LEGISLATIVE COUNCIL

Tuesday 4 March 1980

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

BLACKWOOD HIGH SCHOOL

The **PRESIDENT** laid on the table the report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence, on Blackwood High School—Additional Accommodation.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. K. T. Griffin)—

By Command

Advisory Council for Inter-Government Relations —Report, year ended 31 August, 1979.

Pursuant to Statute

Administration and Probate Act, 1919-1978—Amendment to Rules of the Supreme Court.

Companies Act, 1962-1979—"Rules of Court (Companies Act), 1980 (No. 2)".

Supreme Court Act, 1935-1978—"Supreme Court Rules, 1980 (No. 1)".

By the Minister of Local Government (Hon. C. M. Hill)—

Pursuant to Statute

Department of Correctional Services Report, 1978-1979.

By the Minister of Community Welfare (The Hon. J. C. Burdett)—

Pursuant to Statute

Abattoirs Act, 1911-1973—Variation of regulations.

National Parks and Wildlife Act, 1972-1978—Variation of regulations.

MINISTERIAL STATEMENT: NORWOOD BY-ELECTION

The Hon. K. T. GRIFFIN (Attorney-General): I seek leave to make a statement.

Leave granted.

The Hon. K. T. GRIFFIN: I have now received the report of the Electoral Commissioner on a number of complaints received by him during the period of the Norwood by-election which resulted from the decision of the Court of Disputed Returns. It is important to appreciate the climate in which the by-election was held to ensure that the complaints are seen in their proper perspective.

As a result of the decision of the Court of Disputed Returns, it became obvious that the Electoral Office would be required to implement the provisions of the Electoral Act strictly according to the letter of the law, regardless of past practice. The mere fact that a practice may have evolved over many elections, accorded with the spirit of the Electoral Act, and in any event was eminently sensible and reasonable was considered not necessarily sufficient if the Electoral Office was to ensure that on its side the conduct of the election was to be above criticism.

Let me give an example. The practice of Presiding Officers not preventing two persons from being in the same voting cubicle at the same time had been accepted over a number of years. This particularly applied to older people and where there were language difficulties. It was, however, a practice which, as the Norwood Court of Disputed Returns determined, was technically contrary to the strict interpretation of the Electoral Act. The long-standing practice, however, had never been proved to result in any adverse effect on any election and had been allowed to continue. Recognising this, the previous Government had decided in February 1979 to amend the Electoral Act to formalise this practice. But, as this had not been enacted and as a result of the decision of the Court of Disputed Returns, the Electoral Office was faced with the prospect that, if two persons were in the same voting cubicle at the same time and completed ballot papers, their vote was invalid and the Presiding Officers were required to take the completed ballot papers from those persons to ensure that the whole election was not likely later to be invalid.

Another example to illustrate the difficulty is where polling officers find ballot papers in the rubbish bin or on the floor of a polling place. Their past practice had been to place those ballot papers in a ballot box to ensure that all voting papers were accounted for, regardless of whether or not the voting paper was found. That was no longer to be allowed. It was, therefore, in this climate of applying the provisions of the Electoral Act in a strict technical way that the by-election was held. The Electoral Office was required to ensure that every "i" was dotted and every "t" crossed in the conduct of the election, so that neither it nor the whole election could be subject to any criticism. The candidates and Parties appear to have adopted the same approach.

I take the opportunity to commend the Electoral Commissioner and the Returning Officer and all other officers on the way in which they conducted that by-election. They did much more than they would ordinarily be required to do and ensured that the conduct of the election by them could not be subject to any criticism, real or imagined. It should also be noted that the Electoral Office went to considerable lengths to ensure that all who were entitled to a vote, wherever they were at the time of the election, were given every opportunity to cast a valid vote. In other State Electoral Offices before polling day there were facilities for postal votes, as well as at South Australia House in London. Various High Commissions and embassies were provided with the appropriate facilities for allowing applications for postal votes. There were advertisements in the *Advertiser*, the *News*, the *Sunday Mail* and the *Australian*, and an electoral office pamphlet in every letter box in Norwood, drawing attention to polling day requirements and the postal vote facilities.

Section 33 of the Constitution Act provides that every person who—

(a) is at least 18 years of age; and

(b) is a British subject; and

(c) has lived continuously in the Commonwealth for at least six months and in the State for at least three months and in an Assembly subdivision for at least one month immediately preceding the date of his claim for enrolment

is entitled to vote at an election if at the time of the election he is enrolled on the Electoral roll for a Subdivision of the Assembly district in which the election is held. The Electoral Act provides:

> Names should be placed upon Assembly rolls pursuant to claims for enrolment or claims for transfer of enrolment.

Claim cards for enrolment or transfer of enrolment are available at all post offices, and as part of the claim the applicant declares:

> I now live and have lived in the abovenamed subdivision for a period of not less than one month immediately preceding the date of this claim.

Such claim forms are witnessed and penalties prescribed for false declarations. If any claim is incomplete or the Registrar is not satisfied that the claim is in order, no enrolment or transfer is effected and the elector is notified.

However, there is no clear and precise definition of "living", and the facilities for checking whether or not a person is "living" or has "lived" at a particular address for a period of not less than one month preceding the date of the claim for enrolment are limited. The Electoral Office does not have the facilities to examine each application for enrolment by checking the application personally. Other procedures are adopted to ensure that there is some scrutiny of the roll. In this context it is important to recognise that South Australia and the Commonwealth have an agreement whereby the Australian Electoral Office processes claims for enrolment. There is a good working relationship between the two offices in both the processing of claims for enrolment and the keeping of up-to-date rolls. I understand from the Electoral Commissioner that the procedures are constantly under review.

There is also some system of cross-checking when an application for enrolment is made where the person making that application has previously been enrolled in another subdivision, whether in South Australia or in other States. As a result of the Norwood by-election, the requirements of the Electoral Act with respect to this will be reviewed, as will the procedure for objection and periodic reviews of the rolls. With respect to the electorate of Norwood, it is important to recognise that it comprises two subdivisions, Norwood and St. Peters. The Electoral Commissioner has reported that since early October 1979, when the petition on the September election was lodged, there has been a probability of a "new election in Norwood".

He understands that extensive canvassing took place, often in the evenings, when the maximum benefit could be obtained. Large numbers of persons were contacted and claim cards offered to persons who were not then enrolled. He also reports that there was no canvassing in the other 46 House of Assembly districts; consequently many of the electors who had moved from Norwood had not changed their enrolment, and therefore deletions to the Norwood roll were not generated on the day of the issue of the writ. At the close of the roll, the number of electors enrolled was 17 614, a net increase of 944 since August 1979. During the period 27 August 1979 to 25 January 1980, 1 835 names were added to the Norwood roll, whilst 891 were deleted. I have here particulars of additions, deletions and amendments for each of the two subdivisions for each month from and including January 1976 to January 1980, and I seek leave to have the following table inserted in *Hansard* without my reading it.

Leave granted.

ADDITIONS, DELETIONS AND AMENDMENTS TO ST. PETERS AND NORWOOD SUBDIVISIONS

From January 1976 to January 1980

		St. Peters			Norwood		
Year	Month	Additions	Deletions	Amendments	Additions	Deletions	Amendments
1976	January	240	154	27	218	412	39
	February	59	111	6	89	114	25
	March	67	88	8	79	113	7
	April	93	146	3	87	145	3
	May	59	62	10	87	60	278
	June	106	135	10	91	132	7
	July	76	185	14	84	113	14
	August	55	76	3	186	85	18
	September	64	72	7	266	137	49
	October	193	143	25	391	386	61
	November	178	113	27	138	533	12
	December	93	151	12	114	106	12
1977	January	120	87	29	56	62	—
	February	187	475	35	94	138	18
	March	138	129	8	100	111	9
	April	141	125	7	176	175	8
	May	—	4	—	—	11	—
		—	26	—	176	49	—
	June	437	256	32	434	247	31
	July	90	120	31	106	182	23
	August	90	119	1	466	156	30
	September	144	77	11	227	93	36
		357	106	9		138	
	October	94	98	8	88	473	17
	November	168	147	10	133	96	5
	December	64	36	8	—	16	—
1978	January	186	167	26	224	377	21
	February	47	231	18	44	95	5
	March	48	61	1	56	140	6
	April	38	32	7	46	92	7
	May	39	68	4	40	89	—
	June	77	161	4	85	89	9
	July	82	82	9	91	100	10
	August	53	79	1	53	75	4

ADDITIONS, DELETIONS AND AMENDMENTS TO ST. PETERS AND NORWOOD SUBDIVISIONS—*continued*

From January 1976 to January 1980

Year	Month	St. Peters Additions	St. Peters Deletions	St. Peters Amendments	Norwood Additions	Norwood Deletions	Norwood Amendments
	September	74	93	4	76	105	6
	October	128	95	21	74	115	10
	November	315	116	43	44	108	4
	December	213	124	42	74	125	4
1979	January	73	170	22	83	101	4
	February	169	442	13	181	113	16
	March	270	196	26	355	270	38
	April	70	89	12	225	156	42
	May	69	109	11	288	54	18
	June	103	123	1	270	204	60
	July	76	256	16	139	142	39
	August	207	174	12	226	697	48
	September	223	86	21	272	95	30
	October	63	74	1	76	59	12
	November	143	112	25	39	129	4
	December	47	66	11	27	60	1
1980	January	496	95	31	449	92	30

Amendments—Mainly movement within subdivision.

The Hon. K. T. GRIFFIN: The names of 175 electors were removed after the close of the Norwood roll but before polling day, where Norwood electors had sought enrolment elsewhere in South Australia or interstate.

Another procedure for reviewing enrolments is the habitation review. A habitation review over the whole of South Australia has been conducted by the Australian Electoral Office in each of the 1977, 1978 and 1979 financial years. That review comprises a house-to-house doorknock to ascertain who lives at an address. If no-one is at home, a white card requesting information as to the occupants is left at the house. But if it is not returned there is no follow-up and the person on the roll for that address ordinarily remains on that roll. Objection procedures follow if a person whose name is on the roll for an address does not appear to live at that address. There had been a complete habitation review of the Norwood Subdivision in April 1979, and in St. Peters in September, October, November 1979.

The Electoral Commissioner also reports that, as regards the Norwood Subdivision, no habitation review has been carried out by the Australian Electoral Office since August 1979, and consequently there has been no removal of names on the grounds of non-residence. In the Subdivision of St. Peters, 300 objections on the grounds of non-residence were to have been issued in September-October 1979, following a review. Owing to the general election, the consequent Court of Disputed Returns, and the possibility of a by-election in Norwood, the objection procedure was deferred until after the by-election. Had no petition been lodged, the names of approximately 200 electors would have been removed by mid-January 1980.

The Electoral Commissioner reports also that his inquiries disclose that the city of Kensington and Norwood, with the exception of the suburbs of Marryatville and Heathpool, is in the Norwood electoral subdivision. He has been provided with information that, in the last nine years, 179 homes have been demolished, 27 new dwellings and 861 flats constructed, the flats mainly for rental. He indicates that Norwood is an area with a high turnover of population due to the amount of rental accommodation available.

The number of electors whose names appear on the Norwood roll for each of the elections since 1970 is set out in a table. I seek leave to have that table inserted in *Hansard* without my reading it.

Leave granted.

NUMBER OF ELECTORS ON NORWOOD ROLL SINCE 1970

The number of electors whose names appear on the Norwood roll for each of the elections since 1970 is as follows:

Enrolment	Total State Enrolment	Norwood Sub-division	St. Peters Sub-division	Norwood District	Norwood as percentage of State
General election 1970	635 533	8 379	7 937	16 316	2·57
General election 1973	696 290	8 496	8 411	16 907	2·43
General election 1975	771 414	8 834	9 176	18 010	2·33
General election 1977	818 341	8 844	8 883	17 727	2·17
Norwood by-election 1979	827 852	8 239	8 597	16 836	2·03
General election 1979	826 586	8 212	8 458	16 670	2·02
Norwood by-election 1980	843 556	8 647	8 967	17 614	2·09

The Hon. K. T. GRIFFIN: A number of matters were the subject of inquiry by the Electoral Commissioner during the course of the Norwood by-election. They were matters which suggested the need for detailed checking by him.

One report suggested that certain electors enrolled for addresses in Nelson Street, Stepney, had voted on 16 February 1980. An on-site inspection by the Electoral Commissioner confirmed that a certain amount of demolition had taken place, especially at the northern end of Nelson Street. He ascertained that the demolition took place between mid-January and mid-February, as part of a development project. In this particular area, four electors had voted, two of whom had moved to another house within the District of Norwood but in the subdivision of St. Peters. No communication could be established by the Electoral Commissioner with the other two electors.

There were other addresses which appeared to be vacant allotments and for which addresses electors were enrolled. Inquiry by the Electoral Commissioner ascertained that the electors enrolled for those addresses were electors of long standing, whose properties had been demolished, they having moved to other addresses.

There was also a report that persons had remained enrolled for an address in the Norwood District whilst they were qualified to claim enrolment elsewhere, no longer living in the Norwood District. The Electoral Commissioner has reported that the completion of a claim to change enrolment is at the discretion of the elector. The one-month residential qualification in the new subdivision necessarily delays a claim for transfer. Whilst any elector who has changed his place of living will be removed in due course as a result of the habitation review and objection procedure, as long as his name is on the subdivisional roll he is entitled to vote. An investigation of the names which were reported to the Electoral Commissioner found that, in the main, they were long-standing enrolments and the allegation could not be justified.

A report had also been made that a group of persons had moved from interstate into the Norwood District immediately prior to 25 January 1980. The Electoral Commissioner reports that this was fully investigated, and he was able to ascertain that only the following electors enrolled in Norwood District from interstate during the period 27 August 1979 to 25 January 1980:

State	Number enrolled
Victoria	25
New South Wales	34
Northern Territory	3
Queensland	11
A.C.T.	7
Western Australia	10
Tasmania	2
	92

The Electoral Commissioner was unable to find any evidence to substantiate this report.

It was also reported to the Electoral Commissioner that the staff of a university in South Australia had conspired as a group to enrol for the Norwood District immediately prior to the close of the roll. He reports that he has investigated this as far as he is able and can find no evidence to substantiate this claim.

There was also a claim that there were a number of persons with differing surnames who had been enrolled for addresses where other persons were presently enrolled and that such new enrolments were of a suspicious nature. The Electoral Commissioner was unable to substantiate that any improper enrolment had taken place.

The conclusion of the Electoral Commissioner was that, in the absence of background information, the early conclusions drawn to the increase in the number of enrolments in the House of Assembly district were understandable. The Electoral Commissioner undertook investigations but, on the evidence which was available, he could not establish that any "stacking of the rolls" had taken place. He has recommended to me that consideration should be given to clearly determining the entitlement for enrolment and voting, together with the challenges authorised at the time of polling and their effect. He says that this is a matter for serious consideration during the review of the Electoral Act which is now being carried out.

It is as a result of the experience of the electoral officers at the by-election and in the general election, as well as during the Court of Disputed Returns, that a thorough review of the Electoral Act is presently under way. It will undoubtedly result in a number of substantial amendments to the Electoral Act. As part of this review it is important to review the highly technical requirements to ensure that an inadvertent breach does not invalidate the election, although in itself the inadvertent breach had no bearing on the result.

There is a comprehensive review of the Electoral Act currently under way and it is expected that that review will be completed in time to enable comprehensive amending legislation to be introduced in the next session of Parliament. In the course of that review the Electoral Commissioner has contact with other States' electoral officers and with the Commonwealth Electoral Officer. I am satisfied that such review, which is well overdue, is being expeditiously and competently conducted.

I am also satisfied that the inquiry into the complaints which were made was warranted. Any allegation suggesting that the electoral rolls are irregular is a very serious matter. As Attorney-General and the Minister to whom the Electoral Commissioner is responsible, it was my duty to ensure that such allegations were investigated. I am pleased that the Electoral Commissioner has investigated them as deeply as he was able within the constraints of the Electoral Act. If nothing else, those complaints, as well as the Court of Disputed Returns, have highlighted some grave deficiencies in the Electoral Act. All of these matters will be attended to in the foreseeable future.

QUESTIONS

PUBLICITY AND DESIGN SERVICES

The Hon. C. J. SUMNER: I seek leave to make a brief explanation prior to asking the Attorney-General, representing the Premier, a question about the Publicity and Design Services.

Leave granted.

The Hon. C. J. SUMNER: Last Thursday I asked the Attorney-General to explain the reason behind the Government's then unannounced decision to disband the Publicity and Design Services. The Attorney-General said that Publicity and Design Services was the concern of the Premier and declined to reply. Although I felt sure at that stage that he had some knowledge about whether a decision had been taken to disband, apparently he was not prepared to give the Council that information. About half an hour after my question the Premier was then asked a Dorothy Dixer in another place on the same matter. The Premier gave a reply which I believe, in its main particular, was incorrect and indeed misleading. He said that 23 Publicity and Design Services staff members were employed "to perform only 15 per cent of the total work available and put out".

I think this Council, and the people generally, are entitled to know that this 15 per cent figure is quite wrong. My information is that, if there is 15 per cent in the Publicity and Design Services Division equation, it refers to a percentage of the time of the Government Printer, taken up with jobs sent by the division. It does not refer to a percentage of total departmental publicity, promotion and/or design work. The percentage of Government work put out by the Publicity and Design Services varies between 40 per cent and 60 per cent, and certainly not the 15 per cent that the Premier stated. As I said the other day, the Publicity and Design Services Division does a great deal of valuable work producing brochures for

recreation and sport, information leaflets for community welfare, and promotional material of extremely high standard for the Art Gallery. It was also available to community groups and other tourist-orientated activities throughout the State, not officially through the Tourist Bureau necessarily but through other tourist-promoted activities such as the Food and Wine Fair that has been held each year in this State. The division was able to provide competent and cheap advice and back-up assistance for those groups in their publicity.

That service to the South Australian community will now no longer be available. Government departments are asking what they are supposed to do now. On Thursday I also stated, and I believe it to be the case, that, if there is no Publicity and Design Services Division in the future, departments and Government agencies will have to let this work out to the private sector and will be paying at least double what they have paid in the past. There is no way that private operators will work on the P.D.S. margin which, as I mentioned last Thursday, is at cost plus 10 per cent.

The other important factor is that the P.D.S. had a reputation for doing what it could to accommodate departments within their limited budgets. The heaviest blow will be felt by the Tourist Bureau, which has had a close and economic working relationship with the P.D.S. for almost a decade. First, was the information given to the House of Assembly by the Premier last week relating to the percentage of work done by the P.D.S. correct? Secondly, was this information given to Cabinet and did it form the basis upon which the decision to disband the P.D.S. was taken?

The Hon. K. T. GRIFFIN: The answer to the first question is that I believe that that information is correct. With respect to the second question, I am not prepared to reply, for the reason I outlined last week: as the Leader should know, all discussions and material considered by Cabinet are confidential to Cabinet.

DEPARTMENT OF AGRICULTURE REGIONS

The Hon. B. A. CHATTERTON: My question is about regions for the Department of Agriculture and is directed to the Attorney-General. About three weeks ago the Minister of Agriculture announced in the *Stock Journal* that he intended to establish a region of the Department of Agriculture south of Adelaide, and I believe it will be called the Alexandra Region of the Department of Agriculture. What other Ministers have established regions, special units or sections within their departments to provide a special and additional service to their electorates?

The Hon. K. T. GRIFFIN: I believe that no Minister has established any unit or region with the objective of servicing a particular electorate. The Government's policy in respect of regions is that, generally speaking, it will follow the proposals of the CURB Report, but there is to be some flexibility where those guidelines are obviously inappropriate to particular services provided in certain departments.

MINISTER OF LOCAL GOVERNMENT

The Hon. J. R. CORNWALL: I seek leave to make a short statement before asking the Minister of Local Government a question about Ministerial impropriety.

Leave granted.

The Hon. J. R. CORNWALL: Honourable members will recall that on at least two occasions last year I asked for the Hon. Mr. Hill to be transferred from his Local Government portfolio. At that time I said that as long as he remained in that office the hint of corruption or financial advantage would persist. Unfortunately, that has now proved to be true.

This morning, a constituent brought to my notice the Minister's involvement in a very dubious plan to circumvent the Planning and Development Act and the Building Act in a proposal to develop a shopping centre on the Kensington Road and Tusmore Avenue intersection at Leabrook. The Hon. Mr. Hill has previously told this Council, in reply to a Question on Notice from me, that he owns a block of shops on the corner of Kensington Road and Tusmore Avenue. In fact, on 23 October last year (*Hansard*, page 217) he said, in reply to question No. 8:

> I am a director of each of the 11 private family companies. Seven of these companies are dormant and own no real estate. The other four companies own the properties to which I refer in my answer to question 9.

To question No. 9, his reply was as follows:

> In accordance with my intimations in the Council, details of the properties are as follows:
>
> *(a)* 248 Kensington Road, Leabrook, comprising five shops and doctors rooms.

Last year, an insurance company called Accident Insurance Mutual purchased land in Kensington Road and Tusmore Avenue extending in an "L" shape from both sides of the Hill property.

The area is zoned "district shopping". The company wished to develop the site as a shopping centre. However, in the original plans that were developed there was insufficient parking space available to satisfy a requirement under a Burnside council by-law. In order to circumvent this, the developer's representatives obtained from the Hon. Mr. Hill an undertaking that he was prepared to grant them right of way over his property. This was conveyed to Burnside council and, of course, it was a plan effectively to circumvent local planning and development requirements.

However, the local residents got wind of what was happening, and, enraged by the Hon. Mr. Hill's connivance in the scheme, obtained legal advice that they could still mount a Supreme Court challenge under the Building Act.

The plan had come unstuck. But, what a dreadful position to have the Minister of Local Government conniving in a plan to force Burnside council to grant approval. The residents at that stage told the Hon. Mr. Hill that he would be subpoenaed as a witness to appear in the Supreme Court action. The Hon. Mr. Hill realised at this stage that his actions would inevitably be given a public airing. On the pretext that his right-of-way consent was given before the developers purchased an additional house property in Tusmore Avenue, he then withdrew his right-of-way consent.

This is surely a story of grave impropriety on the Minister's part. He knew that the applicant would have to succeed originally under the planning and development proposals. It was only when faced with the prospect of exposure of his part in the sorry story that the Minister withdrew.

I therefore ask the Minister, first, what inducements were offered to him to induce him to participate in the scheme. Secondly, was the Minister aware that his actions constituted an act of grave impropriety and gross abuse of his position as a Minister of the Crown? Finally, will the Minister now immediately resign his portfolio as Minister of Local Government?

The Hon. C. M. HILL: I deny absolutely any impropriety of any kind in this matter, and I take the opportunity to make an immediate explanation to the Council concerning the issues that have been raised by the honourable member. As he said, I have an interest in a block of shops in the situation to which he has referred. I made that disclosure, as the honourable member said, in this Council at some stage last year.

Early last year, when the Party of which I am a member was in Opposition, I was approached by a gentleman who told me that he had acquired a property adjacent to the shops and that he proposed to establish a shopping complex on the adjacent land. This man put it to me that he would appreciate the use of an existing right of way that was in the backyard of these shops and, in return for that concession, he would allow me right of way over a narrow laneway leading from his proposed development to Kensington Road. That was quite a normal business approach and indeed a normal business proposition in every respect. As an adjacent owner, I agreed to that.

The Hon. J. R. Cornwall: In writing?

The Hon. C. M. HILL: I agreed to it in writing. Some considerable time thereafter, it came to my notice that an adjacent owner, who I presume was the person to whom this gentleman had sold his property, had proposed a different development altogether from that. In the meantime, further houses had been purchased and demolished; a series of small shops was, I understand, proposed in the most recent proposal for the area; and an entry on to another nearby street that had been in the earlier plan had been erased from the latest scheme. I was told, as the honourable member indicated, by protesters who were taking up a petition objecting to this shopping development that they wanted to see me in relation to the right of way entering the backyard of the shops to which I have just referred. I had a discussion with two representatives of that group, and I told them that I had not given my consent in any shape or form to the development, and to include—

The Hon. J. R. Cornwall: What was that?

The Hon. C. M. HILL: It was the most recent plan. I hope the honourable member is quite clear on what he is talking about, as I am quite clear on what I am talking about.

The Hon. J. R. Cornwall: I will ask a supplementary question about that in a moment.

The Hon. C. M. HILL: The honourable member can ask as many questions as he likes. I told them that I had not given my consent to the rear access to my property being used as part of the most recent plan. Only a matter of a few weeks ago, I received advice from a solicitor acting, I understand, for the developers, wanting me to make clear my position. I told them that any arrangements that I had made earlier last year regarding a different plan did not in any way affect the current plan, in which I was not interested in any respect at all.

That is exactly as the position stands. I do not know what my neighbour is doing in the Leabrook area. I have not been in touch with Burnside council in regard to it; nor has the owner been in touch with me since I told that solicitor that my original consent could not in any way be construed to be part of the most recent plan. So, they are the facts of the matter, and for the honourable gentleman to talk of grave impropriety is nothing but rubbish.

The Hon. J. R. CORNWALL: I ask the Minister a supplementary question. The Minister would be aware that there has been a total of three different applications before the Burnside council, and the one that concerns me is the original application. Was that original application before Burnside council as late as November last year, and at what time did the Minister officially withdraw his consent to the right of way?

The Hon. C. M. HILL: First, I did not know that there were three applications before the council. Indeed, I do not know how many applications have been submitted to the council. However, I understood that the original application in which I was involved in relation to the exchange of the right of way with a neighbour went to the council.

The Hon. J. R. Cornwall: When?

The Hon. C. M. HILL: The nearest that I can get to that now, without doing a certain amount of checking back, would be early last year. Of course, that can be ascertained by the honourable member from the council.

The Hon. J. R. Cornwall: At what time did you officially withdraw your consent to the right of way?

The Hon. C. M. HILL: It was not a case of officially withdrawing consent to a plan. The arrangement involved a plan that was not proceeded with. I made my position perfectly clear to residents who were protesting against my neighbour's plan at Christmas time when they came to see me, and only a few weeks ago, when I received a letter from the solicitor acting for a company that I presume was the developer, I said that I had nothing to do with their current plan.

The Hon. J. R. CORNWALL: I ask a supplementary question of the Minister of Local Government. I cannot understand why the residents would be approaching the Minister and protesting as late as December last year if consent had been withdrawn and the application to develop had been withdrawn some time early last year.

The Hon. C. M. HILL: I will help the honourable member as best I can. I received a telephone call from a Dr. Kaines just prior to my leaving for Victor Harbor on about 26 December. He said that he wanted to see me. I believe that he even telephoned me or that I telephoned him from Victor Harbor, where I was staying from 26 December and through January. I informed him that I would be coming to Adelaide on a certain day, which offhand I believe would have been in the first week of January. I told him that I would be only too pleased to see him if he was free. He said that he was going on leave for a week or two and that some dates were not convenient to him. On the day that I came up from Victor Harbor I telephoned him and he came along and brought a friend, who was the secretary of the protesting group. There is nothing wrong or mysterious about that. Sitting in my lounge, they explained their position, and when I made my position clear they were happy and indeed delighted with what I told them.

The Hon. J. R. Cornwall: They didn't tell me that.

The Hon. C. M. HILL: They told me that they were happy, and I am prepared to chase them up to confirm that.

COMPANY FILES

The Hon. N. K. FOSTER: I seek leave to make a brief explanation before asking the Attorney-General a question about company files.

Leave granted.

The Hon. N. K. FOSTER: Members will recall that, over the last couple of weeks, I have asked questions relating to the firm F. S. Evans and Company and Stan Evans' involvement in that company as well as his subsequent possible denial of having any interest in that company. One was being accosted by members of the

Government, and one ought to make sure of one's facts.

The Hon. R. C. DeGaris: Accosted?

The Hon. N. K. FOSTER: Yes, thank you for the repetition of a well-chosen word. I then set about, with the assistance of another person, to examine the files of that company. A visit to the Companies Office revealed that the files had been taken out of public and Parliamentary scrutiny.

The Hon. K. T. Griffin: Rubbish!

The Hon. N. K. FOSTER: I am asking the Attorney-General a question during which he interjects and says "Rubbish!" What kind of an answer am I going to get from him? Will I get a fair and reasonable reply to a question which he is yet to hear? It is a shame upon his person and upon that office that he purports to uphold. He is becoming a shameful character in this place.

Members interjecting:

The PRESIDENT: Order! The honourable member has asked leave to make an explanation, not a condemnation. I ask him to proceed with his explanation. He will then be able to judge whether the answer is rubbish or not.

The Hon. N. K. FOSTER: I thank you, Mr. President. I am astounded at the Attorney-General's outburst. Will the Attorney-General have inquiries made as to why the public and members of Parliament are not allowed access in the Companies Office to the files of F. S. Evans & Company? Will the Attorney-General ascertain the reasons why such file has been removed and classified "Not available" since the fires of Wednesday 20 February? Will the Attorney-General have the file made available before Parliament adjourns this week? Should the answer to the previous question be in the negative, will the Attorney-General ensure that the public has access to the file before or during any inquiry (coronial or otherwise) which may be held in the future and that the files be not tampered with or edited?

Has the Minister a reply to my question of last week endeavouring to ascertain whether or not the Parliament and the people of South Australia have been meeting the cost of all telephone calls of F. S. Evans and Company, through Stan Evans, the member for Fisher? If the answer is in the affirmative, will the Minister state what amounts have been paid by the public, for what years, and over what period? Have they involved only the period for which Mr. Stan Evans has been either Government Whip or Opposition Whip?

The Hon. K. T. GRIFFIN: I do not yet have an answer to the question that the honourable member asked last week. Regarding the Companies Office files, ordinarily they are accessible to the public upon payment of the appropriate search fee. However, there are occasions when files are transferred from one department to another. There are also occasions when officers of the Corporate Affairs Commission have the files; this means that on a particular day the files are not readily available to members of the public. Normally, the files are so available. I am not aware that this file, to which the honourable member has referred, is unavailable to the public. I will make some inquiries of the Corporate Affairs Commission and ascertain the position as to accessibility of that file.

The honourable member also asked whether the file could be available to Parliament this week. I do not know whether it will be available until I have a report from the Commissioner of Corporate Affairs. The honourable member also made some strange comments about the tapes not being subject to tampering. However, the files are not on magnetic tape for computer purposes. They are in a document file which is printed on paper in the normal way.

PERSONAL EXPLANATION: MEMBERS' LETTERBOXES

The Hon. K. L. MILNE: I seek leave to make a personal statement about distribution of material in members' letterboxes.

Leave granted.

The Hon. K. L. MILNE: In view of the seriousness of the recent Hills fire and the discussions and inquiries going on, I seek permission to put a copy of the relevant issue of the *Mount Barker Courier*, containing details of the fire, in my colleagues' letterboxes. I understand that permission must be sought, and I seek that permission.

The PRESIDENT: I am sure that honourable members will be very grateful for the information, and the honourable member has my permission to distribute that information in other members' letterboxes.

HILLS FIRE

The Hon. N. K. FOSTER: I give notice that, on Tuesday 25 March, I will ask certain questions in this place involving the matter raised by the Hon. Mr. Milne. In so doing, I seek your guidance, Mr. President, as to whether or not the open letter to which I will refer when I ask those questions can be tabled in this place.

The PRESIDENT: I see no reason why the letter cannot be tabled. It would not be permissible for the honourable member to have it inserted in *Hansard*.

The Hon. N. K. Foster: I realise that.

The PRESIDENT: If it is tabled, it becomes a public document. The honourable member is aware of that, and I see no reason why that cannot be done. I point out that, in relation to the questions the honourable member intends to ask, it could be impossible to prove the accuracy of press statements, for instance.

The Hon. C. M. HILL: On a point of order, Mr. President. I understood that the letter to be tabled was part of the explanation of a series of Questions on Notice. I submit, therefore, that the letter should not be printed in the Notice Paper under the heading of "Questions on Notice".

The PRESIDENT: The letter will be tabled for perusal, and it will become a public document. It will not be on the Notice Paper.

The Hon. K. T. GRIFFIN: With respect, Mr. President, I cannot see that that is permissible. Standing Order 452 provides:

> A document quoted from in debate, if not of a confidential nature or such as should more properly be obtained by address, may be called for at any time during the debate, and on motion thereupon without notice may be ordered to be laid upon the table.

I suggest that the honourable member has not become involved in any debate, and therefore it would not be appropriate, and there is no power, to have the document inserted in *Hansard* or laid on the table in those circumstances.

The PRESIDENT: I do not uphold the Attorney's point of order, because the document has not been referred to in a debate and it is not of a confidential nature. If it were confidential, it certainly would not be once it was tabled.

The Hon. R. C. DeGARIS: I wish to refer to the general propriety of the matter. If we are going to have the tabling of documents and anonymous letters that are written to all members of Parliament, it opens a serious question that this Council should understand.

The Hon. K. T. GRIFFIN: My point of order was that there is no power to allow this document to be tabled in the way in which the honourable member has sought to

have it tabled. He has given notice of a question that he will ask on 25 March, and he is not entitled to give an explanation of his question in giving notice of that question. Accordingly, it seems that there is no power to allow that letter to be tabled unless it is by the resolution of this Chamber. If there is any question about it, I respectfully suggest that the matter be reserved for your consideration at a later stage.

The PRESIDENT: There seem to have been some valid points raised concerning the letter. I did consider the tabling of the letter to be somewhat different from its insertion in *Hansard*. I would want to see the letter before there is any suggestion of its being inserted in *Hansard*. However, as there is some dissension, I would be pleased if the honourable member would allow me to peruse the letter before he tables it.

The Hon. N. K. FOSTER: I am willing to read it or ask a further question and seek leave. Much of the letter that I have read has already been in the press—most of it, if not all of it. I seek leave to make an explanation before asking a further question of the Attorney-General.

Leave granted.

The Hon. K. T. GRIFFIN (Attorney-General): I move:

That Question Time be extended by 15 minutes.

Motion carried.

The Hon. N. K. FOSTER: My question concerns the Hills fire of 20 February 1980. I have before me a letter, which states:

> On Wednesday 20 February 1980, at about 1.30 p.m. the disaster that everyone who lives in the Adelaide Hills fears, happened. Some 70 square kilometres was burnt out in a series of explosions as valley after valley crowned from Heathfield through the townships of Longwood and Mylor to end with a change of wind bordering Echunga and Hahndorf.
>
> The first reaction among the people involved was one of relief. Less than 50 houses had been gutted, no-one had died. But then, as the facts surrounding the cause of the fire emerged, the mood began to change to one of anger.
>
> The fire had started in a privately owned, council-subsidised rubbish tip. A tip which had become notorious over the years for its fires—particularly on fire-ban days. Of course, once a tip is set alight there is no way to put it out until the burning is complete. This may take weeks. To argue that the tip may be burnt one day and not the next is absurd. Yet, Stirling Council had issued a permit to the proprietors of the dump to burn for the month of February. The fine print on the permit explained that on certain days the fire must be extinguished—but who reads the fine print? Wednesday 20 February 1980 was a red alert fire-ban day and yet, at Heathfield dump, where a fire had burned the previous day and through the night, we are told, no-one was on duty. Surely this in itself was criminal negligence. Further, anyone who rang the Aldgate C.F.S. and reported the dump burning on that Wednesday morning was told that it was only the dump, as they had been told many times previously.

The PRESIDENT: Order! I think that the honourable member is trying to circumvent the whole question of the tabling of the letter. He should ask his question.

The Hon. N. K. FOSTER: First, how did this state of affairs arise? What combination of events could allow such a dump to burn? I refer to the council and the C.F.S. station and how such a situation could develop into such a catastrophe. As I have already dealt with portion of the letter in an earlier question to the Minister, I will not refer to it again, because I can interpret the looks that you are giving me, Mr. President.

Further, can the Minister say whether it is a fact that, since the fire, the Stirling council is trying to purchase the dump presently owned by F. S. Evans and Company and Stan Evans, Liberal M.P., and has offered up to $250 000 for its purchase? What contractual or other arrangements have been in existence between Stirling council, F. S. Evans and Company and Stan Evans, M.P., regarding the amount of money paid per month or per annum for the use of this dump? Will the Minister have disclosed to this Council the number of other companies or persons who tendered for the dumping of rubbish in that dump? Will the Minister determine whether it is a fact that the Stirling council gave to F. S. Evans and Company and to Stan Evans, Liberal member for Fisher, the right to be paid for the dumping of all rubbish in that area, even though there were tenders many thousands of dollars less than the tender that was finally accepted?

Further, will the Minister clear up once and for all the allegations that are sweeping the member for Fisher's electorate that he has stood over and bullied the Stirling District Council in much the same way as Mafia bosses have done in film fiction?

Members interjecting:

The Hon. N. K. FOSTER: These allegations have swept through that electorate faster than the recent bushfire.

The PRESIDENT: Order!

The Hon. M. B. Cameron: Go outside and say that about him.

The Hon. N. K. FOSTER: That is what you and Stan would like me to do.

The Hon. M. B. Cameron: I would then know that you are a man.

The Hon. N. K. FOSTER: Mr. President, I rise on a point of order. I have put up with abuse from members opposite for some time now. I am not going to ask that Mr. Cameron withdraw, but I have taken—

Members interjecting:

The PRESIDENT: Order!

The Hon. N. K. FOSTER: If you will let me, Mr. President, I want to make my explanation.

The Hon. C. M. Hill interjecting:

The Hon. N. K. FOSTER: Go outside and tell the lies you tell in here.

The Hon. C. M. Hill: I do not tell lies.

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

Members interjecting:

The PRESIDENT: Order!

The Hon. N. K. FOSTER: Mr. President, I am going to persist with my point of order, and I want you to tell me whether, pursuant to Standing Orders, the matters that I have raised should be unprivileged. If you declare that they are unprivileged, I will accept that ruling.

The PRESIDENT: I do not quite understand the honourable member's point of order. However, the honourable member is almost accusing me of not upholding his right to seek information. In actual fact, the reverse is the case. I do not believe that the honourable member should have taken such exception to the badinage across the Chamber, which he takes such a part in himself.

The Hon. K. T. GRIFFIN: The Hon. Mr. Foster alleged that the Hon. Mr. Hill was a liar, and I ask him to withdraw that statement.

The Hon. N. K. FOSTER: Of course you will ask me to withdraw it, and I will withdraw it. However, members opposite would have objected if I had asked the Hon. Mr. Cameron to withdraw his statement.

The PRESIDENT: Order! The honourable member has been asked to withdraw.

The Hon. N. K. FOSTER: I have withdrawn, but I would say—

The PRESIDENT: Order! I do not want any qualification from the honourable member.

The Hon. K. T. GRIFFIN: Knowing Mr. Stan Evans as I do, I do not believe any assertion that he has stood over

and bullied the Stirling District Council. The Hon. Mr. Foster attempted to read part of an anonymous letter. I suggest that, if the person who wrote that letter wants to make any allegations of substance, he should be prepared to put his name to that letter and those allegations. In any event, that person will have an opportunity to stand up and be counted and establish some credibility by making an application to the coronial inquiry to give evidence.

The matters outlined in that letter, if they can be substantiated, will be relevant to that inquiry. I am not in a position to say whether the Stirling council is attempting to acquire land. That is a matter between the council and the local land owners. I am not aware of what contractual arrangements, if any, exist between the council and F. S. Evans and Company Pty. Ltd. Once again, that is a matter between the council and that company. I am not aware of any other matters affecting relationships between either Mr. Stan Evans or a company bearing the name F. S. Evans and Company Pty. Ltd. and the Stirling council. In fact, it is not my province to inquire into such matters. If the matters to which the honourable member has referred are relevant to the coronial inquiry, undoubtedly there will be an opportunity for people to raise questions at such an inquiry. A number of the matters referred to by the honourable member will be the subject of that coronial inquiry and it would be presumptuous of me or any honourable member to prejudge the results of that inquiry at this stage.

TOBACCO SMOKING

The Hon. BARBARA WIESE: My question is directed to the Minister of Community Welfare, representing the Minister of Health. Will the Minister ascertain from his colleague what concrete steps she has taken to attempt to improve the health of South Australians by reducing the level of tobacco consumption? In particular, will the Minister indicate whether or not she has had discussions with Cabinet colleagues about the banning of cigarette advertising in the print media, and whether or not she has taken steps to increase Government support for the anti-smoking unit at Norwood, which one expert has described as the best of its kind in the world?

The Hon. J. C. BURDETT: I will refer the honourable member's question to my colleague and bring down a reply.

BREAD DISCOUNTING

The Hon. J. E. DUNFORD: I seek leave to make a short statement before asking the Minister of Consumer Affairs a question about bread discounting.

Leave granted.

The Hon. J. E. DUNFORD: For some days now the bread discounting "war" has been of some concern to me, as I am sure it has been to all members of the community. Last week I indicated that the number of unemployed in South Australia had risen by 2 500 in January this year, according to the Australian Bureau of Statistics. Ever since this Government was elected on the promise of stopping the job rot there has been a continuing loss of jobs in the retail trade area. During the election campaign the Liberal Party said that it would help create employment, but it is now stabbing the retail traders in the back. Retail traders are now closing their businesses and sacking their employees.

Since 15 September the job rot has continued and unemployment has risen. I am not trying to make political capital on this issue. I am asking my question to find out what is going on. On television I have seen Mr. Dean Brown and the Hon. Mr. Burdett smiling and saying that they have the situation well in hand while the union secretaries are crying. The supermarkets' method of conducting business concerns me, and it always has.

The Hon. M. B. Cameron: Do you ever go to them?

The Hon. J. E. DUNFORD: No, I do not do the shopping. I know you do the shopping, because you are henpecked.

The PRESIDENT: Order!

The Hon. J. E. DUNFORD: It appears that supermarkets are able to discount their bread by 33⅓ per cent. I realise that Coles, Woolworths and other supermarkets are not charities but are there to make a profit. In the trade union movement it is called scabbing when you discount your labour. This sort of scabbing is done to capture and control the market. Having captured the market, they then do away with their competition which, as was reported in the newspapers, is the small businesses that have closed their shops, sacked their employees and gone broke.

The PRESIDENT: Order! The honourable member will leave nothing for the Minister to reply to.

The Hon. J. E. DUNFORD: I hope the Minister considers what I have said. Mr. President, I thank you for your consideration because you have always given me a fair go. Mr. President, I know that you are concerned about the unemployed, but a lot of your colleagues are not. I have seen honourable members opposite grinning on television.

My question is in two parts. Will the Minister ascertain whether there has been any breach of the Trade Practices Act in the last six months by manufacturers or retailers in the supply and sale of bread to the South Australian public? Will he also report to this Council what steps the Government intends to take to safeguard the jobs of 400 bread carters and the reputed 1 000 employees in the retail trade?

The Hon. J. C. BURDETT: The Trade Practices Act is a Federal Act and does not come within my province. In relation to the bread carters' jobs, the honourable member probably knows that the Minister of Industrial Affairs and I have met with the bread manufacturers, the Small Businessmen's Association, the bread carters, and the retailers concerned. I am also having another meeting with them later today.

LETTER

The PRESIDENT: Before commencing with the business of the day, I should like to state that I did not hear the Hon. Mr. Foster say that the letter to which he referred during Question Time was an anonymous letter. I personally consider that anonymous letters are nothing but documents and are not letters as such.

CREDIT UNIONS ACT AMENDMENT BILL

The Hon. J. C. BURDETT (Minister of Community Welfare) obtained leave and introduced a Bill for an Act to amend the Credit Unions Act, 1976. Read a first time.

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

That this Bill be now read a second time.

Nearly three years has elapsed since the Credit Unions Act came into operation. During that period, the effectiveness of the Act in its practical application has been closely monitored. Gradually a list of matters needing some

clarification or adjustment has been compiled, and these matters, together with some additional material requested by the credit union movement itself, are now sufficient in number to warrant amendment to the Act. The object of this Bill is to effect these sundry amendments, the import of which will be explained as I deal with the detail of the clauses of the Bill.

The Registrar of Credit Unions, the Credit Union Stabilization Board and the Credit Union Association of South Australia have had extensive consultations in relation to the Bill, with the result that all of the provisions of the Bill have the support of the credit union movement through the association. 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 for the commencement of the Act on a day to be proclaimed. Clause 3 provides a definition of "member" which makes clear that when the Act uses this word it means a person who has joined a credit union by being allotted a share in the union.

Clause 4 provides that, where loans made to directors and other officers and employees of credit unions or associations are reported to the Registrar, such information is not to be made available to the public. The same situation also applies in relation to reports made to the Registrar where a director has declared an interest in a contract with the credit union or association. Clause 5 obliges the Registrar to acknowledge receipt within 14 days of applications from credit unions for registration of alterations to rules. This amendment was requested by the Credit Union Association.

Clause 6 further clarifies that a member of a credit union is a person who holds shares in the credit union. This amendment is designed to prevent credit unions from having "associate members" who do not contribute to the credit union by way of purchasing shares. The substituted subsection (3) removes an anomaly, in that the section as it now stands refers to a member's liability being limited to the amount unpaid on his shares, whereas the actual requirement is that all shares in credit unions be fully paid.

Clause 7 clarifies that a member of a credit union has only one vote on any resolution. There has been some confusion in this area as some persons apparently hold joint shares as well as shares in their own name, or hold more than one joint share. It is not intended to allow the situation to develop whereby a person is able to obtain multiple voting rights and so be in a position to manipulate a general meeting of the credit union. New subsection (5a) recasts the wording of the existing subsection (5) so as to place a positive requirement in relation to the repayment of share capital in priority to deposits.

Clause 8 is consequential upon the amendment effected by clause 7 in relation to voting rights. Clause 9 obliges a credit union to lodge with the Registrar copies of all mortgages granted by it as security for amounts borrowed by the credit union. This is intended to ensure that any person who inspects the public file can obtain a better picture of the financial position of a particular credit union. Clause 10 removes the obligation upon officers and employees of a credit union to report to an annual general meeting any loans made to them by the credit union. This has been seen as an unfair invasion of privacy where an officer or employee is granted a loan on exactly the same terms as any other member. It is provided that any such loan must be reported to the Registrar. The common law rule that requires a director, as a person in a fiduciary position, to disclose to a general meeting of members any financial interest in a contract with the credit union in order to preserve the validity of the contract is specifically negated. However, if a director is granted a loan at a concessional rate of interest, that concession will still have to be approved by a general meeting pursuant to section 61 of the Act.

Clause 11 provides more flexibility in the provisions relating to liquidity. The amendment will permit a credit union's liquid funds to drop below the prescribed percentage (currently 9 per cent) provided that an average daily liquidity computed over a month does not fall below the prescribed percentage. As the section now stands, a credit union whose liquid funds normally stand at 12 per cent could be liable to prosecution if on one single day the funds happened to fall to, say, 8 per cent. This is unduly restrictive, as funds can fluctuate quite considerably from day to day.

Clause 12 clarifies the intention of the Act in relation to transfers of surplus funds to reserve accounts. It is made clear that any surplus can first go to reducing any current or accumulated operating deficit. It is also provided that allowance may be made for other prescribed matters (for example long service leave payments) before the surplus is calculated. It is made clear that dividends paid to members are excluded when calculating the surplus.

Clause 13 provides that a credit union need only seek the approval of the Registrar to the purchase of real property where the cost would exceed 5 per cent of the total of the paid-up share capital of the credit union and the amount held by it by way of deposits. As the Act now stands, approval has to be sought for every purchase of real property. The same requirement for approval is extended to the carrying out of improvements to any real property owned by a credit union, so that there is some control over large expenditures of funds in this area. Clause 14 provides that unclaimed moneys are to be paid to the Credit Union Stabilization Board instead of to the Treasurer. It is appropriate that such moneys should be channelled back for the benefit of the credit union movement.

Clause 15 empowers an association of credit unions to lend moneys to the members, officers or employees of its member credit unions. It is desirable that officers and employees should be able to obtain loans from a body that is more capable of independent scrutiny than their own credit unions. Any loan made to an officer or employee of the association, or of a member credit union, must be reported to the Registrar. Loans made to an officer or employee of the association do not have to be reported to a general meeting of the association. Clause 16 provides that certain further sections of the Act apply in relation to an association in the same manner as they apply to a credit union. These extra sections relate to the filing of annual returns, and the supervisory powers of the Credit Union Stabilization Board.

Clause 17 provides that a credit union officer who offends against this section is not only guilty of an offence that carries a penalty of $1 000 but is also liable to the credit union for any profit thereby made by him, and any damage thereby suffered by the credit union. This liability is consistent with the similar provision in the Companies Act. Clause 18 prohibits voting by proxy at a credit union meeting.

Clause 19 obliges the Registrar to acknowledge receipt within 14 days of copies of special resolutions lodged with him pursuant to this section. Again, this is an amendment sought by the Credit Union Association. Clause 20 amends the section dealing with the financial accounts of

credit unions so as to bring the provisions more into line with accepted accounting procedures and terminology.

Clause 21 provides for some controls over the manner in which the auditor of a credit union may resign. It is proposed that the consent of the Registrar must be sought for any such resignation, thus bring this area into line with the corresponding provisions of the Companies Act. Clause 22 provides that any report made by an auditor, whether at an annual general meeting or at any other time, must be made in accordance with the provisions of this section. Clause 23 provides for at least two members of the Credit Union Stabilization Board to be chosen from a panel of names submitted by the Credit Union Association of South Australia (or any other prescribed association). If the association fails to submit a panel of names, the Minister may make the necessary nominations.

Clause 24 provides authorised officers of the Credit Union Stabilization Board with investigatory powers similar to these powers vested in the Registrar under the Act. Clause 25 empowers the Credit Union Stabilization Board to exempt a credit union which is under the supervision of the board from certain provisions of the Act that place stringent controls over the monetary policies of credit unions. These controls are inappropriate and, in some instances, counter-productive, where the financial affairs of a credit union are subject to the board's direction.

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

CANNED FRUITS MARKETING BILL

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

The Hon. J. C. BURDETT (Minister of Community Welfare): I move:

That this Bill be now read a second time.

It is complementary to legislation introduced into the Commonwealth, Victorian, New South Wales and Queensland Parliaments for the purpose of setting up a marketing scheme for canned apricots, peaches and pears produced in Australia.

The canned fruits industry is an important horticultural undertaking. It provides the basic economic and social foundation of the population in many areas of the country, including the Riverland region of this State. However, the industry has been experiencing serious difficulties for a number of years, resulting from a variety of factors, principally excess capacity, increasing costs and depressed international marketing conditions. It is now convinced that a statutory marketing scheme is necessary, and the arrangements of which this proposed legislation forms a part have the support of the growing and canning sectors of the industry in the principal growing areas of the country. The Commonwealth legislation establishes the Australian Canned Fruits Corporation which will replace the Australian Canned Fruits Board and which will manage the marketing of the canned fruits.

The scheme operates with the corporation estimating the amount of canned fruits that may be sold during the next year in the most profitable world markets, which the scheme terms "the equalisation market". Quotas are allocated to the canners and the canned fruits produced to fulfil the quotas become the property of the corporation. The canned fruits are sold in the equalisation market and the proceeds are distributed equally to the canners subject to premiums being allowed for certain kinds of canned fruits. It is a major objective of the scheme that, with better marketing arrangements and funding, payments by canners to growers for their fruit will show a considerable improvement both in respect to earlier payments and increased returns. A Commonwealth levy on all canned fruits will finance the administrative costs of the corporation. The object of this Bill is to provide for the scheme to operate in relation to canned fruits produced in South Australia. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1, 2 and 3 are formal. Clause 4 defines certain expressions employed in the proposed Act. Clause 5 provides that the Act is to apply subject to the Constitution Act of the Commonwealth. Clause 6 enumerates the powers of the corporation, limits the power of the corporation to purchase property for an amount exceeding $100 000, and requires the corporation to insure canned fruits acquired by it.

Clause 7 requires the corporation to comply with any directions which may be given to it by the Commonwealth Minister who is administering the complementary Commonwealth legislation. Clause 8 permits the corporation to market the canned fruits through agents. Clause 9 provides that the corporation acquires canned fruits when a canner sets canned fruits aside for that purpose, whether or not the canner has been required to do so by the corporation, and that the canner is required to notify the corporation that he has so set aside the canned fruits. Clause 10 allows the corporation, when canned fruits become or are unfit for human consumption, to serve on a canner a notice to that effect.

Clause 11 prohibits a canner dealing with canned fruits without the consent of the corporation. Clause 12 provides for the fixing by the corporation of an insurance reimbursement rate to cover the cost of insurance of the canned fruits. Clause 13 requires the proceeds of the disposal of canned fruits in the equalisation market to be paid into a special account known as an equalisation pool, and specifies the procedure for determining the amount of the payments that may be made from that account in respect of the canned fruits.

Clause 14 provides for payment by the corporation of proceeds of the disposal of canned fruits other than in the equalisation market. Clause 15 deals with the person entitled to payment for canned fruits acquired by the corporation other than by purchase, and clause 16 deals with the person entitled to payment for canned fruits purchased by the corporation.

Clause 17 makes provision as to when the corporation must pay for canned fruits acquired by it and permits the corporation to make advance payments to a canner until that time. Clause 18 empowers the corporation to require a person to supply information relating to canned fruits and imposes a penalty for the supply of false or misleading information. Clause 19 permits the corporation to delegate its powers and clause 20 provides that a member of the corporation is indemnified for acts of the corporation.

Clause 21 enables the Australian Canned Fruits Industry Advisory Committee established under the complementary Commonwealth legislation to give advice to the corporation, and clause 22 requires a person to exercise proper care in relation to canned fruits which are the property of the corporation. Clause 23 provides for the authorisation by the corporation or its Chairman of a person who may enter premises, by permission of the occupier or by warrant, for the purpose of inspecting or taking away canned fruits or books, documents or papers

relating to those canned fruits. Clause 24 provides that offences constituted under the new Act are to be dealt with summarily. Clause 25 allows the Governor to make regulations for the purposes of the proposed Act.

The Hon. B. A. CHATTERTON secured the adjournment of the debate.

WHEAT MARKETING BILL

Adjourned debate on second reading.
(Continued from 28 February. Page 1318.)

The Hon. B. A. CHATTERTON: I support the Bill, which is necessary to complement the Commonwealth legislation and to implement the next five-year wheat agreement. I must compliment the leaders of the Wheatgrowers Federation for the agreement that has been negotiated on behalf of growers in Australia. It is highly unusual for Malcolm Fraser to give anything away. Although I suppose that one should not look this gift horse too closely in the mouth, I consider that it is a responsible reaction to make several points about the agreement in terms of the total community.

It is always surprising to me that, when market conditions are good, the experts predict that there will be an inevitable improvement and, when they are bad, they predict an inevitable deterioration. It seems to me that in this instance the experts in the Department of Primary Industry have been carried away by this oddly unscientific optimism and, on the basis of their predictions, have provided the opportunity for the most generous agreement that wheatgrowers have ever received.

The 95 per cent price guarantee based on three years (one past, one present, and one future), combined with a limit of 15 per cent movement in any one year, will provide growers with relatively stable prices. However, the claim by the Minister in his second reading explanation that it will provide relative income stability is as optimistic a claim as that by the D.P.I. that, from now on, things will only get better.

In fact, there has been a great deal of economic research done to conclusively prove that wheatgrowers suffer from income instability because of variations in yield—not variations in price. A stable price of $105 per tonne for wheat will not assure a wheatgrower stability of income if he suffers a year or two of drought, or if he gets an insect infestation in his crop, or rust, or any of the many variables that affect his annual production. However, as I have said, this agreement is a generous one and, if prices fall sharply—as is now conceivable with the present Afghanistan grain embargo (or "Carry on up the Khyber" as Fraser's muddled comedy of selective bans and boycotts is becoming known)—it could cost the Federal Government a great deal of money. The Bureau of Agricultural Economics, in *Situation and Outlook 1980—Wheat*, states:

> Under the new scheme there is a possibility that, in some individual years, pool returns will not cover the G.M.P. payments and that Government financing will be required to make up the shortfall. This would occur in a situation of falling pool returns, where the actual pool return was less than 95 per cent of the three-year average pool return.

If prices fall sharply, the Government contributions can be very great indeed. My understanding of the proposed agreement (and I hope the Minister will correct me if I am wrong) is that the Federal contribution would be completely open ended. When this legislation was being discussed in its formative stages, there was a lively and considerable debate on the role of the Wheat Board in other States such as New South Wales. While I doubt whether there was any question that the board would continue in its present role, I would like to make some comments on the board's activities. The board has recently come under justifiable criticism in the Senate and elsewhere for its poor accounting procedures.

Like many other farmers in the community, I am always amazed at how a "big business" Government like the present Federal Government can continue to be exposed for "sloppy accounting" and other financial fiascos. Under this supposed "Government of good management" we have suffered from questionable dealings within the Dairy Board, a report of the accounting procedures of the Wheat Board that are of great concern to those of us who rely on that board for a large part of our income, and, of course, the difficulties many of the Liberal and Country Party Ministers have in getting their books straight and keeping their departments on the straight and narrow. One would have thought that so much experience in big business would at least result in an ability to manage one's patch and distinguish debits from credits. Apart from this aspect of Government responsibility for those under its control, my criticism of the board is that it has concentrated its attention in the past almost exclusively on the human consumption market.

The new legislation will give the board a new freedom in marketing feed and industrial grains, particularly on the domestic market. It will no longer be tied to the home consumption price for wheat but will be able to compete freely with other feed grains such as barley, maize or sorghum. Returns to growers could be improved in certain market conditions because it will be possible to sell on the domestic market at a discount below the home consumption price, and thus there will be no need (as at present) to forcibly export for an even lower price. There has been considerable controversy over the question of whether the board should be allowed flexibility above as well as below the home consumption price. New South Wales has argued strongly for the home consumption price to be a ceiling. I believe that it will effectively be a ceiling, as I doubt that the Wheat Board will be able to control its customers so well that it can keep a separate higher priced market for a poorer quality product. However, I have no objection to giving it the power to try.

I noticed that Mr. John Kerin (President of the United Farmers & Stockowners Association of South Australia) has stated publicly that I have been equivocal about this matter. I am sorry that Mr. Kerin did not check with Mr. Michael Shanahan before he made that statement. If he had, Mr. Shanahan (who is a member of the Wheat Board) could have assured him, as indeed I do, that I have consistently supported the granting of flexibility to the board in the pricing of feed grains. However, I do believe that market forces will be such that it will be unable to push the price above home consumption price and therefore it is only a token power. I am, however, hopeful that the board will now work to improve its rather mediocre performance in the marketing of feed wheat.

There is also a third market for wheat which the board would do well to look at, and that is the market for seed wheat overseas. In Australia the great majority of farmers retain their own seed grain and so the domestic market is almost insignificant. Like so many things in Australia, we automatically assume that everyone else in the world does the same thing. The most superficial study would show that there is a considerable world market for seed wheat. It is a very profitable market and one which we are very well organised to supply but which, to date, we have been too blind to see.

Commonly the price of seed wheat is more than double the price of grain used for human consumption. This is

because of the difficulties in those countries with humid summers where the grain must be artificially dried and thus a high standard of germination is often sacrificed. It also reflects the costs involved in obtaining pure seed when wheat is grown on the same land year after year. Neither of these problems is experienced in Australia. This gives us a comparative advantage in this area. However, my experience in the matter has been that the Wheat Board is not interested because the orders are too small (usually between 3 000 and 10 000 tonnes each) and the seed merchants are not interested because they are too large. However, I point out that 10 000 tonnes represents $2 000 000 worth of extra benefits to wheatgrowers, and that could be only a beginning.

While I am prepared to criticise the board for not keeping up with new initiatives in marketing grain, I will say that the board has undoubtedly been outstandingly successful in the traditional markets for wheat. In this respect I strongly support the board, and I make it quite clear that I do not believe that the alternative of a free market would serve the Australian wheatgrower nearly as well. Under its present constitution the Australian Wheat Board has a powerful weapon to use when marketing on behalf of Australian growers, and I completely support the continuation of its powers to sell overseas the whole of the export grain from Australia.

However, there are two aspects of the Wheat Board's success which we should watch. The first is that the board has, over the years, become something of a "sacred cow"—immune from constructive criticism. It is important that the board should come out from behind this image and show itself accountable to its members in a responsible and frank manner. Secondly, the success of the board in marketing wheat has meant that it has become a "dream model" for commodity marketing in Australia. Immediately statutory marketing is mentioned for a rural industry people think of the Wheat Board. Yet there are characteristics of the wheat industry which make it suitable for a single marketing authority of this kind but which do not apply to other industries. Wheat is largely exported, easily and cheaply stored, has relatively few quality grades which are easily measured, and requires little or no promotion or advertising to sell it. This is completely different from dairy products or meat—yet there are large numbers of people involved in rural policy-making who trot out the Wheat Board and try to adopt it as a model for these industries.

As a final comment on the Bill, I would point out that it introduces a new formula for determining the home consumption price for wheat. The formula is a compromise designed to cut away from the old cost of production criteria and incorporate instead a relativity with world prices. I believe this is a sensible move, as the cost of production formula has become more and more contrived over the years, and I would hope and expect that it will be dropped altogether from the next wheat agreement and so provide the producer with a clearer market signal than he or she has had in the past.

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

BARLEY MARKETING ACT AMENDEMNT BILL

Adjourned debate on second reading.
(Continued from 28 February. Page 1318.)

The Hon. B. A. CHATTERTON: I support this Bill, which amends the Barley Marketing Act to clarify the transactions in oats that are exempted from the Barley Board's control. I said earlier, in my speech on the Wheat Bill, that the success of the Wheat Board has had the unfortunate effect of making it a model for the marketing of all agricultural commodities. The Australian Barley Board is modelled on the Wheat Board's operation, and it works well, but unfortunately it covers only Victoria and South Australia.

When I was Minister of Agriculture, I tried on many occasions to successfully conclude negotiations to have New South Wales come into the board, but this did not come to fruition. When I was approached to do something about the regulation of oat marketing in this State, I considered that the success of the Barley Board in marketing barley made it a likely avenue through which to market oats. However, when the procedure of marketing oats was investigated, it quickly became obvious to me that there were major differences between the two commodities which meant that a simple extension of the board's powers would be inappropriate.

I was reminded that, when I first became Minister of Agriculture in 1975, Parliament had passed an Act to establish an Oat Marketing Board which the Government had not proclaimed. The United Farmers and Graziers (as it was then) wanted the immediate proclamation of the Act, while the Stockowners Association and other farmers and merchant groups were opposed to a statutory board. It is interesting to speculate on whether this was one of the issues keeping the two producer bodies apart at that time.

I was convinced that an Oat Marketing Board would be an impossible overhead cost for the oat industry to bear, whatever the rights or wrongs of statutory marketing, so I started discussions with the Barley Board to develop a means whereby it could extend its activities to oats. The other problem that had to be sorted out was the question of the domestic market, which, in the case of oats, can sometimes absorb all the South Australian crop. Obviously, barley or wheat-type marketing arrangements designed to handle a crop that is largely exported or purchased by a few large buyers would not do for oats.

After a period of discussion with producer organisations, the merchants, and the Barley Board, I was able to negotiate a compromise which certainly satisfied the two producer organisations and the merchants. The board had some doubts about it, but I am pleased to say that the arrangements have worked well, and the board has found that the task of marketing oats was not as difficult as at first feared.

This current amendment has arisen from the practical administration of the Act. The board felt it was important to put beyond doubt the way in which it has interpreted the "end user" of the oats on the domestic market. The other problem that has arisen is the question of the board's responsibility to the domestic consumer. In the case of barley, it is quite clear. The board has responsibility for the whole crop, and it is only correct that it should give priority to the domestic market. With oats, the situation is different, as a large part of the domestic market operates quite freely outside the board's control.

The Government should consider whether the same obligations that the board has towards the domestic buyers of barley should be carried over unchanged to oats. After all, these buyers of oats from the board are also buyers of oats from farmers. This competition with the board means that the manufacturers cannot lose. They can compete against the Barley Board for supplies, and if they fail they can have first call on the board's supplies.

It may be necessary to require an option system, whereby a manufacturer can decide each year whether to work through the board or to act independently; but if he opts to act independently, the board is not obliged to

disrupt its marketing arrangements to satisfy his shortfall.

Finally, Mr. President, at the time that the amendments were made to the Barley Marketing Act to extend the powers of the board to oats it was given the power (but was not obliged) to trade in other grains. I have been very disappointed that the board has not used these powers, as I was sure that, with its international contacts in the grain trade and its existing shipping arrangements, it would be able to handle the export of such crops as lupins and field peas.

The development of these crops is being hindered by the lack of organised and stable markets. The lack of markets is partly due to the lack of production, but the lack of production is partly due to the farmers' uncertainty about a reliable market for the produce. I hoped that the board would use its considerable marketing skill to break this nexus and give growers of these and other grain crops a more predictable market and a relatively stable price structure. This has not happened, but I must congratulate the South Australian Seedgrowers Co-operative for the way in which it has stepped in, used its marketing skills, and arranged the export of about 7 000 tonnes of peas from Port Giles. It has been a difficult operation for the co-operative, as it did not have access to funds on the scale of the Barley Board, but it has done a very good job and deserves great credit.

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

ADMINISTRATION AND PROBATE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 February. Page 1252.)

The Hon. C. J. SUMNER (Leader of the Opposition): The Opposition will not be raising any great objection to this measure, although it does not really see why the Bill is necessary. It repeals a section in the Act which gave the Public Trustee, as permanent head of the Public Trustee Division of the Department of Public and Consumer Affairs, a fixed term of appointment of five years. The Public Trustee, I believe, has the status of a permanent head, although the Public Trustee Office is within the overall jurisdiction of the Department of Public and Consumer Affairs. The normal Public Service practice for these officers is that theirs are permanent appointments, and such officers cannot be removed from their positions or dismissed except for certain specified reasons set down in the Public Service Act, such as incompetence, or the like.

This section, which was inserted in the Act in 1978, introduced a principle that followed the recommendations of the Corbett Committee of Inquiry into the South Australian Public Service that reported some years ago. That principle was that permanent heads of departments should have fixed terms of appointment. That is, they should not be appointed on permanent tenure and able to continue in that position until retirement or unless they were forced to retire through ill health or be dismissed because of incompetence or some other reason under the Public Service Act. The Corbett recommendation (paragraph 5.65) states:

> We recommend that the position of permanent head be offered in the form of a seven-year contract. Appointees should preferably be within the 35 to 50 years age bracket. On termination of the contract, the ex-permanent head should be eligible for reappointment but there should be no prior commitment or guarantee that he or she be returned to the position. Alternative appointments should be made available to ex-permanent heads without demotion or loss of salary and not necessarily carrying the same weight of continuous managerial responsibility. The maintenance of his or her remuneration should be provided for separately.

Here is a definite recommendation that there should be a principle adopted for permanent heads of fixed term contracts rather than permanent tenure. This section was put in the Act in 1978 and followed that principle. True, it dealt with a five-year fixed term rather than a seven-year term, but it did in part at least look to the principles enunciated by Professor Corbett and his committee in their report to the former Government in April 1975.

That section was not implemented, and I imagine that that was because there was a person in the position of Public Trustee, and obviously it could have had adverse effects if a person were appointed to a position and believed that he had permanent tenure, and then the situation was changed halfway through his career. It would have been brought into effect at some time in the future when the present Public Trustee retired.

The Government is now using the fact that it was not implemented as an excuse for repealing the provision and bringing the Public Trustee back to the same position that pertains to other permanent heads and public servants. The Government's attitude on this matter raises the question of what attitude it adopts to the Corbett Report. A number of the recommendations of the committee were implemented by the former Government, and I imagine that some of them are still in the process of being implemented. I refer to the recommendations relating to the amalgamation of departments and the cutting down of the number of departments. A considerable amount of that was done under the former Government.

This situation also raises the question of what attitude the Government intends to adopt to the recommendation in paragraph 5.65 that I have referred to. Does the Government accept that recommendation of the committee, that fixed term appointments for permanent heads are desirable, or does it believe that the traditional principles should continue? It appears from the fact that this Bill has been introduced to do away with fixed five-year term appointments for the Public Trustee that it does not accept the Corbett recommendations, but there may be argument that, if one is going to introduce that sort of fixed term in the Public Service, it should be done across the board in every department and not just in one particular piece of legislation dealing with the Public Trustee.

If that is the Government's reasoning, well and good. However, I believe that Council has a right to know whether that is the Government's attitude generally on that recommendation. Considerable argument has been advanced in the Corbett Report in favour of having such fixed-term appointments. The committee points out that permanent heads ought to be in that position when they are at their peak, when they are able to give their greatest enthusiasm, vigour and stamina to the job. The committee points out that the pressures on permanent heads are becoming greater because of increasing size of Government departments, and the fact that under the Corbett recommendations there is more discretion given to permanent heads than previously existed.

The other argument is in terms of the implementation of policy. Having a permanent head on a fixed term, that is, not someone who knows that he or she is going to be there for the next 20 years, provides a greater deal of flexibility and innovation in the development of policy within a particular department. The fact that the head of the department can be changed every seven years means that

there is an injection of new ideas and new enthusiasm in the workings of the department. I know that we would all wish to see an efficient and flexible Public Service. The argument is that the changeover of permanent heads on a rotating basis about every seven years would provide for greater flexibility in administration, particularly in terms of the input of new ideas and in terms of the capacity of the respective permanent head to carry out the job with the vigour and enthusiasm for the whole of his term.

There have been other reports on the Public Service that have dealt with this situation, and I can see that there are differing points of view. Nevertheless, the Opposition believes that the position stated by the Corbett Committee is worthy of consideration. It believes particularly that the Government should let the Council know what its attitude is on that recommendation and on the general principle of fixed-term appointments for permanent heads. As I have said, there is a considerable amount of merit in the proposals of the Corbett Committee.

Whilst I accept that the section to which I have referred will be repealed, that does not mean that the Government automatically rejects the principle of fixed terms as one of general application within the Public Service. However, it is a fact that the Act does contain a fixed term of employment of five years for the Public Trustee. The Government is saying that the appointment of the Public Trustee should be on the normal terms laid down by the Public Service; that is, a permanent tenure of appointment. I believe the Government should disclose its general policy in this area. However, the Opposition does not wish to make a great fuss about this Bill because it is only a very small part of the general policy that I have been discussing.

The other aspect of this Bill is not of any great consequence. The original Bill dealt with the delegation of powers when the Public Trustee was not available and said that the most senior Deputy Public Trustee should automatically adopt all the powers and duties of the Public Trustee while he is absent from his duties. For some reason the present Government believes that this is administratively inflexible. Quite frankly I do not believe it matters very much one way or the other, and the Opposition has no objection to the Government's approach on that matter.

The present Government believes that, if the Public Trustee is absent, an Acting Public Trustee should be appointed or, if the Public Trustee before his departure is able, he can delegate his powers to a Deputy Public Trustee. The advantage in the previous Bill was that a Deputy Public Trustee could automatically assume the powers and duties of the Public Trustee. The Opposition would also like to know the Government's general stand on the question of fixed-term appointments for permanent heads.

The Hon. K. T. GRIFFIN (Attorney-General): In the absence of the Minister of Consumer Affairs, I will answer a number of the questions raised by the Leader. The first question relates to the Government's policy in relation to the Corbett Report. The Government has not reached any conclusions on many of the recommendations made by the Corbett Committee. In particular, it has made no decisions on the question of permanent heads being appointed for a fixed term. The Government does not believe it needs urgent review, but in due course a decision will be taken on that matter.

The Leader has raised some questions about the power to delegate, and what happens if the Public Trustee is absent from his duties. The office of Public Trustee is a body corporate for the purposes of the Administration and Probate Act. For that reason it is not so easy to appoint a person to assume the responsibilities of the Public Trustee in his absence. This Bill contains a capacity for the Public Trustee to make a formal delegation of any of his powers or duties. I understand that that delegation can extend to the appointment of a person to act in his place with all of his powers during any time he is absent. It is believed that because the Public Trustee is a body corporate it is important to ensure that any such delegation is done on a formal basis, as is provided in the Bill. I thank honourable members for their attention.

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

CRIMES (OFFENCES AT SEA) BILL

In Committee.

(Continued from 27 February. Page 1269.)

Clause 1—"Short title."

The Hon. K. T. GRIFFIN: A number of questions were raised by the Hon. Mr. DeGaris during the second reading debate. I believe it is appropriate for me to answer those questions now before proceeding with the details of the Bill. The Hon. Mr. DeGaris indicated that he was puzzled by the reference in clause 3 (1) *(a)* to section 4 (2) in the Coastal Waters (Application of Laws) Bill, which was passed last year. The Hon. Mr. DeGaris indicated that he could not find a subsection. That subsection is contained in the schedule.

The next question was whether the territorial sea was likely to extend beyond the present three-mile limit. The definition of "territorial sea" in the Bill does not state how far the territorial sea extends: it is whatever the Commonwealth from time to time declares the territorial sea to be. The definition of "coastal sea" provides that the coastal sea extends to the same limit as the territorial sea.

That may be complex when one seeks to read those definitions in conjunction with the schedule to the Constitutional Powers (Coastal Waters) Bill. However, the difficulty is that the definition of "coastal waters" in that Bill differs from that of "coastal sea" in this Bill, because the uniform crimes at sea legislation was drafted before the Constitutional Powers (Coastal Waters) Bill. I am told that the officers who were very much involved with that drafting changed their opinions as to the definitions to be used.

It may be that later amendments will be proposed, on a uniform basis, to the definition, because there is no doubt that there will be inconsistency in the terminology used in the whole of this package of laws that are to be enacted on a uniform basis.

The next question related to the description "territorial or adjacent waters (however described) of the State" which appears in clause 7(2). I am advised that the words are necessary to encompass all ways in which a territorial sea may be described in State legislation. It even extends to all ways in which the territorial sea may be described in such legislation as the Coastal Waters (Application of Laws) Act, where we have referred to "coastal waters" rather than "coastal sea". So, the broad terminology is designed to encompass all ways in which the territorial sea may be described.

I was asked why the Attorney-General's consent was required in clause 8 for prosecution for acts or omissions committed on foreign ships, other than proceedings for an offence against a law relating to fisheries. I am advised that the reason for this is that Australia is a party to the Convention on the Territorial Sea and Contiguous Zone. Matters of international relations can arise where foreign ships are involved, and the Commonwealth Government

does not want international relationships to be disrupted by prosecutions launched in the States.

Accordingly, the State Attorney-General in this context is required to consult with the Commonwealth before authorising a prosecution. It seems to me that in those circumstances it is reasonable to include the restriction on the unfettered power of the Attorney-General in those sorts of prosecution because of the international implications.

They are the replies to the various questions that were raised during the second reading debate. I hope that those questions have been answered satisfactorily. I recognise that honourable members may still have some difficulty with some of the definitions, but that arises largely from the complexity of this Bill and of the whole package of legislation.

I concede that one can adopt the view that some of the definitions appear to be inconsistent. However, I consider that there is a consistency which, when taken in conjunction with other States' activity in this area of legislation, is reasonable. If problems continue to exist in honourable members' minds, I will endeavour, if they outline them to me, to take matters further.

Clause passed.

Clause 2 passed.

Clause 3—"Interpretation."

The Hon. R. C. DeGARIS: I thank the Attorney-General for his explanation of the queries that I raised. I appreciate that this is an extremely complex matter and that most of the explanations given by the Attorney's advisers are quite clear. I think the Attorney-General said that, as far as this Bill is concerned, the coastal sea and the territorial sea mean the same thing. However, in clause 3 we have two definitions, one for "coastal sea" and another for "territorial sea". The definition of "coastal sea" is as follows:

> "The coastal sea" means—
>
> *(a)* the territorial sea adjacent to the State; and
>
> *(b)* the sea on the landward side of the territorial sea adjacent to the State that is not within the limits of the State . . .

Yet, we are told that the coastal sea and the territorial sea are the same thing. If the coastal sea means the sea on the landward side of the territorial sea, and "territorial sea" means the same as "coastal sea", one gets into quite a box when trying to work out what it is all about.

I am prepared to accept that in the definition "coastal sea" means the territorial sea, whatever definition the Commonwealth may from time to time declare to be the territorial sea. If the terms mean the same thing, why do we not have one term and be done with it, instead of having two separate terms with separate definitions, both meaning the same thing?

I am concerned that the original Bill contains a definition of "coastal waters of the State", whereas this Bill deals with the definition of "coastal sea". Is there any difficulty in law when a different phrase is defined?

It has been said that amendments to this Bill may be necessary later to clear up the definitions. I consider that, if changes should be made, they should be made now. Perhaps it has not been decided what changes are required. However, it seems to me that, if there are any doubts regarding the definitions, we should try to amend them now while the Bill is before the Committee.

The Hon. K. T. GRIFFIN: I certainly accept that principle, namely, that if there are to be amendments they should be made when the Bill is before the Committee. However, the problem is that no decision has been taken on whether or not there ought to be any amendments. That was speculation on my part that at some stage in future it may be necessary to make amendments in South Australia and in all States and Territories, as well as in the Commonwealth sphere, to clarify any difficulties that may arise in applying the various aspects of the different State and Commonwealth legislation.

The problem is in the Coastal Waters (Application of Laws) Act, 1979—No. 12. The Hon. Ren DeGaris has said that the definition "coastal waters" is used, rather than "coastal sea". In that legislation and schedule, provision exists for the territorial sea to extend beyond the coastal waters. Provision exists for the Commonwealth to extend, for the purposes of international law, the territorial seas to the 200-mile limit. In that context, and in relation to Act No. 12, the Commonwealth decided that the coastal waters were the waters which presently come within the three-mile limit and not the 200-mile limit. Anything between the three-mile limit and the 200-mile limit, for the purposes of Act No. 12, is not to be regarded as coastal waters.

In the present Bill before us, in relation to crimes at sea, it is intended that the coastal sea encompass the territorial sea or that part of it which is adjacent to Australia. To that extent I may have misplaced my earlier emphasis, because the territorial sea, as defined, is the territorial sea of Australia, and the coastal sea is limited to that part of the territorial sea which is adjacent to the State of South Australia, to the three-mile limit. To that extent the definitions are not synonymous. With respect to the other part of the definition of the coastal sea, to which the Hon. Mr. DeGaris has referred (that is, that part which says it means the sea on the landward side of the territorial sea adjacent to the State which is not within the limits of the State), I have a recollection, which I have not had an opportunity to check, that it is specifically dealing with the Great Barrier Reef. There has been some debate as to whether the Great Barrier Reef is within coastal waters and the Commonwealth law applies, or whether, because of the distance from the low-water mark of the Queensland coast, the reef is outside coastal waters.

Although I was not party to the discussions of the Standing Committee of Attorneys-General when this was agreed between the States and Commonwealth Territories, my recollection is that this part of the definition was included specifically to deal with such things as the Great Barrier Reef. One can see the possibility where there will be a sea which is not part of the coastal sea but which is on the landward side of the territorial sea surrounding the Great Barrier Reef. Consistency then exists within the Bill. Upon scrutiny of the Bill before us, I believe that it does not indicate any inconsistency of terminology within the Bill itself but rather between the Bill and Act No. 12 which we enacted last year. It may be that amendments are required, either to that legislation or to the Bill which is before us now. However, we are not at liberty unilaterally to make those amendments without the other States and the Commonwealth being party to any agreement to so amend.

The Hon. R. C. DeGARIS: I thank the Attorney-General for his information on this controversial matter. The Attorney-General would realise that in 1967 we passed the Petroleum (Submerged Lands) Bill in which there was a drawing of boundaries to the extent of the State's influence. If one remembers correctly, the boundary went south of the three-mile line and then turned south-westerly. Victoria now has quite a heap of off-shore territory which we still believe belongs to us. If coastal waters go for three miles and we have not yet extended our influence to areas beyond the three-mile limit in regard to the application of South Australian laws, is it possible that the agreement made in Victoria in 1967

would not be a valid agreement if we are dealing with something that belongs to us, anyway? Is there a possibility of some negotiations with the Commonwealth on this question to see whether South Australia can regain the titles to that land from Victoria?

The Hon. K. T. GRIFFIN: One of the Bills which is yet to come before us relates to titles, in particular, titles to the sea bed. As I understand it, whilst the broad outline of that Bill has been considered by officers at a State and Commonwealth level, there has been no agreement by State or Commonwealth Attorneys-General with respect to that. It is my understanding that the question of the border between South Australia and Victoria, although negotiated in the 1960's, is a matter which is subject now to review in the light of the seas and submerged lands case. I will ensure that that position is checked and, if it is not correct, I will report that to the Council when I have that information to hand.

The question of the border between South Australia and Victoria, in so far as the title to the sea bed is concerned and so far as mining and exploration is concerned, is not part of the considerations for this Bill that is before us now. I know that it is a matter which should be of considerable concern to us and I will undertake to check that reply. If it is incorrect I will advise the Hon. Mr. DeGaris.

The Hon. M. B. CAMERON: I appreciate the reply that the Attorney-General has given to the Hon. Mr. DeGaris's question. It was a matter of the timing of the passing of the Petroleum (Submerged Lands) Bill. There was some considerable concern about the bottom area of the State. It was believed that in the future it would be directly related to fishing. A considerable area is regarded as very valuable fishing grounds extending from the coast to that point and is considered to be a valuable industry to the State. At the time of passing that Bill by the former Labor Government, there was considerable hostility in that area at the extension of the boundary in such a way that it deprived South Australia, or purported to deprive South Australia, of a considerable portion of the sea bed.

I would appreciate it if the Attorney-General would look at this matter as a matter of urgency and make certain that South Australia's interests are borne in mind. If we can now rectify the damage done to South Australia's interest at that time, we ought to do so before any further steps are taken in relation to the sea bed in the South-East of South Australia.

The Hon. K. T. GRIFFIN: The Hon. Mr. Cameron has referred to fishing, and it is important to relate that, again, this matter is under review by the State and Federal Ministers concerned with fishing. When they have resolved some outstanding matters, it will come to the Standing Committee of Attorneys-General.

The Hon. R. C. DeGaris: Has that got anything to do with boundaries?

The Hon. K. T. GRIFFIN: My understanding is that some of the discussion which they had is related to matters of zones, boundaries, and outer limits.

Clause passed.

Remaining clauses (4 to 13) and title passed.

Bill reported without amendment. Committee's report adopted.

OFF-SHORE WATERS (APPLICATION OF LAWS) ACT AMENDMENT BILL

In Committee.

(Continued from 27 February. Page 1269.)

Bill taken through Committee without amendment. Committee's report adopted.

LOCAL AND DISTRICT CRIMINAL COURTS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 February. Page 1252.)

The Hon. C. J. SUMNER (Leader of the Opposition): The Opposition is prepared to support this world-shattering piece of legislation, which amends the principal Act in three ways. First, it deals with the terminology surrounding people with mental illness or mental handicap, and makes it consistent with that in the Mental Health Act. In a sense, it is consequential on the passage of the Mental Health Act in the last year or so. There is no objection to that.

Secondly, the Bill enables students undertaking a graduate diploma course in legal practice at the South Australian Institute of Technology to appear, in the limited and special jurisdictions of the Local Court, on the instruction of legal practitioners of at least five years standing. It was traditional that the only way to gain admission to the bar in this State was by becoming articled to a legal practitioner, serving those articles in the office of that practitioner, and then obtaining admission to the bar. In more recent times, admission has been obtained after 12 months, although, when I was admitted, the period of articles was two years. Recently, that has been changed to provide that graduates in law be admitted after doing the legal practice course at the South Australian Institute of Technology. Only those who do not gain admission to that course can do articles in the generally considered traditional way of the past.

Under the old system, an articled clerk who was under the supervision of his principal could appear in the unsatisfied judgment summons court or in the limited jurisdiction of the Local Court or the Magistrates Court and conduct cases on behalf of the clients of his principal. There seems to be no provision to allow this for students in the graduate diploma course, and that is what the amendment is designed to do.

Perhaps the Attorney-General, when he replies, will answer some queries I have. In what situation will students in the legal practice course be able to appear in court? When is it necessary for them to appear in court? The Bill provides that they must be under the supervision of a legal practitioner of at least five years standing. Does that mean that they would be made available to legal practitioners during the year, by some arrangement between the institute and the Law Society, to appear in court? Does it mean that, when the students do a certain period in a legal office (a month or five weeks), they will be able to appear in court in that period? What rules and guidelines are to be laid down by the institute (the legal practice course) and the Law Society governing the appearance in court of those students? Will they be able to appear at any time during the year when they are studying the course? Will some arrangement be made for them to do it between the practice course and individual practitioners, or will they be able to appear only when they are working in the office of a legal practitioner and directly under the supervision of that practitioner?

While I have no objection to the amendment as such, it seems that there is a difference between allowing an articled clerk (who is working in an office and under the constant supervision of his principal) to appear in court on behalf of that principal, and allowing students who have no direct or continuous responsibility to a principal to appear in court.

Therefore, there should be some explanation about what guidelines there are to enable these students to

appear in court, given the sorts of problem that I have outlined. I seek a further explanation of that situation.

The final amendment carried out by this Bill deals with the equity jurisdiction of the Local Court and adds the extra ground for the Local Court to include "for contribution, where the amount of the claim does not exceed $20 000". The Opposition cannot find anything to argue about in that proposal. With the queries that I have raised, the Opposition supports the Bill.

The Hon. K. T. GRIFFIN (Attorney-General): The request for the amendment contained in clause 4 to which the Leader has raised most questions came from the Law Society, in particular, because it was concerned that the students who were enrolled for the Graduate Diploma in Legal Practice course at the South Australian Institute of Technology were not able to gain the same sort of experience on minor matters in courts as their counterparts who were serving articles. Most members will know the position. Articled clerks can appear on the instruction of their principal, who is a legal practitioner of some experience in courts such as in courts of summary jurisdiction and in the limited jurisdiction of the Local and District Criminal Court.

By appearing on relatively minor matters they gain valuable experience in court work, and in the way that they should make representations and submissions to courts. The Graduate Diploma in Legal Practice at the South Australian Institute of Technology was established several years ago because there were insufficient places available for articled law clerks. The position has changed somewhat now, so that a person who seeks admission as a legal practitioner is now required to attend the Graduate Diploma in Legal Practice course and pass the approved course as a prerequisite for admission.

There is a proviso that, if there are insufficient places for students to attend that course, then the others may accept articles with firms of legal practitioners. The intention during the graduate diploma course is that students should be able to gain some court experience. They can do that principally when they are serving a period with a legal practitioner in the form of job experience (I think it is a minimum of three or four weeks), but there is an opportunity for those students to attend in legal practitioners' offices to work on other occasions when they are not occupied at the graduate diploma course.

In those circumstances, provided the legal practitioner in whose office they are gaining experience is of five years or more standing, we are seeking to provide that the students can then appear in the Local and District Criminal Court. The liability question is already covered, because they will be acting on the instructions of the legal practitioner. If there is any suggestion that they do not deal with the task that they have been set by the legal practitioner, or if perhaps they are negligent, then the practitioner has the responsibility for that student's fault. There are sufficient safeguards in it.

This is an important area of experience for likely legal practitioners and, unless the amendment is passed, it will mean that students attending the graduate diploma course will suffer compared with their colleagues in articles of clerkship, because they will not have this valuable experience.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Right of appearance."

The Hon. C. J. SUMNER: I appreciate the situation that applies when a student works in the office of a legal practitioner for a period of four or five weeks under the constant supervision of the practitioner to obtain the ability and capacity to appear in court. That is a desirable situation. However, the wording of the amendment provides a general power or right for students to appear, and I am concerned about what would happen outside of that four or five weeks when they are actually working in his office. Might students appear in court through some kind of private arrangement with the legal practitioner to do remands on Saturday mornings, or the like? Is that considered to be within the spirit of the Bill? Would it be a desirable situation for students to have some permanent connection with a legal practitioner in that way? They may appear in the Local Court to deal with unsatisfied judgment summonses on one morning of the week. Will there be scope for private arrangements between a legal practitioner and a student, so that a student could say, "Yes, I am doing it because I have this arrangement with solicitor Smith in town, who is supervising me, and it is quite satisfactory"? The guidelines covering such appearances should be spelt out.

The Hon. K. T. GRIFFIN: I would expect that the co-ordinator of the diploma course, the Law Society and the judges of the Local and District Criminal Court would keep this situation very much under review. In the absence of any guidelines, I would point out that, although such students could enter into arrangements with a private practitioner to undertake the type of work referred to by the Leader, that is not within the contemplation of any of those who have been party to the proposed amendment, although I admit that certainly that is a possibility, unless it is fairly strictly controlled. However, the judges of the Local and District Criminal Court have a rule-making capacity, and I expect them to take some initiative to regulate this sort of activity if it appears that the spirit of the amendment is being abused.

I would also expect that the co-ordinator of the diploma course would take a very dim view of students having part-time arrangements that infringed upon the time available to students to attend other courses of study within the diploma course. I believe that that situation will be watched very carefully. I appreciate the Leader's concern, but I suggest that this matter will be kept under constant review, and if there is the abuse which he suggests is capable of occurring I would certainly want to be very much involved in reviewing this matter with the judges of the Local and District Criminal Court to ensure that there were adequate rules to combat the situation.

The Hon. C. J. SUMNER: I am not suggesting that there would necessarily be an abuse if it was done in accordance with certain set guidelines. It may well be a desirable practice if it applied not only within the four or five-week period when the students were learning in the office, but also at other periods during the year. It may well be that some arrangement made between the student and the practitioner to handle unsatisfied judgment summonses or something similar would be beneficial, but it should be within the context of some general guidelines and rules.

Clause passed.

Clause 5 and title passed.

Bill read a third time and passed.

DOG CONTROL ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 February. Page 1254.)

The Hon. J. R. CORNWALL: The Opposition supports this Bill with some reservations. I understand that this Bill has been introduced as a result of a Crown Law opinion following a recent Supreme Court case in which a by-law

under the Dog Control Act was held to be invalid. This Bill has been introduced to correct that anomaly. However, it should be made clear that in no other circumstances would the Opposition support any primary move to derogate any responsibility from the Central Dog Committee. When the Minister was in Opposition he made his attitude towards the Central Dog Committee quite clear. At that time the Minister said that he disagreed with the setting up of the Central Dog Committee, and he made it clear that if the occasion arose he would set about demolishing or abolishing it. It may well be that the Government will introduce amendments towards that end later.

I give notice now that the Opposition will certainly oppose any move to disband or weaken the committee, because it is central to the functioning of the Act. This matter was considered at great length by the Select Committee that examined the original Dog Control Bill. It was supported by the great majority of interested groups that gave evidence to that committee, and it is still supported very strongly by most of the very responsible groups represented on the Central Dog Committee, including the Australian Veterinarians Association and the Royal Society for the Prevention of Cruelty to Animals. With those reservations the Opposition supports the second reading of the Bill.

The Hon. C. M. HILL (Minister of Local Government): I thank the honourable member for applying himself to this measure. However, I believe he has applied himself to the wrong matter because there is nothing about the Central Dog Committee in this Bill. As the honourable member has said that issue will be debated, I assume with some vigour, when the relevant legislation is before the Council. I thank the honourable member for his support for this Bill and simply reiterate that it is a very simple measure that proposes amendments to section 58, which deals with the rights of councils to license kennels and fix fees for such licences through by-laws instead of by regulation, as is the present situation.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Licensing of kennels."

The Hon. J. R. CORNWALL: I draw the Minister's attention to paragraph *(a)*, which inserts new subsections (2) and (2a). Can the Minister clarify the position in relation to prescribing general fees under the present Dog Control Act?

The Hon. C. M. HILL: I believe the fees are prescribed by regulation. This matter relates to an issue affecting the councils. Once this Bill becomes law councils will have the opportunity to fix fees for kennels through normal council by-laws.

The Hon. J. R. CORNWALL: Is it a fact that at present these fees are fixed with the advice of the Central Dog Committee?

The Hon. C. M. HILL: That could well be the position, but it is being rectified.

Clause passed.

Clause 3 and title passed.

Bill read a third time and passed.

WRONGS ACT AMENDMENT BILL

In Committee.

(Continued from 27 February. Page 1266.)

Clause 1—"Short titles."

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

That consideration of this clause be postponed until after clause 2 has been considered.

Motion carried.

Clause 2—"Assessment of damages for loss of earnings."

The Hon. R. C. DeGARIS: During the second reading debate two contributions were made to the general principles of the Bill. Both of those speeches supported the concept in clause 2 but both admitted that the whole question was a complex one.

The position in a nutshell is that up to 1956 the law was clear, that is, that in any assessment for damages in respect of loss of earnings no reduction in the amount payable to the plaintiff was made for income tax that may have been payable by the plaintiff. In 1956, the Gourley case changed this. In that case, Gourley had been injured by reason of the negligence of the defendants, the British Transport Commission. The trial judge awarded him £37 720 damages in respect of loss of earnings, actual and prospective, paying no regard to the income tax and surtax that Gourley would have to pay on the amount of such earnings had he not been injured.

Alternatively, the judge assessed these damages at £6 695, taking such hypothetical taxation into account. It was held in the appeal to the Privy Council that the judge ought to have taken into account the tax position and that the award in respect of loss of earnings should be reduced to £6 695, with the taxation position taken out. Lord Keith of Avonholm dissented from the decision of the other Lords.

From 1956 to 1978 in Australia the position found in the Gourley case held. In 1978, with two judges dissenting, the interpretation was returned to the pre-Gourley position. In passing, I should mention that the Supreme Court of Canada also declined to follow the Gourley decision in its 1966 judgment. So, both the High Court of Australia and the Supreme Court of Canada have come to the same conclusion in relation to the application of the Gourley concept.

On the State scene, following the High Court decision, Queensland has already passed legislation to revert to the Gourley position, and I believe that Victoria has either drafted or passed legislation in this regard. So, South Australia has become the third State to try to legislate to take the position back to the Gourley concept.

Not long ago, after the High Court decision, a judgment was delivered in the South Australian Supreme Court in *Nicholson v. Walker*. I refer to *South Australian State Reports* No. 21 of 1979, in which Mr. Justice Mohr said:

> I think it true to say that until the decision in *British Transport Commission v. Gourley* damages for both past and future loss of earnings had been calculated and awarded without reference to the incidence of income tax, i.e., on "gross earnings" as opposed to "net earnings". I think it equally true to say that since the decision in Gourley's case, at least in this State, damages have been calculated and awarded on a "net earnings" basis.
>
> Although Gourley's case has been discussed in cases in this State (see for example *Faraonio v. Thompson*) no authoritative decision has been reached which detracts from the applicability of the principle in Gourley's case.
>
> The recent decision of the High Court of Australia in *Atlas Tiles Ltd. v. Briers* has brought the whole discussion into the limelight again. In that case, as I read it, Barwick C.J. thought that Gourley's case should not be applied in Australia. He said: "Consequently, in my opinion, Gourley's case should not be followed in Australia, whether in relation to damages for loss of earning capacity or for wrongful dismissal, as indeed it has not been followed in Canada since the decision in *Reg. v. Jennings*, a decision and the reasons of

Judson J. with which I fully agree." The Chief Justice's decision followed a lengthy review by him of the practical difficulties inherent in a trial judge attempting to apply the principle in Gourley's case in Australian conditions.

Murphy J. (pp. 723 *et seq*) agreed with Barwick C.J. Gibbs and Stephen, J.J. delivered separate judgments, both holding that Gourley's case should be followed in Australia. Jacobs J. delivered a judgment in which he held that Gourley's case should apply to past loss of earnings but should not apply in respect of damages for future loss of earnings. He said (at p. 722):

> I have come to the conclusion that in relation to loss of future earnings the complexities introduced by the Gourley rule outweigh any real advantage achieved by its application. Most of the uncertainties which Menzies J. described in the passage which I have quoted apply as much to an estimate of the tax for which the plaintiff would have been liable on his earnings if they had not been lost to him as to the prediction of the tax which income from investment of the damages would incur; and therefore to essay both tasks—the calculation of probable tax on what would have been earned and the calculation of probable tax on the income from compensation—would, in the words of Menzies J. which I have quoted, make the assessment of such damages a computer programme rather than an exercise of judgment. And in very many cases it would achieve little. Having concluded that Gourley is not strongly based on a conceptual approach, I see no advantage in its adoption as a realistic approach to the assessment of damages for loss of future earning capacity.

The state of the law is therefore that by a majority the High Court has held that the principles of Gourley's case should not apply to the assessment of damages for future loss of earnings whether, as I understand it, in the case of a total loss or of a partial loss of earning capacity. Although the Atlas Tiles case was concerned primarily with damages for wrongful dismissal it must be that the principle is the same whatever the nature of the cause of action if what is called for is an assessment of damages for future loss of earnings.

Before leaving this topic there are difficulties peculiar to the present case which seem to be additional to those mentioned by Barwick C.J. First, the plaintiff's wife has left her employment because she is pregnant. This will affect the plaintiff's tax position. Second, a child will be born during this financial year and again this will affect his tax position. Thirdly, this particular financial year is one in which the Commonwealth Government has imposed what has been called a temporary surcharge of 1½ per cent on all income tax. This legislation will lapse as at 30 June 1979. Fourthly, had it not been for his injuries the plaintiff would no doubt have availed himself of the overtime available to him. How long such overtime would have been available and if available how long the plaintiff would have availed himself of it is a matter for a "broad axe" approach as there is not, and in the nature of things cannot be, any evidence on the topic. Suffice to say that while the plaintiff availed himself of the overtime, which would have returned him $140·00 gross per week, it would have a profound effect on his liability for tax.

I am spared in this case from resolving the difficulties of deciding whether or not the principle in Gourley's case should apply to loss of past earnings as these figures have been agreed by the parties. In the result I hold that the incidence of income tax is to be ignored in the assessment of damages for loss of future earnings. I have been supplied with actuarial calculations both on a net earnings basis and a gross earnings basis, but as always these are not to be used as a basis for precise calculation but for general guidance and assistance in what must at best be a relatively imprecise exercise.

South Australia will be the third State to enact a law which overturns this judgment of the High Court. I think therefore it is reasonable that some presentation should be attempted to put the reasons to the Council why three High Court judges disagreed with the principles established in Gourley and also to look at the reasons behind Lord Keith's original dissension in the Gourley case. I begin with the dissenting judgment of Lord Keith, as follows:

> My Lords, after listening to the full and able arguments for both sides in this case, I have considered afresh the opinion I expressed in *Blackwood v. Andre*. With some regret, knowing the views of your Lordships, I have found myself unable to change my opinion. I propose to explain my reasons very briefly.
>
> I feel great difficulty in the view that the incidence of taxation on an injured taxpayer should be any concern of the wrongdoer and should be used to minimise an award of damages in his favour. To many it may seem somewhat hard that the more tax a man has paid before he meets with an accident the less damages relatively will he recover from the person who has injured him. Two men each earning £2 000 a year are injured in the same accident and are totally disabled for life. A has income from investments of £5 000 a year, or a wife with income of that amount; B is a single man with no independent income. It would be no answer for the wrongdoer to say, "A has got a wealthy wife, or a large independent income, and therefore he does not need, and ought not to recover, any damages except for pain and suffering, loss of amenities and out-of-pocket expenses."
>
> The law would say the wealthy wife and the independent income are not his concern. But by taking net income after payment of tax as the measure of damages the wrongdoer achieves by a back door precisely what is refused to him by the direct entrance. In such an event B will receive full compensation for loss of his earning capacity of £2 000 a year so far as judge or jury with the limitations of human foresight and possibilities of human error can assess it. A will receive insignificant and some may think derisive damages for loss of exactly the same income. I do not ignore the fact that B may need the damages more than A and the difference may seem to introduce a measure of equity as between A and B, to the advantage of the wrongdoer, but the law has not yet reached the stage of assessing damages for a legal wrong on the basis of need.
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> The whole issue in this case boils down to the question whether a man is to be compensated for loss of wage-earning capacity on the basis of gross earnings, or net earnings after deduction of tax. The first alternative provides a simple rule which has been adopted for generations and creates the minimum of trouble. The second alternative must, I think, give rise to serious difficulties and complications. Nor is the matter confined to British income tax. It was conceded in argument and is, I think, inevitable that under the second alternative, if a foreigner is injured in this country the courts will have to pay regard to the incidence of his foreign income tax, if any. It is a strange turn of fortune's wheel that the intricacies and accidents of fiscal legislation should have their repercussions in the assessment of damages in the civil courts.
>
> Nor does the matter end there. A man may be content to earn a large income with a high rate of tax, with a view to prospective benefits or advantages. He may propose to make payments under covenants to relatives and others, with consequent taxation reliefs, or to maintain and possibly increase insurance premiums on life and endowment policies, or be content to enjoy the minimal benefits of earning a large salary under a system of high taxation with a view to enjoying in retirement a better pension. To take account of his existing tax position at the date of the accident will make no allowance for these contingencies. They may be very real

> intentions, the opportunity of realising which may depend on a man's maintaining his earning capacity. It may be said they can be taken account of by judge or jury. If so, new and difficult factors will be introduced into the computation of damages which would be unnecessary if damages were assessed on the basis of gross earnings.
>
> There is, I think, a deceptive simplicity in looking at the matter from the point of view of loss of earnings down to the date of trial. It is, of course, obvious that if the injured man had been able to work he would have paid tax on his earnings, and it is attractive to say that his damages for ascertained loss of earnings should be calculated on net earnings after deduction of tax. But if an award of damages for loss of earnings is not subject to tax, to deduct tax before assessing damages seems to me singularly like exercising taxing powers in an indirect way. It must be remembered also that income tax is an annual tax imposed by the will of Parliament. To fix damages on an estimate of future taxation is impossible and to assess them *de futuro* on the basis of existing taxation savours of legislation by the Judiciary. Further, to fix them on the basis of existing taxation without any knowledge of what the future commitments and obligations and personal status of the injured person will be, or would have been, seems to me to be unreal. If there is a case for thinking that assessing damages on a basis of gross earnings in actions for personal injuries, or for wrongful dismissal, enables the individual to escape his fair contribution to the national revenue, the position, in my opinion, should be rectified by legislation.

I have looked at the probable intention of the last words of Lord Keith's judgment, and I have come to the conclusion that he means that, if the damages awarded are to be taxable, then it is the Legislature, through its taxation laws, that should determine how it is to be taxed. One can argue against such an interpretation of Lord Keith's judgment but, taking into account the judgment as a whole, such a construction fits the argument advanced.

The main point made by Lord Keith cannot be ignored. Is it fair and just that the wrongdoer, as Lord Keith puts it, is advantaged at the expense of the taxpayer? The taxation what would be paid by the injured person is virtually given to the defendant. Barwick C.J., in his judgment in the Atlas Tiles case, said:

> I cannot help thinking that in the choice between holding that liability to taxation on taxable income is an irrelevant and remote circumstance in the assessment of damages and imposing on judges at first instance and juries a task which neither is fitted to perform, it would have been so much better to have chosen the former leaving it to the Legislature to determine whether and if so to what extent damages awarded for personal injuries should be included in assessable income. This is not to say that the legislators are likely to appreciate all the consequences of their interference if they do decide to interfere, but at least whatever rule they make is more likely in my opinion to secure uniform and certain results than the course of leaving the estimation of tax liability to judges of first instance or to lay juries in the course of common law actions. Also, if tax is to be imposed the community and not the defendants will get the benefit of it. If one had to consider the practical difficulties of a tribunal of fact, be it primary judge or jury, in attempting adequately to apply the Gourley case particularly in a case where the affairs of a party in relation to taxation are of a complicated nature I would consider these difficulties to be quite overbearing.

One of the strange twists in adopting the Gourley principle is that it is cheaper for the wrongdoer to injure a taxpayer than it is to injure a non-taxpayer although, strange as it may seem but nevertheless true, the non-taxpayer may be far wealthier than the taxpayer. Barwick, C. J., gives the following illustration, which is relevant:

> Suppose the same earning disability befell two persons both engaged in professional life with the same income from their profession. One by engaging in some development that is operating at a loss though with excellent prospects of capital gains has no liability for tax in the current year or for the foreseeable future. The other does not engage in such developmental fields so his assessable income is his professional income. What justice is there if one gains a significantly larger award for damages than the other?

Remember that the injuries are identical in both cases and the professional income is identical in both cases.

The Hon. Legh Davis, in his submission, said that a basic principle for the measure of damages in tort and contract is that there should be *restitutio in integrum;* that is, that the sum of money awarded for pecuniary loss to a person who has been injured or who has suffered should as nearly as possible restore the injured party to the same position as he would have been in if he had not suffered or been injured. With respect, I would suggest that the intrusion of a taxation factor into the picture, particularly in the complexities of the present Income Tax Act, seriously obscures that basic principle if one also accepts that there should be comparable justice to all.

It can be argued, of course, that, even if the court is relieved of the responsibility of assessing a taxation component, the anomalies of the taxation system will still produce inequities. That is quite so, and cannot be denied, but should the court, in assessing damages, be responsible for the vagaries of the taxation system? Is there a solution, or the suggestion of a legislative solution, to the problem in the judgment of McInerney, J., in the Supreme Court of Victoria, in the Atlas Tiles case, appealed against to the High Court and dismissed? McInerney, J., concluded that:

> The damages which I will hereafter award are subject to taxation under section 26 *(d)* of the Income Tax Act to the extent of 5 per cent only and no more.

Section 26 *(d)* of the Income Tax Assessment Act provides that the assessable income of a taxpayer should include 5 per centum of the capital amount of any compensation whether the amount is paid in a lump sum in consequence of retirement from or the termination of any office or employment and whether so paid voluntarily, by agreement, or by compulsion of law.

Whatever rules we as legislators apply to this complex question will produce imperfections, because I do not believe that it is possible on this question to produce the perfect answer, but I do believe we should be striving to produce a legislative policy that contains the least imperfections with the greatest possibility of comparable justice to all concerned.

I want now to examine, probably inexpertly but nevertheless with conviction, another aspect of the basic principle enunciated by the Hon. Legh Davis, the principle of *restitutio in integrum*. Regarding past loss of earnings, the position appears to me to be different from future loss of earnings. The rule adopted in the Gourley case seems to me to be more applicable to past loss of earnings than to a compensation payment related to future earnings. The compensation payable for future loss of earnings should be sufficient to allow the plaintiff to be able, by normal prudent investment, to enjoy an income equal to that previously received.

The Hon. J. E. Dunford: You'll have to change the compensation legislation.

The Hon. R. C. DeGARIS: I am not dealing with that question at this stage.

The Hon. J. E. Dunford: But you're saying it in support of your argument. Would you support an increase in the lump sum settlement to workers who are incapacitated?

The Hon. R. C. DeGARIS: That is contained in the

workmen's compensation legislation.

The Hon. J. E. Dunford: But $25 000 does not do what you say it should do. A person should be able to invest his money and live comfortably.

The Hon. R. C. DeGARIS: We are dealing with the Wrongs Act in relation to contract and tort, and the Hon. Mr. Dunford should know more about tort than anyone in this Chamber. He should know that it has nothing to do with workmen's compensation.

The point I was making means that income from a normal prudent investment after tax will be the amount previously enjoyed. With respect, I would submit that where compensation for loss of earning capacity is made with a reduction in the amount for taxation and the investment income from that compensation is taxable again that the basic principle of *restitutio in integrum* is not fulfilled.

This leads me to the next important point. The clause we are considering applies a rule to be used in the assessment of damages in respect of loss of earning whether in contract or in tort. The question I raise is that there is a significant difference between damages awarded for personal injury; that is, damages in tort, particularly related to future earning capacity, to the damages awarded for breach of contract.

Compensation for a loss of earning capacity due to an injury suffered appears to me to need a different approach to a breach of contract which prevents an employee receiving remuneration due to him under a contract. One case deals more with the loss of earnings in the future and the other with payments that should have been made to that person but have not been made. Also in one there is a deliberate act by the defendant of breaching a contract, in the other fault lying with the defendant but not usually of a deliberate intent.

If the Gourley rule is followed then a defendant who deliberately breaches a contract knows that he can do so in the knowledge that the taxation component will be taken off his debt to the plaintiff. In cases of damages being sought following an accident where, say, a compulsory third party insurance policy covers the person involved, it does not assume the same degree of concern to me in the reduction of liability of the defendant by an element of taxation as does the reduction in the case of wrongful dismissal.

I appreciate in this that there are overlapping areas in the two separate categories, but I suggest quite seriously that a clear distinction must be made between these two. The Committee should also note Lord Jowitt's comments in the Gourley case, as follows:

> There may well be a difference between actions for personal injuries and actions for wrongful dismissal in regard to the obligaton of the plaintiff to pay tax on the amount of damages received and cases on the one topic may therefore be a dangerous guide to follow on the other.

I now go to the final point I wish to make before recommending a course of action which I believe the Committee needs to consider.

It has been suggested by previous speakers that, if this Bill does not pass, the S.G.I.C., which would be the insurer most affected in South Australia, would suffer by at least 10 per cent as a result of increased damages that would be awarded. This of course would mean higher premiums to the whole of the South Australian community. I would submit that in the consideration of this complex matter it would be wrong to let the question of any rise in insurance premium that may stem from any decision that we make influence that decision if it is clearly shown that by so doing we do not produce a just and equitable piece of legislation.

As honourable members must now understand, I have doubts whether the Bill achieves a just solution to an extremely difficult problem. In general terms I agree with the decision of Judge McInerney of the Supreme Court of Victoria in the Atlas Tiles case, and naturally in general terms I agree with the decision of the High Court at appeal.

It does not necessarily follow that I entirely disagree with the decision of the Gourley case in 1956, but I point out that one is a case where the damages were assessed in relation to a breach of contract in wrongful dismissal and the other was a case where the damages were assessed in relation to a physical injury. One in which a deliberate act created the wrong, the other an accident in which fault was found to lie with the British Transport Commission.

In the Atlas Tiles case where a breach of contract caused the wrong I cannot justify in my mind that the defendant should reap the benefit of the plaintiff's tax liability. I emphasise that point. For example, if the Gourley principle is applied to the Atlas Tiles case then the defendant, instead of paying the just remuneration to the plaintiff of say $45 000, would pay that amount less tax, probably paying only $25 000.

As I stated earlier Judge McInerney, of the Supreme Court of Victoria, required that income tax under section 26 (d) of the Income Tax Act was payable by the plaintiff in the Atlas Tiles case. It may be argued that even with income tax payable under section 26 (d) of the Income Tax Act that the net amount of money the plaintiff receives exceeds what he would have received if he had not been wrongfully dismissed. I submit that this is a problem for the Federal Treasurer and no-one else.

At this stage I am of the opinion that no legislative changes should be made in relation to the assessment of damages in respect to loss of earnings in any proceedings following a breach of contract. However, I will listen carefully to any other arguments that may be advanced on this point before finally deciding on my course. The postion relating to proceedings in tort, however, raises more complex problems.

On this question my opening bid is the same as that relating to the previous question. I agree in general terms with the decision in the Atlas Tiles case, and my closing bid would also be the same; that is, it is up to the Income Tax Act to assess the tax that should be paid but in between the opening and closing bids the matter becomes incredibly complex.

I would think that in almost all cases in assessing damages in respect of loss of earnings in tort that the defendant is covered by insurance and in most of these cases covered compulsorily. There is a general cost to the community at large if insurance premiums increase as a result of not assessing an element of taxation. The cost already to S.G.I.C., a State-owned corporation, could be quite considerable, yet this factor does not weigh that heavily with me if in the process we are achieving a more just system.

What does weigh more heavily with me is the fact that both Victoria and Queensland have already taken legislative action to reverse the High Court finding and of course will face no increase in insurance premiums in those States due to that particular change. If we do not follow suit then this State would face yet another disadvantage in terms of cost which we can ill afford at this stage.

I suggest to the Committee that, in regard to proceedings in tort, the Bill should pass but that the matter should come before the Parliament again within, say, a period of two years, for reassessment. There are several ways that this can be achieved. During that period the question should be reported upon by officers of the

Attorney-General's Department and possibly the Federal Treasurer or it may become a topic that could be reported on by the Australian Law Reform Commission.

It may be that in this two-year period when this question is thoroughly examined that a course may be decided upon to be followed by all States and it may be that complementary Federal legislation would be needed to settle the question for all time. In the pursuit of justice I am firmly of the opinion that it is time that the sun set on the concept of Gourley in relation to proceedings in contract.

I am also reasonably convinced that it is time the sun set on the concept of Gourley in relation to proceedings in tort, but there are greater complexities in this issue. I will listen with interest to any comments the Attorney-General may wish to make, and I would like to hear the comments of other members in the Committee on this quite complex question that is before us.

The Hon. C. J. SUMNER: In the second reading debate I said that I supported this Bill, but with some misgivings. It would now be clear to the Committee, from what the Hon. Mr. DeGaris has said this afternoon, that my misgivings are quite serious.

The Hon. R. C. DeGaris: I thought it was a Labor Party Bill.

The Hon. C. J. SUMNER: It had not seen the light of day. So, it is obviously not anything to do with the Labor Party. It appears that my misgivings are well founded. I had not elaborated on my misgivings to the same extent as the Hon. Mr. DeGaris did very ably this afternoon. The Hon. Mr. DeGaris has explained in a manner that relates the full history of the situation, giving a very up-to-date account of the problems surrounding this particular situation. Now that I have given further thought to this matter and have recieved representations from some members of the legal profession I am wondering whether or not this matter should be further considered. In other words, I am not sure whether I am prepared to support this Bill at this stage. I believe that progress should be reported on the understanding that the matter will not come before the Committee for some months. It is important that this Bill be further considered outside Parliament before it comes back to this Committee for further debate, because a number of factors have been brought to my attention since the second reading debate.

The Hon. R. C. DeGaris: You should have spoken in Committee as I did.

The Hon. C. J. SUMNER: Mr. Chairman, I do not take such liberties with Standing Orders. I realise that the Hon. Mr. DeGaris's remarks were very worth while and that the Committee was very indulgent towards him, but really he should have done his homework last week and made his speech then.

The Hon. R. C. DeGaris: You should have done that, too.

The Hon. C. J. SUMNER: Yes, I should have done that as well. Unfortunately, the Opposition has to reply to the Government's proposals first. The Hon. Mr. DeGaris had the luxury of the weekend to pore over his comments.

The Hon. M. B. Cameron: The Opposition had the Bill for nine months before we saw it.

The CHAIRMAN: Order!

The Hon. C. J. SUMNER: I appreciate the Hon. Mr. Cameron's remark. The point was raised earlier that this was a Labor Party Bill. Perhaps I should explain the position because I said, somewhat facetiously, that the Opposition does not claim any credit for anything that has not seen the light of day.

This matter was referred to the Labor Government and legislation was being prepared, but no final decision had been taken in relation to the introduction of it as a Bill. I certainly admit that the matter had received the consideration of the previous Government and that the general principles involved (which I supported in the second reading speech) had been approved by the previous Government. There is no dispute about that. I asked for legislation to be drafted in the same form that I have suggested that the present Bill be amended; that is, by adding a provision to the Bill amending the Supreme Court Act and the Local Court Act dealing with interest on damages awards. That provision arose out of the decision in the *Faraonio v. Thompson* case.

I do not want the Committee to be in any doubt about the previous Labor Government's position in regard to this matter. As I have said, the previous Government had the Bill in hand and the reversal of the decision had been approved in general terms. However, when the Bill was drafted I suggested that the reversal of the decision in the *Faraonio v. Thompson* case in the Privy Council should also be contained in the preparation of the Bill. As honourable members would know, no Bill is presented until a final decision is made by Cabinet. In that sense the final decision had not been taken by the previous Government.

I have received representations from a group of Adelaide lawyers who are concerned about the effects of this Bill. They have reiterated some of the misgivings that the Hon. Mr. DeGaris and I have referred to today. One of their misgivings was the fact that there are already factors that are detrimental to plaintiffs that courts do take into account. For instance, courts have consistently held that inflation should not be taken into account to increase the amount of damages awarded. That is obviously a very odd situation when one looks back over the last 10 years. Any lump sum award for damages 10 years ago would be worth much less now than it was at that time.

Yet, the courts have held consistently that the rate of inflation cannot be predicted in such a way that they can take it into account when making a final assessment of damages. One can see how over the past 10 years inflation has eroded the amount of damages that a person got 10 years ago.

The Hon. R. C. DeGaris: How do you assess inflation?

The Hon. C. J. SUMNER: I agree that it is difficult, and that is what the courts have consistently held.

The Hon. R. C. DeGaris: Do you think it is just that a person can invest to hedge against inflation?

The Hon. C. J. SUMNER: I do, but that is not always the case. People may not have the capacity or the financial acumen to invest in such a way that they are always hedging against inflation. Damages are generally calculated on the fact that the money is usually invested in rock-solid, gilt-edged securities of some kind—perhaps Government bonds or something of that nature. If one says that that is a complete hedge against inflation, one is completely wrong, because at present one is not hedging against inflation with that kind of investment.

That is the worry that has been expressed by the courts. However, they have nevertheless come down to the fact that it is not sufficiently predictable to be able to take inflation into account. I am merely saying that, whatever the judicial correctness of that decision, in terms of the victim who received damages 10 years ago, obviously, bearing in mind the inflation that has occurred in the interim, he is in a much worse position than he was at that time.

The Hon. R. C. DeGaris: It depends how he invested it. He might be a lot better off.

The Hon. C. J. SUMNER: That is possible, but it is likely that in most cases a person would not be better off.

The Hon. R. C. DeGaris: I do not think that the inflation factor is very well based.

The Hon. C. J. SUMNER: I am merely saying that it is one of the matters that has operated to the detriment of plaintiffs who have received damages over the past 10 years and that it needs to be examined. It is one of the factors to which I referred in the second reading, and to which Mr. Justice Zelling referred in *Faraonio v. Thompson*. It has also been put to me by the group of lawyers that has made representations to me.

The other factor involved is that the person who receives damages must pay income tax on the income received from the investment. That seems unfair. If one receives damages that have been discounted because if one had continued one's pre-injury employment one would have paid income tax (and therefore the damages are based on one's net income and are therefore reduced), it is unfair that the damages are reduced because of this factor yet, when the damages are invested and one receives income therefrom, one is taxed on the income received from the investment.

The Hon. R. C. DeGaris: The courts have allowed a factor for that.

The Hon. C. J. SUMNER: No, they have not.

The Hon. R. C. DeGaris: Yes, they have.

The Hon. C. J. SUMNER: No, they have not, and that is the problem. The Hon. Mr. DeGaris is getting a bit peppery about the legal principles that he thinks apply in this situation. I merely say to him that, as a general rule, no account is taken of the fact that income tax is payable on the investment.

The other things that were brought to my attention by the group of lawyers (to whom I am indebted for putting those matters to me) have already been dealt with by the Hon. Mr. DeGaris. They reiterated particularly the fallacies involved in taking account of income tax when assessing lump sum damages. They gave one or two other examples of which honourable members ought to be aware. One is the future effects that will follow if the income tax system changes to take into account the proposed tax-sharing scheme.

What happens if someone receives damages on the basis of tax paid before the tax-sharing scheme, where a greater amount would be taken for taxation, as a result of which the person would have received damages less than those he would have received if the current proposals by Mr. Ian Wilson, M.H.R., in relation to tax sharing, were in effect?

Also, what happens when a person has damages assessed on the basis of paying tax as a single person, and that person then marries? He would receive damages that were discounted for a much greater amount of income tax than would have been the case had he been married at the time the damages were assessed. Alternatively, if damages are assessed on the basis that a wife is working, and taxation is taken into account on that basis, the amount of tax would be much higher than if the wife had not been working. What would happen if the damages were assessed while a person's wife was working and she subsequently stopped working?

These sorts of problem point out the fallacy that was referred to by the High Court in the Atlas Tiles case. The other point emphasised by the Chief Justice in that case is that one is virtually requiring counsel and judges in this area to be taxation experts.

The other point put to me (and this could well appeal to the Hon. Mr. DeGaris and to a traditional lawyer like the Attorney-General) is that we are, in only one way, interfering with judge-made law. The whole question of the assessment of damages does not rely on any statutory principle or enactment: rather, it relies on the general principles of the common law.

Here, we are taking one aspect of the judge-made law in this area that we do not like and reversing it. It was pointed out to me that the law in this area has been in a state of flux over the past few years, particularly as the courts have tried to wrestle with the problems of inflation, and that it is undesirable for the Legislature to intervene in a way that merely takes one principle involved in the assessment of damages and reverses it without looking at the whole question in some kind of totality.

The other matter put to me is that the principles in Gourley's case and the Atlas Tiles case look as though they will come up for decision again in the Privy Council.

A case was referred to me that was decided in the South Australian Supreme Court, and it looks as though the insurance company will take on appeals to the Privy Council. That will raise the question of income tax in the assessment of damages, again, before the Privy Council, so that the Privy Council will be asked to look again at its decision in Gourley's case and decide whether it should follow Gourley's case or follow the High Court in the Atlas Tiles case. I do not have the full reference but I believe that that is the case of Rendall, which is reported in the most recent publication of the Law Society's Judgment Schemes. I have not had an opportunity to get the full reference to it, and I was advised only informally that that is a case which could go to the Privy Council and upon which there could be a Privy Council decision that might make this legislation unnecessary or at least clarify the judicial position on it. So, that seems to be a further reason for adopting the course that I am now suggesting, that is, a course of delay for some considerable time.

The other point is that I do not believe the matter has been referred to the Law Society formally for consideration. In view of the fact that this group of lawyers has made these representations, I believe it would be appropriate for the matter to be referred to the Law Society for comment, particularly as honourable members now must know that it is a matter of considerable complexity and a matter about which there are differing opinions. The other matter that has been mentioned is the need for uniformity. No doubt the Attorney-General will say that if the decision in Atlas Tiles is reversed in all the other States then South Australia cannot be left on its own, because this will have an adverse effect on the level of premiums in this State *vis-a-vis* the other States and we would therefore be placed in a disadvantageous position from a community cost viewpoint.

This raises the question whether the whole matter ought not to be referred for discussion between the Commonwealth and the States through the Standing Committee of Attorneys-General. This would be a means whereby all the States could discuss the principles involved and possibly provide some kind of uniform approach that would not mean that one State was disadvantaged by having different laws from those of another State. Therefore, further reason for delay for a considerable period is that the matter could be referred, and should be referred, to the Standing Committee of Attorneys-General for consideration.

They are the factors that I believe the Committee ought to take into account. I ask the Attorney-General to take them into account and consider deferring further consideration of this Bill. When I say deferring, I mean deferring it for some months to enable these investigations to be carried out and the matters to be considered. I believe the Bill ought to be referred, for instance, to the Trades and Labor Council and the insurance industry for their comments. They are both bodies that are obviously concerned with the level of damages that the courts award.

I am suggesting that that would be a desirable course for the Committee to follow and indeed, subject to what happens further in the Committee stage, I am inclined to move that progress be reported on the basis that the things I have mentioned ought to be done before the Bill comes back to the Committee for further consideration.

Progress reported; Committee to sit again.

SELECT COMMITTEE ON URANIUM RESOURCES

The Hon. J. C. BURDETT (Minister of Community Welfare): I move:

That the time for bringing up the report of the Select Committee on Uranium Resources be extended to 10 June 1980.

Motion carried.

ADJOURNMENT

At 6.17 p.m. the Council adjourned until Wednesday 5 March at 2.15 p.m.