LEGISLATIVE COUNCIL

Wednesday 14 February 1979

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

QUESTIONS

CHILD PORNOGRAPHY

The Hon. J. C. BURDETT: I seek leave to make an explanation before asking the Minister of Health, representing the Premier, a question regarding prosecutions for having child pornography available for sale.

Leave granted.

The Hon. J. C. BURDETT: On many occasions when this matter has been debated, Government members in this Council and the Premier in another place have said that no child pornography is available in South Australia and that, if it becomes available a prosecution will be launched. A publication entitled *Little Girls*, which is clearly child pornography, having previously been classified, was refused classification in July 1977. On 5 May 1978, a copy of this publication was purchased in a bookshop by a Mrs. Gwen Tapp, who complained to the police.

Reported in yesterday's *Advertiser* were the results of a prosecution of the same bookshop, the prosecution obviously relating to the same occasion but to different publications. It related to breaches of the Classification of Publications Act and to publications that had been sold contrary to the provisions of that Act. However, it seems that there was no prosecution on the same occasion under section 33 of the Police Offences Act for the sale of the publication to which I have referred.

It seems from the timing that, if no prosecution had been launched, it might have been because of the bungle that existed last year regarding certifications by the Minister under section 33 of the Police Offences Act, which provides that a prosecution can be launched on the Minister's certificate only. It was discovered last October that the administration of the Act had never been formally committed to the Chief Secretary and that, therefore, there was no ability to depute that power to the Premier. It was discovered at that time that a number of prosecutions had been instituted on the certificate of the Premier, while he had no power to do so.

This may be why no prosecution has been launched in the case in question but, from the timing, it seems that after the bungle was fixed up, it would have been possible to lay a fresh complaint. Will the Minister of Health ascertain from his colleague whether a prosecution was instituted and, if it was, what was the outcome of it, or, if it was not, why not?

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

SOLAR ENERGY

The Hon. R. A. GEDDES: Press reports indicate that at a school in Maryland, in the United States, a solar absorption unit for solar air-conditioning has been installed. Will the Minister representing the Minister of Mines and Energy ask his colleague whether the South Australian Energy Council has done any work on solar air-conditioning equipment suitable for South Australia, and whether he will report on the economics of installing such solar air-conditioning in schools and other suitable buildings in South Australia?

The Hon. B. A. CHATTERTON: I will refer the honourable member's question to my colleague and bring down a reply.

SCHOOL FEES

The Hon. N. K. FOSTER: I seek leave to make a statement before asking a question of the Minister of Agriculture, representing the Minister of Education, about school fees.

Leave granted.

The Hon. N. K. FOSTER: My question concerns school fees that are compulsory, on the one hand, and school fees that parents who may have more than one child at a school are not obliged to pay, on the other hand. I am concerned about the setting out of the form given to students by teachers. Some people have made representations to me that the information set out on those forms for students to take home does not clearly indicate that certain payments are not compulsory. Will the Minister ascertain from his colleague whether or not school fees are itemised in such a way as to show clearly whether or not parents are obliged to pay certain fees listed on fee schedule sheets in primary schools and high schools?

The Hon. B. A. CHATTERTON: I will refer the honourable member's question to my colleague and bring down a reply.

ROAD ELEVATIONS

The Hon. N. K. FOSTER: I seek leave to make a statement before asking a question of the Minister of Tourism, Recreation and Sport, representing the Minister of Transport, about the elevation of certain roads in the metropolitan area.

Leave granted.

The Hon. N. K. FOSTER: In the last week or so I have raised the matter of certain major road crossings that are controlled by electronic devices. I am concerned as to whether the intersections could not have been made the subject of greater engineering study to ascertain whether or not they should be controlled by electronic devices. I am not suggesting that the engineering section of the Highways Department has not perhaps looked at these areas. However, electronic devices are becoming so common on some of our main roads that it has reached the stage where such devices are almost obstructions. What is the height at the centre of the intersection of Portrush Road, Lower Portrush Road, and Payneham Road? There is a crest at that intersection. I am concerned as to whether or not an engineering study could perhaps have led to a more efficient intersection. Further, what is the elevation of the Main South Road within 500ft. of the intersection on both sides of the Main South Road at Flinders University?

Members interjecting:

The Hon. N. K. FOSTER: What is the height at the centre of the intersection of Main South Road and Sturt Road?

The Hon. R. A. Geddes: What is the height of the road?

The Hon. N. K. FOSTER: That is right. I can see I will have to go into this in greater detail in my explanation. As you come along either side of the South Road there is a considerable hump at Sturt Road. Yesterday I referred to Montague Road which, 200ft. to 300ft. back, drops steeply down to the crossing. I think I have now removed any

confusion that may have existed in this matter.

The Hon. D. H. Laidlaw: I am still confused.

The Hon. N. K. FOSTER: But you are not an engineer; that is why you are confused. Finally, what is the intention of the Highways Department regarding the new extensions to Gorge Road at the intersection of Gorge and Addison Roads at Athelstone?

The Hon. T. M. CASEY: I will refer that very complex question to my colleague the Minister of Transport, who I am sure will be able to give a satisfactory answer.

SOUTH AUSTRALIAN INSTITUTE OF TECHNOLOGY ACT AMENDMENT BILL

Read a third time and passed.

APPROPRIATION BILL (No. 1), 1979

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

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

That this Bill be now read a second time.

In moving the second reading of the Bill, I propose to make a few comments about the State's general financial situation before explaining the items in the Supplementary Estimates. In presenting the Revenue and Loan Budgets last September, I said that the Government proposed to maintain a balance on the 1978-79 operations of its combined accounts and, accordingly, planned to hold the accumulated deficit to about $6 500 000 at 30 June 1979.

Recent reviews indicate that in spite of the difficult financial and economic background against which the Budget was framed, it is likely that the Government will achieve its planned objective. While the outlook for the overall Budget result remains the same, there have been variations in some of the elements which make up the Budget.

With respect to the Revenue Account component, recent reviews suggest that pay-roll tax is likely to be down by about $3 000 000, and the recall of funds from the Pipelines Authority of South Australia may fall short of the original Budget expectation by about $5 000 000 owing to the difficulty in refinancing fully the original advance provided from Revenue Account. On the other hand, there are indications that receipts from the Commonwealth-State personal income tax sharing arrangements could exceed the original Budget forecast by about $5 000 000. All other receipts seem likely to show a net increase of about $1 000 000 made up of some movements above and some below Budget. In short, overall receipts are likely to be down on Budget by some $2 000 000.

Although the Supplementary Estimates appropriate a total of nearly $24 900 000, much of this is simply to cover transfers of functions from one department to another, accounting and appropriation arrangements and specific departmental appropriations in respect of the round sum allowances provided in the original Budget to cover salary and wage increases and price rises. These arrangements are explained in subsequent comments on the details of the Supplementary Estimates. Suffice to say for the moment that overall there is likely to be a net under-expenditure against the original Budget expectations of about $2 000 000.

In summary, an expected shortfall of some $2 000 000 in receipts offset by an expected under-expenditure of about $2 000 000 would maintain the Government's planned balanced result on Revenue Account.

As to the Loan Account component, with the exercise of continued restraint, it seems likely that the Government will be able to maintain its Budget objective of a balance on the year's operations, after providing for the planned transfer of $5 000 000 to Revenue Account. Thus the expectation on the two accounts combined is still for a balance with the accumulated deficit at 30 June 1979 being held to $6 500 000. Of course, with nearly five months of the year still to run, there is the possibility of changed trends or individual variations and a different result. Relatively small proportionate variations could change the final result by several million dollars.

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

TRADE STANDARDS BILL

Adjourned debate on second reading.

(Continued from 13 February. Page 2529.)

The Hon. R. C. DeGARIS (Leader of the Opposition): Yesterday the Hon. Mr. Laidlaw opened the debate from this side of the Chamber, and I commend him for his speech on this Bill. The more one examines it the more one realises that business in South Australia wants a Bill like this now as much as it wants a hole in the head. The Bill repeals six existing pieces of legislation and combines them into one, the Trade Standards Bill.

The Minister may, by regulation, impose conditions regarding the safety, quality, information and packaging of goods and services. As I have said previously, if this State is to make some economic recovery, there is a need to rely on the private sector to lead that recovery. In South Australia in the past five or six years (and members on this side have warned the Government about this) there has been no confidence on the part of the business sector. I mentioned that matter recently when I spoke to several people in Sydney who were involved in manufacturing, and they regard South Australia as a disaster area.

I refer anyone who wants an indicator for a down-turn in the State to the fact that pay-roll tax receipts this year will be $3 000 000 less than the estimate. That is a clear indication of what is happening, and many people, in writing to the press in South Australia, have highlighted this fact. I made this complaint yesterday and have made it at other times during the past five years. Unless a brake is placed on bureaucratic controls in this State that are affecting the private sector seriously, South Australia will not make an economic recovery.

The Hon. J. E. Dunford: You want to do away with consumer affairs legislation.

The Hon. R. C. DeGARIS: I am talking not about consumer affairs but about being practical and reasonable. Today it has been brought to my attention that a man who wants to subdivide about 100 acres of his property has been told that, under the new controls, anything up to five or seven months will elapse before approval is given. If one wants to see the brake on business in this State, one looks at the tremendous amount of regulation that is taking place under the guise of planning. There is a need for planning, but there is also a need for a practical realisation that we cannot hobble the private sector and then expect it to lead any form of economic recovery.

As I have said, this Bill affects all goods and services, and action will be taken by regulation. Under the existing Acts that the Bill repeals, there is almost a library of regulations. With the expansion that this Bill makes, one will need a set of regulations so big and heavy that one will

have to be a lawyer to understand what is happening. Yesterday, the Hon. Mr. Laidlaw gave an example regarding paper clips that was right on the ball. He said:

> Suppose that I decide to manufacture and sell paper glider clips in South Australia. If this Bill passes, it is likely that I will have to make them to the safety standards prescribed.

How are we to have regulations regarding quality, safety, packaging and information on the manufacture of glider clips? We could continue that over the whole range of goods and services in South Australia. The Hon. Mr. Laidlaw continued:

> It is envisaged that the regulations pursuant to this Bill will prescribe the design, construction, contents, finish and performance of these paper glider clips so that they do not impair the health of those who use them. The penalty for breach is up to $10 000.

If this State is to make any economic recovery, it does not want this sort of legislation hanging over its head. This will have a detrimental effect on our ability to compete and to attract manufacturing industries to South Australia.

The Bill covers the matter of quality, regarding which we can prescribe any standards that we like. I ask honourable members to consider for a moment how we will have quality standards for products or services that are sold or offered for sale in South Australia. Will we adopt international standards or the standards fixed by the Standards Association of South Australia, or will we have in this State separate standards dreamed up by some department under the Attorney-General's control?

It is impossible, and indeed stupid, to expect industry in South Australia to have this sort of legislation hung over its head. When this Bill passes, no-one will know what the quality, safety or packaging standards will be. We must all wait for regulations to come through in order to determine these matters.

I do not oppose a reasonable approach to consumer protection or planning. However, this State has gone completely mad with over-regulation and over-control, and with the intrusion of the Government into areas that belong traditionally to the private sector. As the Bill relates to many matters that need to be developed and studied, I seek leave to continue my remarks later.

Leave granted; debate adjourned.

DOG CONTROL BILL

Adjourned debate on second reading.

(Continued from 13 February. Page 2526.)

The Hon. M. B. DAWKINS: I rise to give attention to this Bill. I am able to give the Bill favourable consideration because this matter has been the subject of consideration by a working party and, later, by a Select Committee of another place. Of course, that does not make it a perfect Bill, and some of its clauses may be improved by amendments that may be moved in Committee.

However, we must accept, as unhappy as some people may be regarding some provisions, the general need for the Bill. We must also accept that the existing legislation is no longer adequate and that, in relation to dogs, it does not provide for the situation which now obtains in urban, suburban and fringe areas.

An increasing amount of trouble has been caused by dogs that have been abandoned or have not been properly cared for in the city and suburbs, as well as in the adjacent rural areas, where stray dogs have been causing much trouble with stock. It is therefore appropriate that this Bill should be introduced now. As the Minister said, the Bill gives effect to the recommendations of the House of Assembly Select Committee that investigated the report of the working party which considered the control of dogs and the deliberations of which were conducted earlier.

One must look at the canine species in general to see the great variations that exist in the type of animal which is, in most cases, a great friend of man but which is, in other cases, his enemy. Honourable members will know about working dogs, which are intelligent and loyal, as well as, on the other hand, dogs that are not properly controlled or are destructive, and about dog owners who are not responsible.

We also have the problem of uncontrolled and abandoned dogs. There is, therefore, reason to introduce legislation aimed at taking care of the difficulties which have arisen and which are causing concern because they are increasing. The lack of responsibility by some dog owners, and the abandonment of dogs in rural areas, have been serious problems indeed.

The Minister said that the present Registration of Dogs Act primarily provided for the registration of dogs by councils. This Bill does the same thing, but seeks more application by councils to provide a better system of dog control and a closer watch on the activities of people who own dogs, but who, until now, in many cases have got away without registering or caring for them properly.

The Bill makes provision for dogs which wander or which are abandoned. Penalties are also prescribed for those people who allow their dogs to become nuisances. The Bill also requires an annual registration of any dog with a local council and, in the North of the State, with the nearest police station. To all intents and purposes, that situation obtains under the Act that is now on the Statute Book.

The Hon. R. A. Geddes: Will the police be required to put a tattoo on these dogs?

The Hon. M. B. DAWKINS: I do not know about that, although I should like to say something directly about tattooing, which is not the unmixed blessing that some of my colleagues in another place seem to think it is. The fee which is suggested and which will be fixed by regulation will be $10 for the first registration of any dog and $5 thereafter, with a corresponding reduction of half the fee for working dogs and those owned by pensioners. The reduced fee for working dogs is a sensible one for rural areas where some agriculturists have four or five dogs on a property. Indeed, on some of the larger properties there would be more dogs than that.

The dog is to be identified by a registration disc attached to its collar or by the tattooing of one of its ears. The registration disc attached to the collar has been a means of identification (although not a satisfactory one) for many years. It obtains only as long as the collar stays on the dog's neck. Some dogs in country areas hop into the nearest water trough (I do not know how that can be stopped), as a result of which the collars become rotten; they then break and can be lost and, of course, the disc goes with them. I am interested to read about tattooing. I have been told that tattooing has been blessed by professional people in another place. Although I agree that this may be a step in the right direction, any person who has had a fairly wide experience of tattooing will know that in many cases it is done ineffectively.

The Hon. C. M. Hill: You mean animal tattooing?

The Hon. M. B. DAWKINS: Yes. It may be more effective on human beings. Indeed, I have seen some people who are fairly well identified by their tattoos. However, regarding animals, tattooing is frequently done ineffectively. I have experience in the tattooing of stud sheep. It has been my job on many occasions to inspect

tattooing at sales, and I know that tattooing is certainly not a means of always identifying the sheep clearly, because of the many instances of ineffective tattooing.

Often the tattoo is not clear, particularly in the darker breeds. So, tattooing may not come out properly and may, in that case, be ineffective on dogs that have dark ears. It has been claimed that it may be some years before people become competent in tattooing their animals correctly. The same point applies to the pig population. I had a little to do with the promotion of pig branding. If a brand is slapped on a pig, in some cases it may be clear and in other cases it may be indistinct. So, while tattooing is a step in the right direction, it is certainly not the entire solution to the problem.

The Bill includes provisions that are designed to ensure that councils apply the revenue earned from the administration of the legislation only for that purpose. It also provides for the establishment of a body to be known as the Central Dog Committee, whose function it will be to receive and distribute a percentage of registration fees received by councils and any surplus of the income of councils over their expenditure. I do not intend at this stage to refer to the clauses in detail.

Regarding the provisions designed to ensure that councils apply the revenue earned from the administration of the legislation only for that purpose, I wonder whether there will ever be very much opportunity for councils to do otherwise. Clauses 6, 7, and 12 relate to this matter and also to the appointment of dog wardens. Whilst a dog warden may be engaged in other activities with the consent of the Minister, it is generally expected that dog wardens will be appointed on a full-time basis and possibly on a shared basis with other councils in appropriate cases.

I very much doubt whether a council will even contemplate contravening the provisions relating to revenue earned, because possibly the revenue will be insufficient to provide for the controls that the legislation envisages. Nevertheless, it may be a step in the right direction. Clause 12 refers to the need for councils to keep separate accounts. This means more bookwork, and it will require each council to pay to the Central Dog Committee the prescribed percentage of the moneys paid to the council by way of dog registration fees. No doubt that percentage will be prescribed by regulation.

I have received communications from councils that are very concerned about these provisions and about the Central Dog Committee. Those councils believe that this is another big brother function. They are rather worried as to whether they can carry out the provisions of the new legislation satisfactorily in view of the fact that they have to pay some of the revenue to the Central Dog Committee.

The Bill creates a number of new offences in relation to the control of dogs. I believe that all thinking people would be inclined to support this aspect of the Bill. I now refer to some of these provisions. In particular, the Bill creates the offences of abandoning a dog, permitting a dog to cause a nuisance, and failing to properly treat an infected or diseased dog, as the Minister's second reading explanation states. Actually, I do not believe that the word "properly", which splits the infinitive, is really necessary. The provision means that owners will have to treat their dogs more carefully. Owners will be liable if they treat their dogs irresponsibly, abandon them, or allow them to cause a nuisance. These provisions merit general support in the tightening up of the controls over a type of animal that can vary from being a good and intelligent servant of man to being a creature that does a tremendous amount of damage if it is uncontrolled. Unfortunately, I have not had time to go through the clauses in detail. I therefore seek leave to continue my remarks later.

Leave granted; debate adjourned.

DANGEROUS SUBSTANCES BILL

Adjourned debate on second reading.

(Continued from 13 February. Page 2524.)

The Hon. R. A. GEDDES: I rise not to praise this Bill and possibly not to condemn it altogether, but certainly to find fault with it. Its short title is "Dangerous Substances Act, 1978". I do not say that the Bill has been badly drafted by the Parliamentary Counsel, but I believe that the instructions given to him by the Government were incorrectly thought out.

According to the Minister's second reading explanation, it is proposed that the Bill will cover the Liquefied Petroleum Gas Act and the Inflammable Liquids Act and 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. However, there is a difference between the Minister's second reading explanation and the Parliamentary Counsel's report. He says that the Bill will also cover cryogenic liquids (below minus 150 degrees Celsius) and swimming pool chemicals. Clause 5 defines "dangerous substance" as follows:

> "dangerous substance" means any substance, whether solid, liquid or gaseous, that is toxic, corrosive, inflammable or otherwise dangerous and declared by regulation to be a dangerous substance for the purposes of this Act:

Nowhere in the Bill is there any reference to what types of chemical and other dangerous substances are to be included. One becomes suspicious of a Bill that has such a wide definition of dangerous substances, without indicating what type of substances the Bill is to police, leaving the details to regulations. The Minister's second reading explanation says that the Bill does not cover poisons which come under the Food and Drugs Act or explosives which come under the Explosives Act or radioactive substances which come under the Health Act, but it argues at the same time that the Government has been concerned that there is no legislation to cover the problems.

Rather than having a number of separate Acts, each providing for the control of one particular type of liquid or substance, the Government has decided to introduce a comprehensive Bill about dangerous substances, but at the same time it leaves out three important elements: poisons, explosives, and radioactivity. One presumes that the omission of radioactivity is due to the influence of that little man who went to Europe and who is now trying to deprive the nuclear world of a portion of its energy needs.

How can an individual interpret this legislation? How can we as responsible members of Parliament ask industry for its opinions when all the powers are left to the regulations? Will the storage of liquid petroleum gas at many rural towns in the State be altered because of this Bill? Will inspectors impose new restrictions for capital expenditure on the country service station or store at which l.p.g. gas is stored as a service to the travelling public and the tourists, because there is little profit in storing it in cylinders? Will the inspector order changes in the way l.p.g. cylinders are carried in caravans or on the back of Land Rover or Range Rover vehicles? It is admitted that the carriage and storage of l.p.g. gas can be dangerous, but there are no guidelines for Parliament to agree or disagree to: it is left to what will be a massive amount of regulations, which are impossible for Parliament to amend. Furthermore, it must be pointed out

that under the Bill the inspector has the authority to stop any vehicle for the purpose of determining whether the Act has been complied with.

Perhaps my illustration will never occur. However, I mentioned earlier that the Minister said that one of the things to come under the control of this Bill will be the compounds and powders used for cleansing water in swimming pools. Will it mean that an inspector (because it states "any vehicle") could stop a housewife on her way home from the store with her monthly supply of chemicals for the swimming pool and make some comment about them? Could that happen? The Bill does not state one way or the other; he can stop any vehicle.

So, not content with hobbling private enterprise, is the Government now stepping into a new police-type field concerning the tourist and the house owner, so that it will make the business of carrying some substances (and there is a whole range of dangerous substances that will not be covered by this Bill) more difficult?

It has admitted that there is a need for a Bill to control the total problem. Dangerous substances can start with the beer can for those people who have difficulty in holding their liquor, and it can go through the whole spectrum from there. Is it the Government's intention that another invasion of inspectorial bureaucrats will be set up to police not only the big operator moving dangerous substances interstate or moving within the State but also the little people as well? If any Government member is listening to this speech, will it occur to him that he is equally responsible for the problem of the economics of this State, and the shadow that has been passed over it, and that the more oppressive legislation we get, such as legislation by regulation, the harder it will be to recover?

That sums up my main complaint about the Bill. The Hon. Mr. Griffin concerned himself yesterday with specific clauses, and I thank the honourable member for his pointing out to the House these problems. The second reading explanation states:

> The International Standards Organisation has recently adopted a code of practice on which it is proposed that regulations under this Bill will be based.

It goes on to state that the regulations made under the New South Wales Dangerous Goods Act have also adopted the International Standards Organisation's classifications, and it is planned by this Government to have uniformity between States. There is nothing in the Bill that provides that the International Standards Organisation code shall be adopted. It seems strange that we have such a Bill, designed as it is with so many regulatory clauses in the whole 31 clauses but without any specific directions given. My last point is that the word "inflammable" is used throughout the Bill wherever it is needed. In the second reading explanation the word "flammable" is used. I understand that in the code of practice, set up by the United Nations, the word "inflammable" is no longer used, because it has a misleading meaning, and that the word "flammable" is used because the public understands it.

The Hon. R. C. DeGaris: Should we adopt international standards?

The Hon. R. A. GEDDES: That is the point to be considered by the Government. Is it good enough for the second reading explanation to use "flammable", when the Bill refers to "inflammable"? A few years ago I wished to move an amendment containing "flammable" but was told by the Parliamentary Counsel that the State was not yet geared to use the word "flammable", and that if I were to wait patiently they would get around to making the alteration. I have been waiting patiently, and it is time that the Government further considered this matter, because on the average petrol tanker on the road today (which is about the most obvious dangerous substance vehicle we see in our day-to-day life), in most instances are shown the words "flammable goods" or "flammable load". It indicates that the word "flammable" has already been accepted by the trade but not accepted within the legislation. I support the second reading with the intention of supporting amendments at a later stage.

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

CONTRACTS REVIEW BILL

Adjourned debate on second reading.

(Continued from 13 February. Page 2527.)

The Hon. C. M. HILL: This Bill highlights the political and economic backwater into which South Australia has drifted in recent times. The Sydney *Bulletin* recently called us "a peasant State". Max Harris, the well known journalist, said in last weekend's local press:

> South Australia is the dying man of Australia.

We are being brought to our knees by difficult economic conditions throughout Australia, by the worst unemployment situation of any mainland State and, most importantly, by a State Government incapable of encouraging growth and expansion, and unresponsive to the need to engender confidence and the will to prosper within the commercial and business sector. In such a weakened social, political, and economical condition we cannot withstand the adverse effects of extreme and unnecessary consumer legislation such as in this Bill. These Bills, with controls, restrictions, and blanket regulations drain the last drop of confidence from that section of the community whose vitality is essential to our future.

I refer to the small businessman, producers, manufacturers, and the providers of goods and services, indeed, all large and small employers. Therefore, in the best interests of this State and its people this Council should either reject the Bill in its entirety or amend it so heavily that it will not damage our chances of recovery in any way.

Speakers so far in the debate have emphasised that protection is already afforded consumers in South Australia. Wherever there has been a specific need for protection, legislation has been introduced by the Government and supported by this Council. I refer to the Residential Tenancies Act, contracts under the Consumer Credit Act, the Land and Business Agents Act, the Misrepresentation Act, and the Door to Door Sales Act, all of which are examples of Parliament's having given protection. However, this Bill casts a net over all those areas and more, and even includes, as earlier speakers have pointed out, interstate and overseas contracts that will be endangered at great cost to our remaining economy.

Therefore, in speaking in opposition to the measure I stress that protection already exists in the areas to which I have referred. The blame for this Government's policies that have been so restrictive and damaging rests in the first instance with the Premier. I refer to an article by Max Harris, who says, frankly, that shorn of his mystique the Premier is incapable of establishing permanent prosperity here. The article states:

> But while the Premier has constantly trotted the girdle of the earth offering non-existent investment advantages to hard-nut industrialists, his domestic policy in South Australia has been to move towards that worst of all pseudo-

progressive worlds—bureaucratic socialism, modelled on the horrific British version.

The Hon. C. J. Sumner: You're not taking that seriously, are you?

The Hon. C. M. HILL: Many people took it seriously over the weekend when they read it. A few years ago Max Harris was the champion of members opposite, but now he rightly claims that real and practical incentives have never been provided.

The Hon. C. J. Sumner: You've got to do better than quote Max Harris.

The Hon. C. M. HILL: Max Harris rightly claims that real and practical incentives have never been provided by the Labor Government in this State. He states:

> There are no—

The Hon. C. J. Sumner: Why not read the lot?

The Hon. C. M. HILL: I know what is worrying the Hon. Mr. Sumner, but he should be patient. Max Harris states:

> There are no revolutionary pay-roll tax reforms for the businessman to set against the high freight, communication, and market-contact special costs.

He then refers to the drift away from South Australia by people who, like himself, are moving interstate. He gives one devastating example about why this is happening, and states:

> Even the lofty Dunstan political morality turns out to be more cynically pragmatic than idealistic. Dunstan is the nation's last believer in the evils of death duties. Only an idiot would choose to do his dying in South Australia where the belief is that an individual who has been taxed stupid all his life should be taxed in his grave for his sinful love and care of family. Spend it on the gallopers while you've got it, is the wholesome A.L.P. philosophy.

Secondly, the blame for our economic frailty must be sheeted home to what Harris calls, "the embittered radicalism of the Attorney-General, Peter Duncan".

The Hon. C. J. Sumner: If you're still quoting, you're not showing much originality.

The Hon. C. M. HILL: I quoted that passage for the special benefit of the Hon. Mr. Sumner. The Attorney-General is the architect of this Bill. He has been the architect of much of the consumer protection legislation on our Statute Book. Indeed, he pursues his headlong lust for change and power by one law reform after another. There seems to be a special achievement marked up when his legislation is the first in Australia: the first seems to deserve a special prize.

Mr. Duncan is ruining South Australia. The people to whom I referred earlier, that is, the people described by Max Harris as the middle classes, have lost their incentive, their drive, and their ambition. The weight of new law under which they must live and conduct their affairs and the ever-increasing controls and regulations have sapped their business energies.

The Hon. J. R. Cornwall: You're quoting again.

The Hon. C. M. HILL: No, I am not, but I will. In his sad salute to the Attorney-General, Max Harris states:

> The South Australian middle classes have lost heart, hope and fight, I am irrelevant, as Mr. Peter Duncan has always claimed. He is right. They are his subject people.

The whole thrust of my submission is to stress the economic predicament of South Australia and, perhaps more importantly, to emphasise the loss of confidence amongst business people and all those involved in commerce and industry. This mental attitude and, indeed, depression has not been caused merely by economic difficulties alone but by the unending stream of restrictive legislation pouring on to our Statute Book.

If we can check that flow, people in private enterprise will look to the future once again with hope and assurance. I believe that people want Parliament either to reject this Bill totally or amend it to remove its sting. It seems from the speeches made so far, and from the amendments on file, that that latter course will be taken. I will support all amendments. Certainly, if this Bill is heavily amended the Legislative Council will strike a telling blow against the Government and against Mr. Duncan and, in particular, we will help South Australia in the long haul back towards confidence and prosperity.

The Hon. N. K. FOSTER: I rise to speak in this debate after hearing the embittered attack on certain members of this Parliament by the Hon. Mr. Hill, who lacks the courage to identify the false ills that he accuses the Hon. Mr. Duncan as having caused when he uses as his source such a wellknown and one-time radical, Max Harris. Max Harris is now steeped in the tradition of multi-national companies and corporate affairs, and has made sure that he flogged part of his company at a considerable profit to himself. He has availed himself of all those areas of business profiteering and business "ethics" that he now sees fit to attack.

I long since gave up reading the articles of Max Harris, just as I long since gave up purchasing the paper that he writes for because of the attitude of his embittered employer, with whom he finds himself engaged in his journalism. I read little of the *Australian*, and I read much less of the *Sunday Mail*. I know only this article to the extent that the Hon. Mr. Hill quoted from it. However, if that is the authority for the Opposition to amend or reject this Bill, and if the learned words of such a radical and irresponsible person as that great giant of business success and acumen (he who scoffs at overseas trips by members of Parliament but who so frequently returns from overseas countries to express opinions on such matters as this) are used as an authority, then the Opposition's stance is questionable. We must question the Hon. Mr. Hill's attempts to amend this Bill if he keeps coming back to us with such an authority as he has used today.

It is not much better than the authority he referred to yesterday in his question to the Minister of Agriculture when seeking support for the middle men in the fruit and vegetable industry who have been living off the industry without putting anything into it for some time.

Members opposite, who sometimes accuse Government members of having a one-track mind in their attitude to business, ought to consider the fact that never in the history of South Australia was a greater percentage of taxes levied in the State, and perhaps to some extent in the Commonwealth, finding its way to the middle class and big business interests here. The gentleman that members opposite have quoted has received, either directly or indirectly, in the business pursuits he has followed, much socialist money, but he would not like to refer to it as socialist money.

The Hon. D. H. Laidlaw: What about getting back to the Bill?

The Hon. N. K. FOSTER: The gentleman mumbling now is an anti-socialist with wide business interests: will he deny that any business interest he has has received any subsidy from the Government?

The Hon. M. B. Cameron: Has this anything to do with the Bill?

The Hon. N. K. FOSTER: I am dealing with the principles regarding the authority that the Hon. Mr. Hill has quoted in this debate. The honourable member cannot criticise me for trying, at this late stage, to reflect on the opinions and authority of the man the Hon. Mr. Hill has quoted.

The Hon. Mr. Cameron cannot say, "Let us get back to the Bill", because members opposite have ranged far and wide in the debate. After the Hon. Mr. Hill ceased quoting from this infamous newspaper, he made a bitter and personal attack on the Attorney-General. Did the Hon. Mr. Laidlaw take a point of order then, saying that the Hon. Mr. Hill should get back to the Bill? Of course he did not. He is a political animal, and one could say that some animals were worse than others.

Another businessman in Western Australia recently was flogging rams and ewes in respect of which the taxpayer had paid a subsidy. Let us not be hypocritical. Why do members opposite not be honest? At least, Mr. Evans, a member of the House of Assembly, was honest when speaking on television recently, and doubtless he made out a case to members opposite on tourism, which is another matter to come before the Council. Why do members opposite not say, "We, as members of the Opposition and of the Liberal Party, reach out to protect our traditional area of support"? Those members defend so-called private enterprise in this State, and I ask why they do not say from time to time that they do.

The Hon. R. C. DeGaris: Because it is not right. We represent the whole community.

The PRESIDENT: I think there has been sufficient across-the-Chamber discussion and I should like honourable members now to get on with the debate.

The Hon. N. K. FOSTER: My entering the debate has drawn honourable members on the issue. If members opposite want to oppose or amend the Bill, they should do so on the basis of what is in the Bill, not of what has been said by a fly-by-night writer who sometimes lives in this city and who allows other people to make up his mind.

There is a need for the Bill. Surely no-one can say that there should not be guidelines for protection of the community in the business areas, and the Bill approaches that matter. How many members opposite would have stated in this Council last week that there would be a calamity last Friday, with the announcement that A.S.L. would lose $20 000 000? I could have done research and taken 1½ hours to speak about the unfair business practices and the collapse of businesses since 1970. I could have referred to Shierlaw (in fact, the whole lot of them) without members opposite being able to accuse me of not being relevant. The fellow who has that ugly building across the road, Ansett, poured millions of dollars into that company. The Bill tries to ensure—

The Hon. R. C. DeGaris: It has nothing to do with that.

The Hon. N. K. FOSTER: In some sense it has. The honourable member may disagree if he wishes. The great citadel of free enterprise is not as free as he may think. By the Hon. Mr. Hill's remarks, he regards the Bill as a direct attack on free enterprise. He never says that free enterprise is involved in trade unions or the industrial employment area: it is regarded as protecting business interests.

Members interjecting:

The Hon. N. K. FOSTER: I see that I will get support from members opposite when I seek their help to protect an individual at Port Wakefield who has been discriminated against by the council, which has refused him permission to set up in business. The council adopted the terrible attitude of contacting would-be competitors, saying, "What do you think about another business being set up in the same area?" The competitors all said "No", and the council told the person concerned that he could not operate in the area. That is free enterprise! Basically, I have spoken against the attitude that members opposite adopt, namely, that free enterprise ought to be the false god of mankind. It certainly is the god of Opposition members.

The Hon. T. M. CASEY (Minister of Lands): I am pleased that the Hon. Mr. Foster has drawn attention to the blatant attack that the Hon. Mr. Hill made on the Attorney-General by using a figure outside, when he did not know anything about law reform. It was bad for the Hon. Mr. Hill to adopt that attitude.

The Hon. C. J. Sumner: It wasn't an original performance.

The Hon. T. M. CASEY: It was at absolute zero level. If members cast their minds back, they will recall that this Bill was introduced in 1977 and 1978 and, on the recommendation in a resolution adopted by this Council, was referred to the Law Reform Committee. That committee considered it, and the Government introduced this Bill. The Bill represents a recommendation made by six of seven members of the Law Reform Committee, and it is interesting to note that the dissenting member concludes his remarks in his minority report by saying:

> If, however as a matter of principle, the Parliament should decide to proceed with a Bill of this kind, then I support the specific recommendations for change to the Bill which have been proposed by the majority of the committee.

The Hon. R. C. DeGaris: Read what the Law Reform Committee said in the first paragraph.

The Hon. T. M. CASEY: I will. The report is to the Attorney-General and states:

> Sir, You have referred to us for consideration and report the Contracts Review Bill which was considered by Parliament in late 1977 and early 1978. Your reference followed a resolution of the Legislative Council . . .

That is the first paragraph.

The Hon. R. C. DeGaris: Would you read the next one, then?

The Hon. T. M. CASEY: Very well. It is as follows:

> That the Bill be withdrawn with a view to the Government referring it to the South Australian Law Reform Committee for its report and recommendations regarding the implementation of the objects of the Bill and that the Bill be redrafted to allow for its inter-relationship with other Acts and to take into account its effect on international and currency contracts.

That is the motion that was carried in the debate.

The Hon. R. C. DeGaris: But—

The PRESIDENT: Order! The Council should not debate the matter as the Minister is summing up.

The Hon. T. M. CASEY: The Hon. Mr. Burdett said that this matter should be referred to the Law Reform Committee, and the Government has done that. Surely, members opposite will not say that a vote by six of seven members is not a unanimous decision. Surely, we cannot take the minority point of view of one person out of seven persons in this case.

The Law Reform Committee, having studied the Bill in its entirety, has come back with a new Bill altogether, and has explained its clauses in its report. This is a controversial matter for lawyers, although not for the average lay person; that is probably why the Hon. Mr. Hill could not speak on the Bill. Be that as it may, the Bill was correctly referred to the Law Reform Committee, and for that reason the committee's recommendations should be accepted. I therefore hope that honourable members will accept the Bill as it stands.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Interpretation."

The Hon. J. C. BURDETT: I move:

Page 1, after line 5—Insert definition as follows:
"contract" means a contract—
(a) under which a person (not being a body corporate or a person acting in the course of carrying on a trade or business)—
(i) purchases any goods, or services;
(ii) takes goods on hire;
or
(iii) acquires by any other means the use or benefit of goods or services;
and
(b) under which the consideration to be paid or provided by that person does not exceed in amount or value fifteen thousand dollars:

I accept the Hon. Mr. Foster's invitation to move amendments which are relevant to the Bill. The effect of this amendment is to confine the operations of the Bill to consumer contracts. My second reading speech, that of the Hon. Mr. Griffin, the submission to the Attorney-General by the Law Society, and the minority report of the Law Reform Committee all refer to the desirability of limiting the effect of the Bill to consumer protection.

The proper approach, as has been indicated, in regard to contract review or harsh or unconscionable contracts is to legislate in specialised areas. It is far better to tailor legislation and controls that are necessary where abuses have occurred to the needs of those specific areas.

We are far more likely to get uncertainty and to experience all sorts of difficulty in the interpretation of the law if we try to have an across-the-board sweeping Bill that covers every field of contract and every person who deals, on a business basis, with another person.

This Bill is appropriate to consumer contracts, regarding which, it can be said with some measure of truth, consumers are more likely to be in a weaker bargaining position than suppliers. I can see no reason why a Bill such as this should apply across the board to all contracts where the parties are in an equal bargaining position.

The whole point of contracts is to achieve certainty, so that the parties know their rights and obligations. It involves an agreement between two or more parties to do certain things and to fulfil certain obligations, and it is essential to know what the rights and obligations of the parties are. If one takes away the certainty, one takes away the whole point of having contracts. That is what this Bill is likely to do if it applies across the board to every kind of contract.

For those reasons, I suggest to the Committee that the Bill would have some merit if it was confined to consumer contracts. However, to have it apply across the board would take away the certainty in business dealings, which is the point of contracts.

The Hon. T. M. CASEY (Minister of Lands): I remind the honourable member that this is not a consumer protection Bill: it is a law reform Bill. Although it has been necessary in some legislation dealing with a specific subject to draw a distinction between consumer transactions and non-consumer transactions, it is undesirable to create an entirely separate body of law for consumers. The law of contract is ancient, and in some aspects it is in need of reform across the board, not just where consumers are involved. This Bill deals with one such aspect: that it is anomalous in the last quarter of the twentieth century that the law should protect unfair bargains.

There is surely nothing particularly radical in the proposition that the law should not protect unfair bargains. Few people outside the legal profession would realise that that is the current position. Nor is it possible to maintain an argument that the law of contract would be rendered uncertain under the Bill. The position would simply be that unjust contracts would not be protected. If a contract was unjust, it would be subject to variation or avoidance by the courts, and no-one needs to apologise for that. It is to be noted, on the question of certainty, that clear tests of injustice are set forth in the Act, making injustice under the Act arguably more easily ascertainable than many of the traditional grounds for avoidance, such as the intervention of a frustrating event or illegality of objects.

In this area of the law, a hard and fast cut-off point, drawing an artificial distinction between consumers and non-consumers, will itself create injustices as the applicable law will depend upon which side of the arbitrary line a particular transaction falls. How can we possibly justify a law which says it is all right to write an unjust contract for $15 001 but not for $14 999?

Instead of an arbitrary cut-off point, the Bill provides for a flexible, sensible system for determining whether the law should interfere with a contract. If it is a genuine, freely negotiated contract between parties of equal bargaining strength, the Bill will not apply. In other cases, however, the courts will have a discretion to intervene if the contract is considered to be unjust.

Apart from the theoretical desirability of maintaining the greatest degree of cohesiveness across the law of contract, there is clear evidence of need for this reform outside the consumer area. Instances of small business men, farmers and small proprietary companies being forced into highly disadvantageous agreements with large suppliers are regularly brought to light: one such example was put by the South Australian Automobile Chamber of Commerce to the Select Committee that reported on this Bill in another place. The Automobile Chamber, in expressing its support of the Bill, hoped that the provisions of the Bill would assist petrol retailers resist oppressive terms imposed by oil companies.

It is indeed surprising to see the Opposition deserting the small business men of this State in such a fashion. Further, even from the point of view of consumer protection, it is plainly undesirable for retailers to be "ripped off" because, if we allow that, the loss can only be passed along to the consumer. The Government reiterates that people who do not write unjust contracts have nothing to fear from this Bill. People who do write unjust contracts deserve to be fearful, and I am sure that the people of this State will agree, even if members opposite do not. I therefore cannot accept the amendment.

The Hon. J. C. BURDETT: I suggest that the ancient law of contract, as the Minister terms it, is not in need of reform in this area, nor is it in need of reform across the board. The Minister has forgotten all the remedies that exist in regard to harsh and unconscionable contracts. There are remedies already, particularly in the equitable jurisdiction of the Supreme Court in regard to harsh and unconscionable contracts. Across the board, I can see no reason to expand those remedies by this Bill. With consumer contracts, where there is often an inequality of bargaining power, there is some justification. However, at present, if there is any suggestion of fraud and dishonesty, a remedy already exists.

The Minister said that tests are laid down as to what are unjust contracts, but that is exactly what is not done. The Hon. Mr. Griffin has foreshadowed an amendment to strike out the word "unjust". "Harsh" and "unconscionable" are terms known to the law, but the term "unjust" is difficult to define and is not adequately defined at all in the Bill, nor are there adequate tests. Of course, there is the pathetic shopping list in clause 8 of things that the court

shall have regard to, but surely that will not provide a complete test. Clause 8 (1) provides:

> In determining whether a contract is unjust and whether to exercise its powers under this Act, a court shall have regard to . . .
>
> (B) differences in intelligence or mental capacity between the parties to the contract;
>
> (C) differences in the cultural or educational background of the parties to the contract;
>
> (D) differences in the economic circumstances of the parties to the contract;

Are these really suitable things to be considered across the board? They may be suitable things in regard to consumer contracts, but in regard to contracts between, say, B.H.P. and I.C.I., is there any point in having regard to these matters? How does the court determine differences in intelligence between the parties to the contract? Will it really go into all these matters? I therefore believe that the amendment is entirely appropriate.

The Hon. R. C. DeGARIS (Leader of the Opposition): In Great Britain, the word "unjust" is not used; instead, the word "unfair" is used. Can the Minister name a country which has legislation of this type in which the word "unjust" is used?

The Hon. T. M. CASEY: Because I am not a lawyer, I cannot answer the Leader's question.

The Hon. K. T. GRIFFIN: I was unable to find any overseas legislation or State legislation in which the criterion was that of injustice. In the uniform commercial code of the United States, the criterion is whether it is unconscionable, and in the United Kingdom whether it is unreasonable. As the Hon. Mr. Burdett has said, the criterion of unreasonableness is well established in the law, but the term "unjust" as applied to contracts is not well established. Regarding the desirability of limiting the scope of the Bill to consumer-type contracts, I have examined the submissions made to the Select Committee when the Bill was first before the House of Assembly in 1977. Some support and some oppose the concept of the Bill. The following is an extract from the submission made by Mr. W. J. N. Wells which sums up the difficulty very well:

> No doubt the committee has received evidence on the unwisdom of subjecting every contract (consumer and commercial alike) to the uncertainty of a potential voidability, to be settled only by the exercise of a judicial discretion.
>
> There may be cases where it might be reasonable to predict the way in which the discretion would be exercised; but they will be few. For the majority of cases only one person will know the answer: the judge who ultimately exercises the discretion. To him alone the litigant must go to have his answer. Parliament would be decreeing, in effect, that an "unjust" contract is one that the judge, in his discretion (having regard to a multitude of factors, obviously), decides is unjust.

I therefore support the viewpoint of the Hon. Mr. Burdett.

The Committee divided on the amendment:

Ayes (10)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, K. T. Griffin, C. M. Hill, and D. H. Laidlaw.

Noes (10)—The Hons. D. H. L. Banfield, F. T. Blevins, T. M. Casey (teller), B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

The CHAIRMAN: There are 10 Ayes and 10 Noes. To further the discussion on this amendment, I give my casting vote for the Ayes.

Amendment thus carried.

The Hon. K. T. GRIFFIN: I move:

> Page 1, lines 7 and 8—Leave out the definition of "industrial matter".

The definition of "industrial matter" in the Industrial Conciliation and Arbitration Act is a particularly wide one, as follows:

> "industrial matter" means any matter, situation or thing or any industrial dispute affecting or relating to work done or to be done or the privileges, rights or duties of employers or employees or persons intending to become employers or employees in any industry and without limiting the generality of the foregoing includes any matter, situation or thing affecting or relating to—

It then specifies a number of matters which are industrial matters within that definition. Honourable members will see from the words which I have just read that the definition of industrial matter is particularly wide. What I would seek to do in proposing this amendment is to clarify rather than confuse the courts to which application may be made for the terms of the Act to be applied.

In a later provision of the Bill there is reference to the Supreme Court, the Local Court, the Industrial Court and the Credit Tribunal having jurisdiction with respect to this Bill. I have indicated in my second reading speech that I believed that, if the reference to industrial matter is left in, then there will be all sorts of arguments about which forum is the proper forum for considering whether or not to apply provisions of this Bill. I instanced the example that there may be a matter which relates to an industrial matter, whether principally or as an incident to a general contract: if it relates to an industrial matter the Industrial Court has jurisdiction. If the matter happens to have been taken to the Supreme Court there will no doubt be an application to have the forum changed to the Industrial Court and, if at first view an industrial matter appears to be involved with the contract and the matter is taken first of all to the Industrial Court, it is quite likely that there will be some argument about whether or not it is an industrial matter and whether one of the other courts or tribunals ought to have jurisdiction. I believe that, if the Act is to have wide-ranging impact even on consumer-type contracts, contracts ought to be subject to review by the Supreme Court or, in appropriate cases, the Local Court.

The Hon. T. M. CASEY: I do not want to go into a lengthy discussion at this point, having already indicated the Government's opposition in the explanation I gave concerning the Hon. Mr. Burdett's amendments.

The Committee divided on the amendment:

Ayes (10)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, K. T. Griffin (teller), C. M. Hill, and D. H. Laidlaw.

Noes (10)—The Hons. D. H. L. Banfield, F. T. Blevins, T. M. Casey (teller), B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

The CHAIRMAN: There are 10 Ayes and 10 Noes. I give my casting vote for the Ayes.

Amendment thus carried.

The Hon. K. T. GRIFFIN: I move:

> Page 2—
>
> After line 10—Insert "or".
>
> Lines 12 and 13—Leave out all words in these lines.

These amendments relate to the definition of "unjust". They delete paragraph *(c)*. In the uniform code in the United States the criterion used is "unconscionable". In the United Kingdom the criterion used is "unreasonableness". The concepts of "harsh", "unconscionable" or "oppressive" are well established concepts in law. In the

context of this definition the reference to "otherwise unjust" is not a well established concept so that, if included, it would mean much uncertainty for those who are seeking to apply the principles enunciated in the Bill to a wide range of consumer-type contracts. Therefore, in order to limit that uncertainty I have moved to delete reference to "otherwise unjust".

The Hon. T. M. CASEY: The Government does not agree to the amendments.

The Committee divided on the amendments:

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

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

Pair—Aye—The Hon. R. C. DeGaris. No—The Hon. D. H. L. Banfield.

The CHAIRMAN: There are 9 Ayes and 9 Noes. I give my casting vote for the Ayes.

Amendments thus carried; clause as amended passed.

Clause 4 passed.

Clause 5—"Application of this Act."

The Hon. D. H. LAIDLAW: I move:

Page 2, lines 18 to 29—Leave out subclause (4).

The object of this amendment is to exclude from the Bill international contracts for the sale or supply of goods and services, other than those affecting employment. In the second reading debate I objected to the inclusion of international and currency contracts. The Law Reform Committee conceded that, in regard to the international sale of goods, special provisions should be made to enable the parties, by agreement, to contract out of the proposed legislation. The Law Reform Committee did not agree with my contention about currency contracts. The argument I used then was too broad in that I gave examples of prospective travellers buying travellers' cheques from an Adelaide-based bank, acting as an agent for the Reserve Bank, when both parties are likely to be resident within Australia. I should have referred instead or confined my references to contracts for the sale or purchase of currency between residents of Australia and a party overseas.

Clause 5 (4) does allow parties to a contract for the sale or supply of goods to opt out of the provisions of this Bill by agreement where one party is resident or domiciled outside Australia and where the goods are delivered or to be delivered from a place outside to a place within Australia or vice versa, or between two places outside Australia.

It has been pointed out that most goods are sold for export on a free on board or cost, insurance, freight, exchange basis. Under the South Australian Sale of Goods Act, delivery is complete once the seller has no further responsibility to transport the goods, and section 32 (1) enacts that delivery to a carrier *prima facie* is delivery to the buyer. Therefore, such contracts could be held to be delivered from a place in Australia to another place in Australia and therefore not able to be exempted, by agreement, from this Bill. My amendment would solve this problem.

Section 26 of the United Kingdom Uniform Contract Terms Act excludes application of international contracts for the supply of goods unconditionally. I see no reason for such contracts for the supply of goods being included in this Bill, and my amendment deletes the provision whereby the parties, by agreement, may opt out. It would be tedious for organisations that sell or deal in wool and make contracts with overseas buyers to have to exclude the application of the Act by telex each time a telex was sent. My amendment deletes the provision for excluding by agreement.

In addition to international contracts for the supply of goods, I believe that service contracts, or other than those concerned with employment, should be excluded. I refer in particular to contracts for reinsurance of risks, contracts for the sale or purchase of currency, contracts to charter ships, between a party domiciled or resident in Australia and a party outside Australia.

There does not seem to be any logical reason to distinguish between contracts for the supply or sale of goods and those in respect of services other than those in respect of employment. I have said many times that South Australia sends more than 80 per cent of its products interstate or overseas, and it would be disastrous if our overseas customers were deterred from trading with us, for fear that their contracts, may not be enforceable because of this Contracts Review Bill. I have moved these amendments to ensure exclusion of international supply and service contracts. I commend the amendment.

The Hon. T. M. CASEY: Six of the seven members who filed the majority report stated that they had given careful consideration to the points raised on the sale of goods overseas, and so on. After doing that, they decided on the provisions in the Bill, including clause 5, to cover all these anomalies. They concluded the report by stating:

> The committee feels that special provisions are justified in the area of international sale of goods. The parties to contracts for the international sale of goods are normally commercial interests possessing sufficient strength and capacity to protect their own interests. The risk of injustice is therefore slight. For these reasons the committee takes the view that in such contracts the parties should be permitted to contract out of the provisions of the proposed legislation. In this respect the committee has followed substantially the corresponding provisions of the Unfair Contract Terms Act, 1977, of the United Kingdom.

For those reasons, the Government will not accept the amendment.

The Hon. J. C. BURDETT: The terms of the U.K. Act were not followed substantially, because it entirely excludes international contracts. It does not enable people to opt out of them. The Hon. Mr. Laidlaw has explained how difficult it would be if, we were to do anything about excluding them, to write the Act into every telex.

In my second reading speech, I stated that, with respect, I felt that the Law Reform Committee was naive when it stated that it could not understand how it could be said that, because of the provisions in the Bill, overseas companies could be deterred from trading with South Australia. The committee stated that there already were some uncertainties and this Bill would slightly increase them, and that was an understatement. There are some uncertainties, but this Bill greatly magnifies them in the matter of these contracts. Mr. Wells, a witness before the House of Assembly Select Committee, pointed this out clearly when he showed that the Bill as it stood would make every contract voidable if the court so decided. For that reason, I consider the amendment eminently reasonable.

The Hon. R. C. DeGARIS (Leader of the Opposition): We should have regard to the first paragraph of the report of the Law Reform Committee, in which the committee states:

> The passing of the Bill by the House of Assembly following the report of a Select Committee of the House and the terms of the resolution of the Legislative Council indicate, we

suppose, that the objects of the Bill were acceptable to both Houses of Parliament.

Later in the paragraph, the committee states:

The acceptance of the objects of the Bill by both Houses of Parliament makes it unnecessary for us to canvass the arguments.

The objects of the Bill were not entirely agreed to by this Chamber. In the second reading debate, members made clear that they were deeply concerned about this question of international contracts. The question is one not of injustice or otherwise but of the practical position regarding the provision in the Bill about opting out. The right thing to do would be to exclude it entirely, as has been done in Great Britain.

If we allow people to opt out under the Bill as it is, every telex will have to state that the Contracts Review Bill of South Australia does not apply to the contract. As has been found in Great Britain, little case can be made out for the provision regarding international contracts. Doubts have been cast regarding "unjust", and in Great Britain "unfair" is used.

The Hon. C. J. Sumner: It means the same thing.

The Hon. R. C. DeGARIS: That matter is argued. I take the view stressed by the Hon. Mr. Burdett and the Hon. Mr. Griffin that "unfair" and "unreasonable" are reasonably defined by the law. However, I have grave doubts about "unjust", which does not necessarily mean "unfair" or "unreasonable". The best possible thing we could do would be to exclude all international contracts.

I now raise the point to which I referred during the second reading debate: although we are now examining the matter of contract exporting of goods from Australia, we have not examined the other side of the question, namely, a contract entered into by a South Australian manufacturer with someone overseas to manufacture something on a contract basis. Such a contract should also be exempted from the operation of this legislation. However, I believe that at present it would be caught, just as an export contract would be caught.

One could refer to all sorts of practical difficulty in this regard. This provision would have a serious effect on the ability of South Australian industry to compete with industries in other States in relation to international contracts. I therefore support the amendment, regarding which the Hon. Mr. Laidlaw is following the position obtaining in English legislation.

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. R. C. DeGaris. No—The Hon. D. H. L. Banfield.

The CHAIRMAN: There are 9 Ayes and 9 Noes. I give my casting vote for the Ayes.

Amendment thus carried.

The Hon. D. H. LAIDLAW: I move:

Page 2—

Line 36—Leave out "or".

After line 38—Insert paragraph as follows:

(c) a contract where—

(i) the contract is for the sale or supply of goods;

(ii) a party to the contract is domiciled or resident outside Australia;

and

(iii) the goods are to be delivered, or transported upon delivery—

(A) from a place outside Australia to a place within Australia;

(B) from a place within Australia to a place outside Australia;

or

(C) from a place outside Australia to another place outside Australia.

I have already explained these amendments.

The Committee divided on the amendments:

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

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

Pair—Aye—The Hon. R. C. DeGaris. No—The Hon. D. H. L. Banfield.

The CHAIRMAN: There are 9 Ayes and 9 Noes. I give my casting vote for the Ayes.

Amendments thus carried; clause as amended passed.

Clause 6—"Proceedings for relief in respect of unjust contracts."

The Hon. J. C. BURDETT: I move:

Page 3, lines 21 and 22—Leave out '(or, in the case of land, the reconveyance of the land)'.

This amendment is consequential on a previous amendment which I moved and which was carried. That amendment confined the operation of the Bill to contracts for the sale of goods and services in a consumer-type situation. Following my previous amendment, there is no point in having any reference to land.

The Hon. T. M. CASEY: The Government is adamant that it cannot accept the amendment, even though it is consequential on an amendment that the Committee accepted.

Amendment carried.

The Hon. K. T. GRIFFIN: I move:

Page 4, line 3—Leave out "title to" and insert "an interest in".

I am concerned that the provision, which provides for the return or reconveyance of property, does not extend to a situation where property acquired by a party to a contract may subsequently have been subject to some encumbrance or a security may have been taken over it. My amendment will ensure that, if such property has been acquired pursuant to a contract under review and if it has then been encumbered or a security has been taken, the third person is not adversely prejudiced by the provision.

The Hon. T. M. CASEY: The Government will not accept the amendment.

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. R. C. DeGaris. No—The Hon. D. H. L. Banfield.

The CHAIRMAN: There are 9 Ayes and 9 Noes. I give my casting vote for the Ayes.

Amendment thus carried.

The Hon. K. T. GRIFFIN: I move:

Page 4—

After line 7—Insert "or".

Lines 17 to 20—Leave out paragraphs *(c)* and *(d)*.

I have already referred to this matter in the general context of deleting the definition of "industrial matter". Even if the provisions are limited to consumer contracts, it appears appropriate that the jurisdiction for the review of such contracts should be with either the Supreme Court or the Local Court.

The Hon. T. M. CASEY: The Government cannot accept the amendments. If the Government is adamant in its opposition to amendments, it is normal for the Government to call for divisions. However, to save time and because many amendments are on file, we will not divide on all the remaining amendments.

Amendments carried.

The Hon. J. C. BURDETT: I move:

Page 4, line 25—After "practicable" insert "and, in any case, within six months after performance of the contract was completed".

My amendment is in conformity with similar legislation throughout Australia. I suggest that, where a contract has been completed, one should not be able to go on indefinitely not knowing whether or not proceedings will be taken under this Bill. Proceedings have to be commenced as soon as reasonably practicable in the circumstances, but there should be a limit so that after six months it is final. The amendment is based on clause 46(5) of the Consumer Credit Act. As far as I am aware, other similar Acts throughout Australia have the same provision.

The Hon. T. M. CASEY: The Government cannot accept the amendment.

Amendment carried; clause as amended passed.

Clause 7 passed.

Clause 8—"Criteria for determining whether contract is unjust."

The Hon. K. T. GRIFFIN: I move:

Page 6, lines 7 to 9—Leave out all words in subparagraph (vi).

Clause 8 sets out the criteria by which a court is to judge whether or not a contract is unjust. It takes into account a variety of matters which are directly related to the contract under review and directly related to the conduct of the parties in the consummation of that contract. However, in subparagraph (vi), a different criterion has slipped in. I do not believe that the conduct of either party in relation to other contracts, not to the contract in issue, is relevant. This criterion suggests that, if a party has previously been guilty of some behaviour that would fall foul of the principles in this clause, that would have a bearing on a subsequent occasion. As I do not believe that that is relevant to the consideration of whether or not a specific contract is unjust within the terms of this particular Bill, I move to delete that criterion.

The Hon. T. M. CASEY: I draw the honourable member's attention to the fact that this matter was considered by the Select Committee, and I cannot accept the honourable member's amendment.

Amendment carried; clause as amended passed.

Clause 9—"Power of Supreme Court to make orders of general effect in relation to unjust contracts."

The Hon. K. T. GRIFFIN: Although there are amendments in my name, I do not wish to move them. I propose to oppose the clause in its entirety for similar reasons as those relating to the subclause to which I have earlier referred, that the conduct of a party in relation to other transactions or contracts should not be relevant. Clause 9 allows the Attorney-General to apply to the Supreme Court to restrain a person from entering into contracts, and the terms upon which that person may enter into contracts of a stipulated class may be imposed by the court on the application of the Attorney-General. The reference to a person likely to embark on a course of conduct likely to lead to the formation of unjust contracts is just impossible to determine, and I see no reason why a person ought to be in the position of having some possible conduct imputed to him by reason of possible conduct in relation to future contracts. The clause raises notions of the law that are undesirable in the general application of this Bill, which is to apply to specific contracts. I cannot see how a court would be able to apply these criteria to a particular party when so much of the criteria are of a personal nature applicable to specific contracts. I oppose the clause.

The Hon. T. M. CASEY: The Hon. Mr. Griffin raised an argument in the previous amendment that this was a practice in North America and that it had proved satisfactory, and for those reasons he insisted that we use the same terminology as was applied in North America. I draw the Committee's attention to this fact.

The Hon. K. T. GRIFFIN: I did not at any stage say that something that was done in North America ought to be done here. I was indicating that in these countries in relation to the concept of "unjust" there was no comparable provision and that the criterion provided in the United Kingdom was "unreasonable", and in the United States it was "unconscionable". In South Australia and Australia, and in other common law countries, the concept of "unjust" as applied to contracts, as is sought to be applied in this Bill, was not a concept that has been developed. There were no principles on which one could interpret that concept in this Bill when applied to specific contracts.

Perhaps in the United States some similar provision to that contained in this clause is in the uniform commercial code. That is not the case in the United Kingdom Act. There has been nothing shown to me to indicate any good reason for establishing this clause as part of the Bill. It could lead to undesirable consequences in the context in which the Bill is presented to us and in the way in which the concept of unjustness will be developed in its application.

The Hon. J. C. BURDETT: I do not agree with the Minister that it is appropriate to refer to North America, as there the other remedies are much less than those provided under this Bill. The other remedies are that the contract shall be unenforceable or that it will be enforceable with the objectionable provisions of the contract stricken out. There is no provision for damages on reconveyance, as in this Bill. Perhaps in North America, with that limited array of remedies, there is a provision such as clause 9, but there is no need for it at all in this Bill.

The Committee divided on the clause:

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

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

Pair—Aye—The Hon. D. H. L. Banfield. No—The Hon. J. C. Burdett.

The CHAIRMAN: There are 9 Ayes and 9 Noes. I give my casting vote for the Noes.

Clause thus negatived.

Clauses 10 to 13 passed.

Clause 14—"Appeal to lie from judgment of the Industrial Court on questions related to the exercise of

jurisdiction under this Act."

The Hon. K. T. GRIFFIN: I move:

Page 7, lines 34 to 37—Leave out subclause (3).

I seek to delete subclause (3), which limits an appeal that may be heard from the Industrial Court. If the Bill is to have general application to consumer-type contracts, there ought not to be any limitation on the right of appeal.

The Hon. T. M. CASEY: The Government cannot accept the amendment.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

MINORS CONTRACTS (MISCELLANEOUS PROVISIONS) BILL

Adjourned debate on second reading.

(Continued from 13 February. Page 2531.)

The Hon. J. C. BURDETT: I support the second reading. The Bill implements recommendations of the Law Reform Committee. The Hon. Trevor Griffin, who yesterday outlined the recommendations of the committee and the provisions of the Bill, was a member of the Law Reform Committee at the time and one of those responsible for the report. It would be idle for me to comment on the recommendations, when we have had the benefit of comment from one of the authors.

I am pleased that the Government is implementing the report, because this Government has a poor record in regard to implementing such reports. It has received many reports but has not tried to implement them. In the other place, an amendment moved by the Opposition changed the word "infants" in the title of the Bill to "minors". In its report, the Law Reform Committee stated that the terms "infant" and "minor" were interchangeable. It pointed out that, in the law there was no difference between the two terms. I do not disagree with that: the statement is accurate, and therefore I agree with the present title.

In regard to contracts entered into by minors, use of the term "infant" was traditional and was the standard form of pleading when the defendant was an infant. I suppose that now the pleading will state that the defendant is a minor. As reported at page 2460 of *Hansard*, the Attorney-General stated:

> I am pleased to be at one with members opposite on this matter. I have certainly expressed many times the sort of view that members opposite have just expressed, and I will be interested to have their support on another Bill that will return here from another place in a few days. I understand that Opposition members in another place have replaced "lawyer" with "solicitor" or "counsel" in a certain Bill. No doubt I will have the support of members opposite on that occasion.

Obviously, the Attorney was referring to the Children's Protection and Young Offenders Bill, and he was inaccurate, because members of this Council have not replaced the word "lawyer" by the words "solicitor" or "counsel". I trust that the Council will make the change, but it has not been made yet. The Attorney-General will be disappointed if he expects support in that matter from Opposition members in the House of Assembly, because although the Law Reform Committee, as has been stated in the House of Assembly, has pointed out that the terms "minor" and "infant" are interchangeable and mean the same thing, the word "lawyer" and the words "solicitor" or "counsel" do not mean the same thing. Therefore, the two cases are entirely different.

The word "lawyer" is used by those in the profession and by other people as having a wide purview. We speak of academic lawyers, those who are not practising and are at such places as the university. We also include in the term "lawyer" the judges and magistrates, and we speak of them as being good or bad lawyers, yet they do not practise the law as counsel or solicitors. I support the second reading.

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

REAL PROPERTY ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 13 February. Page 2531.)

The Hon. R. C. DeGARIS (Leader of the Opposition): In speaking to second reading, the Hon. Murray Hill said:

> Great care, therefore, should be taken when legislation is introduced and considered by this Parliament which may weaken a system which has been accepted by not only the whole of Australia but by many countries throughout the world.

That statement should be the cornerstone of any debate on this Bill. The system of registration at the Lands Titles Office has been excellent. To my knowledge, during my time in Parliament no complaint has been made to me. That does not mean that I am opposed to changes. Nevertheless, such changes that are contemplated should be shown by the Government to be necessary to improve service to a clientele, reduce loss, or improve accuracy. I suppose the Government has undertaken such a study of the benefits of the new proposals.

The cost of physical changes alone (for example, the cost of the computer) must be known to the Government, and I would be obliged if, in his reply, the Minister gave the Council details of the total cost to the Government of the new arrangement. Also, I would like the Minister to tell the Council of any cost benefit studies the Government may have undertaken and whether, in those studies, any of the problems mentioned by the Hon. Murray Hill were investigated and reported upon.

Can the Minister also say what savings in staff there will be with this new system, because usually, with the use of computers, fewer staff members are required? That is one reason why computers are used. Further, will the Minister say whether, under the previous legislation, the Registrar-General was under any protection from the Minister?

From my reading of the Act, he was not, and this would have been done by Parliament for a good reason. It is fair to say that the Registrar-General, above probably many other officers, should be excluded from any possibility of political interference. He should carry out the functions of his Act and be responsible to the Minister, who in turn should be responsible to Parliament.

I view with concern the provision in the Bill under which the Registrar-General will have to act in accordance with any direction given by the Minister. The Lands Titles Office has had for many years an immaculate record regarding its service to the public. Also, I am a little concerned that the Registrar-General has, under this Bill, the right to reject any instrument that, in his opinion, should not for any reason be registered. The Bill goes on to provide that any fees paid in respect of any rejected instrument shall be forfeited.

The form of all documents should be included either in the schedule to the Bill or in the regulations. I am somewhat concerned about the Registrar-General's powers in this regard. Clause 7 provides that the form may be approved by the Registrar-General. However, there is

some doubt about the efficiency of this procedure. Forms and documents in relation to these transactions should be clearly drawn and drafted. This is indeed a wide arbitrary power that is being conferred on the Registrar-General.

The Hon. Mr. Hill's other point is a valid one. He referred to the difficulty involved in arriving at exactly what some of these clauses do in relation to certain documents. One clause eliminates the right to renew or extend a lease, mortgage or encumbrance by endorsement. I understand that we will have a totally new system, under which all things will be placed on a computer and there will be no searching of titles. Some of the problems that can arise, when information is on the computer, can cause great difficulties in relation to some of these matters.

The other point that probably concerns me more than anything else is that Registrars-General have over the years generally come through the Lands Titles Office, where they have spent their working life and have become totally acquainted with the whole system in that office. In future, under the new computer system, the Government may wish to appoint a Registrar-General who is an expert on computers but who knows very little about the whole operation of the Lands Titles Office.

It would be disastrous if a person with a lack of knowledge of and experience in the department were appointed Registrar-General. I do not know whether the Opposition should in Committee move an amendment to prevent that happening. However, if such an appointment was in the Government's mind, I am certain that it would cause much concern.

I support most of the points made by the Hon. Mr. Hill, although I do not wish to repeat them. However, I reiterate that we must be extremely cautious in relation to any changes that we make to a system that has served this State so excellently and in such a way that most parts of the world have copied our system.

Fundamental changes to the system should certainly be made with caution in a Bill like this. I am willing to support the second reading, although I should like the Minister, when replying to the debate, to look at and give me replies to the questions that I have asked. I will examine possible amendments that I may be able to move in Committee.

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

MEMBERS OF PARLIAMENT (DISCLOSURE OF INTERESTS) BILL

Adjourned debate on second reading.

(Continued from 13 February. Page 2536.)

The Hon. M. B. DAWKINS: I oppose this Bill, which in its present form could well be termed the Grand Inquisition Bill. It is diametrically opposed to another Bill which was debated in this Parliament some time ago and which related to and sought to preserve the rights of privacy for individuals, as well as other human rights.

This matter has been the subject of discussion in various Parliamentary spheres for some years. It was discussed in India at the general conference of the Commonwealth Parliamentary Association in 1975. I participated in that debate and should like to refer to some of the comments that I made at that time, as follows:

> I wish to indicate that I believe that a member's private interests should always take a minor place in relation to his public duties or, I should say, the last place, so long as a member is in active political life. Public duty, as you know, and as has been rightly pointed out to me by my greatly experienced predecessor, the late Hon. Sir Walter Duncan, must always take precedence over private interests. On the other hand, I do not believe that members should be forced to disclose their private affairs to all and sundry, because I believe in human rights which include the right of privacy as well. I do not believe in an inquisition or anything approaching that.

I should like to refer to a Bill that was foreshadowed in, I think, 1974. It may have reached the House of Assembly Notice Paper, but certainly it did not reach the Council Notice Paper. That Bill may have been dropped because of the unfavourable reaction that it received before it reached Parliament. However, a Bill which referred to the enforcement of disclosure of all outside income over $500 was foreshadowed. The present Bill refers to the sum of $200 or (and I draw attention to this) "such other amount as may be prescribed".

A Bill such as the foreshadowed one and this Bill completely negate the right of privacy. I wish also to refer to our neighbouring State of Victoria, where some time ago the Government appointed a joint committee of six members from each House to investigate this matter. In due course, that committee reported. I should now like to draw honourable members' attention to its findings, as follows:

> Persons elected as members of Parliament shall—
>
> *(a)* accept that their prime responsibility is to the performance of their public duty and therefore ensure that this aim is not endangered or subordinated by involvement in conflicting interests . . .

I certainly agree with that, and I am sure that other honourable members would, too. The committee's recommendations continue:

> (2) Members shall not advance their private interests by use of confidential information gained in the performance of their public duty.
>
> (3) A member shall not receive any fee, payment, retainer or reward, nor shall he permit any compensation to accrue to his beneficial interest for, or on account of, or as a result of, the use of his position as a member of Parliament . . .".

I believe that all honourable members would agree with that.

The Hon. N. K. Foster: What about land deals?

The Hon. M. B. DAWKINS: I am not interested in what the Hon. Mr. Foster is yapping about. The committee's findings continue:

> A Minister of the Crown is expected to devote his time and his talents to the carrying out of his public duties. Subject to reasonable reservations for personal affairs and family life a Minister should give his full attention to the carrying out of the duties of his office without the distraction of other active or competing interests.

I agree with those findings, which should be the normal guidelines introduced into public life. However, I am completely opposed to a situation which has been suggested by this Bill—almost complete disclosure of private affairs. Having indicated what I believe to be the guidelines for members' and Ministers' responsibilities, I do not support legislation that could result in something like an inquisition into the private affairs of members of Parliament, their spouses, and candidates. In most cases this would prove to be an unnecessary and undesirable intrusion into the lives of individuals who desire to serve their country. It could result in some highly suitable persons being deterred from a Parliamentary career, to the detriment of the country. In England, Lord Houghton, referring to 1973, made the following comments on this subject:

> The year just ended has not been a good one for "integrity" in public life. The main feature of the whole "squalid picture" which holds attention in Britain is the so-called "outside interests" of members of Parliament. The question is whether M.P.'s should have them at all and, if they do, whether these "outside" financial interests should be disclosed in some form of compulsory or voluntary register for all to see . . .

That is the question that we are debating at present. Lord Houghton continues:

> The United States enjoys the most developed system of financial disclosure, and also reputedly much corruption amongst people in public life . . .

The most developed system of disclosure exists alongside what may be one of the most corrupt situations in public life. Surely, this sort of Bill is unnecessary. A register of this type could be completely ineffective, as apparently it has been in the United States. South Australia is a relatively small State, and for at least 40 years we have had no scandal in the Parliament. Over many years we had an example of the highest standard and integrity in public life from the Leaders on both sides of Parliament. The answer does not lie in public disclosures of interests and witch hunts: it lies in the example that will be set by the leaders of the people and by Governments, an example that could flow from the Government to the Opposition and vice versa.

The security of Parliament depends upon the legislators and the integrity of the Parliamentarians themselves. If all the other methods fail, there is one final remedy, and that is the ballot-box. Under clause 3, the interpretation clause, an electoral candidate is included in the scope of the Bill. The prescribed amount is $200 or such amount as may be prescribed; that may be varied considerably. Clause 4 provides that there shall be a Registrar of Members' Interests. If there is to be a register of members' interests, that register should be restricted to the President and the Speaker, who would be in a position to know whether a member should disclose his interests. In any event, candidates and spouses should be excluded from the scope of the Bill. Clause 5 provides for a grand inquisition, extending to spouses and candidates, as follows:

> Every person to whom this Act applies shall, on or before each relevant day, furnish the Registrar with a return in the prescribed form containing prescribed information relating to—

Then follow paragraphs *(a)* to *(e)*—a grand inquisition. In particular, clause 5 provides that the return shall contain prescribed information relating to:

> *(b)* any interest that he or a member of his family has in any body corporate, any unincorporated body formed for the purpose of securing profit, or any trust.

If a trust is a body in which the person concerned has no financial benefit, there should certainly be no disclosure of interests. I can only hope that, when the Attorney-General fills in his form, he will remember that radio station 5AA exists.

The Hon. J. C. Burdett: He will be fined if he does not.

The Hon. M. B. DAWKINS: He may be fined $5 000—after $1 000 not long ago. That is a substantial amount.

The Hon. C. J. SUMNER: I rise on a point of order, Mr. President. The honourable member has alleged that the Attorney-General was fined $1 000. The honourable member has made an allegation that is totally untrue.

The PRESIDENT: I think there was some misunderstanding.

The Hon. M. B. DAWKINS: I did mention $1 000, but I did not say anything about being fined $1 000.

The Hon. C. J. Sumner: You liar!

The Hon. M. B. DAWKINS: I ask the honourable member to withdraw and apologise. I did not say any such thing.

The Hon. C. J. SUMNER: The simple fact is that the Hon. Mr. Dawkins did say the words that I have referred to. I give an unqualified withdrawal, but the honourable member did say the words that I raised in my point of order.

The Hon. M. B. DAWKINS: That is not a withdrawal.

The PRESIDENT: If the Hon. Mr. Dawkins will accept it as a withdrawal, he can continue with the debate.

The Hon. M. B. DAWKINS: I will continue with the debate, Mr. President, but the Hon. Mr. Sumner is completely incorrect. I agree with the contention of other honourable members that, if the Bill is to pass, it is only fair and reasonable that the provisions should be extended to senior public servants, judges, heads of departments, and heads of statutory bodies. The Bill should not go forward in its present form. If the second reading is passed I will support amendments along the lines I have indicated. At this stage I oppose the second reading.

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

[Sitting suspended from 5.30 to 7.45 p.m.]

COMMERCIAL MOTOR VEHICLES (HOURS OF DRIVING) ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 February. Page 2523.)

The Hon. M. B. DAWKINS: I support this small Bill, the chief intent of which, as the Minister said, is to clarify the meaning of those parts of the principal Act referred to. The Bill, of course, as the title indicates, refers to commercial motor vehicles and the hours of driving. The present provision in the Act provides for duplicate copies of log book pages to be sent to employers every week and also for employers to be responsible to ensure that these records are kept. Following representations by members of interested groups (I think the Road Traffic Association and also the Professional Drivers Association), the requirement will be altered by this Bill to a monthly basis instead of a weekly one and this is more practicable and, I believe, quite desirable.

Clause 2 makes some subsequential amendments to include the word "weight" instead of the word "mass", as has been done in other Bills. Clause 3 provides for the alteration from the weekly basis to the monthly basis. Clause 4 refers to the obligations of employers and also of owner-drivers. The Bill is a small one and caters for the desires of some people, and I believe that it puts the thing on a more practical basis, so I support it.

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

MEMBERS OF PARLIAMENT (DISCLOSURE OF INTERESTS) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2608.)

The Hon. J. C. BURDETT: I support the second reading. In his second reading explanation the Minister said:

> The reintroduction of this measure rests on the Government's belief that members or prospective members

of Parliament, as trustees of the public confidence, ought to disclose the particulars required by the Bill in order to demonstrate both to their colleagues and to the electorate at large that they have not been, or will not be, influenced in the execution of their duties by consideration of private personal gain.

The only legitimate object of the Bill would be the latter part of that statement; namely, to provide that members of Parliament have not been, or will not be, influenced in the execution of their duties by consideration of private gain. This matter is the only thing that needs to be provided, if it is not already adequately provided for, and I think it is. There is no justification for the publication of members' interests merely as a gossip column or to give members of the public something to do if they are 20 minutes early for a train or because the Hon. Mr. Dunford cannot wait for the list.

It has been obvious during this debate that the Government intends to use the register for political purposes in order to comment on any interests that members may have. The Hon. Anne Levy referred to the United States documents and to unearned income: that was the phrase she used, it was used in the documents. I think it would be more accurate to refer to income other than from personal exertion.

The Hon. Anne Levy: What is the difference, that means not earned income.

The Hon. J. C. BURDETT: The income of business and professional men is earned but is not normally made public. It is not a question of people being ashamed.

Members interjecting:

The PRESIDENT: Order!

The Hon. J. C. BURDETT: It is not an unearned income. The distinction should be between income from personal exertion and income other than from personal exertion.

The Hon. Anne Levy: That is a tautology, surely.

The Hon. J. C. BURDETT: It is not.

The Hon. J. A. Carnie: You are not allowed to have unearned income.

The Hon. Anne Levy: In the United States you are allowed to have as much as you like.

The Hon. J. C. BURDETT: It is not a question of people being ashamed of what they have or what they earn but a question of a person's right to privacy in relation to their financial affairs, where no good reason exists for making them public. We have a tradition of respecting a person's right to confidentiality in regard particularly to his financial affairs. Most of us, I think, have been brought up as children not to pry into other people's monetary matters. Banks, accountants and the income tax department go to great lengths, and properly so, to protect confidentiality in regard to the financial affairs of individuals.

The Hon. J. A. Carnie: The Hon. Anne Levy wants to make all tax returns public.

The Hon. J. C. BURDETT: That would be appalling and would be very much to the disadvantage of the income tax department. One reason why it functions so satisfactorily is because it respects confidentiality, and to some people, banks, accountants, and others it is to their advantage that their dealings with people are kept confidential.

It is part of our upbringing that we do not buy into other people's financial affairs, and that we respect their rights to privacy and confidentiality unless there is a good reason why their affairs should be made public.

Of course, many things must be made public. The salary of members of Parliament and public servants are obviously made public, but a member of Parliament's other income and assets should not be made public unless there is some good reason for doing so. The only valid reason is the one referred to in the second reading explanation; namely, that members of Parliament have not been or will not be influenced in the execution of their duties by considerations of private personal gain.

It is probably worth saying that members of Parliament doutless are often influenced in the execution of their duties by all sorts of things; for example, domestic problems, personal tragedies, religious or philosophic views, personal friendships and personal enmities, and a whole host of other matters in respect of which disclosure can hardly be expected,

I concede that private personal gain may be a strong influence and one that is fairly readily open to disclosure. I say "fairly readily" advisedly, because the provisions of this Bill could easily be evaded and many substantial financial interests would not be brought to light through disclosure under this Bill.

The Hon. F. T. Blevins: The inference is that members of Parliament are crooks.

The Hon. J. C. BURDETT: There is no implication at all. I am merely stating that the Bill's provisions could readily be evaded, and many financial interests would not be brought to light under the necessary disclosures.

The Hon. C. J. Sumner: Have you any suggestions as to how you can evade it?

The Hon. J. C. BURDETT: The honourable member can work that out for himself. It is easy to work out, but it is not worth while working out. As other honourable members have indicated, there are severe strictures on pain of losing one's seat against certain conflict of interest laid down in the Constitution Act. There are also the provisions in Standing Orders of both this Council and another place.

It is fair to say that the spirit of both the Constitution Act and Standing Orders has been to protect members from an invasion of privacy unless it is really necessary that an interest be disclosed. This Bill reverses that position and uses the heavy hammer, as does so much of the legislation introduced by this Government, and especially by the Attorney-General, and it flagrantly makes a member's interests open to the public. I believe that all that is necessary is a register that should be kept by the President and the Speaker, so that they will know when a member's pecuniary interests may conflict with his public duty, and whether that interest ought to be disclosed by the member.

I can only say about the Hon. Mr. Blevin's speech that it was the least enthusiastic speech I have ever heard him make. It has been said that a senior public servant has much more influence over a Government policy than a back-bench Opposition member.

The Hon. C. J. Sumner: What about—

The Hon. J. C. BURDETT: It is obviously true. There may be some disclosure requred by senior public servants to their superiors, but I favour a legal requirement—

The Hon. C. J. Sumner: Do you intend to amend the Bill?

The Hon. J. C. BURDETT: I favour—

The Hon. C. J. Sumner: You should let us know.

The Hon. J. C. BURDETT: —a legal requirement for disclosure by directors and deputy directors of Government departments, commissions, and instrumentalities on the same confidential basis as I have suggested for members of Parliament.

The Hon. C. J. Sumner: Are you going to move an amendment?

The PRESIDENT: Order! I will tolerate as much interjection as possible, but I cannot tolerate the continued questioning of the honourable member on his

feet. I ask the Hon. Mr. Sumner to listen and ask no further questions for the time being.

The Hon. J. C. BURDETT: Clause 5 requires the disclosure of any official position of a member or a member of his family *inter alia*, on any trust; paragraph *(d)* requires disclosure of any interest that he or a member of his family has in any real property; whilst paragraph *(b)* requires the disclosure in respect of any interest that he or a member of his family has in any body corporate, any unincorporated body formed for the purpose of securing profit, or any trust.

Thus a member of Parliament, who was a trustee, would have to disclose this fact, and also disclose all real property or, say, shares, that he held as a trustee. Doubtless in his disclosure he could say he held the interests as trustee only, but I am concerned about the disclosure of the affairs of the beneficiaries just because a trustee happens to be a member of Parliament.

Members of Parliament, who are legal practitioners, if they have practised in the estate or similar fields, are almost certain to hold some trusteeships, and it would not always be in the best interest of the beneficiaries for the trustee to relinquish his position on becoming a member of Parliament. True, a trustee has a duty to do the best for the beneficiaries, and there could be a conflict with his duties as a member of Parliament.

However, he already has a duty under Standing Orders to disclose his interests in a proper case. This is an unwarranted intrusion into the privacy of beneficiaries who just happen to have a member of Parliament as a trustee. Also, it is likely that a number of members of Parliament, other than lawyers, would be trustees. I can also see absolutely no justification whatever for requiring disclosure of interest by political candidates. Candidates cannot in any way influence the policy of Government. When they become members they may be able to do so, and will then have to make the disclosure.

Finally, it is not clear from the Bill exactly what details will have to be given of the interests to be disclosed. These may be set out in the regulations. It may have the effect of considerably expanding the extent of the disclosure. The regulation-making power should be circumscribed and the forms of the register and the returns should be set out in the schedule to the Bill.

I share the reservation and concerns of my colleagues, but I am willing to vote for the second reading to enable the radical amendments that I think are necessary to be considered in Committee. For that reason only, I support the second reading.

The Hon. J. E. DUNFORD: I support the Bill in its entirety. Yesterday, I told the Whip that I would not speak in the debate. However, after hearing the Hon. Mr. Carnie, after what the Hon. Mr. Hill alleged about the Trades Hall and the Attorney-General (one of the bright lights of the Labor Party), and after the action of the Hon. Mr. DeGaris in half-heartedly opposing the Bill, I have decided to speak. The Hon. Mr. DeGaris knows the attitude of the Young Liberals. He also knows that there will be changes of attitude on the other side of the Council. He is waking up to the fact that he will have to be less conservative. His speech was good, and he accepts the matter of having a register.

Mr. Hill has had 10 cents each way. He accepts that the times and the outlooks of people are changing and that we will have to have a register. The Labor Party has judged public feeling better than has any other Party, and we do not need help from members opposite in doing it. The Hon. Mr. DeGaris is the heavyweight in the Opposition. His attitude to the Bill has been most progressive, not because he wants to be progressive but because of pressures in the Liberal Party. That honourable member said:

> 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.

He is right. I was not enthusiastic about the other Bill.

The Hon. J. A. Carnie: You supported it.

The Hon. J. E. DUNFORD: Yes, but I did not speak very strongly. I did not know then about the A.N.Z. Bank and the corporations. The Hon. Mr. Carnie admitted that he had shares in Western Mining Company one of the most outstanding bodies in the mining of uranium.

The Hon. J. A. Carnie: You are wrong.

The Hon. J. E. DUNFORD: You said you had 140 shares.

The Hon. J. A. Carnie: They are in Western Mining Corporation.

The Hon. J. E. DUNFORD: That is better still. At least, the honourable member is honest. Many of my friends who are successful business people have some wealth, and they have worked hard for it. We on this side do not oppose people having wealth, but members of the public are concerned when politicians try to get further riches from investments, including those in mining companies.

No member on the other side has said that there should not be a register. Those members have all been concerned about privacy. I agree that members of Parliament are entitled to privacy, but I wonder whether Opposition members think that members on this side do not agree with that. However, a member of Parliament should not expect privacy to the same extent as that enjoyed by other people. A member of Parliament is a public figure and, at election time, tells the people about all his or her attributes.

The Hon. Mr. Hill can control companies and he is recognised as an astute businessman. If I were a member of the Liberal Party and wanted someone to handle my financial affairs for me, I would give the job to Murray Hill. By this Bill, the Government is only doing the bidding of the people, who want a register kept. One member said that I could not wait for the register. Of course I cannot. The Hon. Mr. Carnie may have had another 1 400 shares in Western Mining Corporation. He now has 140, and he may have heard what the Premier said at the airport.

The Hon. J. A. Carnie: I am sure you will check.

The Hon. J. E. DUNFORD: I will not: I am not that type of person. The people may think that there is an ulterior motive if legislation such as this is not supported. If there is a doubt, a member should be only too willing to come out into the open.

The Hon. M. B. Cameron: What are your assets?

The Hon. J. E. DUNFORD: My assets and those of my wife will be declared, and they are amazing.

The Hon. M. B. Cameron: Declared under threat of a fine.

The Hon. J. E. DUNFORD: No. I will do it only too willingly. Reference has been made in the debate to candidates. If one told Mr. Oswald, who has a chemist shop, that the socialists would make him declare his assets and if one asked him whether he wanted to withdraw his nomination, he would laugh. If a member does not want to declare his assets, he can leave Parliament. The Hon. Mr. DeGaris had much respect for and placed much importance on the Report of the Joint Committee on Pecuniary Interests of Members of Parliament.

The Hon. R. C. DeGaris: What report is that?

The Hon. J. E. DUNFORD: That is the name of the report.

The Hon. R. C. DeGaris: Of which Parliament was it a committee?

The Hon. J. E. DUNFORD: The members of the committee were:

The Hon. J. M. Riordan, M.P. (Chairman)
Senator the Hon. J. E. Marriott (Deputy Chairman)
Senator G. Georges
Mr. P. J. Keating, M.P.
Senator the Hon. J. R. McClelland
Mr. V. J. Martin, M.P.
The Hon. P. J. Nixon, M.P.
Mr. E. L. Robinson, M.P.
Senator G. Sheil (from 22 April 1975)

As I was with Senator Sheil at a Commonwealth Parliamentary Association conference, I know that he is not a socialist and, certainly, does not worry about privacy. Senator J. J. Webster was a former member, having been appointed on 31 October 1974.

The Hon. Mr. Carnie is a man of conscience, and people in the Liberal Party must accept that. He tries to make his point of view heard clearly, but he does not do it well. However, he is honest. If I hurt the honourable member's feelings, well and good, because that is what I am trying to do. He opposes the Bill entirely, but what about public servants, and people on the Electricity Trust Board, people who are responsible for the spending of millions of dollars a year? He has said that he opposes the matter of a register for members, but he suggests that there should be one for other people. I would not call him a hypocrite, but that statement was hypocritical.

The Hon. J. A. Carnie: I said if it is to be for us, it should be for them.

The Hon. J. E. DUNFORD: The Government has compromised. Often, the Hon. Mr. DeGaris said, "We are not a political Party: we are members of a House of Review, and we do not crush legislation." The Government has come back with a reasonable and understandable proposal that is contained in a Bill that has four clauses.

When I read the *Hansard* proofs, I saw that the Hon. Mr. DeGaris's nine proposals were absolutely correct. The Leader probably spoke to his colleague, Senator Sheil, who probably said in reply, "Look, Ren, you are losing more ground than in any other State. Let's open the gates to the rip-off merchants. Let's bring them all back from Queensland and Victoria!"

However, this State Government is getting rid of all the rip-off merchants. By its consumer affairs legislation, the Government is exposing firms like Kevin Dennis Motors and one located at 499 South Road, which is known as 499 Motors, and which is a subsidiary of Australian Motors. My son's friend bought a car from them and drove it home to Rostrevor. However, the engine dropped out. I therefore sent the boys back and said, "Tell them that your father is a member of Parliament". In deference to lady members, I will not repeat the reply. This should give honourable members some idea of the rip-off merchants that exist. How can members opposite defend them?

Members interjecting:

The PRESIDENT: Order! The honourable member had better return to the Bill.

The Hon. J. E. DUNFORD: I suppose I should, Sir. The Hon. Mr. DeGaris has been saying all these things, but he knows that he must support the establishment of a register. He and the Hon. Mr. Hill have said that another report is coming and that we should wait for it. However, the report to which I have referred was a unanimous report. It was agreed that Parliament should have a register and that someone in the Public Service should conduct it.

Opposition members are always attacking Trades Hall, and their Federal colleagues always go into bat against it. However, the people of Australia know that those same people are guilty of some of the things with which they are charging Trades Hall, and that is why I am now contributing to this debate. My private life has been exposed in this place. Indeed, it was done by Mr. Chapman from another place in the Kangaroo Island dispute, and it has been done here in my absence. Members opposite have spoken about the Attorney-General, who is such a magnificent young bloke and who has introduced magnificent legislation that is recognised all over the world.

The Hon. M. B. Cameron: Yes, as what not to have.

The Hon. R. C. DeGaris: Where has the Hotels Commission Bill gone?

The Hon. J. E. DUNFORD: It will be here soon. The South Australian State Government is a responsible Government that has received a mandate from the people in relation to this legislation, yet members opposite are trying to break it down. This is a disclosure Bill, and one page of *Roget's Thesaurus*, which was given to me by a shearer's cook 20 years ago, defines the noun "disclosure" as "revealment, revelation, divulgence, and the whole truth". That is all that the Government wants. It wants revelation only in circumstances in which a member is doing something regarding legislation from which he could get personal gain. The Bill is aptly called a disclosure Bill. The verb "disclose" means "to remove the veil". In that respect, the Hon. Mr. Carnie is a shareholder in Western Mining Corporation and he is going at break-neck speed to influence his colleagues regarding uranium mining.

Members interjecting:

The PRESIDENT: Order! The honourable member and I have indeed been tolerant at the expense of *Hansard*. It is about time that honourable members gave the Hon. Mr. Dunford a fair go.

The Hon. J. E. DUNFORD: I thank you, Sir, for your assistance. Your have been kind to me, and the Opposition rude. I listened in silence to the contributions of members opposite, except when the Hon. Mr. Hill said that I condemned him and his father for banking with the A.N.Z. Bank. I merely tried to show that that bank has a vested interest in uranium mining. Many people, including the colleagues of members opposite, said that if they knew what I said about it the other day, they would have closed their accounts with that bank. I tried to obtain a copy of that bank's annual report. Most banks send me their reports, which I read with interest. I am told that the A.N.Z. Bank works in a manner similar to that of the National Bank. One would not know that one of these banks has a wholly-owned subsidiary such as Custom Credit or that the National Bank has a 50 per cent interest in Australia-Japan Finance Limited.

Government members realise that Opposition members make decisions on the basis of whether or not they have a vested interest. Last year, for instance, when the Council was debating the can legislation, the Hon. Mrs. Cooper could have said, "I have no interest in and receive no monetary gain from deposits on cans." I am not saying that anything devious occurred then.

The Hon. R. C. DeGaris: How about the loan to Trades Hall?

The Hon. J. E. DUNFORD: This Government should lend money to Trades Hall.

The Hon. D. H. L. Banfield: Liberal Governments have done it in the other States.

The Hon. J. E. DUNFORD: Indeed, because they started the Chamber of Commerce and Industry in this way. They certainly had a vested interest in that.

However, the trade unions play an important role in society. They defend people from the evil contractors and employers in South Australia, and from the evil Fraser Government, which does not want to give them wage justice. That Government promised trade union workers in Australia full employment, but we have had rising unemployment since. It also promised employees decent social services and pensioners a fair go, but they have not received it. However, I am getting away from the point. Something sinister has happened. There is a sinister opposition to this Bill that ought to be exposed by the Council.

A report on this matter has not been accepted by the Fraser Government. The Hon. Mr. DeGaris pointed out that there is another inquiry into this matter. Mr. Fraser has asked Judge Nigel Bowen to determine this issue, but it ought to be determined by Parliament.

The Hon. M. B. Cameron: By a joint committee.

The Hon. J. E. DUNFORD: That is not necessary. I am led to believe that Mr. Fraser was advised, "For goodness sake, Malcolm, accept the proposition as it is. It is a unanimous decision. We have to have one." However, in his arrogant manner Mr. Fraser turned aside and ignored his colleagues. I agree with the point made by the Hon. Mr. Hill that legislation will not make a dishonest person honest.

The essence of this Bill is that we do not want these dishonest practices occurring. We do not want another Lynch affair. We do not want land being sold that is under water; a Queensland ex-Minister of the Crown was involved in this matter, but the Premier of Queensland will not have an inquiry. We do not want that sort of thing in South Australia. Members on this side of the Council want it to be seen that we have nothing to hide.

The Hon. Mr. Hill alleged that the trade union movement would distribute details all over the State to discredit Opposition members. Actually, the trade union movement notifies its members only about things that are true. In all of my association with the trade union movement, I have never known it to make unjustified allegations against the Opposition. So, the Hon. Mr. Hill was wrong. It was terrible for a politician of such long standing to make such an attack on the trade union movement. Really, Opposition members should turn their minds back to what they did to Khemlani—bringing him out, hiding him, and then sending him away. It was proved beyond doubt that the Whitlam Government did nothing wrong. It has also been suggested that Mr. Whitlam, Dr. Cairns, and Mr. Connor conspired together in connection with the $4 000 000 000 loan. The truth will come out that those three gentlemen were honest politicians.

Not one Opposition member has suggested that Government members have ever spread false rumours against the Leader of the Opposition for political gain, but the Liberal Party has been guilty of spreading false rumours. The only Party that can outstrip the Liberal Party in this respect is the Democratic Labor Party. I cannot wait to see this register come into operation, thereby letting the public know that we have nothing to hide. The public can then have faith in members of Parliament to do their work for the good wages that they receive. We do not need any hand-outs from foreign enterprise, any free shares, gifts or trips overseas. I point out that overseas trips have been removed from the legislation.

A Liberal Party member went overseas in connection with the Beverage Container Bill. Did he come back here and give an adverse report? He went overseas to do their bidding. The member to whom I am referring is Stan Evans. I believe the offer was made to the Labor Party, but we said, "We do not want to look bad in the eyes of the public." Probably Stan Evans earnt his $10 000 trip. I expect to be selected as a candidate when the next A.L.P. conference is held, and I expect to be in Parliament for a long time. Members opposite should bear in mind the land scandals in Victoria, the Lynch affair, and the Sinclair affair.

The Hon. J. A. Carnie: What is wrong with that? You wouldn't say these things outside.

The Hon. J. E. DUNFORD: Yes, I would. He got great terms from an insurance company which was looking for a franchise in Queensland. It could not get the franchise unless his department agreed to it. He did not get the blame because a board made the decision.

The Hon. R. C. DeGaris: You never criticise members of Parliament or blacken their reputations, except if you have absolute evidence!

The Hon. J. E. DUNFORD: That is right. The Hon. Mr. Burdett says that we want to pry. I have been called an arrogant, militant animal, but I answer to only one of those terms: I have been a militant. The Opposition says that South Australia is pricing itself out of the market. Actually, I can prove that South Australian wage earners are the lowest paid in Australia. The Opposition says that people are leaving the State because of high costs, but—

Members interjecting:

The PRESIDENT: Order! You are going to lose some of the story in your next speech if you do not get back to the point.

The Hon. J. E. DUNFORD: I concur with Mr. Burdett's comment that, if there is a register, there should not be any disclosure unless there is a good reason. I do not believe that people's private lives ought to be made public. In fact, the proposals put forward by the Federal Parliament appear to be quite reasonable.

The Hon. C. M. Hill: You cannot really agree with that report and agree with the Bill, because they are quite different.

The Hon. J. E. DUNFORD: It talks about a register and says that notice must be given to the Registrar if this information is being sought, and I believe that the person concerned must also be notified.

The Hon. J. A. Carnie: That's not in this Bill.

The Hon. J. E. DUNFORD: I know it is not.

The Hon. J. A. Carnie: Are you going to amend it?

The Hon. J. E. DUNFORD: No, I am not, because I believe the Attorney-General would not include this proposal unless he had a serious regard for the needs of the public of South Australia. I know he is reliable, and I think that this Bill has been watered down to meet the Opposition's requirements. I point out that the Opposition is not the Government; its members here are members of a House of Review, which incidentally is on the way out (if it does not happen in this Government's term, I am sure it will happen in the next).

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

SUPPLY BILL (No. 1), 1979

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.

It provides for the appropriation of $220 000 000 to enable the Public Service of the State to be carried on during the early part of the next financial year. In the absence of special arrangements in the form of the Supply Acts, there

would be no Parliamentary authority for appropriations required between the commencement of the new financial year and the date, usually in October, on which assent is given to the main Appropriation Bill. It is customary for the Government to present two Supply Bills each year, the first covering estimated expenditure during July and August and the second covering the remainder of the period prior to the Appropriation Bill becoming law.

Honourable members will notice that this Bill provides for the same amount as that provided by the first Supply Act last year. Normally, it would have been necessary to provide an increased amount to cover higher cost levels. However, the provision in last year's Bill included an additional amount to cover a contingent advance to establish revised arrangements between Government hospitals and the South Australian Health Commission. It will not be necessary to provide for this payment next year and the amount involved is expected to be sufficient to cover any cost increases during this year. The Government believes this Bill should suffice until the latter part of August when it will be necessary to introduce a second Bill.

Clause 1 is the short title. Clause 2 provides for the issue and application of up to $220 000 000. Clause 3 imposes limitations on the issue and application of this amount.

The Hon. R. C. DeGARIS (Leader of the Opposition): This is the usual Supply Bill which enables payment to carry on the Public Service of the State for the remainder of this financial year and possibly until the Budget presentation in August. As I see no reason to delay the Bill, I support the second reading.

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

LEGAL SERVICES COMMISSION ACT AMENDMENT 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.

Since the enactment of the Legal Services Commission Act last year, discussions have taken place between the Attorneys-General of the States and of the Commonwealth with a view to achieving substantial conformity between the various Acts and ordinances relating to legal aid. Most of the amendments contained in the present Bill arise out of those discussions. In addition, the employees of the Australian Legal Aid Office have sought the inclusion in the Act of provisions protecting rights relating to employment in the event of their transfer to the employment of the commission. I seek leave to have the explanation of the clauses in the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 inserts a definition of "appointed day" in the principal Act. This definition is relevant to the amendments proposed by clause 8. Clause 4 provides for the appointment of a member of the commission on the nomination of the employees of the commission. Provision is also made for the appointment of deputies of members of the commission. Clause 5 provides for the appointment of members of the commission for a term not exceeding three years rather than for a fixed term of three years.

Clause 6 expands the provisions of section 10 so that the section will cover co-operation between the commission and the corresponding authorities of States and Territories of the Commonwealth. The commission is required to furnish the Commonwealth Legal Aid Commission with statistical and other information that it may reasonably require. Provision is also made for the commission to make use of the services of interpreters, marriage guidance counsellors and social workers. Clause 7 amends section 11 of the principal Act to bring it into conformity with the corresponding provision of the Australian Capital Territory ordinance.

Clause 8 relates to employees of the Australian Legal Aid Office who become employees of the commission. The new provisions are designed to protect the existing and accruing rights of such employees. Clause 9 provides that an application for legal assistance may be made without formality or verification where the application is of a class determined by the commission, or where the Director waives compliance with that requirement.

Clause 10 expands the methods of paying legal practitioners for legal assistance. The amendments provide for lump sum payments, or for remuneration on any other basis determined by the commission after consultation with the Law Society. Clauses 11 and 12 make drafting amendments. Clause 13 enables the commission to make immediate use of moneys paid on account of legal costs.

Clause 14 amends section 27 of the principal Act, which relates to agreements between the State and the Commonwealth on matters relating to the provision of legal assistance. At present, the section provides that such an agreement if made with the concurrence of the commission is binding on the commission. It is felt that the requirement that the commission concur in any such agreement is inappropriate. Clause 15 expands the provisions of the principal Act relating to the remission of court fees. The amendment will enable the Attorney-General to remit fees when a person is being assisted by a prescribed agency, such as the Aboriginal Legal Rights Movement. Clause 16 expands the provisions of the principal Act relating to legal representation by officers of the commission. Clause 17 imposes an obligation of secrecy on persons who have been involved in the administration of the Act. Clause 18 makes a consequential amendment.

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

EVIDENCE ACT AMENDMENT BILL (No. 2)

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.

It amends the Evidence Act on a number of different subjects. First, the Bill facilitates the proof of the contents of the *Gazette*. At present the whole of the relevant edition of the *Gazette* has to be produced to the court in order to prove the making of an Order-in-Council which may be contained on just one or two pages of that edition. The Law Society has suggested that an amendment be made to allow proof of the Order-in-Council simply by production of a copy of the page or pages in which it is contained. A further amendment related to the same general subject facilitates the proof of Orders-in-Council

and public documents issued under the authority of the Government of the United Kingdom where they are relevant to proceedings in this State.

Secondly, the Bill enables interstate and foreign courts to take evidence on oath in this State. Courts deal increasingly with proceedings that involve events that take place partly in one State and partly in another. It is therefore sometimes more convenient for a court to come to this State rather than to transfer a large number of witnesses to the State in which the court is constituted. The amendment will facilitate the conduct of proceedings by a court in these circumstances.

Thirdly, the Bill authorises the admission of computer evidence in criminal proceedings. At present, Part VIA of the principal Act authorises the admission of such evidence only in civil proceedings. It is felt that, in view of the increasing use of computers for the storage of a wide range of information, computer evidence should now be available for use in criminal proceedings. Finally, the Bill amends section 69 of the principal Act. This section permits a court to suppress from publication evidence given before a court, or the names of any party or witness. The provisions of this section are extended by the Bill to enable a court to suppress from publication the name of any person alluded to in the course of proceedings. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 updates an absolute reference to the Postmaster-General. Clause 3 repeals section 32 of the principal Act. This section deals with evidence to be given in an action for breach of promise to marry. These actions were abolished in South Australia by the Action for Breach of Promise of Marriage (Abolition) Act, 1971. Clause 4 amends section 37 of the principal Act which provides for proof of Orders-in-Council by production of the *Government Gazette* in which the order is published. The disadvantage of this method is that past copies of the *Gazette* are often difficult to obtain and in any event are unnecessarily bulky. The proposed amendment will enable proof of Orders-in-Council to be made by production of a copy of the relevant page of the *Gazette*.

Clause 5 enacts new section 37c of the principal Act. The purpose of the new section is to facilitate proof of Imperial letters patent and Orders-in-Council and also of admiralty maps and charts that may be relevant to proceedings instituted in this State. Clauses 6 and 7 make minor drafting amendments to sections 45a and 45b of the principal Act. Clause 8 empowers a court to receive computer output in evidence in criminal proceedings. Clause 9 repeals section 61 of the principal Act. This section deals with proof of prior convictions in the absence of the defendant but has now been superseded by section 62d of the Justices Act, 1921-1976.

Clause 10 updates an obsolete reference to the Post and Telegraph Department. Clause 11 enacts a new section which will allow interstate and foreign courts to visit South Australia and take evidence on oath for the purpose of proceedings conducted in those States or countries. The other States already have similar provisions to the one proposed and they have proved very useful especially in the workmen's compensation jurisdiction. The clause refers to foreign authorities which are defined by subclause (3) to include not only courts outside South Australia but any person or body authorised by the law of a State or country to take evidence. This will, for instance, enable foreign diplomats or consuls to take evidence in this State. It is felt that where the authority desiring to take evidence is not a court or where the proceedings are criminal the consent of the Attorney-General should be obtained. This would preclude a foreign court from having the right to take evidence in South Australia in a political trial.

Clause 12 re-enacts section 69 of the principal Act which empowers the court to suppress publication of evidence and names of parties and witnesses. At present the court does not have power to suppress the name of a person who is not a party or a witness. If that person is to be charged at a later time, the publication of his name and evidence relating to him and the crime with which he is to be charged may prejudice his fair trial. There has been at least one instance where a judge has requested an Adelaide newspaper not to publish such material, and the request has been refused. In addition, completely innocent people referred to in proceedings who are neither parties nor witnesses may suffer hardship by publication. The proposed section seeks to remedy these shortcomings. The new provision also provides for the review of an order by the court by which it was made (whether constituted of the same or a different judicial officer). Moreover, specific provisions are included allowing for appeals against the exercise of a judicial discretion under the new provision.

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

LEGAL PRACTITIONERS ACT AMENDMENT 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.

It makes an amendment to section 69 of the principal Act that is consequential on the introduction of the Companies Act Amendment Bill, 1978. The purpose of section 69 is to allow legal practitioners employed by the Crown to appear on behalf of the Crown in the courts and tribunals of the State. The Companies Act Amendment Bill provides for the appointment of a Commissioner for Corporate Affairs and constitutes him as the Corporate Affairs Commission. The Corporate Affairs Commission will replace the present Department for Corporate Affairs. The amendment, in addition to changing the reference to the Department for Corporate Affairs in section 69, will also enable the Commissioner himself to represent the Crown in court.

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

SECURITIES INDUSTRY BILL

(Second reading debate adjourned on 13 February. Page 2532.)

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

COMPANIES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 February. Page 2483.)

The Hon. K. T. GRIFFIN: When this Bill is enacted and

becomes part of the company legislation of this State, it will not provide legislation that is uniform with legislation in all other States. There are several important differences that I will point out. The Minister, in his second reading explanation, states:

> However, New South Wales, Victoria, Queensland and Western Australia, the States that are parties to the Interstate Corporate Affairs Agreement, have recently brought their Acts into uniformity with each other for the purposes of the agreement. As a preliminary step towards national uniformity it is considered desirable to make the South Australian Companies Act uniform with that of the parties to the Interstate Corporate Affairs Agreement.

An important difference between our Bill, when read with the Companies Act, and the legislation in at least two other States is that in South Australia we are establishing a commission constituted by a Commissioner for Corporate Affairs, whilst in Victoria there is a Corporate Affairs Office, with a Commissioner responsible for that office, and a similar arrangement applies in Western Australia. New South Wales has a commission, constituted by a Commissioner. That concept differs from those of at least two other States. There are several other areas in which there will not be uniformity if the Bill is passed.

It is important to have uniformity wherever practicable, although, if there is a pressing need or some local peculiarity that makes a provision desirable and does not prejudice the administration of company law in this State, it may be possible to argue for some diversion from the general concept of uniformity. As I have said, the Minister has explained that the Bill will seek to make our Act uniform with that of the parties to the Interstate Corporate Affairs Commission Agreement, yet he declines to take South Australia into that agreement, on the basis that within about two years there will be a national companies commission and a national securities commission and it is pointless negotiating with the four States at present members of the Interstate Corporate Affairs Commission when the national commission is so imminent.

I suggest that there is value in this State becoming a party to the Interstate Corporate Affairs Commission Agreement. It would facilitate the administration of company law and the proper function of companies, many of which operate nationally, without the bind of having to register in States that are not at present members of the Corporate Affairs Commission Agreement. The Attorney has said that New South Wales, Western Australia and Victoria recently had changed the laws to make them uniform, but my research indicates that the New South Wales amendments were made early in 1976, those in Western Australia in 1975, and those in Victoria in about 1976. I have not been able to find any substantive amendments to the company law in those States that were made later than 1976.

We are therefore trailing New South Wales, Western Australia, Victoria and Queensland by about three years in our approach to uniformity.

I have said the membership of the Interstate Corporate Affairs Commission has benefits and, whilst the Minister expects that there will be a national commission within two years (and one hopes that there will be), there is still a long way to go. There are still areas of substantial disagreement on how that should be established and on the rules to be applied. Therefore, it may be much longer than two years before the national commission is established, and in that time South Australia would have fallen further behind in facilitating the administration of company law, the smooth operation of companies so far as they comply with the law, the policing of breaches of the law in such areas as take-overs, the keeping of accounts, investigations, and several other important areas.

Therefore, I believe that, notwithstanding that a national commission may be established in about two years time at the earliest, it is important that South Australia join the Interstate Corporate Affairs Commission. It is important to note also that in South Australia, under our present Companies Act, several things are required to be done by the Governor or the Minister, but, with the establishment of a Corporate Affairs Commission, the Bill changes many of those procedures. In some cases, the responsibility of the Governor to do certain things is changed to a responsibility vested in the Minister. In some cases, where the Minister previously has had responsibility, that has been changed to make the commission responsible.

My concern, particularly where the responsibility previously was with the Governor, is that if it now vests in the Minister, there will be less oversight by the Government of the day of what is being done in the administration of the Companies Act. One must recognise that, whereas the reference to the Governor is with the advice and consent of his Ministers in Executive Council, if the Minister exercises the power it is a departmental exercise of that power, not an exercise by Executive Council.

The measure is complex and I suspect that not many members of this Council or the public have had an opportunity to read it in the short time that it has been before us. I have been able to do some work on the Bill, but there has not been enough time to do as much research as I would have liked or as much as I believe should have been done on an important measure that significantly changes aspects of company law in this State. The Bill alone demonstrates to me the need for the Opposition to have research facilities that are more adequate, to assist in assessing complex provisions of this sort. I hope that at another time there will be an opportunity to take that matter further.

I have already indicated that we are moving to change from having administration of the Companies Act in the hands of the Registrar of Companies to establishing a commission that has responsibility for that administration. The commission will be constituted not by several Commissioners but by one Commissioner.

Clause 7 refers to the commission having control of the general administration of the Act. The provisions that establish the commission are set out in clause 264. I have already said that in Victoria and Western Australia there is a Corporate Affairs Office, but it is the Commissioner who has the responsibility for administering the Act in those States, and it is the Commissioner who is the body corporate. In New South Wales, it is the commission that is incorporated and has responsibility for administering the Act. The Commissioner constitutes that commission. Our Bill follows the concept established by the New South Wales legislation.

In clause 264 a number of new sections are enacted. Proposed new section 397 deals with the commission and the fact that it will be a body corporate with perpetual succession and a common seal. It provides that the commission will have other rights and will bear other responsibilities, and that it is to be constituted of the Commissioner or Deputy Commissioner.

Under proposed new section 398 the commission may delegate all or any of its powers, authorities, functions or duties (except the power of delegation) under this Act to any person, and those powers, authorities, functions or duties may be exercised or performed by that person accordingly. My research indicates that that provision is not common to the power of the New South Wales

Commission.

I am wary of the power of delegation of authority, particularly by an official such as the Commissioner. I do not say that he should not be able to delegate his responsibility. In a number of areas he has power to authorise persons to conduct an investigation or to do other things, such as conduct an audit. I have no quarrel with his being able, on behalf of the commission, to appoint persons to exercise certain expressed powers.

However, if one accepts new section 398, it will mean that someone other than the commission, through the Commissioner, may be given the responsibility of appointing investigators and auditors in certain express circumstances that are set out in the legislation. I should prefer to see in this new section, if there is to be any power of delegation, a provision allowing delegation only in only those instances that are specifically provided for in the Act.

New section 399 effects a transition from the Registrar of Companies to the commission in terms of property which is held by the Registrar and which will thereafter be held by the commission. It deals with other areas where the Registrar may have given some direction or may be named in a certain instrument, and thereafter the commission is to be deemed to be the person substituted for the Registrar of Companies. I draw attention to new section 400, which provides:

> (1) The commission shall observe and carry out any direction given by the Minister on a matter of policy.
>
> (2) The commission shall, when directed by the Minister to do so, report to the Minister on the policy the commission is pursuing, or proposes to pursue, in the exercise or discharge of any of its powers, authorities, duties or functions referred to in the direction.

That provision does not appear in the New South Wales legislation, and there is no comparable provision in the Western Australian or Victorian companies legislation with respect to the Commission of Corporate Affairs. It seems to me that that provision takes the matter further than the general concept of a Minister's being responsible for the administration of an Act. It seems to allow the Minister to give directions on matters of policy that may take it beyond the specific provisions of the Bill. It may have some sinister overtones, or it may not.

The Hon. R. C. DeGaris: Is this uniform legislation? Is that provision in the Victorian legislation?

The Hon. K. T. GRIFFIN: No. I have said that this provision is unique to South Australia. It does not appear in the New South Wales, Victorian, or Western Australian legislation. I have not had an opportunity to check the Northern Territory or the Australian Capital Territory ordinances, or the Queensland Act, because of the limited time available to me. However, I should be surprised to find that provision in any of those States, or indeed in Tasmania.

It is interesting to note in passing that a report in the 8 February issue of the *Advertiser* referred to the release of a draft policy. The report was headed "Business Control Proposed by A.L.P." Although I have not had access to that draft, the report refers to it as follows:

> A proposal that the State Labor Government should form a commission to monitor business activities in South Australia will be considered by the A.L.P.

That is at its special convention on 17 and 18 February. The report continues:

> The proposal is that the body would be known as the Corporate Affairs Commission and would be responsible for the monitoring and regulation of all levels of business activity "in the interests of society as a whole".
>
> The platform committee proposes that the commission would have wide investigatory and regulatory powers over the issue and marketing of shares and other securities, internal company organisational matters affecting public policy and the broader aspects of public and financial accountability.

It then deals with other aspects of the draft policy. Someone who saw the report and who became aware of the provisions of new section 400 had certain concerns about the extent of this power in the light of that report. I am not sure what the relationship is, but it is important to note that, although some aspects of the draft policy as reported are embodied in the Bill, other provisions are not so embodied in it. It may be that new section 400 has some wider impact than at first appears. As I have said, it is wider than one would ordinarily expect, when under normal rules the Minister accepts the responsibility for the administration of his department and of a certain Act.

I now draw attention to new section 403, which is a part of clause 264. It provides for the appointment of the Commissioner. We have the commission established and responsible for the administration of the Act. The commission is to be constituted by a Commissioner for Corporate Affairs and, under this proposed new section, he is to be appointed by notice published in the *Gazette* by the Governor. He is to be appointed for a term expiring on the day on which he attains the age of 65 years, and, subject to this new section, the Commissioner shall hold office upon terms and conditions determined by the Governor.

I find it somewhat strange that the retiring age is 65 years but that, in conjunction with that, no term for his appointment is fixed. If the Commissioner is appointed at 45 years of age, presumably under this provision he will remain Commissioner for Corporate Affairs for 20 years. I should have thought that this was not so much unique but perhaps uncommon. New section 403 (4) provides that the Governor may remove the Commissioner from office upon presentation of an address from both Houses of Parliament praying for his removal. The Hon. Murray Hill, in his speech last year on the Police Regulation Act Amendment Bill, referred to the way in which a number of top public servants were liable to be dismissed. The removal of a high public official by an address from both Houses of Parliament is, I understand, limited to the Public Service Commissioners, the Valuer-General and the Auditor-General, all of whom have responsibilities that are peculiar to their respective offices.

There is power in new section 403 (5) for the Governor to suspend a Commissioner from office on the ground of incompetence or misbehaviour. A number of consequential provisions follow. It is important to compare that appointment of the Commissioner with the appointment of the Deputy Commissioner in new section 404 and the appointment of the Assistant Commissioner in new section 405, where they are both to be subject of the provisions of the Public Service Act. In New South Wales, the Governor may remove the Commissioner in that State on the ground of misbehaviour or incompetence. In Victoria and Western Australia, the Commissioner for Corporate Affairs is a public servant, and there are no special provisions in the Companies Acts of those States dealing with the removal from office of the Commissioner for Corporate Affairs.

Why should the Commissioner for Corporate Affairs in this State have the protection given under this provision? The Registrar of Companies does not have it now, yet the Commissioner for Corporate Affairs is to have it. The Registrar of Companies does not need that protection. He is a high public servant subject to the provisions of the Public Service Act, and he is responsible for administering

an Act that is in clear terms. I wonder why the Commissioner for Corporate Affairs should be in any different position. He does not need the protection given by this new section. I also raise the question as to whether the Commissioner for Corporate Affairs ought to be placed on the same level as the Public Service Commissioners, the Auditor-General, and the Valuer-General. There is no good reason why he should be elevated to that position. He has responsibilities that are clearly specified in the Bill, and he ought to be subject to the ordinary provisions of the Public Service Act.

The Hon. R. C. DeGaris: The Commissioner of Police would appear to have a better case for that sort of protection.

The Hon. K. T. GRIFFIN: I agree. The other provisions in the new section relate to the term of office. Under new section 406 there is power for the commission to engage the services of any of the officers, employees, or servants of any body or person as may be approved by the Public Service Board and to appoint persons to be officers of the commission for the purpose of conducting or assisting in the conduct of investigations or inspections under this legislation or the Securities Industry Act, 1979. I see the importance of being able to second from other Government departments officers with expertise in a particular field, and I see the value of being able to engage the services of an independent legal practitioner for the purpose of conducting an investigation ordinarily beyond the resources of the Corporate Affairs Commission. The provisions of this Division are very significant, but they differ markedly from the provisions in other States. Therefore, at the appropriate time I will move amendments.

Clause 7 commits the general administration of the legislation to the commission. New section 7 (7) provides that a person who makes an inspection under the provisions of this new section is to make a declaration before he makes an inspection and he is not, except for the purposes of the legislation or in the course of any criminal proceedings or proceedings under this legislation, to communicate to any person any information that he has acquired by reason of an inspection. The inspection referred to is for the purpose of ascertaining whether the provisions of the legislation are being complied with, to inspect books kept under the legislation, and to inspect bank accounts. The penalty of $200, although uniform with that in other States, is very low. Yesterday, the Hon. Mr. Laidlaw referred to a penalty of $1 000 under the Trade Standards Bill for improperly exercising authority to get information. The same sort of argument applies here. The penalty is low in the light of the sort of benefit that a dishonest person may gain.

Clause 8 establishes the Companies Auditors Board and appoints a Registrar and a Deputy Registrar, both of whom may hold office under the Public Service Act and may hold office in conjunction with any other office in the Public Service. The Registrar of Companies and his deputy used to be the Registrar and Deputy Registrar respectively of the board. If the Commissioner for Corporate Affairs is likely to be the Registrar of the Companies Auditors Board there will be some conflict with new section 403, because under that section he is not an officer responsible under the Public Service Act.

Clause 9 deals with auditors and liquidators. A new criterion that the Companies Auditors Board may take into account in determining whether or not to register a person or renew the registration of a person as a company auditor, is whether or not that person is a resident in a State or Territory of the Commonwealth. It is a matter that may be taken into account, but it is not mandatory for that aspect to govern whether or not a person obtains registration or renewal of registration. New section 9 sets out the way in which hearings are to be handled and the way in which applications for registration or renewal of registration are to be dealt with. Subsection (9) of that new section provides:

> The board after giving notice to a person who is a registered company auditor or a registered liquidator may inquire into the conduct, character and ability of that person, subject to his being given an opportunity of being heard.

There is no reference in those circumstances to the person under inquiry having the opportunity to be represented. I would suggest that, because it is such a significant power that is being exercised, the company auditor who is under inquiry ought to have the right to representation by counsel. It is more important if one takes into account proposed subsection (11), which states:

> (11) If, at an inquiry under subsection (9) of this section, a person who is a registered company auditor or a registered liquidator is found to have been guilty of conduct discreditable to an auditor or liquidator, as the case may be, or is found to be incapable of performing the duties of a registered company auditor or registered liquidator, as the case may be, the Board may, as it thinks fit, punish or deal with him in any one or more of the following ways—

They include cancellation of his registration; suspension of registration for a period not exceeding a year; imposition of a fine not exceeding $1 000, (which incidentally was not in old section 9) admonish or reprimand the auditor or liquidator; require him to give an undertaking to abstain from some specific conduct; and require him to pay the costs of and incidental to the inquiry by the board.

Those consequences are quite harsh, and reinforce my submission that the person under inquiry should be represented by counsel. In deciding whether or not a person has been guilty of conduct discreditable to an auditor or liquidator, the board may find that if he fails to pay costs that have previously been awarded against him or a fine, then that can be discreditable conduct. I have some reservations about that. If the board has the power to impose a fine and then comes back for a second bite of the cherry and can take further action to strike him off for failure to pay a fine or costs, I am concerned about the extent of that power. The other part of that proposed subsection does not give me so much concern.

I draw attention to proposed subsection (16) of proposed new section 9. It provides:

> (16) A person aggrieved by a decision of the board under this section may within one month from the date of his receiving notice of the decision or from the expiration of one week after the decision was made, whichever first occurs, appeal to the Court.

It seems rather curious that, although that is common to other States' legislation, it may be that the person who is under inquiry and who is the subject of some action by the Companies Auditors Board may be penalised without having received notice of a decision. Under the provision, he must appeal within one month of receiving the notice or from the expiration of one week after this decision was made whichever first occurs. Normally, a week may well expire between the date on which the decision is given and the date on which he receives the notice of the decision. He may have had no earlier notice of that decision and, therefore, he will be prejudiced because he will not be able to appeal because his time has expired. It would be more appropriate to provide that he may appeal within one month from the date of receiving the notice, and leave it at that. The consequence of an appeal that follows in that subsection are:

> The Court may, upon the hearing of the appeal, if it thinks

fit, confirm, vary or reverse the decision and if it thinks fit, may direct the board to register or renew the registration of a person whom the board has refused to register or whose registration the board has refused to renew.

The court may find that a more appropriate penalty would be the suspension for a specified period, but it is not empowered to impose a suspension. I suggest that the power of the court to suspend as well as to register or to renew the registration ought to be included. Subsection (17) provides:

A decision of the board cancelling, suspending or refusing to renew the registration of a registered company auditor or registered liquidator takes effect upon his being notified of the decision or after seven days after the decision is made, whichever first occurs.

There are two points on this: first, there is no recognition that there may be an appeal. Under the proposed section, even if there is an appeal the suspension dates from seven days after the decision is made. In ordinary practice, that penalty would be suspended whilst the appeal was being heard, and I suggest that that is more appropriate. The second point is that it takes effect on his being notified of the decision or after seven days after the decision is made, whichever occurs first. He may not be notified of the decision within that period of seven days, yet he may be continuing to practise as an auditor or liquidator. The appropriate time at which the decision takes effect is at the point of notification and not within seven days after the decision is made, so that the person against whom the decision is made does not continue to practise illegally. This would be after the period of seven days as the subsection is drawn at present.

Clause 12 deals with registers. The specific provision to which I draw attention is in proposed subsection (7), which outlines the power of the commission in dealing with any documents, and provides:

If the commission is of opinion that any document submitted to the commission—

(a) contains matter contrary to law;

(b) by reason of any omission or misdescription has not been duly completed;

(c) does not comply with the requirements of this Act; or

(d) contains any error, alteration or erasure,

the commission may refuse to register or receive the document and require that the document be appropriately amended or completed and re-submitted or that a fresh document—

I have no general complaint with that, but possibly there ought to be an amendment that would refer specifically to the particulars contained in a notice of the situation of a registered office. The problem arises out of a decision of Mr. Justice Hogarth in *re Alpina Proprietary Limited,* reported in 74 Law Society Judgement Scheme at page 117. I will be referring to that case again later, in a slightly different context, but the point in relation to this subsection is that His Honour was concerned that the registered office of the company was given as a multi-storey office block.

I think that it was 80 King William Street. That is not defining the address with any particularity because it is possible that on any of the 15 floors a company could have one room as its registered office. His Honour was concerned to point out that, because the registered office was stated broadly as being at 80 King William Street and because of other difficulties, there was not sufficient particularity to enable service of a particular document to be effected.

An appropriate amendment may be to add a provision that the commission may take into account that the document has not been completed with sufficient particularity. I hope to move an amendment which, although not uniform with the provision in other States, does not detract from the uniform concept. It would improve the Bill's provisions. Clause 12 (8) provides:

The commission may require a person who submits a document to the commission to produce to the commission such other document, or give to the commission such information, as the commission considers necessary in order to form an opinion whether the commission may refuse to register or receive the document under subsection (7) of this section.

One difficulty is that a company may be required to produce a signed document when ordinarily a copy verified by statutory declaration would be sufficient. It may be a charge over the assets of a company that is incorporated in another State but registered in South Australia and other States of the Commonwealth or the Territories as a foreign company. If a copy verified by a statutory declaration is lodged in South Australia, it does not attract stamp duty, although stamp duty would have to be paid in the place of incorporation on the principal document.

If a signed document comes into South Australia, the impact of the Stamp Duty Act is such that there will be duty on the full amount of that charge, although duty would also have been paid in another State. That is patently unjust and, whilst that provision could be used to raise revenue in an unjust context, serious consequences will flow if the Commissioner acting under subclause (8) requires companies to produce signed copies or original documents, as he is entitled to do under this provision. I would want to see a provision to ensure that a double stamp duty situation does not arise.

Clause 17 amends section 21 of the principal Act, which deals with alterations to the memorandum of association of a company (not the articles of association which govern the day-to-day administration of the company). That will ordinarily contain reference to the objects and other related matters affecting the company. Section 21 provides that, where there have been any amendments to the objects, they must be lodged within 14 days after the passing of the resolution, and there are other consequential matters.

Clause 17 seeks to provide that the amendment is lodged with the commission, and I have no quarrel with that. The commission shall certify the registration of that matter and, on such registration, and not before, the alteration of the memorandum shall take effect. I query that because it is not in the present Act. However, such an amendment should become operative when it has been passed by a company, and not when it is lodged or registered by the Corporate Affairs Commission.

One has to distinguish between the lodgement of documents and the registration of documents, but there is no clear distinction between those two concepts in the Bill. They seem to be interchangeable, but in some cases different consequences can follow from registration rather than from lodgement. If there is an amendment to the memorandum of a company lodged with the Corporate Affairs Commission, it may not be registered under this provision for some time, yet it may be vital to the company to have it registered quickly. That sort of delay might not be in the interest of the company, nor in the interest of the proper and efficient administration of the Companies Act. I suggest that an alteration ought to be made for it to take effect when it has been passed by the company, as does any amendment to the articles of association of that company.

Clause 20 amends section 24, which deals with licences that may be granted by the Minister dispensing with the

use of the word "limited". Clear criteria are specified in this provision, but some consequences flow that were not foreseen when original section 24 was passed. There has been uncertainty about whether the Minister may vary conditions attached to a particular licence, for example; the provisions of clause 20 generally give greater flexibility with what are called section 24 licences, with which I have no quarrel, except that I note that, in proposed new subsection (5), the Minister may issue a section 24 licence to dispense with the use of the word "limited" and is allowed to exempt the company from lodging annual returns and returns of particulars of directors, managers and secretaries, whereas under the present section 24, the Minister also has power to exempt the company from lodging its accounts with the Registrar of Companies.

I am wondering why this ought to be excluded from the provision. It has been excluded in the other States under their legislation, but I see no reason for that, and I suggest that the Minister be given authority, at the appropriate time, to exempt the company from the requirement to lodge accounts. This sort of comapny is one for providing recreation or amusement or promoting commerce, industry, art, science, religion, charity, pension or superannuation schemes or any other object useful to the community. One can see that probably it is likely to fall into the same category as an association incorporated under the Associations Incorporation Act. It is a type of company that is more common in the other States, but in my view it would be at much the same level as associations which do not have to file accounts. I see no reason why companies operating for community reasons should file accounts if they obtain from the Minister a licence under section 24.

Clause 23 deals with section 27, which contains certain default provisions. It also deals with offences for offering for sale shares or debentures in a proprietary company. Section 27 (7) of the Act provides:

> Where any subscription for shares in or debentures of, or any deposit of money with, a proprietary company or a private company is arranged by or through a solicitor, broker, agent or any other person (whether an officer of the company or not) who by advertisement has invited the public to make use of his services in arranging investments or has held himself out to the public as being in a position to arrange investments the company and every person, including an officer of the company, who is a party to the arrangement shall be guilty of an offence against this Act.

One of the amendments made by clause 23 deletes the words "by advertisement", from that subsection, so that, where a solicitor, broker, agent or other person has invited the public to make use of his services in arranging investments, or has held himself out to the public to be in a position to arrange investments, certain consequences follow (that is not holding himself out in respect of a particular company but holding himself out as being able to perform those services in a broader context). What concerns me, particularly in relation to solicitors, is that, in the ordinary course of their professional practice, they lend to clients money that is held by the solicitors on trust, and sometimes they deal in the way in which the present subsection (7) is drawn but do not advertise. I would not want any unforeseen consequences to flow from the deletion of the words "by advertisement", and I hope that the Minister may be able to give a reason for the provision. One has not been given in the second reading explanation.

Clause 30 deals with section 38, which relates to invitations to the public to lend money to or deposit money with the corporation. The only point I want to raise is that on page 22, line 29, of the Bill there is provision for a declaration by the commission, by notice in the *Gazette*, that a corporation is a prescribed corporation. Previously that power was exercised by the Governor. It is interesting to note that, following that, there is a provision that the Minister may vary or revoke such declaration. So, on the one hand, the commission makes the declaration while, on the other hand, the Minister may revoke or vary that declaration. There seems to be an inconsistency there, apart from the fact that previously it referred to a declaration made by, or being capable of variation by the Governor. I think there ought to be consistency in this context. I would prefer the Governor to have this responsibility, because it is the Governor, as advised by his Ministers in Executive Council, who actually makes or authorises the declaration.

Clause 31 deals with the contents of prospectuses and amends section 39. In section 39, there is a reference to a "proposed corporation" but that is being deleted from other provisions in the Act. I am wondering why it has not been deleted from section 39. In terms of the Minister's explanation, where the "proposed corporation" has been deleted, it has been indicated that it is no longer necessary. If that is the reason in those cases, it should likewise apply to clause 31.

Clause 32 repeals section 40, which deals with certain advertisements deemed to be prospectuses for the purposes of the Act. I have no quarrel generally with the new provision but I draw attention to proposed subsection (7), which provides:

> Where a notice relating to a corporation is published in contravention of this section by or with the authority or permission of an officer of the corporation, the corporation is guilty of an offence under this Act.

In general terms there is no difficulty about that, but a corporation could be guilty of an offence inadvertently under this section, particularly where the officer who publishes that notice does not have the authority to so authorise the publication. I would not want any unforeseen consequences to flow from this provision.

In the same clause there is reference to offences that occur by reason of publication of certain notices or advertisements, and these offences extend to the media in general as well as to persons who place the notices or authorise them. One particular problem comes to mind regarding proposed section 40b, on page 28, subsection (2) of which provides:

> A person who publishes a notice relating to a corporation after he has received a certificate that—
>
> *(a)* specifies the names of two directors of the corporation and is signed by those directors;
>
> and
>
> *(b)* is to the effect that, by reason of subsection (4) of section 40, or subsection (4) of section 40a, of this Act, section 40, or section 40a, of this Act, as the case may be, does not apply to the notice,
>
> is not guilty of an offence under section 40 or 40a of this Act as the case may be.

There is no prosecution of the media in the circumstances where the notice contains the signatures of two persons who are directors. It seems to me that under this proposed section, before they could rely on a notice, those involved would have to check that the two persons who had signed and who purported to be directors were, in fact, directors of the company. They would have to undertake a company search and make inquiries. It seems to me that that clause should be amended to that it refers to the signatures of persons purporting to be directors.

Clause 38 seeks to amend section 54 of the Act, which deals with returns as to allotments. Paragraph *(b)* inserts new subsection (4), which provides that, if a certified copy of a contract is lodged, the original contract duly stamped

shall be produced to the commission at the same time. The previous section provided that, if the Registrar of Companies requested it, it should be produced.

I draw attention to the difficulty to which I referred earlier, where the Commissioner will have power to require the production of a document which was executed in another State, on which stamp duty was paid, which came into South Australia, and which attracted duty by reason of a request by or requirement of the Commissioner. If it did not come to South Australia, that document would not attract duty, but the administration of the Act would not be prejudiced because a copy, verified by statutory declaration, would be produced, and in any event stamp duty would have to be paid in the other State or Territory.

Clause 43 seeks to amend section 62, which relates to the power of a company to alter its share capital. New section 62 (4), which is sought to be inserted by clause 43, provides that, where a company has increased its share capital beyond the registered capital, notice of the increase must be lodged with the commission within 14 days of the passing of the resolution. That provision is similar to the one that currently exists. However, I have been asked, now that capital fees are no longer paid by companies, what is the purpose of this provision. I guess that it raises no particular difficulties for companies, but it does mean one more form to lodge and that much more work to be done not only by the company but also by the Corporate Affairs Commission.

Clause 47 relates to section 65 of the Act, which deals with the rights of holders of classes of shares. The clause seeks to repeal subsections (4) and (5) and to enact new subsections (4), (4a) and (5). It is interesting to note that a right of appeal from a decision of the Full Court, by leave of the court, has been included. In certain cases under this section there are rights in a minority of a class of shareholders to apply to the court for certain relief. The previous section provided that the Supreme Court's decision should be final. That is the provision that obtains in other States, except New South Wales where there is an appeal to the Full Court by leave of that court. I am pleased to see that in South Australia we have adopted this right of appeal.

Clause 48 deals with section 69a of the Act. The amendment in paragraph *(b)* refers to the holders of stock having the same rights as if the stock was shares. It relates only to rights as opposed to powers. The holders of stock and the shareholders also have certain powers as well as rights. I wonder why this has been limited only to rights and does not extend to powers. It would be desirable to extend the clause to include powers as well.

I should not perhaps deal with a matter that is not in the Bill. However, my attention has been drawn to it by a practitioner in the company law field. It relates to section 67 of the Act, which refers to a company raising loans to deal in its own shares. I have gained the impression that the consequences of non-compliance with this section are particularly harsh on banks and other lenders that deal with companies acting in good faith where they do not know that certain loans that may have been raised by a company are, in fact, being used for the purpose of facilitating the purchase of shares in that company.

In many situations, it is virtually impossible for a lender to a company to know everything that is happening in that company, particularly if the directors are aware of the express prohibition in section 57 and deliberately strive to conceal material facts from the lender.

It seems that, if the loan transaction is tainted with illegality, as it would be in those circumstances, the lender's ignorance of the true position is no defence, and the transaction simply becomes unenforceable so that a bank, for example, that lends money to a company, when the company is using those funds to facilitate the purchase of its shares by another person, is prejudiced by the strict application of section 67.

It would probably be desirable that a lender or mortgagee (whether a lender or other creditor) should be entitled to a certificate furnished by a director and the Secretary of the company to the effect that section 67 has not been contravened by the transaction, and that some penalty should be provided if a director and/or the Secretary furnish a false certificate.

I understand that this matter has been drawn to the Government's attention many times. It may well have been overlooked, but certainly it has not been included in any amending legislation. As this comprehensive Bill is now before us, it seems appropriate that we should deal with that matter in this Bill in order to clarify what is undoubtedly a difficulty for some companies and banks that deal with companies in these circumstances.

Clause 61 amends section 74 of the principal Act. Section 74 deals with the qualification of a trustee for debenture holders. Clause 61 *(a)* strikes out reference to a person who is a registered liquidator. It suggests that only corporations will be able to be trustees for debenture holders under section 74 of the principal Act. I wonder why that course of action has been adopted. I know that it is consistent with legislation in other States, but I am unaware of any case where an individual who has been appointed trustee for debenture holders has created any difficulty in carrying out his responsibilities under the debenture. Clause 64 amends section 74d, and is again consequential. There is provision in section 74 for the Registrar of Companies to exercise his discretion, so that in certain circumstances an individual may be appointed trustee for debenture holders, but that has been deleted. To some extent I am concerned about that but, if there is good reason for it of which I am unaware at present, I shall be happy to reconsider my position.

Under paragraphs *(h)* and *(i)* of clause 65, the power previously exercised by the Governor is changed, so that the commission now exercises the responsibility. I have already commented on the principle to which I want to adhere in this context. Clause 70 deletes section 79 (2) of the principal Act, which presently gives the Minister a discretion, so that in special circumstances, where it is impracticable to secure a company to act as trustee or representative for the purposes of a deed dealing with interests under Division V of Part IV, the Minister may, subject to certain conditions, grant his approval for such person or persons to act as trustee or representative. I am concerned about the deletion to which I have referred.

Clause 75, which amends section 95 of the principal Act, contains several amendments which, while consistent with legislation in other States, raise some questions section 95 facilitates the registration of instruments of transfer or transmission of shares in companies where there is a grant of probate of the estate of a deceased shareholder in one State and where that deceased person held shares on an interstate register. The ordinary practice under section 95 of the principal Act is for the grant of probate not to be resealed in the other State but for the original grant to be produced to the company and acted on in conjunction with a statutory declaration or affidavit. By virtue of those two events, the transfer to beneficiaries or transmission may be effected. This procedure has generally worked satisfactorily. Clause 75 amends the provisions to eliminate one or two technical difficulties. But new section 95 (5) provides:

> For the purposes of this section, an application by a personal representative of a deceased person for registration

> as the holder of a share, debenture or interest in place of the deceased person shall be deemed to be an instrument of transfer effecting a transfer of the share, debenture or interest to the personal representative.

I am not sure what the purpose of this provision is. The emphasis is on "deemed to be an instrument of transfer". If it is a transmission, it would not attract anything other than nominal stamp duty but, if it is deemed to be a transfer, under the Stamp Duties Act it will attract *ad valorem* rates of stamp duty. I am concerned that inadvertently there is such a provision which would produce an unfortunate consequence, namely, the imposition of stamp duty that could not properly be justified in terms of the normal practice over many years. Most companies provide in their articles for transmission, rather than transfer. Transmission is an appropriate procedure, and ordinarily transmission is not dutiable in those circumstances. Clause 87 deals with the office hours of a company and seeks to enact new provisions in section 112 of the principal Act. New section 112 (1) provides:

> On the lodging of the memorandum of a proposed company for registration notice in the prescribed form of the address of the proposed registered office of the company shall be lodged with the Commission.

That is a little different from the present practice, but I see the change as desirable. Previously, when documents for incorporation were lodged there was a month within which to lodge the notice of situation of registered office. That presented difficulties for people who wanted to serve documents on a company, because they would not necessarily be aware of the location of the registered office of that company. New section 112 (1b) provides that a notice of a change of address shall be lodged within seven days; that, too, is desirable. The period was previously one month. There are a number of practical difficulties with respect to the situation of a registered office. This is related to the decision of Judge Hogarth in *re Alpina Proprietary Limited*. In that case there was a notice to be served under section 222 of the Companies Act which could lead to a winding-up petition of the company.

A section 222 notice is a notice which requires a company to pay a debt within a specific time and, in the event of failure to pay the debt as required by the notice, the company is thereby deemed not to be able to pay its debts. If it is not able to pay its debts, that is a ground for presenting a winding-up petition. The difficulty was that the company in that case was served with a section 222 notice at its office as disclosed in the register at the Companies Office. It appears that, firstly, as I have already indicated, the office was in a particular suite of rooms in a multi-storey office block, but its registered office had changed. The register showed that it was 80 King William Street I think, but it had been changed to another address, and notice of that change had inadvertently not been lodged by the company. Therefore, the section 222 notice was served on the office as disclosed by the register at the Companies Office. It was insufficient. The section does present some difficulties.

It appears to be appropriate that clause 87 ought to be amended so that the registered office of the company is the office disclosed by the register at the Corporate Affairs Commission. There would then not be the difficulty for the public at large and creditors in particular of discovering what its correct registered office is, regardless of what is on the register. At the appropriate time it would seem that there ought to be an amendment to that effect. There is a further reference to the section 222 notice which I will make when I get to that point in discussing the Bill.

Clause 88 of the Bill seeks to amend section 114 of the Act. It is interesting to note in passing that, whilst the present Act enables a proprietary company to have at least one director, this amendment requires it to have at least two directors. I see no difficulty with that increase; it is consistent with the provisions in other States. Clause 92 introduces for directors an age limit of 72 years. That is also consistent with the age limit for directors in other States, although, if it were a blanket provision, I would be somewhat concerned if Parliament were seeking to impose an age limit of 72 and we would be discouraging persons over that age from taking office, or holding office, in companies. There is, nevertheless, provision in this clause for a director, after the age of 72, to continue if he discloses his age at each annual general meeting of the company and if a majority of not less than three-fourths of the members of the company at that meeting vote to appoint him. His appointment thereafter continues on an annual basis.

Clause 94 deals with section 123 of the Act. Section 123 deals with disclosure of interests in contracts, property or other offices by directors of the company. There are some amendments to this which I shall want to move at the appropriate time and which generally will seek to improve the Bill and also overcome one particular difficulty which has been drawn to the attention of the Government from time to time, but concerning which nothing appears to have been done. If I could indicate what the difficulty with the present section 123 is, I point out that, solicitors often make loans on behalf of clients to companies and they are usually secured over the undertaking of the company or specific assets. The companies are generally proprietary companies but usually there is a guarantee, occasionally supported by security, obtained from the directors or from related companies.

The giving of the guarantee by the directors raises a difficulty that, as a rule of universal application, no-one who has duties to discharge shall be allowed to enter into engagements in which he has or can have a personal interest conflicting, or which possibly may conflict with the interests of those whom he is bound to protect. That really means that where the company directors give guarantees there is a problem. Also, where the debenture is, for example, issued to secure a company's debt to its bank there is a problem. In those circumstances the directors will ordinarily guarantee the debt. There is a particular case, *Victors Limited v. Lingard*, where, in those particular circumstances, the debenture was set aside simply on the ground that as the directors had given personal guarantees there was a conflict of interest between their position as directors of the company and their personal position as guarantors. They were, in fact, contingent creditors of the company.

Of course, a transaction which is guaranteed by a subsidiary company, in which one or more directors of the parent company are also directors of the subsidiary company, would be liable to be set aside on the same ground. A similar position arises where one or more directors of one company had a significant shareholding in the other. The problem cannot be overcome by a director making a disclosure to the board or refraining from voting. We are not concerned here with a director directly or indirectly acquiring some profit or advantage for himself, because strict rules are always needed to protect against that situation. What I am concerned about is that, where a transaction can be set aside because a director is regarded in law as having a conflict of interest, that is an unnecessary consequence of the strict application of that provision. At the appropriate time I would suggest that amendments could be made to deal with that difficulty.

Clause 96 deletes section 124a of the Companies Act relating to dealings by officers in securities. I checked the

Securities Industry Bill, the provisions of which are wider than those here; it deals with certain inside information and conflicts of interest. However, the Minister's speech, if one were to rely on that, referred only to the fact that that particular provision was not in the uniform legislation and was thereby not required. The fact is that it has been strengthened by inclusion in the Securities Industry Bill.

Clause 102 deals with the register of directors, managers and secretaries of a company, and subclause *(b)* requires a manager and secretary to give a consent in writing to the appointment. There is provision in the Act for consent of directors, too, but not in such express terms. One of the problems that I see with this is that, if it is enacted now, it is likely to require every manager or secretary appointed before the amendment comes into force to thereafter give a consent that will be kept in the register by company officers. That seems to be an unnecessary consequence of this Bill coming into force. Such a requirement to keep consent of managers and secretaries ought to be applicable only to those appointed after the Bill comes into force.

The Hon. C. M. Hill: It would have to be done once; it would not be an annual event.

The Hon. K. T. GRIFFIN: True, it would have to be done only once, and not on an annual basis. Hundreds of people have been appointed managers and secretaries but have not given written consent. It will require much work and effort for no obvious advantage to now require them all to give consent once the Bill has been passed.

The Hon. C. M. Hill: But they would be in complete agreement.

The Hon. K. T. GRIFFIN: Yes. Clause 102 also seeks to add a new subsection (8), dealing with certificates of the commission, and provides:

> . . . any person was a director, manager or secretary of a specified company shall in all courts and by all persons having power to take evidence for the purposes of this Act, be received as *prima facie* evidence . . .

Why ought it to be limited to "the purposes of the Act"? Such a certificate should be used in evidence in respect of who is a director, manager, or secretary of a specified company for any other purpose in addition to the purposes of the Act. Unless there is a good reason why that provision should not be changed, I intend to move an amendment accordingly.

Clause 105 amends section 137, which deals with the convening of an extraordinary meeting on requisition of members. There are certain rights in this amendment that are already in our Act. The amendment is consistent with provisions of the legislation in other States. An interesting addition is that, in addition to any members holding not less than one-tenth of the paid-up capital of the company carrying a right to vote, or in the case of a company not having share capital, of members representing not less than one-tenth of the total voting rights of all members having the right to vote, and having the right to requisition a meeting, a meeting may be called by not less than 200 members. That is a third provision enabling extraordinary meetings of the company to be requisitioned.

Clause 106 amends section 138, which deals with the calling of meetings, and the amendment seeks to extend the time for giving notice of a meeting of a company or of a class of members from seven days to 14 days.

Clause 107 amends section 140, and in proposed new subsection (6) it refers to ordinary general meetings or extraordinary general meetings. However, there is no definition of an ordinary general meeting in the Bill or in the Act, and it should more properly be described as an annual general meeting. There are only two sorts of meetings: an annual general meeting or an extraordinary general meeting.

Clause 108 amends section 141, which relates to proxies attending and acting for members at meetings of a company. Previously, there was provision for a shareholder to appoint a proxy. Presumably, that was one person, but it has now been extended to two persons, provided that the respective interests they represent have been specified in the proxy. My attention has been drawn to one difficulty experienced recently by a member of the legal profession in conducting a poll of members of a large company. He suggests that the provision of two proxies would create considerable additional difficulties in identifying those who were entitled to vote in that poll. There seems to be no good reason why there should be two proxies. The Minister does not cover the reason in his second reading explanation, and I would be interested to know of any reason.

Clause 109 seeks to amend section 142, which concerns the power of a court to order a meeting. New subsection (3) provides:

> For the purposes of an application to the court or a meeting held by order of the court under this section, the personal representative of a deceased member of a company shall be deemed to be a member of the company and, notwithstanding anything to the contrary in this Act or the memorandum or articles of the company, to have the same voting rights as the deceased member had immediately before his death by reason of his holding shares that on his death were transmitted to his personal representative by operation of law.

I am not sure what the words "by operation of law" refer to. Certainly there has been no transmission of shares to a personal representative by virtue of operation of law because, on the death of a member, if he dies intestate, they will pass to his administrator only upon the grant of administration and upon the administrator taking specific action to have the shares transmitted to him or, if the shareholder dies testate, they will be transmitted to the executor upon a grant of probate of the will and upon the executor seeking to have the shares transmitted to him.

Transmission is usually by a particular form in conformity with the articles of a company, and I refer to table A in the fourth schedule of the Act (articles 24 to 27). I am not sure what this clause seeks to do. If it seeks to give rights to other persons on the death of a member for specific purposes, the provision should be clarified. Clause 129 enacts new section 162ab.

This provision is not in the companies legislation of any other State or Territory in Australia. It relates to the declaration of contributions for political and charitable purposes. Such donations, where they exceed $100, are to be referred to in the directors' report. The Companies Act specifies the sorts of information that ought to be contained in directors' reports and in accounts that are to be prepared by companies and either lodged by companies or audited. None of those provisions requires specific reference to expenditure of any kind.

Therefore, it seems unusual that this particular expense should be singled out for specific reference in the accounts of the company. As I have indicated, it is not a uniform provision and it seems to have been inserted for a mischievous purpose rather than for the proper administration of the company law of this State and for the proper running of corporate bodies. I oppose that clause strongly, for the reasons I have given. Clause 136 amends section 167, which deals with the rights of auditors. Proposed subsection (7) has been extended so that any auditor who retires at a meeting or if a resolution to remove him is passed by a meeting, he is entitled to attend the meeting and be heard as an auditor, notwithstanding his retirement or his removal from office. That provision is sensible. In

some limited circumstances, an auditor seeking to exercise his responsibilities in accordance with the Act would otherwise be precluded from commenting at a meeting at which he retired or if there was a resolution to remove him. This provision is consistent with provisions in other States.

Clause 137 repeals section 167b, which provision is the same as the provisions in Victoria and Western Australia. The amendment proposed is similar to the New South Wales provision, but I cannot understand the reason for the change. Because the law of defamation is complex and because I have not had opportunity to research this change fully, I will not comment on it with any degree of authority now but, as it seems to be a significant change, I will comment further in the Committee stage.

Clause 139 deals with section 168. I draw attention to the fact that the responsibility at present given to the Governor is being given to the Minister. Section 170, on which this does have a consequential bearing, deals with the appointment of investigators. By the provision as amended, instead of having the Governor appoint the investigator as advised by his Ministers, the Minister can appoint that investigator. I have reservations about the Minister exercising that power.

Clause 143 inserts new section 171a, but I am not sure of the reason for this. The Minister does not give one in his second reading explanation, and the provision is not in the Victorian or Western Australian legislation. I think it is in the New South Wales legislation but I have not had an opportunity to check that. I think the provision is unwise, because it allows the commission to be appointed as an investigator and, where appointed, any reference in the Act to an investigator applies to the commission.

The commission ought not to appoint itself to act as an investigator but ought to exercise the ordinary powers that are given to it under the Act and this Bill to appoint an investigator to deal with the investigation. It seems to me that there is some conflict in allowing the commission to appoint itself as such an investigator.

Clause 147 repeals section 178 of the Act, which deals with reports by inspectors, and enacts a new provision with which I have no argument. The only point that I raise is that a subsection (12) seems to be omitted. That subsection appears in the Western Australian and Victorian legislation and provides that nothing in the section operates to diminish the protection afforded to witnesses by the Evidence Act, 1958. I cannot see why that provision should be deleted here, unless there is some peculiar reason why the Evidence Act would not apply, and I do not know of any.

It seems to me that, where a report is being made by an inspector and he is exercising certain fairly wide powers, some protection ought to be afforded to witnesses. Therefore, unless there is a good reason for not including that protection, I should like to see it included.

Clause 148 amends section 179 of the Act, which relates to the cost of investigations. Under that section the expenses of investigations are ordinarily payable out of money provided by Parliament. However, under proposed new subsection (2), which is somewhat similar to the present subsection (2), the Minister may order that the expenses be paid by the company. That is the same provision that obtains in Victoria and Western Australia, and is probably the same as that in New South Wales, although I have not checked that. Nevertheless, it seems to me to be unjust.

No right exists to have the Minister's order reviewed, although there is a right for an order made by the Minister under section 179b (4) to be reviewed. However, that is a different provision. Subsequently, in this clause there is provision for the court to order persons other than the company to pay the costs of an investigation. There ought to be some consistency. If the Minister has power to order, I suggest that the court should have power to review that order, because the costs of an investigation can be substantial. Indeed, an investigation can run over many months, and the costs thereof can amount to tens of thousands of dollars.

For the Minister to be able to make that sort of order without being subject to any judicial scrutiny seems to me to open the way for injustice. I am not saying that this will occur, but this opens the way for it to occur.

Clause 149 seeks to amend section 179b, which deals with orders that may be made by the Minister, and subsequently refers to offences, for a breach of which the penalty is $1 000 and the default penalty $200. The Victorian and Western Australian legislation includes an additional subsection, which provides that a prosecution under the section shall not be instituted without the consent in writing of the Minister.

I suggest that that is an appropriate provision to include in this clause, because there ought to be some scrutiny of the sorts of proceedings instituted for offences. If it is good enough to include it in Victoria and Western Australia, I think that it ought to be seriously considered here.

Regarding clause 150, which amends section 180, I want to make several comments. First, in proposed subsections (2) and (3), reference is made to a recognised company. The legislation of the signatories to the Interstate Corporate Affairs Agreement contains a definition of "recognised company", but there is no such definition in our Act or in the Bill. It would therefore seem to be inappropriate to refer to recognised companies. Also in this section, Victoria and New South Wales provide for some notice of the particular consequences that flow from the section to be given to the company. I think that that is a desirable provision to be included in the Bill.

A provision that is not common to Victoria or Western Australia (and I am not sure whether it is in New South Wales) is in clause 173, which deals with section 196 of the Act. This provides for payment of certain debts out of assets that are subject to a floating charge where a receiver has been appointed. This clause provides for the calling of a meeting of employees within one month of the appointment of the receiver to inform them of their rights relating to payment of debts owing to them and, as far as he is able, to inform them of the time when payments in respect of those debts are likely to be met.

I do not object to that provision. It is fair and reasonable for employees of a company to which a receiver has been appointed to be given information about their respective rights and about the time within which they can hope to be paid.

Clause 189 refers to applications for winding up under section 221 of the Act. An interesting procedural change is being made here. We ordinarily have provided for petitions for winding up to be the procedure by which winding up proceedings may be instituted (and that is the same in Victoria and Western Australia). The procedure for dealing with petitions generally and petitions for winding up, in particular, has been well established over many years, and there has been no complaint with it. Now we see a change in the clause from the requirement for a petition for winding up to an application for winding up. I have not had an opportunity to pursue the consequences of that change, but I hope that, by the time the Bill gets to the Committee stage, I will have had an opportunity to do that.

Clause 191 deals with the commencement of a winding up by the court. Again, it refers to an application, whereas

in the other States it refers to a petition, as well as presently referring to a petition in this State. In clause 192, relating to section 224 of the Act, provision is made for the payment of preliminary costs of an application for winding up to be paid out of moneys provided by Parliament for the purpose. The Minister has a discretion to authorise that payment, but it may not exceed $300, which sum was provided for in 1962. The sum has not been increased, and since then there has been a significant increase in costs as well as a depreciation in the value of money.

Whilst I do not intend to amend that, it would be appropriate in the future for the Government to consider increasing that to a more appropriate figure—about $750. In the context of clause 193, dealing with amendments to section 225 of the principal Act, some specific powers of the court have been omitted. Those powers of the court are, on considering a petition, to be able to adjourn the petition, amend it, allow it to be withdrawn, or to give directions. Perhaps those powers are inherent in the court, but there is a danger that, by the very fact that those powers were once expressly provided and are now no longer provided, there could be some inference drawn that the court no longer has the powers. I would not want that situation, because the power to amend or withdraw petitions is valuable in connection with petitions for winding up. Victoria and Western Australia continue to provide for those matters, which are now omitted from our legislation.

Clause 190 amends section 222 of the principal Act, which deals with the winding up of a company. There are difficulties arising out of the decision of Judge Hogarth in the case *re Alpina Proprietary Limited*. Section 222 requires such a notice to which I have referred to be served at the registered office of the company. I suggest that that could be appropriately extended to include service on a Director or the Secretary of the company. That sort of provision is already included in section 315 of the principal Act which deals with the winding up of unregistered companies. It could be usefully extended to apply in that case.

Clause 194 deals with the power to stay or restrain proceedings and also with the avoidance of dispositions of property. The present practice is that, where there are petitions for winding up, notice is not given to the Registrar of Companies until a winding-up order is made. That can be prejudicial to persons dealing with a company because, for the purposes of winding up, whenever the order is made, the critical date is the date of presentation of the petition. It would be useful if there was some requirement that either the company or the Master of the court should be required to give notice to the Companies Office that a petition has been presented.

Clause 196 deals with section 230 of the principal Act, requiring lodgment of winding-up orders with the Commissioner for Corporate Affairs. Under new section 230 (2), the time within which the orders are to be lodged and served is to be prescribed by rules, yet previously they were to be served within seven days, as in Victoria and Western Australia.

In referring to the time prescribed by the rules, there is no clarification or definition of the rules. One would presume they are the rules of the court referred to in section 395 of the Act, but there should be some clarification. Clause 203 relates to section 250 of the Act, which deals with the power to order a public examination. The amendment seeks to delete present subsection (8), which gives the court power to adjourn the examination from time to time. That provision is still in the Victorian and Western Australian legislation. It is, though, inherent in the court to adjourn, but I suggest that, if there is likely to be any inferance drawn from the deletion of that clause that no longer does the court have power to adjourn, it should remain.

The amendment also seeks to delete present subsection (6), dealing with the power of the court to allow costs. That is also in the Victorian and Western Australian legislation. For the purpose of clarity and to avoid any unreasonable inference, I suggest that it should be retained. Clause 213 deals with section 282, where a liquidator is to make good certain defaults. Again, it seeks to delete subsection (2), which provides specific power in the court. There is no good reason for deleting those provisions, particularly as they are still retained in the Victorian and Western Australian legislation. Clause 217 deals with section 290 of the Act, which is a specific provision allowing commissioners to be appointed to take evidence on commission. That section is to be deleted. It is still present in the Victorian Act. However, in one of the Evidence Act Amendment Bills before us there is provision for the Supreme Court to take evidence on commission in a much broader context than previously. Therefore, I see no reason why section 290 ought to be retained.

Clause 219 deals with the order of priority for payment of debts on liquidation. This gives a priority for pay-roll tax to the State. It also gives priority to the Commonwealth for income tax for one year. The provision that gives priority to the State for pay-roll tax is not limited to any particular period. I consider that it should be limited to pay-roll tax outstanding for one year. If there is no limit, the Commissioner responsible for collecting pay-roll tax might allow a company in default to continue in default in excess of one year. Whilst he gets priority, the creditors will suffer. Limiting the Commissioner to one years priority may force him to act promptly to remedy any default, and that may well be in the interests not only of the company but also of the creditors in general.

Also in that context, on page 114 is a new subsection (11), which deals with a liquidator calling meetings of employees. Again, I have no objection to that; I think it is a perfectly reasonable provision and, whilst it is not in the other States' legislation, I am happy to be able to support it.

Clause 222 refers to section 306 and deals with the prosecution of delinquent officers and members of the company. It seeks to enact new subsection (4) in addition to other subsections, so that there may be an application by the commission to the court for an order conferring on the commission certain specific powers to investigate the affairs of the company. It is the same as in Victoria, but, notwithstanding that it gives wider powers to the commission, it is subject to the discretion of the court, and I would be satisfied, generally speaking, with that being exercised by the court.

In clause 232 there is again a provision that where previously the Governor exercised power the Minister now is given particular power. In clause 234 paragraph *(e)* makes a reference to "recognised company" which I think is inappropriate. Clause 237 repeals section 349. This is a provision for the suspension of fees by the Registrar of Companies in respect of foreign companies. I am happy for the section to be repealed because we no longer have capital fees, but I want to indicate that by its repeal it is one other area of lack of uniformity with Victoria and New South Wales.

Clause 242 relates to the service of documents on a company. I have already indicated in a number of contexts that there is presently some difficulty and some unfairness in relation to the notice of situation of registered offices

where there is a change of such office, notice of which is not lodged for some time after the change. Clause 243 deals with the question of security for costs. It seeks to delete a specific subsection (2). Whilst the payment of costs is ordinarily in the discretion of the court, and it may well have inherent jurisdiction in this context, I raise again what the implications are if once having appeared expressly in the Act, it is now repealed.

Clause 245 seeks to repeal section 365 (3). That section deals with some powers of the court to grant relief. I am concerned about this repeal, because the subsection which we are seeking to repeal gives a power to the court, to withdraw a case from a jury if it so desires, upon certain grounds. It is a provision which is in Victoria, New South Wales and Western Australia, and I cannot see the need to remove it. The fact is that if it is removed it is likely to create some injustice. Clause 249 deals with the production and inspection of books where an offence is committed. It vests the commission with certain power where previously it was power administered by the Minister. In this context it is a proper exercise of power by the commission, although I would want to give some further attention to that in the Committee stage.

In that clause there is a right of appeal to the Full Court by leave of the Full Court, and I am pleased that it is there. It does not appear in the Victorian legislation. In clause 253 there is again a power which was previously exercised by the Governor on the recommendation of the Minister but is now to be exercised solely by the Minister. I have some concern about that.

In clause 255 there is a reference to a section 381 of the Act which I believe to be incorrect; it should be section 382. This clause, whilst it is in the New South Wales Act and extends the time of prosecution for a particular offence, does not appear in the Western Australian or Victorian Acts. I would want to give some further consideration to the consequences of that at an appropriate time. Clause 261, which deals with proceedings under the Act, provides:

> In any proceedings for an offence against this Act, any information, charge, complaint or application may be laid and made—
>
> *(a)* in the name of the commission where not required to be laid or made on oath;
>
> *(b)* by the Commissioner, or by an officer or employee of the commission authorised by the Commissioner in that behalf; or
>
> *(c)* with the consent of the Minister, by any person,

I do not see any real objection to that, but I draw attention to the fact that that is not in our present Act and differs somewhat from the provisions in the Victorian and Western Australian Acts. Clause 262 relates to section 390 of the principal Act. I draw attention to the fact that that has already been deleted by the Enforcement of Judgments Act, which has already been passed. Whilst clause 262 seeks to increase the operative amount from $400 to $2 000 relating to unsatisfied judgment summonses against directors, it can really have no consequence, because the section will no longer appear, as a result of the operation of the Enforcement of Judgments Act.

There are, therefore, a number of matters with which I am concerned and, whilst I support the second reading, I shall want to give further attention to a number of substantial amendments at a later stage.

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

DOOR TO DOOR SALES 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.

It provides for a substantial revision of the principal Act, the Door to Door Sales Act, 1971, and for the extension of the application of that Act to the door to door sale of books which is presently regulated by the Book Purchasers Protection Protection Act, 1963-1972. The revision of the principal Act is largely designed to clarify the intended effect of existing provisions of the Act although a number of amendments propose changes of substance.

The Bill provides for amendment to the principal Act to apply it to the sale of certain interests in addition to the sale of goods and the supply of services. The attention of the Government has been drawn to undesirable practices involving, for example, the door to door sale of interests in pine and eucalyptus plantations. The application of the Act to the door to door sale of such interests would enable the purchasers to exercise the option provided by the Act of terminating the contracts during the cooling-off period under the Act.

In the same way, the Bill proposes the extension of the principal Act to the door to door sale of life insurance policies. It has been argued in opposition to this proposal that a person who signs a proposal for life insurance at his place of residence has a "cooling-off period" for the reason that it usually takes some days before the insurance company accepts the risk. In the Government's view, however, such a "cooling-off period" is of little value to the householder unless its existence is drawn to his attention as would be the case if life insurance policies were required to comply with the provisions of the principal Act.

The Bill provides for amendment of the principal Act to apply it to door to door sales that occur after the purchaser has, in response to an advertisement, written away for information or a brochure. The Act, with its present wording, may not apply to such sales even though the visit of the salesman to the doorstep in such cases cannot be said to have been sought by the purchaser.

The Bill includes an amendment of the principal Act under which the notice of the cooling-off period is required to be printed on the purchaser's copy of the contract in large type face. The Bill proposes an amendment to the principal Act whereby different monetary limits may be fixed by regulation for the consideration under contracts to which the Act applies. This is intended to provide more flexibility in the administration of the Act and to regulate large scale door to door selling operations that have recently been the subject of numerous complaints, but which involve sales for less than $20.

With regard to the door to door sale of books, the Bill proposes that the present scheme under the Book Purchasers Protection Act, whereby such sales are of no effect unless confirmed by the purchaser, be retained, but provided for in the Door to Door Sales Act.

The Bill provides for the creation of two new offences. One prohibits the use of force, harassment or coercion in order to achieve a door to door sale. This is in terms similar to the offence created by section 60 of the Trade Practices Act, 1974, of the Commonwealth. The other offence is designed to prevent avoidance of the provisions of the Act by door to door selling businesses that so arrange their affairs that their salesmen are at law the vendors of the goods and not simply servants or agents of the door to door selling businesses. The Bill also increases maximum penalties for offences against the principal Act

and makes provision for certain procedural and evidentiary matters.

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

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the measure shall come into operation on a day to be fixed by proclamation. Clause 3 repeals section 4 of the principal Act which preserves the operation of the Book Purchasers Protection Act. Clause 4 inserts a new definition of "goods" in section 5 of the principal Act that includes rights arising under a policy of life insurance and rights or interests specified by regulation. Clause 5 amends section 6 of the principal Act by empowering different monetary limits for the consideration under contracts to which the principal Act applies to be fixed by regulation in relation to different classes of goods and services. The clause also amends that section by including within the ambit of the Act any contract which is the result of an unsolicited inquiry by a purchaser where the purchaser has not actually agreed to the vendor attending at his place of residence for the purpose of negotiating the sale.

Clause 6 repeals sections 7 and 8 of the principal Act and inserts new provisions dealing with the matters presently dealt with by sections 7 and 8. New section 7 provides for the formal requirements of door to door sale contracts. This section caters for the two types of door to door sale contracts, namely, those that may be terminated during the cooling-off period and those that must be confirmed within a certain period. Paragraph *(d)* of subsection (1) of the section requires the notice of the cooling-off period to be printed in bold black type of large type face on the contract document immediately above the place for the purchaser's signature. Subsection (2) of the section requires any door to door seller to present to a prospective purchaser a written contract document that has first been signed by the seller. New section 8 provides that it shall be an offence to receive a deposit or other payment under a door to door sale contract during the cooling-off period. This is presently an offence by virtue of subsection (3) of section 7 of the principal Act. New section 8a provides that a door to door sale contract of a class prescribed by regulation must be confirmed by the purchaser within fourteen days but not less than five days after the contract is entered into, otherwise it will be void. This is intended to provide for door to door sales of books, the cooling-off period being the same as that presently provided for under the Book Purchasers Protection Act. Subsection (2) of new section 8a is to the same effect as section 6 of the Book Purchasers Protection Act. Subsection (3) provides that any other door to door sale contract may be terminated by the purchaser within eight days after the contract is entered into. This is the same cooling-off period as is presently provided for under the principal Act. Subsection (4) provides for termination by the purchaser of a door to door sale contract that does not conform with the formal requirements of new section 7.

New section 8b provides that where a door to door sale contract is void any contract of guarantee or indemnity or any security relating to the contract shall also be void. New section 8d provides for recovery of the consideration and return of any goods delivered under a door to door sale contract that becomes void by virtue of non-confirmation or termination by the purchaser. Clause 7 amends section 9 of the principal Act by increasing the penalty for failure to provide information required by that section from $200 to $500. Clause 8 inserts a new offence prohibiting the use of force, harassment or coercion in order to induce a person to enter into a door to door sale contract.

Clause 9 makes an amendment that is consequential on the amendment proposed by clause 10. Clause 10 inserts a new section 11a providing that any person who derives direct or indirect financial benefit from a door to door sale that is effected in breach of the Act shall be guilty of an offence. This is intended to apply to door to door selling businesses that presently avoid the operation of the Act by selling their goods to their salesmen. The clause also inserts new section 11b providing that it shall be a defence to any prosecution for an offence against the Act if the defendant proves that he had reasonable grounds for believing that the sale was not a door to door sale or that he could not be reasonably expected to have known that the sale was a door to door sale.

Clause 11 inserts evidentiary provisions relating to documents and bodies corporate incorporated outside the State and provides for service of notices upon vendors under door to door sales. Clause 12 extends the period within which prosecutions under the Act are to be commenced to 12 months. Clause 13 provides for a new schedule to the principal Act setting out the forms to the cooling-off notices required to be printed in door to door sale contracts.

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

BOOK PURCHASERS PROTECTION ACT REPEAL 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.

It provides for the repeal of the Book Purchasers Protection Act, 1963-1972, and is consequential on amendments to the Door to Door Sales Act, 1971, proposed by the Door to Door Sales Act Amendment Bill, 1978.

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

ADJOURNMENT

At 11.14 p.m. the Council adjourned until Thursday 15 February at 2.15 p.m.