. It was separated from the Premier, yet it was a power to balance the power of the Premier in Cabinet. Many of the problems that have arisen regarding this matter have arisen because there is no longer a Chief Secretary as secretary to Executive Council. I refer to the gradual gathering of total power in the hands of the Premier's Department. Every member who examines this matter can only agree with that contention.

The Hon. B. A. Chatterton: What about documents signed by the Prime Minister?

The Hon. R. C. DeGARIS: I am not talking about anything but what I see to be the correct procedure in South Australia.

The Hon. J. R. Cornwall: Don't you know your history?

The Hon. R. C. DeGARIS: I know my history as well as the honourable member does. If we had to rely on history in relation to the honourable member's vitriolic tongue, then we would not have much history at all. Regarding clause 2, I believe that the signature by any Minister of the Crown is not a reasonable amendment and that the countersignature in relation to section 71 should be restricted to either the Chief Secretary or the Premier. That is reasonable—

The Hon. J. E. Dunford: What if the Chief Secretary is overseas?

The Hon. R. C. DeGARIS: If he is overseas, an Acting Chief Secretary can be appointed.

The Hon. R. A. Geddes: The same as for the Premier.

The Hon. R. C. DeGARIS: True, there is no difficulty about that whatever.

The Hon. F. T. Blevins: Did you always countersign these things when you were Chief Secretary?

The Hon. R. C. DeGARIS: No. Often they were countersigned by another Minister, probably the Premier. I believe that either the Premier or the Chief Secretary should do the countersigning. I have already explained to the Hon. Mr. Blevins that the mistake has been made, not necessarily regarding the question of the minute not being signed by the Chief Secretary. It was nearly always signed by the Chief Secretary, which was taken as the countersignature, and that is the point that must be remembered. Even the appointment of the Commissioner of Police was signed by the Hon. Mr. Shard, then Chief Secretary, and the Governor, but it is doubtful whether the Hon. Mr. Shard's signature was a countersigning one.

The Hon. B. A. Chatterton: He was not signing as Chief Secretary.

The Hon. F. T. Blevins: He signed on behalf of the Premier.

The Hon. R. C. DeGARIS: I do not know about that. I am saying that, irrespective of that point, it was the usual procedure for it to be signed into Cabinet by the Chief Secretary and be signed by the Governor. If the Constitution Act provides that it must be countersigned, then on that point alone, if looked at across the board, all appointments that have been made could be challenged and, although it looks valid at present, it need not be valid because the countersignature was not made, if one takes a narrow interpretation of that determination.

The Hon. R. A. Geddes: As countersigning has not been cut out by this Bill, the problem could be encountered again in future.

The Hon. R. C. DeGARIS: The honourable member has a point, because the position does not change with this Bill. The question I raised regarding the meaning of the word "countersign" is not changed by the Bill: that term means exactly what it means in relation to the signature of the Governor. Most commissions of judges were signed by the Governor in the lefthand corner of the document and by the Chief Secretary in the righthand corner. That was always done.

The point arises as to whether or not that piece of paper, which is a commission, say, for a judge, is a valid appointment, or whether the actual minute in Executive Council is the actual appointment. I agree, in retrospect, that the actual commission document is not the official document of appointment; it is the Executive Council minute.

Nearly always they were signed into Executive Council by the Chief Secretary and signed by the Governor, but I still raise the point as to the meaning of the word "countersigned". I do not believe that a change can be justified to say that any Minister of the Crown can countersign. I believe that a countersignature to the Governor should be that of the Chief Secretary or the Premier, who should countersign those documents, and I shall be placing an amendment on file in regard to this matter.

This is retrospective legislation covering a whole range of matters in this State. It would be wrong to give blanket approval to such validation without asking the Minister in charge of business in this Council to adjourn the debate at the second reading stage to allow honourable members to make further inquiries into this question. It is no simple matter to take the Bill that gives blanket validation to acts that have been taken without any knowledge as to who may be affected by this validation. I support the second reading.

The Hon. C. M. HILL: I also support the second reading, but I am seriously concerned about the question of haste in this measure. This a House of Review, a Chamber with specific functions within the Parliamentary system. One of its most important functions is to delay legislation so that adequate review of the legislation can take place.

I am not suggesting that the Council should in any way be obstructive, but it should delay legislation if it is not satisfied that it has obtained opinions from the electorate at large, or if it believes that the Government of the day, irrespective of whether or not it has a majority in this Council, is rushing legislation through Parliament.

The importance of this measure is highlighted by the fact that it is an amendment to the Constitution Act of this State. Is there a more important Act on the Statute Book? Honourable members will agree that there is not, yet on the day that members of Parliament are first (in the forenoon) given some information that an urgent amendment to the Constitution Act is needed, this Bill has been introduced and passed in another place and, on the same day, the Government expects this Council, and

therefore Parliament, to pass the matter. Not only that, but also, as the Hon. Mr. DeGaris said, it is retrospective legislation.

In addition, an important fact is that it is in some way related to the most important inquiry that is taking place in relation to the Salisbury affair. The South Australian public will have read on the front page of today's *News* in very large letters the words "Inquiry upset. Salisbury axing was not valid." Then follows a full front-page feature, part of which is as follows:

> The Salisbury Royal Commission was thrown into confusion and had to adjourn this morning in an amazing sequence of events.

The Council's duty in these circumstances is clear: to delay this Bill until members of this place can be fully informed of all the possible consequences of passing this Bill.

I, as a layman, am not so fully informed. I have not had the opportunity to speak to anyone outside the Council. I know that the Government has kindly brought some of its experts into the Chamber and suggested that honourable members might confer with them. That action is one for which I do not in any way criticise the Government. Nevertheless, it is not as broad an opportunity as ought to be given to enable members quietly to go outside the Chamber to contact people with whom they think they should discuss the matter, and then to return with a much wider and more comprehensive impression of what outside opinion is regarding this Bill.

I wonder whether Parliament has in its history been confronted with a situation in which the Government first gives notice that it requires change to the Constitution and then seeks to implement that change on the same day.

The Hon. T. M. Casey: It has to be done.

The Hon. C. M. HILL: The Minister says that it must be done.

The Hon. T. M. Casey: Of course it does!

The Hon. C. M. HILL: That kind of silly comment—

The Hon. T. M. Casey: It's not a silly comment. Don't be facetious.

The Hon. C. M. HILL: —makes me even more cautious than I am at present.

The Hon. T. M. Casey: Don't be ridiculous.

The Hon. C. M. HILL: The Minister who is interjecting cannot deny that this Council has a particular responsibility to review legislation in great depth and with much caution. Because of the opportunity and time that the Council has had to consider the Bill, especially when one thinks about the points that I have just made regarding retrospectivity, the suddenness of the whole question, and regarding the Salisbury affair, surely the case stands and cannot be refuted that there is a need for this Council to show responsibility and caution.

Another reason that gives me ground to believe that the Government should agree to giving honourable members in this place further time to review the measure is the point that apparently the Government itself today has taken Executive action and tried to validate all the historical mistakes (if I can call them that) which have occurred and been disclosed and which the Government is wanting to correct.

It seems to me that the Government has taken two separate actions. It has taken its own Executive action to validate the problems that have arisen, and then it is also taking this legislative action. So, although the Minister says, as I think he did a moment ago, that the Bill must be passed now (or words to that effect), perhaps he could get on his feet at some stage of the debate and say whether or not he believes that the Executive action that the Government has taken today is a satisfactory holding action. One assumes that the Minister and the Government have some doubts about the Executive action that the Government has taken.

The Hon. J. E. Dunford: None at all.

The Hon. C. M. HILL: If the Government has no doubts about it, where is the need for haste in relation to amending the Constitution of this State in one day?

The Hon. J. E. Dunford: The Assembly has passed it in one day. It's a responsible House.

The Hon. C. M. HILL: I do not care whether another place has passed this Bill quickly or whether it has taken its time about it. That House could have taken longer, but that does not influence me. I am concerned, as the Hon. Mr. Dunford should be, that the Minister spoke on this matter for the first time only a few minutes ago. He gave us the Government's reasons for introducing the Bill by reading his second reading explanation, which, incidentally, I have not had time to peruse. As honourable members know, only one copy of that second reading explanation comes to the Opposition benches, which is the normal practice, and that one copy went to the honourable member who led the debate. I have not, therefore, had time to read the Government's reasons for introducing the Bill.

I was handed a copy of the Bill only a few minutes ago when the Minister was on his feet, so I have had only that short time (perhaps a quarter of an hour or a little longer) to peruse this important Bill. I have also read with considerable concern the front page of today's *News*, and this all leads me to take the view that I require more time.

I do not see how any responsible member of this Council could take any view other than that which I have taken. In saying that, I am not trying to be obstructive or forming an opinion that is opposed to the Bill. However, I want to be absolutely certain of all the possible repercussions that can flow from what has been disclosed today, especially in relation to the Royal Commission that is sitting at present and especially regarding all matters that might be affected as a result of the Government's disclosures. I therefore express my view again that I will support deferment of consideration of this Bill.

The Hon. C. J. Sumner: What will you do? You'll move for an adjournment, will you?

The Hon. C. M. HILL: No, I will not. Other honourable members also wish to contribute to the debate this evening. I am merely saying that I want more time.

The Hon. C. J. Sumner: How will you do it?

The Hon. C. M. HILL: There are machinery measures. If the Hon. Mr. Sumner or other Government members want to contribute to the debate, it may help, because the Hon. Mr. Sumner, being a member of the Government Party, may know more than I do and may be able to contribute to the debate in a more positive manner. It is proper for me to require more time to enable the Council to review the Bill before it passes.

The Hon. J. C. BURDETT: I support the second reading with some trepidation, because it is frightening to be asked to validate retrospective action. I support the suggestion that we should have more time to consider the matter. Obviously, it is complex and has troubled the Government very much. It was thrown on the Government and on us quickly. Different views have been given by the Government and its officers in the short period of the day. The Hon. Mr. Hill is concerned about the repercussions of what we are asked to do, and that also troubles me. In my Address in Reply speech on October 13 last year (*Hansard*, page 190), some of the history that I outlined might give the explanation of how this mistake, which apparently has been happening for a long time, came to happen. On that occasion, I said:

In October, 1856, during the transition to responsible government, the Colonial Secretary (Boyle Travers Finniss) was appointed Chief Secretary, and likewise the Advocate-General (Richard Davies Hanson) was appointed Attorney-General. These two men retained their portfolios after the first election of a wholly responsible government in 1857.

It is apparent, therefore, that the office of Chief Secretary was originally analogous to the position of Chief Minister or to the current office of Premier. (In fact, from 1857, the Leader of the Government has always been called "Premier", but the office of Premier was not given statutory recognition until 1965, nor until then was a separate "Premier's Department" formed within the Public Service.) The second and third "Premiers" of the State, John Baker and Robert Torrens respectively, also held the commission of Chief Secretary, thus reinforcing the view that the office was reserved for the Chief Minister. It seems probable that each of the first three "Premiers" assumed responsibility for the management of Cabinet business. Accordingly, the "Premier's" own department, which was the Chief Secretary's Department, was probably directed to draft the agendas and process the documents for Cabinet.

Thus the Chief Secretary at that time combined two functions: as head of the department serving the Cabinet he was literally "Secretary" to the Cabinet, and as Chief Minister he was also Chairman of Cabinet. The fourth Chief Minister, R. D. (later Sir Richard) Hanson, broke with this tradition by not occupying the post of Chief Secretary. Instead he chose the Attorney-General's portfolio and appointed a member of the Legislative Council as Chief Secretary. Hanson's biographer, H. Brown, says in his unpublished thesis, at page 110:

> Under the old regime the principal figure in the Government—apart from the Governor himself—had been the Colonial Secretary, and with the advent of responsible government, it was understood that the Chief Secretary would also be Premier. Now this was to be altered, and the strongest personality, whatever his portfolio, was to assume the leadership.

I suggest that that was how the matter arose. By section 71 of the Constitution Act, which dates well back into the period I was speaking about in the last century and by which the various acts were required to be performed by the Governor, the documents were to be countersigned by the Chief Secretary, because he was also the Chief Minister. He was also the Chief Minister of the State, so what was required for any of these appointments to be valid was that the documents were to be signed by the Governor, representing the Queen, and countersigned by the person who was the Chief Minister of the State. He was at that time Chief Secretary of the State and had also assumed the title of Premier.

Then this practice was broken and the offices of Chief Secretary and Premier were separated but the requirement stayed in section 71 of the Constitution Act, and somewhere along the line someone forgot about it. I think this is the explanation of how the mistake occurred. It seems to me that retrospective legislation is necessary because, although, as the Hon. Mr. Hill has said, the Government has, out of excessive caution, tried to rectify the matter by Executive action, there are obvious weaknesses in that. The Government has tried to confirm all appointments by Executive action. Obviously, this can be done as from today but, by Executive action, things cannot be done retrospectively. Only Parliament can do that.

This Council always has been reticent about doing that. Executive action has no power to do anything retrospectively and, while all appointments stand as from today, possibly on long service leave, superannuation, and other matters, there could be all sorts of problems. As the Minister has said in his explanation, there is the doctrine of *de facto* judges and other officers. There is the doctrine that, if they have acted *bona fide* and no-one has been aware of any defect in their appointment and they have not been aware of it, their acts are to be confirmed. This doctrine was upheld in the Full Court in Cawthorne's case last year, but the matter has not been dealt with by any higher court.

I suggest that the opinion given in the Minister's second reading explanation that the Government has confidence in that doctrine is sound, but it is still subject to appeals to higher courts. Therefore, in my view, it will be necessary to pass this Bill after it has been considered fully so that all its ramifications, consequences, and so on can be thought out to clear up the mistake that has been made over a long period.

I support the second reading, but I also support the pleas made by the Hon. Mr. DeGaris and the Hon. Mr. Hill for more time to consider the matter. I cannot see how any harm can be done if the Bill is passed tomorrow, as long as it is passed, which I believe it will be. What we do know is that positions were filled invalidly and, while the doctrine of *de facto* judges and officers will no longer help us, if the Bill is passed rapidly, I do not see that any harm can be done.

The measure has been thrown on us quickly, I suppose of necessity. I am in a similar position to that of the Hon. Mr. Hill, in that I first saw the Bill in any detail about half an hour ago. It is difficult to be able to pass a Bill with such far-reaching effects and effects that cannot be fully thought out at such short notice. However, in the hope that we may get a little more time, I support the second reading.

The Hon. R. A. GEDDES: I will speak briefly to the Bill, on four points. First, as the Constitution Act is being amended, will it be necessary for Her Majesty to assent to the amendment? If so, the plea that the Leader, the Hon. Mr. Hill, and the Hon. Mr. Burdett have made to let us pause to double check what we are doing would be valid. On a quick look at the Constitution Act, I cannot see where an amendment of this kind needs Royal assent.

Clause 3 validates certain mistakes that have occurred since 1856. We will probably never again see such a clause in legislation in this State. One would hope that, as a result of the stir that this has caused, mistakes will not be swept under the carpet but will be brought into the open and corrected sensibly. New section 71a (1) provides:

> Where, by virtue of the applicable provision, any warrant for the payment of public money . . .

In this connection, the Hon. Mr. Burdett referred to superannuation and long service leave payments to servants of the Crown. As I understand it, there are responsible officers of the Government and of Parliament whose appointments, made many years ago in good faith, have been made again today. It could be that their superannuation and long service leave payments start from today, if this Bill is not passed. The Minister in office at the time of their appointments may be no longer a member of Parliament. So, we must be very careful in considering clause 3. I turn now to the argument as to whether it should be "a Minister of the Crown" who shall in future sign certain orders and warrants. Section 71 of the principal Act provides:

> No officer of the Government shall be bound to obey any order of the Governor involving any expenditure of public money, nor shall any warrant for the payment of money, or any appointment to or dismissal from office be valid, except as provided in this Act, unless the order, warrant, appointment, or dismissal is signed by the Governor, and

countersigned by the Chief Secretary.

This Bill strikes out "the Chief Secretary" in section 71 of the principal Act and inserts "a Minister of the Crown". The Hon. Mr. DeGaris has suggested that what should really be inserted is "the Premier or the Chief Secretary". If only two Ministers are responsible in this connection, they will feel a greater degree of responsibility and, as a result, there will be a greater degree of efficiency in connection with signing certain orders and warrants. If a Minister is in a hurry, he may say that he will sign something tomorrow, and it may not get done. I reluctantly support the second reading. Let us hope that the lessons are learnt and that those in authority will be more careful in the future.

The Hon. M. B. CAMERON: What an extraordinary situation we are in today. It has reached the stage where one comes into this Council asking, "What next?" Today we came in to find that potentially we do not have any judges and we do not have many top public servants. Further, what took place on January 17 did not take place at all; it has taken place today.

A Royal Commission has been considering an event that is illegal, but the Government made it legal today by a document that purported to be retrospective. We are now being asked to pass a Bill to amend the Constitution Act to validate certain warrants. In no way, if I support the Bill, do I support what took place on January 17. I am amazed to find that the Government is forced to reappoint many of its judges and public servants. I wonder whether the Government should be reconstituting the Royal Commission. No doubt it was done in the flurry today.

The Hon. J. E. Dunford: Whom are you blaming for this?

The Hon. M. B. CAMERON: I am not blaming anyone. Today we passed a Bill to establish a constitutional museum. I hope that this fiasco gets some prominence in that museum. It is amazing that over such a long period no-one discovered that things were being done wrongly.

The Hon. J. E. Dunford: Why didn't a Liberal Government correct it?

The Hon. M. B. CAMERON: The Labor Party has been in power for 10 years. Labor Party members claim to be the bright ones. It is extraordinary that in the last 100 years no-one picked up such a serious error.

The Hon. C. J. Sumner: You should have done your homework.

The Hon. M. B. CAMERON: I have never had access to top public servants, but the Government has had access to them. I have read in the press that the honourable member is referred to as one of the bright boys. If one has to be like the Hon. Mr. Sumner to be a bright boy, I do not want to be one.

It is an extraordinary situation that we have reached, that we have today to make up our minds to pass, reject or amend a measure which covers virtually every Government action back to 1851. I do not believe it is possible for an Opposition to do that in six hours; we are supposed to fix something which goes back 100 years and has affected virtually every Government appointment in that time. I find it extraordinary that the Government had to reconstitute a Royal Commission about a fortnight after it was constituted. I suggest to the Government that, in view of this, we had better keep Parliament sitting until the Royal Commission finishes because we do not know what else is likely to turn up. This is the first situation that has arisen: we may have to reconstitute the Royal Commission again for some other reason, through neglect not only by this Government but by all Governments since the beginning of the State.

It is extraordinary and shows the need for somebody in this State to sit down and look through our Constitution Act to see that all other parts of the Constitution are being and have been adhered to by this Government and past Governments, because it shows there is a need for people to be careful to relate all Government actions to our Constitution. We often hear about our Constitution being sacred and important. It shows the measure of importance that has been placed upon it that this matter has been allowed to slide for this length of time. I ask the Government to give Parliament a greater opportunity to examine the ramifications of this matter. If I support the Bill at this stage, I am condoning actions that have taken place not only since January 17 but from some other time, and I do not want to be accused of validating actions that I would not have approved of at that time. So I ask the Government to consider allowing the Opposition and Parliament a greater opportunity to examine in detail this Bill.

The Hon. M. B. DAWKINS moved:

That the debate be now adjourned.

Motion negatived.

The Hon. M. B. DAWKINS: I rise merely to say that I support the Bill, with some misgivings, as my colleagues have indicated. I am concerned that the Government wants to put this Bill through tonight and is not prepared to allow a little more time for further consideration. Allowing such time would also allow time to consider the amendment foreshadowed by the Hon. Mr. DeGaris and would also allow him time to put that amendment on file.

It would be a good thing if two or three senior Ministers, as indicated by the Hon. Mr. DeGaris, were to be nominated as people who could carry out this function rather than have any Minister of the Crown, because senior Ministers certainly have far more experience than Ministers recently appointed. Also, we all know that for reasons which in many cases are valid the Executive Council can be fairly thin at times. For that reason, I should like the Government to give a little more time for consideration of this Bill and certainly to give serious consideration to the amendment to be moved by the Hon. Mr. DeGaris. I am concerned in the same way as the Hon. Mr. Cameron is that we do not have as much time as we would like to consider all the ramifications of this measure. With those misgivings, I support the second reading.

The Hon. J. A. CARNIE moved:

That the debate be now adjourned.

The PRESIDENT: My attention is drawn to Standing Order 195, which disallows a motion for the adjournment of the debate within 15 minutes of the previous motion for an adjournment.

The Hon. J. A. CARNIE: Like other speakers before me, I am disturbed that we have to consider a matter of this importance and graveness in such a short time. The Legislative Council is said to be a House of Review, but we are not given any opportunity to review this measure. Another point that concerns me very much is the fact that this Government is denigrating or downgrading the office of the Chief Secretary. Throughout the entire history of South Australia, the Chief Secretary has been a very important office in the State. The Government has said that this error has gone on for a long time. It is not only one Government that has been responsible for it—it goes back to previous Governments. Nobody is denying that. However, we have seen since 1970, when this Government came to office, a gradual downgrading of the Chief Secretary's position, until now it is virtually worth nothing at all, and all the matters that formerly belonged to the Chief Secretary have been taken over by the Premier's

Department. I have always opposed retrospective legislation, on principle. Here, we are seeing retrospective legislation to beat all retrospective legislation—going back about 100 years!

The matter that brought this business to a head was the dismissal in January last of the former Commissioner of Police, Mr. Harold Salisbury, and the furore which followed the sacking and led to the setting up of the Royal Commission has finally led to the matter before us. I do not intend to take up much more time. The Legislative Council is and always has been a House of Review. That is its function; it was until the present Government arrived and, because of the actions of some members opposite, it is no longer a House of Review. Those members always do as they are told.

It is essential that this Council, if it is to fulfil the function for which it was constituted, must have more time to consider such an important measure. This is not minor legislation: it is a major alteration to the Constitution Act. We have been given about six hours to consider this Bill. Indeed, the first word that anyone on this side of the Chamber had was at 9.30 this morning, but for most of us we knew nothing about it until we came into the Council and officially we knew nothing of it until the Council met.

The Hon. C. M. Hill: We only saw the Bill at 8.30 p.m.

The Hon. J. A. CARNIE: True, and as the Minister is about—

The Hon. D. H. L. BANFIELD: On a point of order, could we have the paper, which was handed to the Hon. Mr. Carnie by the Hon. Mr. Cameron tabled, as I believe it should be tabled for the interest of all members?

The PRESIDENT: That is not a point of order. The Hon. Mr. Carnie.

The Hon. R. C. DeGaris: I was told about the Bill at 11.30 a.m.

The Hon. J. A. CARNIE: My Leader was told at only 11.30 a.m., and I heard at about 12 o'clock, but we have still had the Bill for only a short period in which to consider such major legislation. I appeal to the Government to allow us more time to consider it. I refer to the ramifications that might result from the passage of such retrospective legislation.

The Hon. D. H. L. Banfield: What would they be?

The Hon. J. A. CARNIE: That is the point—we have not had time to determine that.

The Hon. J. C. Burdett: Look at the size of the Notice Paper.

The Hon. J. A. CARNIE: Yes. About 12 or 13 matters have been considered by the Council today, yet in dealing with those matters we are supposed to have also considered this Bill. Although we knew what the Government was going to do, we did not see the Bill in this Chamber until less than two hours ago. Perhaps the former Chief Secretary is the one who should have been signing the documents under the Constitution Act. The Minister has been demoted from the position of Chief Secretary. He should have been signing these documents and did not, and now he is not allowing the Council the time that it should have to consider this Bill. In supporting the measure, I deplore the fact that we have not been given time to consider it properly. I am sure that tomorrow would be soon enough for the Bill to be passed, and it would also give us a little more time to consult with, and talk to, people and examine the Constitution to see whether or not there are any other ramifications. In supporting the Bill I refer to my concern and express my reserve at the passing of such retrospective legislation.

The Hon. D. H. L. BANFIELD (Minister of Health): I thank honourable members for the attention they have given the Bill, which they have known about for nearly 12 hours. I am surprised that the Hon. Mr. Cameron was amazed when he came into this place this evening that anything had happened, although he allowed himself to be sworn into this Upper House, this great House of Review, by someone who was not legally appointed. How could the Hon. Mr. Cameron allow himself to take the oath in such circumstances? The Hon. Mr. DeGaris said that someone may be at a disadvantage because we backdated this Bill. True, someone might be at a disadvantage, but what would be the position if the situation had been valid all the time. There would be no difference whatever to the people that the Leader believes may be disadvantaged if we pass this Bill tonight: they know nothing about it.

This situation has been continuing for over 100 years. Honourable members opposite are horrified to think that the Government is making this Bill retrospective and covering something that members opposite have been doing for years, but that is all the Bill does. Indeed, this Government has only followed the Liberal Government once, and that was not to get the Chief Secretary to countersign documents. I ask honourable members to look at the mess the Government is in merely because it followed the example of the Liberal Government. The Government was stupid enough to believe that in this matter perhaps the Liberal Government was right, but that is the only time we have found ourselves in such a mess and that resulted from following the actions of the Liberal Party.

The Hon. Mr. Carnie had to speak slowly while the Hon. Mr. Cameron (who is a slow writer) wrote notes and handed them to him. However, that did not stop the Hon. Mr. Carnie from saying that we denigrated the position of Chief Secretary. Queensland does not even have a Chief Secretary. New South Wales has not a Chief Secretary, and it had a Liberal Government for years. How did the Liberal Party denigrate the position there—it abolished it altogether. Tasmania, in not having a Chief Secretary, also denigrated the position, and for the Hon. Mr. Carnie to suggest that the State cannot function without a Chief Secretary is just as much baloney as the rest of the material advanced by him.

The Hon C. M. Hill: We've hardly got a Chief Secretary here.

The Hon. D. H. L. BANFIELD: True, and we have not had one doing his job for 100 years, whoever the Chief Secretary was. Banfield did not do his job, DeGaris did not, McEwin did not, and so we could go back for nearly 100 years.

The PRESIDENT: Order! I would not be doing my job unless I asked the Minister to address the Chair and to deal with the matter under discussion.

The Hon. D. H. L. BANFIELD: You allowed the Opposition to refer to the position of Chief Secretary, and surely I have a right to reply to that. I am indicating that the Hon. Mr. DeGaris did not do his job as Chief Secretary, neither did the Hon. Sir Lyell McEwin, nor others before him. Why should we not abolish the position of Chief Secretary when successive Chief Secretaries are incapable of carrying out their duties?

I got out because I was not doing my job. I am no longer Chief Secretary, but now we have a Chief Secretary who is doing his job; he is a man we can trust, and we know he will do his job, unlike past Chief Secretaries who did not know what they had to do, and did not do it. Many people will be disadvantaged if we do not pass this Bill tonight; never mind the people who may be disadvantaged, as suggested by Hon. Mr. DeGaris.

I assume that the Leader was referring to those fellows who swung on the gallows: they might have been disadvantaged. If those men were alive today, they could

possibly claim damages from former Chief Secretaries who did not do their job previously. Are these the sort of people whom the Hon. Mr. DeGaris is looking after, or is he going to validate the sins of former Chief Secretaries? The position is serious, and it is necessary that this Bill be passed to validate past actions. As I understand it, if the Bill was not passed we would have only one judge sitting.

The Hon. J. C. Burdett: No-one could tell us that.

The Hon. D. H. L. BANFIELD: I am telling the honourable member that.

The Hon. J. C. Burdett: I don't think you're right.

The Hon. D. H. L. BANFIELD: Of course the honourable member does not think so. He did not think that the Chief Secretary in the former Liberal Government was wrong at the time, but he was.

The Hon. J. C. Burdett: On what authority are you saying that?

The Hon. D. H. L. BANFIELD: I ask the honourable member on what authority he says that that Chief Secretary was correct. The honourable member has no authority for saying that. At the time, he thought that that Chief Secretary was correct. I appeal to members opposite to accept the Bill.

The Hon. R. C. DeGaris: You aren't doing a very good job of appealing.

The Hon. M. B. Dawkins: No, you're rabble rousing, as usual.

The Hon. D. H. L. BANFIELD: If honourable members opposite want the Government to start all over again and appoint public servants (who will lose all their long service leave and superannuation benefits if this Bill is not passed) and a new set of judges, let them take this opportunity and throw out the Bill.

The Hon. T. M. Casey: And take the responsibility.

The Hon. D. H. L. BANFIELD: That is so. Let them throw out the Bill. Honourable members opposite have the numbers to do that.

The Hon. C. M. Hill: We have only said that we want more time.

The Hon. D. H. L. BANFIELD: The honourable member wants more time to consider whether we should have public servants.

The Hon. C. M. Hill: That's a lot of rubbish.

The Hon. D. H. L. BANFIELD: It is not.

The Hon. C. M. Hill: Then why did you pass that validating measure today?

The Hon. D. H. L. BANFIELD: Many people were appointed during the term of the former Liberal Government for which appointments there was no Chief Secretary to countersign. Did those Governments make an error, and do members opposite want the people involved thrown out now? Obviously, Opposition members are not satisfied with those appointments, so they are now saying, in effect, that they made an error when in office making a number of appointments, that they wish they had not made and that this is an opportunity for them to get rid of those people. It is vital that this Bill be passed and that it be made retrospective.

I agree with Opposition members that from to time this Council has indicated that it does not approve of retrospective legislation, but this is one Bill which, if members opposite want the Public Service and Judiciary set-up to continue, will have to be passed. I therefore ask honourable members to support the Bill.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Signature and counter-signature of certain orders, warrants, etc."

The Hon. R. C. DeGARIS (Leader of the Opposition): We have again been treated to a rabble-rousing, stupid speech made by the Minister of Health in reply to the second reading debate on a Bill. The Minister did not deal with any matters raised by Opposition members, but rather he made a number of allegations against honourable members, and said many things that did not need to be said.

The Hon. D. H. L. Banfield: Didn't you hear Cameron and Carnie?

The Hon. R. C. DeGARIS: Yes, I did. However, I was disappointed by the attitude displayed by the Minister in his reply. Previously, I made the point, which was supported by what the Hon. Mr. Burdett said, that at the beginning of the operation of the Constitution Act the Chief Secretary was really the chief officer or Premier. Section 71 provided that the Chief Secretary had to countersign appointments under that section. However, the position has changed; today, one could say that the Premier should countersign.

I also said previously that I was sorry that the office of Chief Secretary had been downgraded by this Government to the point where it was no longer relevant even to call its holder "Chief Secretary", because all the power now rested in the Premier's Department. Seeing that the chief officer or Premier has always signed or countersigned under section 71, that position should be preserved.

I should like the Minister of Health to consider this matter and not to reply in an offensive manner. Will the Government accept an amendment to this clause that will allow the counter-signature to be made by the Chief Secretary or the Premier? In such matters, the documents carry the signature of the Governor on behalf of Her Majesty as well as the signature of a Minister of the Crown, on behalf of the Executive. In that case, it would be reasonable to assume that the counter-signature should be made by the Chief Secretary or the Premier. Executive Council can comprise only two Ministers and the Governor, and it could well be that the two most junior Ministers constituted that Executive. It is reasonable to ask in this situation that the signature be that of the Chief Secretary or the Premier.

The Hon. D. H. L. BANFIELD (Minister of Health): I am surprised at the attack made on me by the Leader. We worked well today (for which I thank all honourable members) until the bubble burst on the end benches. In no way would I stand for an attack by members at the other end and take it without replying. I did not attack what the Hon. Mr. DeGaris, the Hon. Mr. Hill or the Hon. Mr. Burdett said, because they paid due and proper regard to the Bill. I make no secret that I attacked the two wayward boys who have just returned to the fold, and I make no apology for replying to them in the way that I did.

Regarding the Leader's suggested amendment, nothing in future could stop the Premier from being Chief Secretary, so that would narrow the field. The more we narrow the field in regard to those who can countersign, the greater is the possibility that a similar thing could happen again. If the two or three Ministers who were the ones to countersign went out of office or were in another State, we could get back to overlooking what the situation was, namely, that the document had to be signed by the absent Ministers. The Government cannot accept the suggestion, not because it has no merit but because the Premier and the Chief Secretary could be out of the State at the same time.

The Hon. R. C. DeGaris: In what circumstances?

The Hon. T. M. Casey: They could be attending meetings.

The Hon. D. H. L. BANFIELD: From time to time, more than one Minister is out of the State at the same

time. Between 1968 and 1970, that happened, and the absent Ministers could have been the Premier and the Chief Secretary. Their departments must be continued in operation but, if they were the only two named, nothing could be done while they were out of the State. I point out to the Leader that what he suggests could break down the system.

The Hon. M. B. CAMERON: I want to answer some comments made by the Minister in trying to justify his hysterical outburst. He has attacked me for putting my views forward, but nothing that the Minister says in hysterical outbursts will upset me. If he puts on an act every time we have a Bill before us, that is his business, but he should not abuse members for putting a valid view on a Bill that we have had only about two hours to look at.

The Hon. C. J. SUMNER: I cannot see the validity in the reasons put by the Leader in suggesting that the Government should amend clause 2 to provide that only the Premier or the Chief Secretary should countersign Executive Council minutes.

The Hon. R. C. DeGaris: I asked the Government to consider it.

The Hon. C. J. SUMNER: I suppose that, technically, it is not an amendment: it is a suggestion. The reason why a member of Cabinet has to countersign Executive Council minutes clearly goes back to the fact that the Governor is only the titular or constitutional head of Government and has a limited or discretionary power. He cannot make decisions independently of the advice that he gets from the Government, so it would not be proper for Executive Council minutes to be signed only by him. There is need for the documents to be countersigned by a member of the democratically elected Cabinet. There seem to be no grounds for singling out two Ministers who may sign.

Surely any Minister, who must take responsibility for Cabinet and Executive Council decisions, is able to sign. The Premier is as responsible as the most junior Minister, so whether the Premier or the junior Minister signs seems to be irrelevant. There is every reason and logic why any Minister should be able to sign. The other factor is that Executive Council can comprise the Governor and two Ministers and it seems odd that, if one of those was not the Premier or the Chief Secretary, the Premier or the Chief Secretary would be required to validate the decision.

The Hon. R. C. DeGaris: It would be highly unlikely that neither the Premier nor the Chief Secretary was at an Executive Council meeting.

The Hon. C. J. SUMNER: There is no significance or need for the Premier to attend, for instance, where it is a matter of formal ratification of decisions of the Public Service Board. I recall that, when I was in Canberra in 1973, the number of Ministers required (which I recall was two) would attend on the Governor-General, have an Executive Council meeting, and approve the non-controversial matters. This rarely involved the Prime Minister.

The Hon. R. C. DeGaris: Are you referring to the Whitlam-Barnard period?

The Hon. C. J. SUMNER: I was referring generally to the practice in Canberra. For the reasons I have given, it is pointless to limit the countersigning to two specified Ministers.

The Hon. M. B. DAWKINS: I support the sensible suggestion of the Hon. Mr. DeGaris. The fact that Executive Council may consist of the Governor and two Ministers underlines the necessity of the signature being that of a senior Minister. I suggest that perhaps three Ministers could be included: the Chief Secretary, the Premier, and the Deputy Premier. It would be unlikely that all three would be away at the one time. If the Premier is away, it is obligatory to appoint someone Acting Premier, and the same point would apply to the other Ministers.

The Hon. R. A. GEDDES: The Minister has ignored my contribution to the debate. I asked the Minister earlier whether it would be necessary for this Bill to receive Royal assent.

The Hon. D. H. L. BANFIELD: The answer is "No". I had the information earlier, but I was waiting for the honourable member to raise the matter in Committee. Occasionally, when there has been a fruit fly outbreak, we have had a special Executive Council meeting at Victor Harbor. The Chief Secretary and the Premier cannot always be together at the one time.

The Hon. C. M. HILL: I ask the Minister to report progress, so that honourable members can have more time to consider the Bill. I said earlier that we should have at least another day in which to consider the repercussions of this important Bill, which has retrospective effect and which involves the Salisbury affair. The Government has disclosed that, by executive action, it has already validated some mistakes. The Government therefore for the next 24 hours has protected itself and all interests to the best of its ability by such executive action. A House of Review should never pass such an important Bill on the same day that it was first informed of the Bill. Seeking to pass the Bill with such haste shows a lack of responsibility on the part of the Government and makes a mockery of the bicameral system. Perhaps the Government delights in doing that. It is extremely bad practice for the Government to attempt to bulldoze this measure through today. We would be far better equipped to deal with this Bill if we could come back tomorrow and resume debate on it then. If the Government refuses to report progress, I place on record my strong protest at its tactics.

The Hon. D. H. L. BANFIELD: The Opposition has not stated one likely repercussion, other than the Salisbury affair, that would affect anyone if this Bill was passed this evening. It is 12 hours since the Oppostion was first informed of the Bill.

The Opposition has raised only the matter of the Salisbury affair and has not pointed out other things that could happen if this Bill was not passed tonight. There are some murder trials in the courts at present. We have no doubt that the legal eagles tomorrow before the judges will be challenging the right of some of them to be hearing the cases. The Hon. Mr. Burdett knows that this is a great possibility and is more than likely, because he is one of the legal eagles. Perhaps they will be justified in doing that, if a judge is not reappointed. It is a legal matter and they are within their legal rights; nobody, least of all the Hon. Mr. Burdett, denies legal rights to anybody. The only point raised by the Hon. Mr. Hill is that it involves the Salisbury affair. I give him the assurance on advice from the senior legal officer in the State that this does not involve the Salisbury affair one little bit. The Salisbury affair has been validated, and that is the only question raised by members opposite. Because of the situation that can arise outside Parliament tomorrow if this Bill is not passed, we can be in trouble. The Opposition has not raised the possibility of other ramifications in this Bill, and I do not intend to report progress.

Clause passed.

Clause 3—"Validation of certain warrants, etc."

The Hon. R. C. DeGARIS: This, of course, is the important clause in the Bill; it makes retrospective all acts, appointments or dismissals going back to October 24, 1856. I am informed that in 1862 a similar Bill was passed validating acts in retrospect. If that is true, can the Minister tell me why this Bill goes back to 1856?

The Hon. D. H. L. BANFIELD: The position is that we did not want to take a chance with anything, so we took the validation back to October, 1856, in case there was a mistake in the 1862 legislation.

The Hon. R. C. DeGARIS: Can the Minister give me one case from 1856 to 1862 (he challenged me to state one case in which a person might be affected), or is he sure that validating something that has already been validated does not invalidate it?

The Hon. D. H. L. BANFIELD: I am sure that validating a thing twice does not invalidate a thing once.

The Hon. C. M. HILL: In his reply to me, the Minister said that, speaking on behalf of the Government, he gave an assurance that every point relative to the Salisbury affair had been validated; that is what his assurance was. If we pass this Bill and a point arises during a future period of the Royal Commission, what is the Government then prepared to do?

The Hon. D. H. L. BANFIELD: If you, Mr. Chairman, can tell me what Mr. Hill is getting at, I will try to answer him.

The Hon. C. M. HILL: I am trying—

The Hon. D. H. L. BANFIELD: No; you addressed the question to the Chairman. I want to know what it is all about.

The CHAIRMAN: The Minister is not correct: the question was addressed to him through the Chair, which is the proper way to do it. More questions should be addressed that way. I ask the Hon. Mr. Hill to ask it again.

The Hon. C. M. HILL: Thank you, Mr. Chairman. I want to highlight the possibilities that can arise through rushing legislation of this type through. It is being rushed through tonight—there is no question of that—and the Government has told Parliament that Parliament has nothing to fear in connection with the Salisbury affair, in that the Government has validated all actions and every point that might be queried at law in connection with the Salisbury affair. The Minister has said that he gives a clear undertaking on behalf of the Government that everything has been validated: and, therefore, we should proceed and pass the legislation. However, my point is: what if anything arises between now and the conclusion of the Royal Commission which in some way casts some doubt upon something that has happened within that Royal Commission hearing from the day it began its sittings until today? Let us be frank about it: those representing the principals in that Commission (I am referring to the legal representatives) are looking for these points to take; that is their role and task. If something arises between now and the conclusion of the sittings, what will the Government do to back up the undertaking it is giving the Council now that everything has been validated so far?

The Hon. D. H. L. BANFIELD: It is perfectly clear to me that not one point has been raised as to what possibly could happen. I point out to the Hon. Mr. Hill that the Liberal Party has a Queen's Counsel in this case. It is paying that Q.C. even more than you, Mr. Chairman, or I are getting a day, and he was prepared to continue with the hearing because he was satisfied, along with the other Q.C.'s in this case, that they were able to continue with it as a result of the Executive Council meeting today.

Clause passed.

Title passed.

Bill read a third time and passed.

MINING ACT AMENDMENT BILL

In Committee.

(Continued from March 7. Page 1947.)

Clause 6—"Special conditions attaching to mining of radio-active minerals."

The Hon. R. A. GEDDES: I move:

Page 3, lines 18 and 19—Leave out "the sale and disposal of the radio-active mineral" and insert "the person by whom the radio-active mineral was mined to sell and dispose of the mineral".

This provision was referred to by the Hon. Mr. DeGaris as the Roxby Downs clause. It deals with the problems the Government has with its peculiar policy of not allowing the sale or processing of radio-active substances such as uranium. The clause provides that, although the Minister may give approval for the mining of ores with radio-active minerals, the radio-active ore remains the property of the Crown and it must be stockpiled in accordance with the provisions stipulated by the Minister. My amendment is designed to spell out that the rather harsh words "does not pass from the Crown" will not be an embarrassment to the company mining the mineral, should it be argued that a capricious or facetious Government could hold that stockpile of uranium and not allow it to be marketed, although it could be sold by the Crown and the company would not receive any payment for it. My amendment spells out that the company will be able to sell the uranium at a time specified by the Minister.

The Hon. B. A. CHATTERTON (Minister of Agriculture): The amendment is accepted by the Government.

Amendment carried; clause as amended passed.

Clauses 7 to 9 passed.

Clause 10—"Grant of retention leases."

The Hon. R. A. GEDDES: I move:

Page 5—After line 6 insert new subsections as follows:

(3) If the Minister refuses an application for renewal of a retention lease—

(a) the Minister shall forthwith inform the holder of the lease of the reasons for the refusal; and

(b) the holder of the lease may, within one month of the day on which he is informed of the reasons for the refusal, appeal to the Warden's Court against the refusal.

(4) Upon the hearing of an appeal under subsection (3) of this section, the Warden's Court may, if satisfied that the application for renewal of the lease has been refused without proper cause, order the Minister to grant the application.

This provision has been sought eagerly by industry as it will spell out to the industry what it can do much better than the present Act does. The Opposition is concerned that, although a retention lease can be granted by the Minister for a period of 12 months, what would be the position if at the end of 12 months a company with such a lease applied for its renewal and the application was refused? What action could the company take? If a company has been unable to raise the necessary capital to start mining at the end of 12 months, or if for reasons known best to the Minister he does not want it to continue, under this amendment the company can appeal to the Warden's Court, which can order the Minister to grant the application.

The Hon. B. A. CHATTERTON: I have had considerable discussions with the Minister of Mines and Energy, who tells me that this amendment is not workable, particularly in view of the situation that would occur if minerals were being mined in a number of States. This amendment would create considerable problems if other States did not have retention leases. For those reasons, the Government cannot accept the amendment.

Amendment negatived; clause passed.

Remaining clauses (11 to 20) and title passed.

Bill read a third time and passed.

TEA TREE GULLY (GOLDEN GROVE) DEVELOPMENT BILL

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

The Hon. B. A. CHATTERTON (Minister of Agriculture): 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

The purpose of this Bill is to facilitate the development within the municipality of the City of Tea Tree Gully of a large area of land zoned in 1962 for future urban development. The land is a discrete area partially surrounded by natural features and bounded on the south by the existing Tea Tree Gully development. It will house between 25 000 and 30 000 people. The land is entirely in public ownership and almost entirely owned by the South Australian Land Commission. It is, therefore, a unique opportunity, and a responsibility, to ensure that this very attractive site is developed with proper regard for its special qualities and in a manner that ensures that the new community so created provides the most effective environment for its residents. The development will be integrated with the existing developed area of Tea Tree Gully, recognising the council's and Government's commitment to the developing regional centre at Modbury.

The present system for controlling development is a system designed to deal with a multiplicity of ownerships and *ad hoc* development initiatives. Furthermore, it is a system that covers fully developed areas, those that are partially developed, and broad acres. In more recent years it has been increasingly criticised as being too rigid, negative and time-consuming, particularly in relation to the development of broad acres.

The ownership of about 1 400 hectares by a public corporation, the South Australian Land Commission, within the jurisdiction of one municipality, has provided the opportunity to obtain a commitment from the State Government and the city of Tea Tree Gully to establish a joint committee to manage the total development in the public interest but without the straitjacket imposed by the existing development control system. The joint committee established by this Bill will have the basic functions of devising development schemes and supervising the overall development.

The measure provides for the progressive formulation of development schemes for the area and for the implementation by development directions and controls. The broad framework in which the development controls are exercised is to be the Planning and Development Act. The functions normally carried out by the local council, the State Planning Authority and the Director of Planning, under the Planning and Development Act, are vested in the development committee. However, in order to take full advantage of the scale of the proposed development and the fact that the land is broad acres, it is necessary to modify the application of the Planning and Development Act. It is the modifications of the Planning and Development Act that provide for more flexible subdivision and land use controls. The development committee has a membership of four, of whom two shall be persons nominated by the council. Where there is an equality of votes of the development committee, provision is made for the decision to be made by the Minister.

The Bill also vests the South Australian Land Commission with additional powers to enable it to discharge its special responsibilities in relation to the scheme, under the overall supervision of the development committee. Arrangements are made in the Bill for land, as it is developed, to pass from the control of the development committee and to be subject to normal planning processes. It is the intention of the Government and the Tea Tree Gully council that over the next two decades the development schemes and the joint management arrangements established by this legislation will create an integrated community development involving throughout effective co-operative arrangements between the private and public sectors, and State and local governments. The Bill has the support of the Tea Tree Gully council and, in the terms of the relevant Standing Orders, it has been referred to a Select Committee of the House of Assembly.

Clause 1 is formal. Clause 2 recognises that the measure is essentially intended to deal with initial development and that progressively the "planning" management of the area will revert to normal appropriate bodies. Clause 3 is formal. Clause 4 sets out the definitions necessary for the purposes of the measure. Clause 5 provides for its application to the South Australian Land Commission as the primary agency for development but makes clear that the measure does not otherwise bind the Crown.

Clause 6, when read in conjunction with the schedules to the measure, establishes the primary development area, and makes provision for its expansion subject to the limitations set out in subclauses (3) and (4). Clause 7 provides for, as it were, the return of land subject to the scheme to the normal planning processes.

Clause 8 formally constitutes the Tea Tree Gully (Golden Grove) Development Committee and sets out its membership and provides for the remuneration of members. Clause 9 is formal, but the attention of honourable members is drawn to subclause (5), which, in a manner similar to that provided in relation to the City of Adelaide Planning Commission, resolves a tied decision of the committee. Clause 10 is generally formal and self-explanatory and, amongst other things, enables the committee to use the services of officers or employees of the specified bodies.

Clause 11 is formal. Clause 12 provides a limited power of delegation to the committee. Clause 13 is intended to ensure that the very substantial investment of public funds in the project will not be put in hazard by a substantial failure of the committee to perform its duties. Clause 14 is one of the crucial clauses of the measure and limits the exercise of present powers and functions of the State Planning Authority and the relevant council in relation to the development areas. This limitation is necessary to ensure that no duplication occurs in the exercise of planning controls in the area.

Clause 15 empowers the committee to prepare draft development schemes and ensures that interested persons will have an opportunity to make representations in relation to the schemes. It is commended to honourable members' particular attention. Clause 16 has the effect of incorporating the approved development schemes progressively into the Metropolitan Development Plan, thus paving the way for an ultimate resumption of ordinary planning controls and at the same time emphasising the integration of the proposed controls with the general planning systems.

Clause 17 authorises the committee to set out guidelines establishing more precisely the development proposals relating to neighbourhoods or even particular sites. Clause

18 has much the same purpose as is proposed in Clause 14, and is intended to resolve possible overlapping and conflicting development controls once a development scheme is in operation. Clause 19 appears on the face of it to be somewhat complex but merely, in specific terms, modifies the application of section 41 of the Planning and Development Act by vesting in the committee interim development control under that section and by making clear by the insertion of proposed subsection (7) in that section the parameters within which that interim development control will be exercised.

Clause 20 again is of some complexity but in essence modifies Part VI of the Planning and Development Act, which encompasses subdivision controls. The effect of the modification is to vest in the committee exclusive power to consider subdivision proposed against the basic framework of the development scheme. Clause 21 provides a general power to the Land Commission to play its special part in the development proposed. Clause 22 empowers the Minister to give general directions to the commission in relation to its activities under this measure in order to ensure that in its co-ordinating and other roles it is responsive to State Government policy in the matter.

Clause 23 modifies the application of the Land Commission Act, 1973, as amended, to remove certain limitations on the power of the Land Commission that would otherwise preclude its participation in the scheme. Specifically, under its Act the commission is bound "not to conduct its business with a view to making a profit" and to provide land for people without "large financial resources". Adherence to these limitations by the commission would preclude the fulfilment of the primary object of the scheme, which is to create "an integrated community development serving a wide variety of housing and other needs". A further limitation on the commission's power to lease land is proposed to be modified by this clause. At present, the commission may not grant a lease of land of less than one-fifth a hectare for a period greater than 10 years. It is proposed that this limitation will be modified to ensure that it will apply to leases for residential purposes only. This will enable long-term leases to be granted by the commission for community facilities. In addition, the financial provisions of the Land Commission are proposed to be modified to ensure that there will be no impediment to the use of its funds for the purposes of the scheme.

Clause 24 is formal. Clause 25 provides a more expeditious method for road closure and vests the closed roads in the commission. A power of this nature is proposed to ensure the systematic development of the area. Clause 26 provides a "dispensing power" in the usual form in relation to other Acts or enactments that may prevent the carrying of development schemes.

Clause 27 is formal and, in addition, extends by six months the period within which prosecutions may be brought for breaches of the measure. This conforms to the corresponding provisions in the Planning and Development Act. Clause 28 provides an appropriate regulation-making power. This Bill has been considered and approved by a Select Committee in another place.

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

POLICE OFFENCES ACT AMENDMENT BILL

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

ADJOURNMENT

At 11.10 p.m. the Council adjourned until Wednesday, March 15, at 2.15 p.m.