## LEGISLATIVE COUNCIL

Tuesday 6 February 1979

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

### ASSENT TO BILLS

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

Adelaide College of the Arts and Education.
Alcohol and Drug Addicts (Treatment) Act Amendment.
Art Gallery Act Amendment (No. 2).
Australian Mineral Development Laboratories Act Amendment.
Boating Act Amendment.
Boilers and Pressure Vessels Act Amendment.
Classification of Publications Act Amendment.
Criminal Law (Prohibition of Child Pornography).
Debts Repayment.
Dog Fence Act Amendment.
Film Classification Act Amendment
Glanville to Semaphore Railway (Discontinuance).
Harbors Act Amendment.
Hartley College of Advanced Education.
Health Act Amendment.
Lifts and Cranes Act Amendment.
Local and District Criminal Courts Act Amendment.
Metropolitan Taxi-Cab Act Amendment.
Motor Vehicles Act Amendment.
National Parks and Wildlife Act Amendment (No. 2).
Parliamentary Superannuation Act Amendment (No. 2).
Petroleum Act Amendment.
Pipelines Authority Act Amendment.
Planning and Development Act Amendment (No. 2).
Police Offences Act Amendment (No. 2).
Police Offences Act Amendment (No. 3).
Police Pensions Act Amendment.
Police Regulation Act Amendment (No. 2).
Prices Act Amendment (No. 3).
Real Property Act Amendment (No. 2).
Shearers Accommodation Act Amendment.
Sheriff's.
Spicer Cottages Trust.
Stamp Duties Act Amendment.
State Lotteries Act Amendment (No. 2).
Statutes Amendment (Agriculture).
Statutes Amendment (Remuneration of Parliamentary Committees) (No. 2).
Supreme Court Act Amendment.
Workmen's Compensation (Special Provisions) Act Amendment.

### PUBLIC WORKS COMMITTEE REPORTS

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

Berri-Cobdogla Comprehensive Drainage Scheme (Stage I).
Botanic Garden Herbarium Extension.
Dry Creek Valley Trunk Sewer Duplication (Stage I).
Whyalla Hospital Redevelopment — Phase II (Revised Proposal) Interim Report.

## QUESTIONS

### GOVERNMENT HOSPITALS

**The Hon. C. M. HILL:** I seek leave to make a short explanation prior to directing a question to the Minister of Health regarding the incorporating of Government hospitals.

Leave granted.

**The Hon. C. M. HILL:** I refer to the incorporation of Government hospitals under the South Australian Health Commission Act and the delays occurring in the planning to achieve the aims and objectives of the Act. The Minister announced in a press release on 7 December 1978 that the first two hospitals, namely, Royal Adelaide Hospital and Queen Elizabeth Hospital, would be incorporated, effective from Monday 22 January of this year. Can the Minister say whether any other Government hospitals have since been incorporated or when he expects the next incorporations to take place? Secondly, can the Minister explain the delays that have occurred and are still occurring in this area?

**The Hon. D. H. L. BANFIELD:** The Modbury Hospital has now been incorporated. During the debate on the setting up of the Hospitals Commission, honourable members stressed they wanted discussions to take place on this matter. They wanted people to be happy about the position, and discussions have been taking place regarding the constitution. True, the commission set an earlier date than could be achieved, but I am pleased to say that three hospitals have already been incorporated. Representatives from the Flinders Medical Centre are coming to see me tomorrow. The constitutions of Port Lincoln and Mount Gambier Hospitals are in an advanced stage of preparation, but we want to discuss these things with the people in the area, and I am sure the Hon. Mr. Hill will agree that this is the best way to carry it out. Regarding Government hospitals, the Lyell McEwin, Queen Victoria and Adelaide Children's Hospitals have asked us for discussions on incorporation and for *pro forma* draft constitutions to examine, and we are in the process of drawing those up as a basis for discussion. We have had similar representations from Cleve, Barmera, Victor Harbor, and Minlaton, so we are getting to the stage where a number of hospitals are being incorporated.

### FUELS AND ENERGY RESOURCES COMMITTEE

**The Hon. N. K. FOSTER:** I seek guidance on a couple of Standing Orders, following publication of a statement made by the Hon. Mr. DeGaris regarding the Select Committee on Conservation and Use of Fuels and Energy Resources, which will resume meetings next Thursday. The Standing Orders to which I refer are Nos. 396 and 398. At this stage I do not wish to enter into any conflict with the Leader of the Opposition about his press statement or say whether or not what he gave to the press was virtually a notification to the public to appear before this committee. However, it has resulted in many telephone calls to members on this side and no doubt to members opposite also.

Inherent in the press report are comments concerning the responsibilities and duties of the Chairman of the committee, who is absent from the Council today and I understand is due to return tomorrow. On the basis of the press report and the telephone calls I have received, it would seem that Standing Order 398 might well be suspended during the course of the committee's

deliberations if the advice given to the public by the Leader is going to be followed. In seeking your guidance on this matter, Mr. President, I do not at this stage wish to come into conflict with the Leader until such clarification is made after consideration of the press report is completed by the members concerned.

**The PRESIDENT:** I will bring down a considered report for the honourable member tomorrow.

## DIABETIC ASSOCIATION

**The Hon. M. B. DAWKINS:** I seek leave to make a short statement before asking the Minister of Health a question about the Diabetic Association of South Australia.

Leave granted.

**The Hon. M. B. DAWKINS:** I understand that the Diabetic Association of South Australia has recently contacted both the Minister and honourable members seeking additional financial assistance for its valuable work. In support of its request, the association made the following statement:

> In Australia two out of every 100 persons have diabetes, and research has shown that for every known sufferer there is one who doesn't realise he has it. In total 4 per cent of the population are thought to be affected by it. It is the third most common cause of hospitalisation.

I do not think that any honourable member would seek to minimise the seriousness of diabetes in Australia. In Tasmania, I believe the association receives a substantial subsidy of about $12 000 a year towards its work. As I understand that the subsidy in South Australia is somewhat less than that, can the Minister say whether his Government has considered increasing the amount given to this association?

**The Hon. D. H. L. BANFIELD:** The Government has considered representations received from the Diabetic Association of South Australia, but has decided that under the present financial stringencies it is unable to increase the amount above $1000. However, there is some duplication of the association's work through what is done by our Government, and this is certainly not a reflection on the association, which is doing a good job. However, with outpatient clinics at Royal Adelaide Hospital, Queen Elizabeth Hospital and Flinders Medical Centre, we believe that any people in South Australia suffering or suspected of suffering from diabetes are being well catered for. I do not know whether similar services are provided in Tasmania, but we have the outpatient clinics at these three public hospitals in addition to the good work being done by the association. At this stage we are unable to increase our assistance to the association, but I do not think that anyone is being affected detrimentally as a result.

## REDCLIFF PETRO-CHEMICAL PLANT

**The Hon. R. A. GEDDES:** I desire to ask a question of the Minister of Health, representing the Premier, and I seek leave to make a short statement prior to asking the question.

Leave granted.

**The Hon. R. A. GEDDES:** Many people are concerned that the Redcliff petro-chemical complex will proceed without due regard to the possibility of pollutants from the complex placing undue stress on the ecology of the waters of Spencer Gulf. Will the Government appoint a committee comprising people qualified to assess the ecological or biological system of waters adjacent to the Redcliff area before the petro-chemical complex is built so that the committee's findings may be used as guidelines in assessing any effects pollutants may have once the petro-chemical plant is in operation?

**The Hon. D. H. L. BANFIELD:** I will refer the question to my colleague.

## ABORIGINAL FUNDING

**The Hon. N. K. FOSTER:** I seek leave to make a statement prior to asking a question of the Leader of the Council, representing the Attorney-General, regarding Aboriginal funding.

Leave granted.

**The Hon. N. K. FOSTER:** I think all members on this side have received a letter from the Aboriginal Legal Rights Movement. I do not know whether the circular has got into the hands of Opposition members. I should hope it would have, and the Hon. Mr. Burdett is nodding to indicate that he has received one. The matter is very serious, because a referendum of the Australian people in the 1960's gave the Commonwealth Government the right, in regard to Aboriginal affairs—

**The Hon. R. C. DeGaris:** Not totally.

**The Hon. N. K. FOSTER:** That may be so but certainly, in the sense of the aspirations and aims of the Aboriginal Legal Rights Movement, what I have said is correct, because in 1972-73 the Whitlam Government introduced the initial grants to this large previously neglected area, which was intended to protect Aborigines from unjust treatment by the court and unjust arrests and to at least confer on them some form of legal and other rights. I do not wish to take up the time of the Council unduly. I think the Council would have plenty of time on its hands today, but that is not for me to judge. In dealing briefly with the number of cases handled by this commission, I quote figures from the document that has been sent to me. In 1973-74, 415 cases were dealt with, 3 204 in 1976-77, and 2 500 in 1977-78. A total of almost 10 000 cases was dealt with in that period, and I think the significant figures are 415 against 2 500 and 3 204.

**The Hon. R. A. Geddes:** What sorts of cases were they?

**The Hon. N. K. FOSTER:** They were legal cases, cases of legal assistance. My reason for asking the question is that the Federal Government has made drastic cuts and the Legal Aid Office certainly will have to close. Retrenchments will have to occur, because the Commonwealth Government, which has cut off the money supply by an irresponsible act, is denying these people their rights—

**The PRESIDENT:** Order! I should remind the honourable member that he is debating the question.

**The Hon. N. K. FOSTER:** They should have anticipated the question if they have not done so by now. The Commonwealth Government's action is most dastardly and unfortunate and it is a back-door method of denying people their proper rights in this matter.

*Members interjecting:*

**The PRESIDENT:** I request the Hon. Mr. Foster to ask his question.

**The Hon. N. K. FOSTER:** I ask the Attorney-General, through the Leader of the Council, to take up the matter not only with Cabinet but also with the Commonwealth Minister for Aboriginal Affairs, with a view to changing the present attitude and increasing the funding rather than decreasing it, when it has been shown that the work load and number of people seeking assistance have increased as the funding has decreased. This position ought to be rectified and reversed.

**The Hon. D. H. L. BANFIELD:** I will raise the matter with my colleague and bring back a report.

## CHIROPRACTORS

**The Hon. M. B. DAWKINS:** I seek leave to make a statement before asking the Minister of Health a question regarding chiropractors.

Leave granted.

**The Hon. M. B. DAWKINS:** I am aware that over the weekend the Minister visited the Riverland, where I understand that he had an opportunity to open some new premises for two very well qualified and highly respected chiropractic practitioners. These gentlemen have been well accepted, and their practice ranges over a considerable radius from Berri to the Murray Mallee and back towards the city of Adelaide. Will the Minister say what progress has been made by the working party, which I understand is working towards the presentation of a Bill providing for the registration of such well qualified people, and when that Bill will be introduced?

**The Hon. D. H. L. BANFIELD:** The working party has reported to me, and the Bill is now in the process of being drafted and, as I have indicated to the Council previously, I expect to be able this session to introduce a Bill providing for the registration of chiropractors.

## SOUTH-EAST FISHERY

**The Hon. R. C. DeGARIS:** I seek leave to make a brief explanation before asking the Minister of Lands, in the absence of the Minister of Fisheries, a question regarding fisheries.

Leave granted.

**The Hon. R. C. DeGARIS:** Considerable concern has been expressed by people in the South-East through most of the media outlets regarding the discharge of raw sewage into the sea at Finger Point near Port MacDonnell. In particular, concern has been expressed by fishermen in the area, who claim that a large percentage of their choicest abalone fishing area will be denied them because of pollution from this raw sewage discharge. For example, one fisherman has claimed that 90 p.c. of the abalone catch at Port MacDonnell comes from this area. It is further claimed that the Government intends to discharge increasing amounts of raw sewage into the sea at Finger Point.

Also, I point out that 10 years ago the present Government made a firm promise to install a sewage treatment plant in Mt. Gambier, a promise that it has never fulfilled. Will the Minister of Fisheries report to the Council on the effect that this discharge of raw sewage is having or is likely to have on the fishing industry, and will he ask the Minister for Environment to institute an inquiry into the effect of this discharge on the general area of Port MacDonnell?

**The Hon. T. M. CASEY:** I will refer the question to my colleague and ensure that the honourable member gets a report.

## PAROLE

**The Hon. C. M. HILL:** I seek leave to make a statement before asking the Minister of Health, representing the Chief Secretary, a question regarding a report in today's press concerning a major parole bungle.

Leave granted.

**The Hon. C. M. HILL:** In today's *News* is a front-page story of a parole bungle, in which it is claimed that Interpol has been hunting for a convicted child molester wanted in connection with 300 offences. However, this person was released by the Parole Board in this State and has been deported. The Minister was reported in today's press as having made a brief comment along the lines that the authorities here had contacted New South Wales but that it seemed that the New South Wales authorities were not interested in the person. The report continued on page 3 of today's *News*, as follows:

> The incident which adds to the growing list of complaints about parole boards will probably be raised at Police Association meetings in all States in the next few months. Schoeneberg first became known as a sex offender when he arrived in New Zealand about five years ago. After a series of indecent assaults on children in many parts of the country he became one of New Zealand's most wanted men.
>
> By using several aliases he was able to avoid arrest and finally fled to Papua New Guinea in 1976. Police there arrested him for a number of offences relating to children and he was charged but granted bail. Schoeneberg absconded from New Guinea while on bail and came to Sydney where he got a job as an accountant.

First, will the Chief Secretary make a statement to Parliament explaining his position and the Government's position in this matter? Secondly, is the Government satisfied with the parole system in this State and with the decisions of the present Parole Board? Thirdly, has the Government any plans to change the Parole Board's independence, procedures, or terms of reference?

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

## PETROL PRICES

**The Hon. R. C. DeGARIS:** I seek leave to make a brief statement before directing a question to the Leader of the Government in this Council.

Leave granted.

**The Hon. R. C. DeGARIS:** The Leader of the Government in this Council is the right Minister to whom to refer this question and he can relay the question to the responsible Minister. It has been reported to me that petrol prices in the country areas of South Australia are higher than petrol prices in the country areas of other States. Two people have reported to me that petrol is dearer in the South Australian towns on the way to Broken Hill than in Broken Hill. As the Commonwealth Government has fostered a scheme for assistance to keep petrol prices in country areas close to city prices, can the Minister inform me whether my information is correct and, if so, why this position exists in South Australia?

**The Hon. D. H. L. BANFIELD:** I will refer the Leader's question to the appropriate Minister.

## URANIUM

**The Hon. R. A. GEDDES:** Will the Minister representing the Premier ask the Premier to make available to the Council names of the important places in the United Kingdom and Europe that the Premier visited in connection with the disposal of waste from nuclear reactors?

**The Hon. D. H. L. BANFIELD:** I am certain that the Premier will be pleased to hand out extra copies of *Hansard* as I am sure that he is giving that information in another place.

## INDUSTRIAL AND PROVIDENT SOCIETIES ACT

**The Hon. R. C. DeGARIS:** I seek leave to make a brief explanation before asking a question of the Minister representing the Attorney-General.

Leave granted.

**The Hon. R. C. DeGARIS:** Organisations having close ties with the Industrial and Provident Societies Act have informed me that they were recently forwarded a questionnaire relating to that Act. Did that questionnaire originate from the Attorney-General, or has a committee been appointed to inquire into the Act? If the questionnaire is the work of a committee, who are its members? Does the Government expect any changes to be made to the Act in the near future?

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

---

## DANGEROUS SUBSTANCES BILL

Second reading.

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

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

The purpose of this Bill is to ensure that regulations can be made to ensure the safe keeping, handling, conveying, use and disposal of any toxic, corrosive, flammable or otherwise dangerous substances. It was 70 years ago, in 1908, that an Inflammable Oils Act was enacted by this Parliament to regulate the keeping, conveying and sale of inflammable liquids. In 1960, when it became clear that liquefied petroleum gas would be used extensively, the Liquefied Petroleum Gas Act was passed to regulate the storage, conveyance and quality of liquefied petroleum gas.

Since then other flammable, toxic and corrosive substances have come into use, and in a number of cases are being conveyed on our roads. The Government has been concerned that there is no legislation to ensure the safe keeping, handling, conveying and use of these dangerous substances. Rather than have a number of separate Acts, each providing for the control of one particular type of liquid or substance, it has been decided to introduce a comprehensive Bill. The Bill will enable the Inflammable Liquids Act and the Liquefied Petroleum Gas Act to be repealed. However, the Bill does not apply to poisons which are regulated under the Food and Drugs Act, to explosives which are regulated under the Explosives Act or to radioactive substances which are regulated under the Health Act.

When the Bill was being drafted it became clear that the administrative changes that would be needed to give full effect to the widest possible scope of the Bill could not be justified. It appears far simpler, from both a legislative and administrative point of view, to leave the provisions relating to the control of poisons, explosives and radioactive substances as they are.

The Act enables regulations to be made to bring any dangerous substances within its ambit. Examples of substances to which it is proposed the Act will apply are flammable liquids, cryogenic liquids (below minus 150 degrees Celsius), flammable or poisonous gases, acids and swimming pool chemicals, all of which are highly dangerous if not kept, handled, conveyed, used or disposed of in a safe manner. At present there is no control over any of these substances except for petroleum-based flammable liquids and liquefied petroleum gas, although it is known that all these substances are being transported by road in the State in vehicles and containers that are not required to conform to any minimum standard of safety.

There is legislation of a similar nature in the United Kingdom; New South Wales and Tasmania also have similar legislation in force, the Dangerous Goods Act, 1975, and the Dangerous Goods Act, 1976, respectively. However, the scope of both of those Acts is wider than that of this Bill because explosives, poisons and radioactive materials are regulated by those Acts.

The International Standards Organisation has recently adopted a code of practice on which it is proposed that regulations under this Bill will be based. The regulations made under the New South Wales Dangerous Goods Act have adopted the International Standards Organisation classifications of dangerous goods or substances. The provisions of this Bill together with the proposed adoption in the regulations of the International Standards Organisation classifications, will greatly assist in the long-standing need for uniformity between the States in regulating the safe transport and storage of dangerous substances. I seek leave to insert in *Hansard* the Parliamentary Counsel's report on the Bill without reading it.

Leave granted.

### Parliamentary Counsel's Report

This Bill is designed to incorporate in one Act provisions for the safe keeping, handling, conveyance, use and disposal of toxic, corrosive, inflammable or otherwise dangerous substances. It is proposed that the provisions of this measure would regulate the matters presently regulated under the Liquefied Petroleum Gas Act, 1960-1973, and the Inflammable Liquids Act, 1961-1976, which it is proposed would be repealed. In addition to applying to inflammable liquids and liquefied petroleum gas, it is intended that the measure would apply to other dangerous substances such as acids, anhydrous ammonia, chlorine, carbon dioxide and poisonous gases, all of which are highly dangerous if not kept, handled, conveyed, used or disposed of in a safe manner. At present there is no control over any of these substances although it is known that each of these substances is, for example, being transported by road in the State in vehicles and containers that are not required to conform to any minimum standards of safety. It should be pointed out that the measure, if enacted, would not be applied to poisons which are regulated under the Food and Drugs Act, to explosives which are regulated under the Explosives Act or to radioactive substances which are regulated under the Health Act.

Similar legislation has recently been passed in the United Kingdom and the International Standards Organisation has recently adopted a code of practice on which it is proposed that regulations under this measure would be based. New South Wales and Tasmania also have similar legislation in force, namely, the Dangerous Goods Act, 1975, of New South Wales and the Dangerous Goods Act, 1976, of Tasmania.

Clause 1 is formal. Clause 2 provides that different provisions of the measure may be brought into operation at different times.

Clause 3 sets out the arrangement of the Bill. Clause 4 provides for the repeal of the Liquefied Petroleum Gas Act, 1960-1973, and the Inflammable Liquids Act, 1961-1976. Clause 5 sets out definitions of terms used in the Bill. A "dangerous substance" is defined as any substance whether solid, liquid or gaseous, that is toxic, corrosive,

inflammable or otherwise dangerous and is declared by regulation to be a dangerous substance.

Clause 6 provides that the Crown shall be bound. Clause 7 provides that the measure shall be in addition to and shall not derogate from any other Act. Clause 8 provides for the appointment of a chief inspector and other inspectors for the purposes of the Act. Clause 9 sets out the powers of inspectors. Subclause (1) sets out the usual powers of entry and inspection. Subclause (2) empowers an inspector, with the consent of the Minister, to destroy or render harmless any dangerous substance where he considers upon reasonable grounds that the dangerous substance endangers public safety or the safety of any person. The clause also empowers an inspector to give directions to the person having control of the dangerous substance to take steps to remove or alleviate the danger. Subclause (3) provides that an inspector may exercise the power to destroy or render harmless the dangerous substance without the consent of the Minister if the danger is imminent.

Clause 10 prohibits the disclosure of information obtained through the holding of any office under the Act. Clause 11 prohibits the impersonation of inspectors. Clause 12 protects the Director of the Department of Labour and Industry, permanent Head and other persons engaged in the administration of the Act from personal liability for administrative acts or omissions performed in good faith.

Clause 13 imposes a general duty upon persons to take proper precautions with respect to the keeping handling, conveyance, use or disposal of any dangerous substance. Clause 14 provides for creation by regulation of a subclass of prescribed dangerous substances for the purposes of the licensing of persons who keep such dangerous substances. Clause 15 prohibits the keeping of prescribed dangerous substances except in pursuance of a licence or as permitted by regulation. Clause 16 provides for the grant by the Director of the Department of Labour and Industry of licences to keep prescirbed dangerous substances in premises that comply with the regulations. The Director is empowered to impose conditions upon licences granted under the clause.

Clause 17 provides for the renewal of licences to keep such prescribed dangerous substances. Clause 18 provides for the creation by regulation of a subclass of prescribed dangerous substances for the purpose of the licensing of persons who convey such dangerous substances. Clause 19 prohibits the conveyance of prescribed dangerous substances except in pursuance of a licence or as permitted by regulation. Clause 20 provides for the grant by the Director of licences to convey prescribed dangerous substances. Licences under this clause may also be conditional. Clause 21 provides for the renewal of such licences.

Clause 22 provides that the Director shall not grant a licence or renew a licence if he is satisfied it is not in the interest of public safety to do so. Clause 23 provides for the surrender, suspension and cancellation of licences. Clause 24 provides for an appeal to the Minister against any decision by the Director in relation to any licence.

Clause 25 empowers the Director to grant exemptions from compliance with any provision of the Act or regulations. Under subclause (3) of this clause an exemption may not be granted unless the Director is satisfied that compliance with the provision is not reasonably practicable and that the granting of the exemption will not endanger the safety of any person or property. Clause 26 provides evidentiary assistance in respect of certain matters that may require proof in legal proceedings. Clause 27 provides that every person concerned in the management of any body corporate convicted of an offence against the Act shall also be guilty of an offence unless he proves that he could not by the exercise of reasonable diligence have prevented the commission of the offence.

Clause 28 provides for a default penalty for each day for which any offence continues to be committed. Clause 29 provides for the forfeiture of dangerous substances in relation to which offences are committed. Clause 30 provides for the summary disposal of proceedings for offences against the Act. Clause 31 provides for the making of regulations regulating the keeping, handling, conveyance, use and disposal of dangerous substances and, in addition, in the case of liquefied petroleum gas, the quality of the gas.

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

## LAND AND BUSINESS AGENTS ACT AMENDMENT BILL

Second reading.

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

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

It proposes an amendment to the principal Act, the Land and Business Agents Act, 1973-1977, that is designed to ensure the validity of sales by the South Australian Housing Trust of dwellinghouses under contracts that provide for payment of the purchase price by instalments. Section 89 of the principal Act prohibits such sales, and the view has been taken by the Crown Solicitor that this prohibition probably extends to such sales made by the Housing Trust. Accordingly, this Bill proposes that it be provided in section 89 that the section does not apply and shall be deemed never to have applied to sales by the Housing Trust. It is also proposed that other bodies prescribed by regulation be exempted, the bodies envisaged being confined to governmental or charitable bodies.

Clause 1 is formal, and clause 2 amends section 89 of the principal Act by providing that the prohibition of the sale of land under an instalment contract does not apply and shall be deemed never to have applied to any sale of land by the Housing Trust and shall not apply to any sale of land made by a body prescribed by regulation.

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

## CONTRACTS REVIEW BILL

Adjourned debate on second reading.

(Continued from 21 November. Page 2098.)

**The Hon. J. C. BURDETT:** Most of what needs to be said about this Bill and its predecessor (dealt with in the last session) has been said, and I do not propose to deal with it at length at this stage. When the Bill was before the Council previously, I said that people should not be able to profit with impunity out of unjust contracts, but that I believed that the Bill was the wrong approach. That is still my opinion. I support strongly the submission made to the Attorney-General by the Law Society during the last session that there should not be a general Contracts Review Bill applying to all contracts but that, where

particular types of contract in particular areas were found to be unjust, specific legislative action should be taken.

In last year's session a motion was passed in the second reading stage to the effect that the Bill be withdrawn with a view to the Government's referring it to the South Australian Law Reform Committee for its report and recommendations regarding the implementation of the objects of the Bill and that the Bill be redrafted to allow for its inter-relationship with other Acts and to take into account its effect on international and currency contracts. The majority report of that committee therefore starts with the proposition that the law should be altered to allow the courts to reform contracts which are unjust and to modify the application to particular situations.

I agree with the dissenting member of the committee, Mr. D. F. Wicks, that if you accept this principle to be applied in one Bill covering all contracts then the Bill and the recommended changes are fairly satisfactory, although I think that some detailed amendments are still needed. However, as I have said, I do not accept the principle that there should be a dragnet Contracts Review Bill applying to all contracts. As Mr. Wicks says in his dissenting report, this will often involve a subjective element on the part of the judge. At page 8 of the report he states:

> I see the purpose of the law as setting standards and guidelines in which to limit judicial discretion . . . It is a most far-reaching development for Parliament to simply give a mandate to the courts to alleviate injustice and one which I believe goes too far.

This is a proposition on which this Council should seriously reflect before passing this Bill in its present form. The usual and time-honoured method is for Parliament to spell out what is criminal, what is unlawful, and what is unjust, and generally in great detail. It is for the courts to determine whether the detailed tests laid down by Parliament have been met. In this Bill the court is given powers that apply, if it has first determined that the contract is unjust. The Bill makes no attempt to confine or define the term "unjust." Some specific criteria are set out but these are expressly not exhaustive. Under clause 8 (1) the court shall have regard to any other matter that may be relevant.

It is almost as bad as if the Criminal Law Consolidation Act simply stated that a person committed an offence if he was guilty of criminal, felonious, or unlawful conduct and then a few guidelines were thrown in and the courts left to determine what constituted such conduct. It has not been the method of our legal system to allow such wide discretion to the courts. The courts should not carry out the legislative functions. Mr. Wicks points out that, with this legislation in this form being substantially peculiar to South Australia in the Australian jurisdiction, it would take a long time to build up a body of precedent to make the law sufficiently certain and to make clear in what circumstances a contract would be likely to be held unjust.

When the previous Bill was before Parliament, one of the main issues I raised was the position of a third party who had acquired *bona fide* title to property for a valuable consideration. I was particularly disturbed about the situation where the property in question was an interest in land registered in favour of the innocent third party, and the committee has recognised this position. Page 5 of the report states:

> Subclause (5) *(c)* strengthens the position of a third party who has acquired title to property in good faith and for valuable consideration. Under the existing Bill, such a person would have to rely for protection on the right to appear and be heard. The committee considers that a third party who acquires title should be secure in that title notwithstanding that the party from whom he has acquired title has acquired the property pursuant to an unjust contract. In our view the party suffering the injustice must in those circumstances be left to the remedy of compensation or some other remedy which does not disturb the title of the innocent third party.

This present Bill, which is based on that recommendation in that respect, is a considerable improvement on the previous Bill. However, the Bill still applies to contracts for the sale of land and still enables the court to order the reconveyance of land where a third party is not involved. In fact, amendments to the Real Property Act have also been recommended in order to facilitate procedures under this Bill. The point was raised by the Hon. Mr. Laidlaw in the debate on the previous Bill that the effect of the Bill on international and money contracts was likely to be severe. This matter is referred to in the report at page 5, which states:

> The committee gave careful consideration, however, to the fears which have been expressed that legislation of this kind might be a deterrent to overseas commercial interests doing business with South Australian interests. It is difficult to know why this should be so. Some uncertainty always attends the enforceability of contracts by reason of the rules of law which are referred to earlier in this report. Courts which follow the English tradition have always endeavoured to construe contracts in a way which will avoid injustice, and this must be well known to all who are concerned with the likely legal effect of commercial contracts. This proposed legislation merely takes the process of avoiding injustice a stage further. Moreover the widespread adoption of similar legislation in the United States of America and of more or less analogous legislation in other important trading countries makes it unlikely that those interests which are engaged in international trade would be deterred by the proposed legislation in this State. The committee takes the view, however, that such risk as there might be should be avoided if it can be avoided without undue detriment to the purposes of the Bill. The committee feels that special provisions are justified in the area of international sale of goods.

Some recommendations have been made within the area of international sale of goods, but these are not far reaching. With all respect to the authors of the report, it is naive to say that international businessmen are unlikely to be deterred from coming to South Australia by the fact that their contracts may be interfered with by the terms of this Bill.

This Bill injects a dramatically greater element of uncertainty than now exists. I believe that the fears expressed in this regard by the Hon. Mr. Laidlaw are serious, real, and justified. For the reasons I have mentioned I believe that a general Bill relating to all contracts is not an appropriate way to proceed in South Australia.

American examples have been cited in the report (page 4), but this kind of American legislation is often not appropriate in this State and has often become unpopular in America by the time its principles have been introduced here. I am convinced that this Bill's provisions are appropriate only regarding consumer transactions. In this area it is more likely that the parties will be in an unequal bargaining position. Regarding real estate transactions and transactions between business organisations, I see no reason why the parties should not take legal advice, where necessary, before entering into contracts. They can take any other kind of advice that they like and make any other kind of inquiries.

It is necessary that contracts be just, and it is equally necessary that contracts be certain: that is what contracts are for, so that parties will know with certainty what are their obligations; so that they will know what they

themselves are obliged to do; and so that they will know if and when the other party has failed in its obligations. To inject doubt and uncertainty, especially regarding real estate and commercial contracts, would create confusion and chaos in the commercial world.

Therefore, in Committee I intend to move an amendment to confine the operation of this Bill to consumer contracts, and to move other consequential amendments. To this extent I am willing to support the Bill, but otherwise I am opposed to it. So that I may move my amendments and consider in Committee other detailed amendments that are necessary, and for no other reason, I support the second reading.

**The Hon. K. T. GRIFFIN** secured the adjournment of the debate.

## MEMBERS OF PARLIAMENT (DISCLOSURE OF INTERESTS) BILL

Adjourned debate on second reading.

(Continued from 16 November. Page 2054.)

**The Hon. R. C. DeGARIS (Leader of the Opposition):** This Bill comes before the Council for the second time. It is similar to the Bill previously debated, but there are certain significant changes. There were changes in the Bill that were largely criticised in this Council when it was previously considered. The general question of members' pecuniary interests, and the declaration of those interests that are required under part of our Standing Orders, has been with us since our Parliamentary system began. The whole question of what is required of members is covered in Standing Orders, and also part of the Constitution Act is devoted to this question.

However, in recent years some Parliaments have made changes, or recommended changes, to the existing requirements concerning members' pecuniary interests. My own view is that the present system is perfectly satisfactory. I cannot recall any great problem in this area since I have been in Parliament. Whenever there has been a member who, in his mind, may have had a pecuniary interest, it has always been declared to the Council. So far as I can remember, the President's ruling has been that there was no pecuniary interest to declare, in any case.

In discussing the Bill it will be of advantage to take note of the recommendations made to those Parliaments that have instituted inquiries and to note the procedures adopted, or the procedures that have been recommended without the Parliament concerned moving to adopt any of the recommendations. There have been a wide variety of recommendations and I believe that there is some misunderstanding on this whole question.

I remember the Attorney-General on television saying something about the public declaration of pecuniary interests would tend to make politicians honest. I do not accept that view in any way. A declaration of anything at all will not make politicians any more honest than they are now. I have a high regard for the integrity of most members of Parliament, both Federal and State.

However, if we are to proceed with such a Bill, there are clear principles that we should follow. The first is that legislators elected to Parliament should place the interest of the public before their own private advantage. One reason for our existing Standing Orders is to ensure that, if there is a conflict of interest of a pecuniary nature, the member is bound to declare it to the Council. Having made that declaration, it is the Council's privilege to make its determination on that question.

The first question one asks in relation to that first principle is what is a conflict of interest. If we define "conflict of interest" in its widest possible term, every member of this Council would constantly be faced with a conflict of interest. For example, should a member of Parliament, who will receive at some later stage in his career a future emolument, say, in the form of a lump-sum payment for superannuation from a trade union for which he has not totally paid himself, be entitled to vote on any matter concerning that union or the trade union movement?

Should a farmer vote on any matter that affects his particular farming group, or his own particular interest? Should a member of Parliament be able to serve on any body that has some form of statutory standing? Should a member of Parliament vote on any matter that directly concerns him financially, for example, Parliamentary superannuation, succession duties, land tax, and a series of other matters that constantly come before this Council? I could go on and, if the widest possible definition is used regarding conflict of interest, all honourable members would agree that such a definition would be ridiculous. Yet it is possible to see in this area questions of conflict of interest where a member could vote with his own interests in view and not vote in the interest of the whole community.

Therefore, on the first principle, that is, the question of a definition of a conflict of interest, we must define what we mean by "conflict of interest" and be certain in our definition of that matter. The second principle that must be considered alongside the question of what is a conflict of interest concerns the undoubted right of a reasonable degree of privacy for the member and his family. It has been argued in some papers that I have read that conflicts of interest can be avoided once an open declaration is made by members of Parliament.

However, then we must be very careful to strike a reasonable balance between a definition of "conflict of interest" and the undoubted rights to privacy that everyone in the community has. The Canadian Parliament, in tackling this problem, expressed the matter this way:

> The public has an undisputed right to know certain factors which may influence a representative's behaviour but that right to information does not extend to features of his private life which are irrelevant to the performance of his public duty.

That does not answer all the questions that arise in this conflict of interest issue, but it tries to strike a balance between the question of the conflict of interest and the undoubted right that a person has to privacy. We also should be considering the distinct difference between the position of a back-bench member and that of a Minister of the Crown. The question of the conflict of interest should be considered in a different light in regard to a Minister. For example, a back-bench member may have an interest in a mining group or may have shares in a mining company. That would not in any way amount to a conflict of interest as far as he, as a back-bench member, was concerned. However, there could be a conflict of interest if a Minister of Mines had a shareholding in a mining company.

That point is not touched on in the Bill but it has been dealt with by inquiries overseas. I have been told that in New Zealand only Ministers are required to make declarations of their interests. If one considers the scope of influence and the power of position that rests with the Minister as opposed to a back-bencher, one can see the point that New Zealand has upheld. In the United Kingdom a committee known as the Strauss Committee was appointed in 1969 to inquire into and report on the

question. The report was made in 1969 but it was not until 1974 that Parliament dealt with it. A Select Committee was appointed under the chairmanship of the Rt. Hon. F. T. Willey, M.P., and that committee reported in 1974. It outlined the following nine particular classes of pecuniary interest that it considered should be disclosed to the Registrar:

1. Remunerated directorships of companies, public and private.

2. Remunerated employment in officers.

3. Remunerated trades, professions or vocations.

4. The names of clients when the interests referred to above include services by the member which arise out of or are related in any manner to his membership of the House.

5. Financial sponsorship as a Parliamentary candidate where to the knowledge of the member the sponsorship in any case exceeds 25 per cent of the candidate's election expenses, or as a member of Parliament, by any person or organisation stating whether any such sponsorship includes payment to the member or any material benefit or advantage, direct or indirect.

6. Overseas visits relating to or arising out of membership of the House where the cost of any such visit has not been wholly borne by the member or by public funds.

7. Any payments or any material benefits or advantages received from or on behalf of foreign governments, organisations or persons.

8. Land and property of substantial value or from which a substantial income is derived.

9. The names of companies or other bodies in which the member has, to his knowledge, either himself, or on behalf of his spouse or infant children, a beneficial interest in shareholdings of a nominal value greater than 1 per cent of the issued share capital.

They were the nine identified areas where the committee considered that there could be a conflict of interest. In Australia the Joint Committee on Pecuniary Interest of Members of Parliament made the following report:

1. Members of Parliament should disclose the names of all companies in which they have a beneficial interest in shareholdings, no matter how insignificant, whether as an individual, member of another company or partnership or through a trust.

2. It should be left to the discretion of individual members of Parliament as to whether or not they should register the actual value of any shareholding.

3. Members of Parliament should disclose the location of any realty in which they have a beneficial interest.

4. Members of Parliament should declare the names of all companies of which they are directors even if directorship is unremunerated.

5. Members of Parliament should declare any sponsored travel.

6. Members of Parliament should provide the information required in the form of a statutory declaration to a Parliamentary Registrar, who shall be directly responsible to the President of the Senate and the Speaker of the House of Representatives.

It is reasonable and proper to allow the public to have access to the information disclosed on establishing to the satisfaction of the Registrar, and with the approval of the President or Speaker, that a *bona fide* reason exists for such access.

These statutory declarations should be in loose leaf form so to enable members of the public to inspect relevant details in the statutory declaration filed by a particular Senator or member. Upon any request for access being received by the Registrar, the Senator or member concerned shall be notified personally and acquainted and informed of the details of the inquiry before such access is granted.

The Senator or member thus notified may, within seven days, submit a case to the Registrar opposing the granting of such access. On receipt of such submission the Registrar, with the approval of the President or Speaker, shall make a decision, from which no appeal shall lie.

7. On assuming office a Minister of the Crown should resign any directorships of public companies and dispose of any shares in a public or private company which might be seen to be affected by decisions taken within the Minister's sphere of responsibility.

8. A Joint Standing Committee of the Australian Parliament should be established with power to supervise generally the operations of the register and modify, on the authority of the Parliament, the declaration requirements applicable to members of Parliament. It is not envisaged that such a committee would sit frequently but would be ready to function when a situation arose which called for resolution.

9. The Joint Committee should be entrusted with the task of drafting a code of conduct based on standing orders, conventions, practices and rulings of the presiding officers of the Australian and United Kingdom Parliaments, and such other guidelines as may be considered appropriate.

10. The Parliamentary Registrar should be clerk of the Joint Standing Committee and should be appointed by the President of the Senate and the Speaker of the House of Representatives.

That report has not been acted upon. Indeed, Federal Parliament has asked for a further inquiry, and the report of that inquiry has not yet been presented. I understand that the committee is under the chairmanship of Nigel Bowen, a former Commonwealth Attorney-General. It may well be reasonable to request that this Parliament do not proceed further until that report has been made to the Federal Parliament. However, I simply say that the Federal Parliament has not acted on the report yet.

The reports by several Parliaments around the world that have made inquiries on this question try to reach a reasonable balance between the declaration of any interest which may conflict with the member's public duty and the undoubted rights a member should have to a reasonable degree of privacy. In the approaches recommended in Canada, the United Kingdom, and the Commonwealth, several points in each recommendation are similar. Broadly, the points of similarity are crystallised in the Federal report.

The first point that I wish to deal with is the Registrar and to whom he is responsible. If legislation of the kind before us proceeds, the Registrar should be a Parliamentary officer, not an officer from outside Parliament. The reason is clear, namely, that the whole question of pecuniary interest relates to Parliament, nothing else. It is a question of Parliament, a member's rights, a member's voting, and whether there is any conflict of interest and, if there is, then that conflict should be declared.

**The Hon. J. R. Cornwall:** How do you know about that if there is no register? How do you know about a conflict of interest if it is not public knowledge?

**The Hon. R. C. DeGARIS:** That has nothing to do with public knowledge, but it has much to do with this Council and its members. We are not dealing with a conflict of interest or public knowledge. If one allows the public knowledge aspect, one denies the important point of a member's privacy.

**The Hon. J. E. Dunford:** You're afraid of how much money you've made. That's all.

**The Hon. R. C. DeGARIS:** That has nothing to do with it. If the honourable member reads and understands Standing Orders, he will see that the whole question is that a member of Parliament—

**The Hon. J. E. Dunford:** Why should you be ashamed of

what you've got and how you've got it: contracting, money-lending, or whatever?

**The Hon. R. C. DeGARIS:** I thought that I was discussing this point rationally. But, if the honourable member wants me to go on and take his line that everything that may affect a person's voting should be declared, one must go further than the question of pecuniary interest.

**The Hon. F. T. Blevins:** Move amendments!

**The Hon. R. C. DeGARIS:** I do not intend to do so, because I think it is an invasion of privacy. If one follows that line, one cannot stop at the question of pecuniary interests. That is where the Government wants to stop and, if it takes that line, it must go to the full extent in relation to declaration and take into account everything other than the question of pecuniary interests. That would be absolutely ridiculous. We are now looking at an extension of the existing Standing Orders and, once one moves away from that, one is getting oneself into cloud cuckooland.

**The Hon. C. M. Hill:** I do not think, in relation to the earlier interjection, that you were advocating that there should not be a register.

**The Hon. R. C. DeGARIS:** No, I am not; not at all. There should be a register, and a registrar should be appointed. However, that person should be an officer of the Parliament, not someone from outside the Parliament. A public servant up the street should not be appointed as registrar, because the appointee should be able to advise the President and Speaker when he, as registrar, recognises that there may be a conflict of interest in relation to a certain piece of legislation.

**The Hon. J. E. Dunford:** What about members of the Opposition and of the Government?

**The Hon. R. C. DeGARIS:** If the honourable member would let me develop my point, I would come to that. The registrar should be an officer of the Parliament and should be responsible to the President and the Speaker. He should also say whether, in his opinion, there was a conflict of interest and, if he believed that that was the case, he could speak to the member concerned and ask him to declare it.

The registrar should be under the control of the President and Speaker. I agree with the recommendation made by the joint committee of members of both Parties in both Federal Houses of Parliament that a Parliamentary committee should be appointed to examine this matter and to make various recommendations regarding it.

**The Hon. J. R. Cornwall:** That would be purely at the President's discretion.

**The Hon. R. C. DeGARIS:** No. If the honourable member waits, I will come to the point that I am intending to make. I am putting, first, the fundamental position regarding the declaration of pecuniary interests. We have our Standing Orders, which have been perfectly satisfactory.

**The Hon. J. R. Cornwall:** That's debatable.

**The Hon. R. C. DeGARIS:** I do not believe that it is. At no stage since I have been a member of Parliament can I remember any pecuniary interest, as defined in the Standing Orders, not being declared.

**The Hon. J. R. Cornwall:** Are you privy to all your colleagues' financial affairs? I shouldn't have thought so.

**The Hon. R. C. DeGARIS:** Perhaps I am not. However, I do know that, when anyone has even a semblance of pecuniary interest, even though it may not be one as defined by Standing Orders, it has been declared. As I said earlier, I have never known a President to say, "Yes, that is a pecuniary interest." However, declarations have been made in this Council many times.

Regarding an examination of the register, I believe that applications must be made to the registrar to examine any member's statutory return. When that happens (and this was a joint recommendation in the Federal sphere), the member concerned should be advised and, if he objects, the decision whether the member's return should be examined should be referred to the President and Speaker for decision. They can then decide on the validity of the grounds put forward for inspection of the register.

Pecuniary interests are related to Parliament and its operation. Open declaration does not solve the problem, and it offends against the principle of a reasonable degree of privacy for everyone.

Having dealt with that general principle, I should like to comment further, if the Council considers that some sort of Bill of this nature should be proceeded with, on where I believe we should start. I should like particularly to refer to certain parts of the Bill, and undoubtedly other honourable members will also make their contributions on these points.

I do not believe there is any reason why members should be put to the trouble of making statutory returns each six months. That is overburdensome in the extreme, and it is reasonable that, if returns are to be made, they should be made perhaps annually, say, by the end of each financial year. That is all that is required.

There is absolutely no justification for candidates seeking election to Parliament to make any declaration as required by the Bill. Such declarations should be made only by persons who have been elected. I have made the point that the matter of pecuniary interests is peculiar to members of Parliament only. Standing Orders require a declaration of pecuniary interests when any vote is taken when a member may be advantaged by the way in which he casts his vote.

A person who is trying to get elected has nothing to do with the matter that is now being debated. Indeed, to require candidates to make such a declaration involves an absolute gross invasion of privacy. As I have said previously, we are really considering an extension of the existing position as governed by Standing Orders.

By no stretch of anyone's imagination can such an intrusion encompass candidates in an election. It would be more difficult to deny if the Bill required those public servants who are in a position of influence or if members of statutory boards were required to make statutory declarations. With the change in the power of public servants (which no doubt every member present recognises) that has occurred over the past 10 or 20 years, one can say more and more that a public servant in a powerful position is far more likely than a back-bench member to have pecuniary interests that should be declared. Certainly, the difference between that person and a candidate for election is as different as chalk and cheese.

I do not believe, if one examines the matter of pecuniary interests, that one can make any demand on a candidate to disclose his pecuniary interests. However, when he becomes a member it is a different question, which can be debated. No case can be made out for forcing candidates to make declarations.

Clause 3 makes it necessary for a declaration to be made by a member in relation to and on behalf of children under the age of 18 years. I do not agree with this, either. Nevertheless, I am willing to admit that, in all reports that have been made to Parliaments on the question of the affairs of children under the age of 18 years, there is a demand that their affairs be disclosed. Personally, I do not agree with it.

Regarding the question of the spouse and the putative

spouse, once again I do not agree that there is any need to have declarations made. We have married women who are members of Parliament with husbands who have business affiliations, yet this Parliament is asking for a declaration of the husbands' pecuniary interests. If one looks at it in that way, one can see why I have grave doubts as to whether such a declaration should be made.

**The Hon. Anne Levy:** You seem to be more concerned with protecting men than with protecting women.

**The Hon. R. C. DeGARIS:** No. I am putting the case in the other way.

**The Hon. Anne Levy:** You are quoting the unusual case, rather than the usual case.

**The Hon. R. C. DeGARIS:** Perhaps I am following in the honourable member's footsteps. In the Bill, "Declarable financial benefit" means any financial benefit or financial benefits exceeding in amount or value or in aggregate amount or value the prescribed amount. The prescribed amount is $200. This is the only legislation that approaches this matter in this way. In other Parliaments the question has been tackled from a different standpoint; for example, in Canada people have to make a declaration if their shareholding exceeds 5 per cent of the total shares of a company; in the United Kingdom, this figure is 1 per cent. Here, however, we are looking at the matter from the viewpoint of the financial return on the investment.

I repeat that there is no case for a declaration to be made by an electoral candidate. Also, I am in disagreement concerning the provision relating to the prescribed amount; no change should be made by regulation. The matter should come back to Parliament for debate if a change is proposed. In relation to the return period, I believe that a six-month period is burdensome; 12 months should be sufficient.

I have also pointed out that I believe that the registrar should be an officer of this Parliament. If the recommendation of the Joint Committee is to be followed (and I do not agree with all the recommendations there), clause 6 must be redrafted. Also, the penalty of $5 000 is ridiculously high in regard to any offence under this legislation. I will be seeking to have that penalty reduced. If the Council goes along with the broad directions that I have outlined, it must always be borne in mind that the existing Standing Orders will still apply, even if this Bill operates in its entirety. Every honourable member will still be required to declare whether he has any pecuniary interest in relation to a matter before the Council. So, even an open declaration will not take away from the existing Standing Orders in this connection. I am prepared at this stage to support the second reading. I am not in favour of the Bill as it is drafted, and I will seek to amend it during the Committee stage to achieve a balance between the rights of Parliament, conflicts of interest, and the right of privacy that everyone should enjoy.

**The Hon. ANNE LEVY:** I support the Bill in its current form, and I have given its principles much thought. I am glad that the Leader of the Opposition supports the general principle of the Bill, which is surely necessary to convince the public that politicians' affairs are beyond suspicion. In this country we have had a series of scandals (luckily not in this State, but elsewhere) which have seriously undermined public confidence in politicians. Scandals federally and in other States will affect attitudes to politicians in this State, too, even though to my knowledge there has been no hint of impropriety on the part of any member of this Parliament. We all suffer from the Lynch family trust affair, the Joh Bjelke-Petersen share parcels, and the Sinclair family companies matter, quite unfairly, I know, particularly for members of the Labor Party, as the interstate scandals have involved only members of the Liberal Party and National Country Party. I acknowledge that it is unfair, too, to members opposite. Even though members opposite are members of the Liberal Party, it is not just to reflect on them for the sins of their interstate Party colleagues.

**The Hon. R. C. DeGaris:** Have you forgotten the Iraqi affair?

**The Hon. ANNE LEVY:** There was no hint of personal impropriety or any personal pecuniary interest in that matter.

*Members interjecting:*

**The PRESIDENT:** Order! The Hon. Miss Levy.

**The Hon. ANNE LEVY:** So, we can take it that it is necessary to introduce a measure such as this to spotlight potential conflicts of interest and to bolster public confidence in our governmental system generally. For this reason I reject the assertions of the Hon. Mr. DeGaris that the Bill should not apply to candidates; it is just as necessary that the public should have confidence in people seeking political office as it is that the public should have confidence in the people who are actually elected. The proposal before us, which is moderate and sensible, does not go nearly as far as that in some other countries.

I shall state the situation in connection with the declaration of pecuniary interests in the U.S.A., which has led the world in these matters. Since 1968, laws in that country have governed the compulsory disclosure of pecuniary interests, including honoraria received, royalties, and the source of these payments. Since 1977, members of Congress have had to disclose income, gifts, reimbursements, financial holdings, liabilities, commodity transactions, and real estate, not only for themselves but also for their spouses, and family income and assets. Many members of Congress have voluntarily filed their tax returns, as evidence of their good faith. Of particular interest is the fact that from January of this year U.S. Congressmen will have limits imposed on how much they can receive in the way of outside earnings. Earned income, whether from honoraria or from professional practice, such as the law, willl be limited to 15 per cent of official salary, which many here may regard as an unnecessary interference with the affairs of the individual.

In typical American fashion, however, unearned income is given an exemption and, while not only the source but also the amount must be declared, no limits are imposed on the sum which can be received. "To them that hath shall it be given, to them that hath not it shall be taken away" is perhaps an appropriate comment.

Two points about the Bill before us have received much comment, and I should like to discuss these matters in more detail: first, whether or not the register of interests should be publicly available, and if it is to remain secret I can see very little point in having such a register. Justice must be seen to be done as well as be done, and a secret register will do nothing to restore public confidence in members of Parliament. Unless the public know our financial interests, how can they judge whether or not such interests are affecting our public behaviour? I cannot understand why some Liberals object to open disclosure. Are they ashamed of their financial dealings and property investments? I am certainly not ashamed of my financial affairs, much as I might personally regret that they are not more extensive.

This guilt about financial holdings seemed to be echoed by repeated statements when this Bill was debated in the other place that the passage of the Bill would be of benefit to the A.L.P. I cannot see why, except as credit to an A.L.P. Government for introducing such a measure, as it will apply equally to all members of all Parties. If it is to

favour the A.L.P., whose members I should guess are less likely to have extensive pecuniary interests, it must indicate that Liberals are indeed ashamed of their interests and so do not want them disclosed, and that strikes me as being an extraordinary situation.

It has been said that such matters as unearned income should remain private to the individual or perhaps be disclosed only to a particular trusted person. This passion for secrecy seems incredible to me. The income we earn as members of Parliament is public knowledge: it is published in the press, debated in the community, and is no secret to anyone. Why should unearned income or income earned by extra exertion be considered in any way different? As people in the public eye, I can see no justification for treating unearned income in any way differently from earned income, and those who put forward such a point of view obviously apply a mystique to capital which they do not accord to labour.

The other point I wish to discuss concerns the clauses relating to disclosure of interests of close family members of members of Parliament. As a concerned civil libertarian, I have given the matter much thought, as our spouses and children are not members of Parliament and are certainly individuals in their own right who have not chosen the glare of publicity which accompanies those in the public eye. I was amused to read in *Hansard* of the great concern expressed in the other place over the privacy rights of spouses by the same people who only a few weeks before were denying the right of spouses of members of Parliament to sell their labour for what it is worth. Again, I suppose this is from capitalists who treat unearned income as being in some way special and wish to protect their spouses' capital assets even from disclosure, while applying different standards to a spouse's rights in the labour market. Such hypocrisy is really amusing.

However, ignoring this point, the dilemma remains regarding declaration of family interests and income. If spouses have a good relationship, they will obviously want to help one another in their chosen careers. In the same way that they entertain visitors relating to the other's work interests, they will not object to declaring publicly their financial interests if this is required for furthering the other's career. Decisions such as whether to run for public office are not taken by the individual alone but are a joint decision by two people concerned with each other's welfare and happiness, and I am confident that spouses with their partners' interests at heart will not object to financial interests being made public. Actually, this can be extended well beyond spouses. Why should people object to others knowing how much money they get? Award wages, teachers' salaries and university professors' salaries are public knowledge.

Why should people be ashamed of what they have being public knowledge? Again, it seems hypocritical to assume that wages and salaries, which are the price of labour, can be public but dividends and other manifestations of capital should remain secret. I always thought capitalists were proud of being so and I cannot understand why returns on capital should be private while returns on labour are not. In some countries, for example Sweden, income tax returns are public documents, and all secrecy regarding income has been abolished. I would hope such a system would apply in this country at some time so that all unearned income as well as the standard wages of the workers would no longer be secret.

A major consideration, of course, regarding declaration of pecuniary interests by family members of politicians is that without such declaration the whole exercise would be futile. I understand Mr. Fraser himself has said as much and, although I am not given to quoting that gentleman, on this occasion I am glad he agrees with us here. It would be too easy to transfer assets into the name of a spouse or child and so prevent disclosure. Only in rare cases of marital discord would one partner hesitate to do so for fear of the other departing with the entire assets of the marriage. If we are to have disclosure then it obviously must be full disclosure for the family unit, or it is not worth having such a measure at all.

In conclusion, I wish to support the Bill and quote from an article in the *Age* by the highly respected political journalist Michelle Gratten, who I think expresses most competently the arguments for this legislation when she writes:

> . . . the question of public trust in members of Parliament. In the current climate of public opinion, nothing short of a full public register appears likely to be sufficient to convince electors that their politicians' affairs are beyond suspicion.

I support the second reading.

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

## ADJOURNMENT

At 3.49 p.m. the Council adjourned until Wednesday 7 February at 2.15 p.m.