## LEGISLATIVE COUNCIL

Wednesday 11 June 1980

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

## QUESTIONS

### IRAQI FARMING PROJECT

**The Hon. B. A. CHATTERTON:** I seek leave to make a short explanation before asking a question of the Minister of Community Welfare, representing the Minister of Agriculture, on the subject of the proposed project in Iraq.

Leave granted.

**The Hon. B. A. CHATTERTON:** Yesterday, the Premier and the Minister of Agriculture announced that the South Australian Government would be involved in a $US9 500 000 contract in Iraq, and I think we are all very pleased indeed to know that this contract is going ahead. At one stage earlier this year it looked as though we might lose the contract because of some fairly amateurish negotiations, but it is now going ahead. The Premier said in his statement that negotiations had started on this project in 1975 and, whilst that is strictly true, the whole nature of the project changed in 1979. I was in Iraq during that year and had discussions with the Minister of Agriculture and Agrarian Reform and senior officers of his Ministry. It became obvious that the problem with the earlier proposals that had been put to the Iraqi Government had been the failure to explain to the Iraqi Government that, to be successful, the South Australian farming system had to be managed as a single unit. The work that was being done by the Iraqi Ministry treated the growing of medics as another legume crop rather like peas or lupins, and for that reason they were not getting the results that we get in South Australia.

Following my visit, the Minister agreed that a team of high-level officials from his Ministry should visit Libya and South Australia to examine the system actually working. They undertook that visit, went to Libya, and then came to South Australia. In discussions, it was obvious that the thing that most impressed the Iraqi officials on these visits was the work done by our South Australian farmers. In Libya, they talked with two outstanding South Australian farmers who were on the project at that time, Sam Pfeiffer and Don Woods, who were employed on the South Australian project at El Maj. When they were in South Australia, they talked to a number of farmers in this State. That was the thing that most impressed them, and was one of the most important factors in achieving this project for South Australia.

In his explanation of the team that will go to Iraq to manage the project there, the Minister mentioned a farm manager, a machinery expert and three farm advisers. Will any or all of those people be South Australian farmers, who have a depth of experience in managing the farming system in this State as an integral unit and have been so successful in carrying that advice to other countries overseas?

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

### RECREATIONAL BOATING FACILITIES

**The Hon. J. R. CORNWALL:** I seek leave to make a short explanation before asking the Minister of Community Welfare, representing the Minister of Environment, a question about recreational boating facilities.

Leave granted.

**The Hon. J. R. CORNWALL:** Two days ago the Government announced that an additional $540 000 a year was to be provided towards improving recreational boating facilities, and I welcome that announcement. However, the announcement was made in a rather strange and somewhat confusing way. It was a joint announcement between the Minister of Marine (Mr. Rodda) and the Minister of Environment (Mr. Wotton). There is nothing exceptional about the matter in that respect, because recommendations were made to the previous Government that major boat launching facilities should be the responsibility of the Marine and Harbors Board and small boating facilities should be the responsibility of the Coast Protection Division of the Department of Environment. However, I find it rather difficult to work out the details of the funding. The announcement stated:

> Responsibility for small facilities would remain with the Coast Protection Board, while the Department of Marine and Harbors would provide and administer larger recreational boating facilities. The department [presumably the Department of Marine and Harbors] will be allocated $500 000 a year to fund these facilities.

On the other hand, Mr. Wotton said:

> Small facilities costing less than $70 000 would continue to be provided by local councils with the assistance of the Coast Protection Fund. The same level of assistance would now also be available to non-coastal councils for the provision of recreational boating facilities on inland waterways, and $40 000 a year had been allocated to this area.

I believe that statement raises as many questions as it answers. Where will the money come from for the allocation of $500 000 a year to the Department of Marine and Harbors? For how many years is it envisaged that the allocation will continue? Is this amount over and above any amounts up to $70 000 provided for individual small projects from Coast Protection Board funds, because one could envisage possibly three, four or five projects up to $70 000 a year going forward, in which case one wonders how a ceiling could be put on it. Have the Minister of Marine and the Minister of Environment discussed with the Noarlunga council or the South Coast Boating Association the provision of a major boat launching facility in the southern suburbs of Adelaide? Does the Government have plans to provide a major boat launching facility in the Noarlunga council area?

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

### FISHING

**The Hon. FRANK BLEVINS:** I seek leave to make a brief statement before asking the Minister of Local Government, representing the Minister of Fisheries, a question about fishing.

Leave granted.

**The Hon. FRANK BLEVINS:** At the Minister's first meeting of AFIC, whose Secretary received a very surprising promotion from this Government very recently —however, that is just in passing—

**The Hon. C. J. Sumner:** Who was on the selection committee—Ross Story?

**The Hon. FRANK BLEVINS:** I have no idea. It rather astonished me. However, I am sure that we will hear more about that.

**The Hon. C. M. Hill:** He's a very good man.

**The Hon. FRANK BLEVINS:** Time will tell. What does he know about fishing?

**The Hon. C. M. Hill:** You just wait and see what he knows.

**The PRESIDENT:** Order!

**The Hon. FRANK BLEVINS:** At the Minister's first meeting of AFIC, he told fishermen he considered that fisheries in the 200-mile economic zone would provide a financial bonanza to South Australian fishermen similar to that expected by the Liberal Government from Roxby Downs. When I questioned him on this prediction, I received a full and effusive letter from the Minister expanding on this matter. He was most enthusiastic about the benefits that would accrue to this State from all the activity going on in the economic zone. His was a full and comprehensive answer, stating quite firmly that this was his expectation and that the exploitation of the economic zone in regard to fisheries would be a bonanza the size of Roxby Downs.

Since that time my information is that most of the feasible fishing ventures throughout the 200-mile region have collapsed through the lack of fish resource. Is the Minister still adhering to his prediction? If he is not, will the Minister tell me the number of foreign fishing vessels now conducting feasibility studies in the South Australian 200-mile economic zone, and will he give his revised predictions about the benefits accruing to this State?

**The Hon. C. M. HILL:** I will forward those questions to the Minister of Fisheries and obtain a reply for the honourable member.

## BY-LAWS AND REGULATIONS

**The Hon. C. J. SUMNER:** I seek leave to make a brief explanation before asking the Leader of the Government in this Council a question about publishing a list of by-laws and regulations in the daily press.

Leave granted.

**The Hon. C. J. SUMNER:** After my election to this Council in 1975, I raised with the then President (the late Hon. F. J. Potter) the question of inserting a list of Parliamentary business in the daily press. I pursued that matter until 1978 when it was finally agreed that the *Advertiser* would publish a list at the beginning of each week of the Bills to be discussed in Parliament.

This practice is now continuing. However, when pursuing this matter some Liberals members, and I believe that the Hon. Mr. DeGaris was one, asked whether I thought lists of regulations should also be included in the press when they are tabled in Parliament so that people with an interest in the regulations know what has happened to them and can take appropriate action, if need be, through the Subordinate Legislation Committee or by contacting their member of Parliament about the effect of the regulations.

At that time when the proposal was put to me I agreed with the suggestion. Does the Government agree with the suggestion of the Hon. Mr. DeGaris, as agreed to by me, that a list of regulations and by-laws tabled in Parliament should be published in the daily press on a regular basis? If it does, will the Government arrange for this to be done?

**The Hon. K. T. GRIFFIN:** The Government does not have a view on this matter, but as the Leader has now raised it, I will have the matter investigated and bring down a reply.

## AMATEUR FISHING REGULATIONS

**The Hon. B. A. CHATTERTON:** I seek leave to make a short explanation before asking the Minister of Local Government, representing the Minister of Fisheries, a question about regulations concerning amateur fishermen.

Leave granted.

**The Hon. B. A. CHATTERTON:** Some weeks ago the Government announced in the *Advertiser* a package of policies concerning the scale fishing industry in South Australia. Amongst those policies were changes in regulations for amateur fishermen, changes in net lengths for professional fishermen, and a number of alterations to aquatic reserves and the like. After that announcement I contacted a senior officer of the Fisheries Department and asked whether he could, under the terms of the Public Service Board circular that has been given to public servants to guide them in their provision of information to Opposition members, provide me with copies of the regulations, plans of the aquatic reserves, and any other information that would be useful to hand on to constituents.

The officer concerned assured me that he would do so but I have not received that information. I then wrote to the Minister and asked whether he would provide information for me in those terms. I have not received even an acknowledgment of my letter to the Minister, let alone any of the information that I sought. On reading the *Hansard* pulls of the debate yesterday, I note that the Minister has reviewed a number of those decisions and has said that protests from the fishing industry have led the Government to reconsider the matter involving aquatic reserves to be introduced and to look again at some of the other regulations. The Minister did not say anything about the amateur fishermen and whether the regulations that were announced on that occasion applied to amateur fishermen in this State. Therefore, what is the situation regarding the package of measures announced a few weeks ago? Which measures have in fact been suspended or reviewed, and which ones are either in force or intended to be introduced in the near future?

**The Hon. C. M. HILL:** I shall refer those questions to the Minister and obtain a reply.

## SHACKS

**The Hon. J. R. CORNWALL:** I seek leave to make a brief explanation prior to asking the Minister of Local Government a question about the Willunga District Council.

Leave granted.

**The Hon. J. R. CORNWALL:** Yesterday, in a reply to my question concerning the Willunga council and the actions it had taken regarding shacks at Aldinga, the Minister was at great pains to point out that the Government has considerable respect for the autonomy of local government bodies and that in no circumstances would it bring any pressure to bear on the Willunga council or any other council to follow Government policy. He stressed that they were autonomous bodies. Will the Minister inform the Council whether any pressure has been brought to bear on the Government by the District Council of Willunga either through the local member, Mr. Chapman, or any other person in the Government?

**The Hon. C. M. HILL:** I have no knowledge at all of any influence being exerted by the District Council of Willunga on any Minister or on the Government itself.

## COURT LISTS

**The Hon. C. J. SUMNER:** I seek leave to make a brief explanation prior to asking the Attorney-General a question about court lists.

Leave granted.

**The Hon. C. J. SUMNER:** During the last recess I wrote to the Attorney-General about the length of the trial lists in some South Australian courts.

**The Hon. K. T. Griffin:** You got a reply.

**The Hon. C. J. SUMNER:** I was about to say that he was good enough to supply me with a reply.

**The Hon. B. A. Chatterton:** He sounded surprised.

**The Hon. C. J. SUMNER:** Yes, if the Hon. Mr. Griffin is jumping the gun it may be that he is surprised to find that he has given a reply. That reply indicated that the trial lists in the Adelaide Local Courts for claims of limited jurisdiction involved a waiting time of 13 months; small claims, seven months; and full jurisdiction matters, seven months.

Magistrates deal with limited jurisdiction matters and small claims, and it is in that connection that I wish to make my remarks. I think everyone would agree that court trial lists ought to be kept such that there is the least possible time from when a case is set down until when it is heard, and that 13 or seven months delay is totally unacceptable. As part of the project to try to alleviate this situation, I developed a proposal, which the previous Government approved, for the appointment of certain people in the legal profession as special magistrates, not to be employed on a full-time basis in the Public Service as full-time magistrates are appointed now but to receive appointment as special magistrates and be entitled to receive that appointment because they had the required qualifications for admission to the bar.

The proposal also was that the pool of part-time magistrates could be used to help the situation relating to the trial lists by being called upon in emergency situations and possibly on a roster basis. I announced the proposal, and applications were sought from interested people. The Attorney-General has now stated that the present Government does not intend to proceed with that proposal. Why has the Government decided not to proceed with it and, as it is not proceeding with it, what action does the Attorney intend to take to reduce the length of trial lists, particularly in the Local Court?

**The Hon. K. T. GRIFFIN:** The present state of the lists generally throughout the courts is rather pleasing, although one realises that at least in limited jurisdiction at Adelaide Local Court there are considerable delays. I subscribe to the view that there should be as little delay as possible between the date of setting down a matter for trial and the date of hearing. There have been some complicating factors in the Adelaide Local Court and Adelaide Magistrates Court, not the least being the illness of Mr. Ian Cameron, who has now retired from the Public Service as a magistrate. His illness occurred over a long period. The Government has taken action to fill the vacancy caused by that retirement by appointing a magistrate as a supervising magistrate in the Local Court and appointing an additional new magistrate.

I am not aware whether that additional appointment has been made because, as the Leader of the Opposition will remember, the appointment of magistrates is the responsibility of the Premier. They come under his jurisdiction in the Premier's Department, although the Attorney-General takes an active interest in the status of the magistracy. It is correct to say that the previous Government initiated a proposal for appointing part-time magistrates but, when that matter was explored more fully, it became obvious that there were difficulties in appointing active practitioners on a part-time basis to sit in courts in which they would appear either before or after their appointment, or both, and periodically in between.

**The Hon. C. J. Sumner:** What are the difficulties?

**The Hon. K. T. GRIFFIN:** The difficulties principally are matters of conflict between their responsibility as part-time magistrates and, on the other hand, their responsibility to their clients when appearing as counsel.

**The Hon. C. J. Sumner:** It has operated for years in the United Kingdom.

**The Hon. K. T. GRIFFIN:** It has not been working in South Australia. A number of retired magistrates serve quite competently on a part-time basis in the area of supplementing the activities of full-time magistrates in the courts.

Another practitioner who has retired from active practice, Mr. Elliott Mills, has been serving on a part-time basis both in the Magistrates Court when the need arises and in the Coroners Court. The Leader may recall that Mr. Mills was a special magistrate before he went into private practice, and he apparently retained his commission as a special magistrate, so when he indicated his retirement from full-time private practice it was of benefit to us to ensure that his talents were used.

There have been difficulties from time to time in recruiting magistrates, and a review has been carried out of the requirements placed on magistrates, namely, the mandatory requirements to serve at least three years in a country location, so that no longer is that a mandatory requirement. That was a serious impediment to attracting good practitioners to the magistracy, but as it has been lifted only recently, we hope that it will encourage competent practitioners to apply for vacancies when they occur.

## EXTENSION BRANCH

**The Hon. B. A. CHATTERTON:** I seek leave to make a short explanation before asking a question of the Minister of Community Welfare, representing the Minister of Agriculture, relating to the Extension Branch of the Department of Agriculture.

Leave granted.

**The Hon. B. A. CHATTERTON:** Earlier in this session I asked the Minister what parts of the Department of Agriculture he intended to hand over to private enterprise in view of the circular being sent around the department asking officers to look at various activities and whether or not they could be undertaken by private enterprise. I did that because of concern expressed to me by constituents that particularly the seed-testing laboratory was to be handed over to private enterprise. I received from the Minister a reply, which has been incorporated in *Hansard*, indicating that he was looking at that area of activity and whether it could be done by private enterprise, and also at other areas.

Since that time I have seen a number of advertisements in the press which indicate that publicity work, design work, photographic work, and so on, will be handed over to private enterprise, and of course this is much of the work done by the Extension Branch in the Department of Agriculture—work that has been done extremely well and extremely fast when it has been needed in times of crisis, such as drought or storm damage. Members of the branch have responded extremely well to produce the necessary extension material very quickly. Will the Minister say whether the work done by the Extension Branch in producing extension material is to be handed over to

private enterprise and, if so, what is the future of the journalists, photographers, and other people who are now engaged in that work within the Extension Branch of the South Australian Department of Agriculture?

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

## NATIONAL PARKS OFFICERS

**The Hon. J. R. CORNWALL:** My question is directed to the Minister of Community Welfare, representing the Minister of Environment. How many resignations have occurred in the National Parks and Wildlife Service since 15 September 1979? How many transfers have been made into or out of the service? What is the present strength of the service and what is the classification of the officers? How many vacancies are unfilled? How many personnel are acting or are unconfirmed in their position?

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

## TOWING INDUSTRY

**The Hon. J. E. DUNFORD:** I seek leave to make a short statement prior to directing a question to the Minister of Community Welfare, representing the Minister of Transport, regarding the motor vehicle towing industry.

Leave granted.

**The Hon. J. E. DUNFORD:** I have read the report dated 18 May 1980 on the legislation relating to the motor vehicle towing industry, on the bottom of which there is a notation, "Department of Transport". I see a lot of merit in the proposed legislation, and I think the Minister of Transport must have been influenced by some advice he may have received from people who were on the Select Committee which took evidence on the towing industry and the repair industry, meeting some 44 times, and travelling to Canberra. Without pre-empting the thoughts of other members of the committee, I can say that as we were travelling together, eating together and talking together, there seemed to be a good deal of unanimity that something must be done about the industry. Now I see that in the Bill there is reference to "off the hook" and spotters' fees, and generally it seems to be all about the towing industry. We know that there are problems still in the industry. Last week, about seven or eight tow trucks attended at an incident at the Festival Theatre. A member of the House of Assembly asked an operator, "What about the person on the ground?" and the reply was, "Are you a doctor?", and generally the person concerned was very rude to the House of Assembly member. Obviously there must be some regimentation.

Without knowing what is in the legislation on the repair industry, I can say that the people who work in the industry informed the Select Committee of some of the practices that go on. The insurance companies are at fault to some extent because, when the assessors assess a vehicle, they tell the repairers to put secondhand parts in practically new vehicles. This is understandable in the case of a vehicle 10 or 12 years old, but we have a great deal of evidence—

**The PRESIDENT:** Order! The Hon. Mr. Dunford must remember that the report has not yet been tabled, so he must be cautious in his comments.

**The Hon. N. K. FOSTER:** On a point of order, and with due respect to the Hon. Mr. Dunford, it is no fault of the committee and the Government which was in office at the time that the matter has not been the subject of a report to this Council.

**The PRESIDENT:** That is not a point of order, but a personal explanation. The Hon. Mr. Dunford.

**The Hon. N. K. FOSTER:** On a point of order, under what Standing Order—

**The Hon. L. H. Davis:** Sit down and behave yourself.

**The Hon. N. K. FOSTER:** Listen, mate, you can hook yourself outside any time you like. I have had you and I will give you a wing in the ear. You are getting over the bloody fence, mate.

**The PRESIDENT:** Order! The Hon. Mr. Foster will resume his seat. The Standing Order to which he refers is Standing Order 190, which provides that no reference shall be made to any proceedings of a committee of the whole Council or of a Select Committee until such proceedings have been reported on. I have warned the Hon. Mr. Dunford not to transgress that Standing Order. There is no point of order. The Hon. Mr. Foster is making some explanation on behalf of the committee.

**The Hon. N. K. FOSTER:** I am seeking guidance. I am at a loss to understand what possible use we, as individual members who sat on the committee, can make of referring to the evidence which may never see the light of day because of the neglect of the present Government.

**The Hon. M. B. Cameron:** Because you had an election.

**The PRESIDENT:** Order! I cannot give you any undertaking on behalf of anyone that the report will be published. The Hon. Mr. Dunford.

**The Hon. J. E. DUNFORD:** Thank you, Mr. President, and I accept the proposition you put forward. I want to tell the Government (which should be the Opposition) what I know, and I want to tell the Attorney-General so that he can pass on to the Minister of Transport what I know about the industry, without the knowledge I received from the Select Committee report. In South Australia, as in some other States (although I think it is illegal in some States, including Victoria) the repairers get two cars of the same make and model, cut them in halves, and then stick the remaining halves together. I believe it is known as "butting".

**The Hon. J. C. Burdett:** No, "cut and shut".

**The Hon. J. E. DUNFORD:** Yes, "cut and shut". Those repairers who do not care about the consumer or the danger faced by people who drive these cars, simply put the two pieces together and weld them. If that car hits something, the two pieces come apart. Another practice, from what I know of the industry, is something called "bogging". If there is a big dent in a car, the repairer simply fills it with plastic or fibro, smooths it over, and the result looks beautiful, but if someone drives that car over a bump, the filled section simply falls out. These practices are rife in the repair industry, and I am aware of them without having to refer to the report. Some assessors have no experience as tradesmen, yet they are assessing motor vehicles.

A repairer is in the business to make as much money as he can, and he is charged 15 per cent straight off the hook. Therefore, he builds his price up as much as he can, and an inexperienced assessor simply okays his price. However, an experienced assessor who has been through the trade cannot be duped, because he is aware of how many hours are spent on particular jobs, whereas an inexperienced assessor would not be aware of that. That is why many assessors do not want to be registered: they are incompetent. However, the cost is passed on to the consumer just the same. This is a very serious situation. If the Government is concerned about the safety of the public and decent trade practices, it should do something about the motor vehicle repair industry. I can see you are very tight for time, Mr. President, so I will ask my

question, and I can see that the Attorney-General is looking intelligent and is waiting to deal with the question when he gets hold of it. Will the Attorney-General confer with the Minister of Transport and encourage him to amend the proposed motor vehicle towing industry legislation to include the motor repair industry and the licensing of assessors?

**The Hon. K. T. GRIFFIN:** That question comes within the responsibility of the Minister of Transport. I will refer the question to him and bring down a reply.

## MIGRANT VOTING RIGHTS

**The Hon. C. J. SUMNER:** My question is directed to the Minister Assisting the Premier in Ethnic Affairs. In view of the fact that a conference of Ministers for Immigration and Ethnic Affairs held in Darwin on 18 April 1980 indicated that Ministers again discussed the eligibility for electoral enrolment and voting rights of migrants, could the Minister advise the Council of the result of those discussions and whether the South Australian Government intends to do anything about it?

**The Hon. C. M. HILL:** The result of the actual discussions in Darwin was that several of the Ministers who had not as yet obtained the support of their Governments on this matter promised to take the issue back to their Governments. This matter is to be raised again at the next Ethnic Affairs Conference towards the end of this year. The Government in this State still has this matter under consideration, and it is hoped that in the relatively near future a decision will be made.

## DEPARTMENT OF LABOUR AND INDUSTRY

**The Hon. G. L. BRUCE:** I seek leave to make a short statement before asking the Minister of Community Welfare, representing the Minister of Industrial Affairs, a question about staffing at the Department of Labour and Industry.

Leave granted.

**The Hon. G. L. BRUCE:** My question arises from the Annual Report of the Department of Labour and Industry, 1978, which was tabled in this Parliament. I refer to the following paragraph:

> The statistics for 1978 show a decrease in the number of complaints alleging breaches of awards. This decrease has been brought about by the economic and industrial climate. There are grounds to suspect (but no proof) that some employees are working for less than the award rate without complaining because they are afraid such a complaint may jeopardise their job security.
>
> It is also interesting to note that the number of prosecutions because of underpayment of employees rose. Many of these cases were detected during routine checks when an Investigation Officer visited industrial premises without prior warning and checked employers' records of wages and hours of work.

The report also provides a table that shows arrears of wages collected for 1978 as $264 834, while in 1977 it was $287 082. Therefore, there was a decline in 1978. Has there been any cut-back in staffing at the Department of Labour and Industry, especially in relation to routine wages and time book inspections carried out by that department?

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

## CITRUS MARKETING

**The Hon. FRANK BLEVINS:** I seek leave to make a brief explanation before asking the Minister of Community Welfare, representing the Minister of Agriculture, a question about citrus marketing.

Leave granted.

**The Hon. FRANK BLEVINS:** When in Opposition, both the Minister of Agriculture and the Minister of Lands were loud in their support of the McAskill report into citrus marketing in South Australia. They constantly demanded that the then Labor Government should not, in their words, "pigeonhole" the report. Further, they both called for a total implementation of the recommendations. Now that the Minister of Agriculture is responsible for the adoption and implementation of that report, will he say whether it has been adopted and when the citrus growers and others in the industry can expect to see legislation introduced to give effect to the recommendations of that report?

**The Hon. J. C. BURDETT:** I will consult with my colleague in another place and bring down a reply.

## ELECTORAL GERRYMANDERS

**The Hon. C. J. SUMNER:** I seek leave to make a brief statement before asking the Attorney-General a question about electoral gerrymanders.

Leave granted.

**The Hon. C. J. SUMNER:** When the Electoral Commission reported on the boundaries that now constitute the means of election for members of the House of Assembly in 1977, a number of statements were made by Liberal members about the commission's decision. In an article by Mr. Kelton in the *Advertiser* on 3 October 1977, after the 1977 election based on those boundaries, Mr. Tonkin said that the boundaries had not helped the Party (that is, the Liberal Party) and that they were a gerrymander, albeit unintentional. They were mild words compared to some comments from the Hon. Mr. DeGaris, who is a member of this Chamber. He said:

> It is the most vicious gerrymander ever perpetrated.

Further, he said:

> I think it is the biggest gerrymander ever.

Does the Attorney-General agree with the statements made by the Premier and the Hon. Mr. DeGaris that the electoral redistribution under which his Government was elected on 15 September constitutes the most vicious gerrymander ever perpetrated and the biggest gerrymander ever?

**The Hon. K. T. GRIFFIN:** It was recognised not only by members of political Parties but by psephologists that, as a result of the first electoral redistribution under the amendment to the Constitution Act, there was in fact a gerrymander. Whether it was called a gerrymander or something else and whether it was intentional or not, the Liberal Party took the view then that the gerrymander was unintentional and was brought about through a number of factors that the Electoral Boundaries Commission was required to take into account.

There was no doubt from the calculations that have been made by experts in the field that, for the Liberal Party to gain Government, it would have to gain at least 54 per cent of the two-Party preferred vote, a percentage which up to that time had not been achieved by the Liberal Party in the history of this State. Since that time that imbalance against the Liberal Party has gradually diminished. It is still there, but not to the extent of 4 per

cent above 50 per cent. The information that is available from other countries using the single-member electorate system for Houses of Parliament is that over a period of time the initial gerrymander factor does diminish, and we have seen that occurring as population changes have occurred and population shifts have occurred in South Australia. I cannot remember the exact figures, but at the last election some expert information that was available to the whole community which indicated—

**The Hon. C. J. Sumner:** From whom?

**The Hon. K. T. GRIFFIN:** Malcolm Mackerras.

**The Hon. Frank Blevins:** He said you were completely wrong.

**The Hon. K. T. GRIFFIN:** He did not. Mr. Mackerras and others who expressed their point of view indicated at the last election that we had to make up a disability of about 2 per cent at least of the two-Party preferred vote to win the election in this State. That arises from the first redistribution that occurred on the basis of the criteria laid down in the Constitution Act under the amendments that were brought in in the mid-1970s.

## APHIDS

**The Hon. B. A. CHATTERTON:** I seek leave to make a short explanation before asking the Minister of Community Welfare, representing the Minister of Agriculture, a question about aphids.

Leave granted.

**The Hon. B. A. CHATTERTON:** Earlier this session I asked the Minister of Agriculture some questions on funding of research in the Department of Agriculture to find resistant varieties of pasture plants, varieties that would have a resistance against spotted alfalfa aphid and blue-green aphid which have caused considerable damage in this State. Since I asked my question, the pea aphid has been discovered in South Australia; it can have serious consequences for South Australian farmers. I heard the Minister of Agriculture on the ABC *Country Hour* commenting on the discovery of the pea aphid. During his interview he did not say whether the programme that is currently being undertaken by the Department of Agriculture into finding resistant varieties would be continued at its present level or reduced. His answers were somewhat vague. The answer that he has given to my questions in this Council was that he would be providing appropriate financial support for the research programme. What does the Minister mean by "appropriate financial support," in view of the persistent rumours within the Department of Agriculture that there will in fact be a reduction in the research programme that is being undertaken to find resistant varieties of lucernes and medics?

If there will be a reduction in that programme, what is the level of that reduction, both in funds and in terms of manpower? In addition, the Minister said in his reply to me that the department had already produced four medic varieties and three lucerne varieties that have significant resistance to both the spotted alfalfa and the blue-green aphids. In fact, they have been produced by the research work that I have already mentioned.

I am concerned that there might be some undue delay in releasing these varieties because of fears within the Department of Agriculture that it may be prosecuted if those varieties do not prove to be as resistant as it first believed. Can the Minister say whether legal questions are delaying the release of this improved plant material, which would be of such significant benefit to South Australian farmers?

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

## FIRE PREVENTION

**The Hon. C. M. HILL:** On 25 March the Hon. Barbara Wiese asked me a question about fire prevention services and fire prevention courses for women. I understand that the honourable member has been sent a reply in accordance with our current practice, and I seek leave to have a copy of that answer inserted in *Hansard* without my reading it.

Leave granted.

### Reply to Question

Country Fire Service organisations are autonomous bodies and as such they must individually decide whether they will accept a woman as a volunteer fire fighter. Certainly, Country Fire Services headquarters encourages the acceptance of women into CFS brigades but the final decision is up to the individual brigade. The role of women in fires services, and in particular the South Australian Country Fire Services, has generally been that of support and the CFS has many ladies auxiliaries whose function is to assist with raising finance for purchase of equipment, providing refreshments at major fires, acting as base radio operators, and in a number of instances, man the fire appliances and attend fires. Many of this group are uniformed. The Aldinga Beach CFS has a daytime crew made up entirely of women, who act as a standby crew to attend fires during the day, when the menfolk may not be present. The rank of captain and lieutenant (being an *ex officio* appointment of "Fire Control Officer" under the Country Fires Act (Regulation 169 (1)) is held by women of the brigade. For some years women have been accepted in CFS competition events. In fact a CFS brigade made the initial request for their inclusion. A number of its women members were wishing to participate in competition events and queried their inclusion, particularly in view of the provisions of the Sex Discrimination Act. As women can be active fire fighters, and there are volunteer and professional fire fighters, it becomes unreasonable to argue that they should not participate as such or undergo fire fighting drills and training courses.

The specific circumstance referred to has, I believe, been rectified and arrangements were made for the women to attend the training centre at Stirling for training in fire fighting and prevention. I consider it is important for women to be able to protect their houses and families from fire and I understand that the Commandant of the Stirling Training Centre is happy to organise both day and evening courses for them. He has suggested that the following subjects would be most appropriate:

1. Fire fighting methods
2. Fire prevention and suppression
3. Home fire protection
4. Household fire protection
5. Electrical hazards
6. Operation of pumps
7. Hose drills
8. Ladder drills
9. Legislation
10. Survival and safety in bushfires.

On 3 December 1979 the Government decided to have the report of the committee of inquiry into the aims, objectives and operations of the South Australian Fire Brigades Board printed and made available for public

distribution and discussion. Interested parties were invited to lodge submissions and responses received have been collated and evaluated. The recommendations of the committee of inquiry are currently being reviewed.

## ABORIGINAL AND HISTORIC RELICS

**The Hon. J. R. CORNWALL:** Can the Minister of Community Welfare, representing the Minister of Environment, say what are the present administrative arrangements concerning the Aboriginal and Historic Relics Unit in the Department for the Environment; has the Aboriginal Heritage Act been proclaimed; does the Government intend that Aboriginal and European heritage shall be administered separately; how many people of Aboriginal origin are employed in the unit; what are their classifications; and what are their terms of employment?

**The Hon. J. C. BURDETT:** I will consult with my colleague and bring down a reply.

## PUBLIC SERVICE FILES

**The Hon. FRANK BLEVINS:** I seek leave to make a brief explanation before asking the Attorney-General, representing the Premier, a question about Public Service Board files.

Leave granted.

**The Hon. FRANK BLEVINS:** This matter occurred to me yesterday when we were discussing the Children's Protection and Young Offenders Bill, when members spoke of young people having convictions that would stay with them for the rest of their lives and possibly having a detrimental effect on their careers, personal relationships, and similar matters in the future. All honourable members agreed that it was a great pity if that happened. At least the person who has a record of that nature has had some kind of trial and has had an opportunity to explain his actions. If a person is found to be innocent, the record is not there. However, in the case of public servants I believe that records are kept on them. I am not sure, but I believe that records are kept on them to which they do not have access, yet the records may contain material which is incorrect and which could have some adverse effects on their careers and promotions. I think all honourable members would agree that that is highly undesirable.

I was interested to read a report in the *Australian* last year which referred to this situation in the Commonwealth Public Service. In the *Australian* of 27 December 1979, under the heading "200 000 public servants get access to files", the report states:

> Australia's 200 000 Commonwealth public servants will soon be allowed access to their personal records. Under guidelines released by the Public Service Board employees will also be given the right to have incorrect information struck from their files. Only in special circumstances will information be withheld from Government employees—and even then they will have the right to appeal.
>
> The 50 guidelines, drawn up by the Joint Council of the Public Service earlier this month, are now being circulated throughout Government departments and statutory authorities. The council is a statutory body consisting of representatives of the Public Service Board, departments and staff associations. The council has also drawn up a stringent list of controls to ensure that only essential information is filed. The new open approach to files is in line with the Freedom of Information Bill, which is expected to become law next year.
>
> The council paper says that departments have an obligation to protect the privacy of staff by: minimising intrusion into their private affairs; collecting, using and disclosing information in a way which is as fair as possible to staff; safeguarding the confidentiality of information.

I think that that is enough of the article to give an indication to the Council of what the Commonwealth is proposing. I believe that it is highly desirable that a measure of that nature also be adopted in South Australia if the problems are the same. Are personal files kept on South Australian public servants by the Public Service Board or any Government agency? What type of information is filed? Do public servants have access to their files and, if the answer is "No", will the South Australian Government follow the Commonwealth's example and give State public servants access to their files? Also, would the Premier advise of the Government's attitude to having a Freedom of Information Bill introduced in South Australia?

**The Hon. K. T. GRIFFIN:** I will refer the honourable member's question to the Premier and bring back a reply.

## MINING AND INVESTMENT

**The Hon. N. K. FOSTER:** I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Mines and Energy, a question about mining and investment.

Leave granted.

**The Hon. N. K. FOSTER:** Last night I dealt with this aspect at some length. Because of the continuing public announcements about the possible employment rate of a number of projects which have been the subject of the attention of the Governments of both political persuasions in this State over the last 10 years, is this Government attempting to hoodwink the public of South Australia by suggesting that a given number of people are likely to be or will be employed in a project, basing it merely on the amount of investment, foreign or otherwise, that is attracted to a certain project? As an example, the Government seems to believe that, if a particular project is attracting $1 000 000 000, it should spell out a given percentage of jobs because of the expenditure or involvement of that amount of money. The Government then either increases or reduces the projected figures of employment without considering what is involved and what type of project it has in mind based on a percentage of that.

**The Hon. L. H. Davis:** We have never said that.

**The Hon. N. K. FOSTER:** No, you have not had enough brains to work that one out. You have not said it, but it is public knowledge and is in the newspapers. It is based on that. One has only to see how much public expenditure is necessary to uphold any of these projects. It was interesting to note, while I was in the doctor's surgery this morning, a copy of *Habitat* for 1979. Will the Minister inform the Council what percentage of the taxpayers' money is necessary by way of investment and what return the public can expect in regard to the Redcliff and Roxby Downs proposals that are amplified by this Government?

**The Hon. K. T. GRIFFIN:** I will refer the honourable member's question to the Minister and bring back a reply.

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## FIREARMS ACT REGULATIONS

Order of the Day, Private Business No. 2: the Hon. L. H. Davis to move:

That the regulations, made on 6 December 1979 under the Firearms Act, 1977, in respect of General Regulations, 1980, and laid on the table of this Council on 19 February 1980, be disallowed.

**The Hon. L. H. DAVIS:** I move:

That this Order of the Day be discharged.

Order of Day discharged.

## PUBLIC SERVICE ACT REGULATIONS

Adjourned debate on motion of Hon. L. H. Davis:

That the regulations made on December 1979 under the Public Service Act, 1967-1978, in respect of reduction of salary, and laid on the table of this Council on 19 February 1980, be disallowed.

(Continued from 4 June. Page 2190.)

**The Hon. N. K. FOSTER:** I raised this matter earlier and asked the Council to concur in the disallowance of the regulations. If my time is not limited, I wish to acquaint the Council with the evidence given to the Subordinate Legislation Committee, which is a joint Party committee and a committee of both Houses in this Parliament. I quote from a letter from the Chairman of the Public Service Board, Mr. Mercer, as follows:

In accordance with the Common Law Contracts of Employment which cover all employees, employers may deduct pay from an employee during a period of absence on strike. While this has been the practice with officers employed under the Public Service Act, a recent dispute with marine pilots employed in the Department of Marine and Harbors has cast some doubt on the legality of this practice as far as Public Service officers are concerned. This doubt has arisen because the Public Service Act and regulations are a complete code of conditions of employment for officers and contain specific provisions for disciplining officers.

To clarify the situation the board considers that the new regulation will remove any possible doubt and eliminate the need to invoke the disciplinary provisions of the Public Service Act which are completely impractical in the case of strike action or other forms of industrial disputation.

This is what the Public Service Board said to the Subordinate Legislation Committee. The committee decided that information ought to be given to those in the community who would, in fact, have a direct interest in the matter. To that end, the secretary of the Trades and Labor Council, Mr. Bob Gregory, was contacted and he wrote to the secretary, Mrs. Davis, in respect of the matter on 17 April 1980, as follows:

Thank you for your correspondence of 3 March 1980 in which you advised the United Trades and Labor Council of the new regulations made under the Public Service Act, 1967-1978, in respect to the reduction in salary, and that the regulations are at present before the Joint House of Subordinate Legislation.

I wish to advise you that the Executive Committee of our council considered your correspondence and determined to advise you that our council is opposed to the reduction of pay of employees who embark in disputes regarding safety matters and other provocative actions by the employer and where the State Government fails to respond to union claims.

Accordingly, I would appreciate it if you could convey our views to the committee.

Thanking you, for your co-operation and assistance.

Mr. Gregory, who signed the letter, is Secretary of the council and wrote the letter after the appropriate committee of the council had deliberated. In summary, in evidence, Mr. Gregory several times made the point that, where safety issues were involved, that matter was of paramount importance. He gave instances of meetings of members of an organisation being called so that the members had the right to participate directly and vote on matters.

History reveals that in a number of areas stop-work meetings are provided for in industrial awards. The previous Government failed to accept the advice given to it regarding the bus employees. That happened during the election campaign last year, and several seats went to the present Government because the union was directly involved in compulsory trade unionism at the behest of the State Government. Compulsory trade unionism exists in Australia at the behest of Federal and State Governments and the Liberal Party and the Labor Party. It applies in the stevedoring industry and in transport.

There was a change in the bus employees' union in the early 1970's, when private bus operators sought to be taken over and to sell their interests to the State Government. Their debt structure was large and they could not continue. It was well known that Bowman's Bus Service in the Tea Tree Gully area spent a tremendous amount of money buying equipment but the company did not realise its expectations. When the Government took the bus services over, one condition was that employees would become members of a trade union. It was found that about 50 per cent of those involved were anti trade union, so there were real divisions.

Time after time it was suggested to two Ministers at least that, because the people were being grossly disadvantaged by strikes as a result of the division in the rank and file regarding the setting up of depots in the city and suburbs, there was not any collective meeting of all employees. A proposal that I put forward several times was not heeded, and the present Government ought to heed it. We recall the ugly disputes of last September and before. There ought to be hammered out, in consultation with the union, employers and the Government, a system whereby there would be an authorised stop-work meeting in paid time, as applies in many industries, so that all employees could be got together at one time.

Some people may say that it is difficult to do this in the transport industry, but a slack time could be selected and notice could be given to the travelling public that no buses would be on the road at that time. The areas in which the employees work extends from Hackney to Port Adelaide and Tea Tree Gully. Last year a meeting would be called at Port Adelaide and a decision made. Two hours later, at another meeting at Hackney, there would be rumours that one group wanted to go out on strike when no such decision had been made. Disputes occurred over a period of months.

The matter would have been settled amicably if all members had heard one report. I was involved for several years in what members opposite would consider one of the wildest unions. It was subjected to criticism because it was overlorded by absentees, and what have you. I think it was Judge Asprey who ruled that quarterly paid stop-work meetings should be provided for. When all work ceased, we were able to hammer out a decasualisation system in that union, and now the union is not remotely considered to be of any concern regarding direct industrial action.

One of the main factors raised by Mr. Gregory was in regard to employees ceasing work on safety issues. If the employees were allowed to have stop-work meetings over *bona fide* safety issues and an adjudicating officer from the State Department of Labour and Industry or the Commonwealth Department of Transport and Navigation decided that the men were justified in ceasing work, the employees should be entitled to be paid for time spent at the meeting. If it was decided that they were not justified,

they would not be paid. The matter went further, and the employees could go before a board of reference to argue that they should be paid.

The regulation before us would deny that type of approach. There would be no getting together in time of dispute and settling matters amicably. Another aspect is that it seems that the Public Service Board is over-concerned about the matter but has failed to realise that, in attempting to amend the present regulation, it could be doing something that would allow a minority in the Public Service to dictate. Loss of work would ensue and irresponsible employers would take note of that and cut their cloth accordingly. It was stated in evidence that often the public sector is taken as a trend-setter in some respects, and it is not long before established industrial leaders will depart from a policy of understanding and consultation, with dire results.

I have not taken much of the time of the Council on this matter, and I did not intend to do so, but before moving support for the disallowance, I hope that I will be permitted to say in relation to this committee that, although it is a political committee in the sense that it is drawn from the Houses of Parliament, it is not usually regarded as a committee that plays politics. I have been somewhat disturbed to hear some of the statements made around the corridors of this Parliament in relation to a decision taken by the committee regarding an unfortunate occurrence with the Adelaide City Council parking laws and other by-laws, with the suggestion that the committee perhaps should not have acted as it did.

You, Sir, were a member of that committee for a number of years. When I was first appointed to it, you were already a member. I took a lead from you—and I do not say this because you are in the Chair, Sir—that the paramount duty of the committee was to the public, and that anyone from the public must have absolute access to it. I recall your saying that perhaps matters before the committee from time to time were not sufficiently advertised or were not sufficiently known to the public, and I think that situation still holds. It disturbs me to hear that a matter regarding regulations may have been somewhat shabbily dealt with. I do not think that that is the case. A person may come before the committee, whatever his political persuasion, and whether or not he is regarded by local government as a pest. Mr. Howie made an original submission to the committee, and he did a tremendous amount of work on it.

**The Hon. R. C. DeGaris:** Did Mr. Howie give evidence on this?

**The Hon. N. K. FOSTER:** Yes, and he spent some hours on it. On page 4, turning loosely to a page, there are 14 alterations by Mr. Howie. One of the principal duties of the committee is to members of the public. I now come back to the regulations that are before us, the regulations under the Public Service Act in respect of reduction of salaries, and I move for disallowance.

**The Hon. K. T. GRIFFIN (Attorney-General):** I do not want to enter the debate on the merits of the regulation, because this has been covered by the Hon. Legh Davis, and he will have an opportunity, in his reply, to canvass those matters raised in the course of the debate. It is important for the Council to recognise that the Subordinate Legislation Committee does not support the disallowance of this regulation, but enabled the motion for disallowance to be moved in its name to ensure that a member of the committee who had an objection to the regulation had an opportunity to speak to the motion for disallowance.

I think that, if the committee chooses to adopt this course of action when private members themselves have an opportunity to put private members' notices of motion on the Notice Paper in relation to disallowance, there could be some difficulties arising in future if that were to become a matter of practice. I would speak very strongly in favour of the procedure that the committee moves a motion for disallowance only when it intends to recommend to the Council that a regulation or by-law be disallowed. Therefore, in the light of the committee's recommendation not to disallow this regulation, I ask honourable members not to support the disallowance.

**The Hon. L. H. DAVIS:** The Hon. Mr. Foster, in the reasons he gave for seeking disallowance of this motion, gave the Council nothing of substance to back his case. The evidence we heard from Mr. Gregory, Secretary of the United Trades and Labor Council, threw no new light on this important matter. No evidence was led that any other State Public Service was paying its striking employees full salaries and wages when they were on strike. One could imagine such an open-ended position, and one could conceive of a position where employees were on strike for two months and in receipt of full pay, leading to complete breakdown of the system.

If Public Service employees in this or in any other State knew that, whenever they went on strike, they would get a full wage or salary, I suggest there would be horrendous consequences. There is no other State to our knowledge, and certainly not to Mr. Gregory's knowledge, that has a provision where full pay is given to striking Public Service employees. If South Australia became the pace setter in this field, it is not hard to imagine the economic consequences. We on this side of the House are familiar with the sentiment that the previous Labor Government was itself a pace setter—more often than not propelling the State backwards rather than forwards. There is no question that, if employees were assured that they would receive full pay when on strike, it would be to South Australia's detriment. Therefore, I strongly urge the Council to support and adopt the recommendation of the Subordinate Legislation Committee in this matter, that is, that the regulation be allowed to stand.

**The Hon. R. C. DeGaris:** Are there any objectors on the committee other than Mr. Foster?

**The Hon. L. H. DAVIS:** There are no objectors other than Mr. Foster on the committee.

**The PRESIDENT:** In putting the motion, I make it clear that this is a motion for disallowance. So that there will be no confusion, I shall put the motion as it is written, that the regulation be disallowed.

Motion negatived.

## RESIDENTIAL TENANCIES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 June. Page 2305.)

**The Hon. J. C. BURDETT:** I cannot support this Bill, for reasons that I will now advance. The Bill seeks to remedy a situation which has resulted from the previous Government's Residential Tenancies Act and the decision thereon made by his Honour Mr. Justice Mohr in the Supreme Court case of Belajev. That case decided that periodic tenancy, for example, weekly or monthly tenancies, which were originally entered into before the Residential Tenancies Act came into operation, were not caught by the Act. The effect of that judgment is that a tenancy, say, from week to week or month to month, does

not come to an end at the end of the week or at the end of the month to be subsequently renewed, but is simply a continuation of the original tenancy. Section 7 (1) of the parent Act provides:

> Subject to this section, this Act applies to any residential tenancy agreement entered into, renewed, assigned or otherwise transferred after the commencement of this Act.

The court held that, in a case of periodic tenancy, the tenancy was the same as that originally created and dated from the date of creation. Therefore, when, say, a weekly or a monthly tenancy had first been created before the commencement of the Act, the Act could not apply to that tenancy. That was obviously not what Parliament intended. Parliament clearly intended that where there was a periodic tenancy created before the commencement of the Act, and where that tenancy continued after the commencement of that Act, it should be caught. I believe it is important to remember the date that judgment was delivered: August 1979.

After coming into office, I directed that an inter-departmental working party be set up to examine the Residential Tenancies Act and its operation. The Act is new and complex, and as is common with such Acts it has had its teething troubles. The working party was set up to make recommendations that might overcome such teething troubles. The working party report was made on 30 May 1980. That report reached me early this week, but I have not yet read it in full, let alone digested it. The report recommends many amendments to the principal Act. I believe it is fair to say that the amendments accept the basic principles of the Act. If the recommendations are implemented there will be no question of dismantling the Act, but many amendments will apply in detail. It is my view that as the Government has the matter in hand, as it undoubtedly will in introducing the whole package deal to put the Residential Tenancies Act in order, it is better to withdraw the present Bill or defeat it and allow it to be brought in and dealt with as part of the Government's total amendment Bill.

I give an undertaking that during the Budget session I will introduce a Bill which among other things will cure the problems that have arisen, although for reasons that I will canvass shortly I doubt whether the relevant provision will be in the same terms as the present Bill, which I believe is defective. At least I would like to be able to examine that question.

**The Hon. C. J. Sumner:** You've had plenty of time.

**The Hon. J. C. BURDETT:** I have not, really. It was late last week when the honourable member introduced the Bill. I suggest that, as the Government has set up a working party to look into the Act, the proper course is to let the Government introduce its legislation and for Parliament to deal with the matter then. The recommendations in the report are inter-related and interact with each other. Apart from anything else, it may well be that, if this Bill is passed now, the Act may have to be amended again when the Government's amending Bill is introduced in the Budget session.

It seems to me that the Bill may well be defective. It is certainly not in accord with the working party report and, while it cures the problem, it may well have highly undesirable side effects. It is retrospective legislation, which is something that has long been, in general, anathema to the Liberal Party and this Council. The principal Act is sought to be amended by the Bill by striking out subsection (1) of section 7 of the principal Act and inserting in lieu thereof the following subsection:

> Subject to this section, this Act applies to *(a)* residential tenancy agreements (whether entered into before or after commencement of this Act) . . .

That provides for periodic tenancies. The Act that is referred to is not the Act that will result from the amending Bill if it is passed, but it refers to the principal Act. It catches all periodic residential tenancies whenever entered into for all the purposes of the Act. It catches not only those matters that the honourable member who introduced this Bill had in mind but all other matters as well.

If this Bill had complete retrospective effect, it would make unlawful in retrospect Acts that were lawful at the time. For example, section 30 of the principal Act makes illegal the payment of fines or premiums for the entering into of colateral agreements, with provision for a penalty. If that applied to periodic tenancies that had been originally entered into at any time, it would be lawful until the passing of the Act resulting from this Bill. However, that is now made retrospectively unlawful. The same situation applies to section 31, which provides for a penalty in advance, and the same situation applies also to section 32, which provides for security bonds and sets out certain provisions in that case.

I am quite happy with a piece of legislation which would be in accordance with the report that has been prepared, because that report relates to legislation in prospect and not in retrospect. The report suggests that in the future tenancies of the type I have referred to shall be caught by the Act, but it does not suggest that Acts which in the past were lawful should in retrospect be made unlawful and that is what I am objecting to.

I believe this can also be referred to the civil consequences. For example, section 65 relates to the determination of residential tenancies. That means termination of residential tenancies caught by the Act, and it sets out a period of 120 days if there are no other grounds. It could be that, if an Act resulting from this Bill is passed, a notice to terminate a tenancy could have been given which is valid in common law in regard to a periodic tenancy before the Act came into force, which when the Act resulting from this Bill came into force would be made unlawful.

I acknowledge that Parliament intended to catch periodic tenancies in the first place, and I acknowledge that people are unlikely to be, in fact, prosecuted in respect of acts formerly lawful that have now been made unlawful, but it is extremely bad in principle for us now to make an act lawful when retrospectively it was done unlawfully, and it is not necessary.

Honourable members should remember that the Belajev judgment was as long ago as 8 August 1979. A person reading the judgment was quite entitled to say, "It has been decided by the Supreme Court that the tenancy I have created is not caught by the Act and so I am not bound by the Act."

Why should any act which he did in reliance on the judgment be made retrospectively illegal? This Bill was introduced after private members' time had run out in another place; it was introduced last week, just recently. Unless Government time was given to the Bill in another place, as has been requested by the Leader, it cannot pass, anyway.

**The Hon. C. J. Sumner:** You should explain why.

**The Hon. J. C. BURDETT:** I have given the reason that the Bill is defective. I do not see why the Government should be put under pressure to amend it now. Not only is it defective but it may well interact on the other amendments that will be made when the Government introduces its legislation in accordance with the report. It is really quite ridiculous to suggest that the Bill should be introduced in the dying stages of the session after private members' time has run out in another place, especially as

it is in defective form, and expect to have the Government put it in order and then provide Government time in another place for it to be passed. I certainly do not intend to apply my mind to fixing this Bill which, as I have said, seems to be defective.

The suggestion has been made in the Leader's second reading explanation that approaches have been made to the Government on this matter; indeed, they have been made. I refer to the letter I wrote to the South Australian Tenants Association in reponse to the letter received after they had approached me in person. The letter, dated 30 May 1980, states:

> I have received a copy of your letter to the Premier of 16 May 1980 concerning the application of the Residential Tenancies Act and a copy of the Premier's reply to you of 27 May 1980. I wish to confirm that it will not now be possible for a separate amendment to the Act to be made to ensure all residential tenancies are covered by the Act. This issue will be considered along with any other amendments which the Government may propose after considering the report of the working party which is currently reviewing the Act. The earliest possible opportunity for amendments to the Act to be passed will be during the Budget session of Parliament in August or September 1980.

For these reasons, the reasons that the Government will cure the situation, the reasons that the present Bill is, to say the least, suspect, and for the reason that the Bill was introduced at such a late stage, I must oppose it.

**The Hon. R. C. DeGARIS:** On reading the Bill I was not opposed to its principle.

**The Hon. C. J. Sumner:** Then vote for its second reading.

**The Hon. R. C. DeGARIS:** If the Leader waits I will give the reasons why I will not do that. The one matter that I could not answer has been answered by the Hon. Mr. Burdett—the Bill is retrospective in its operation. Clause 2 refers to residential tenancy agreements, whether entered into before or after the commencement of the Act, and the Hon. Mr. Burdett has clearly dealt with the meaning of those words. I was puzzled and wondered whether those words meant at the commencement of this Act, that is, the amending Bill, or the principal Act. I am not certain, but the Hon. Mr. Burdett believes that it goes back to the introduction of the principal Act.

**The Hon. J. C. Burdett:** It must, because of its drafting.

**The Hon. R. C. DeGARIS:** If that is the case, it is retrospective over a long period. Also, in this Council we have examined carefully any legislation that makes unlawful something done lawfully in the past. One can see dangers in doing that sort of thing in legislation. Therefore, the Bill itself is defective and, I believe, should come in only as an amendment to the Act from the present time, if it does come in.

The other problem we have is that it is clear, and it has been clear with the motion that I have on the Notice Paper at present, that it is not possible at this stage to have private members' business considered in another place. It was not considered in these circumstances in another place when the Labor Party was in Government. The same situation would apply. Therefore, to consider passing a Bill at this stage to do something that the Council believes has some justification, but letting it go to another place in amended form and not be discussed, is a waste of time. The Minister has given a clear undertaking that these matters are contained in a report on the Residential Tenancies Act. I have no doubt that the matter will be corrected as soon as poosible with legislation covering other areas of the Act that are known to be somewhat defective.

For those reasons, first, that the Bill is defective in its concept and retrospective in its operation; secondly, because the Bill cannot be considered in another place; and, finally, because an undertaking has been given by the Minister that these questions will be considered in an all-embracing Bill to amend other aspects of the Act in the coming session, I believe the Bill should be voted against at this stage.

**The Hon. C. J. SUMNER (Leader of the Opposition):** I am disappointed by the Hon. Mr. DeGaris and especially so by the Hon. Mr. Burdett. I have never heard a more specious set of arguments put to this Chamber for wishing to defeat a Bill than those advanced by the Hon. Mr. Burdett, who knows as well as I do that the detailed drafting of the Bill is considered in Committee.

The Minister has been here for some years and knows that the usual practice is for there to be a second reading debate during which time all members can consider the principles of the Bill: they consider whether they agree with the fundamental thrust of the Bill. All honourable members can do that, and then they vote for the second reading, so that the Bill is past that stage.

In Committee members look at the detailed provisions of the Bill. If the Hon. Mr. Burdett has any problems with the detailed provisions of the Bill, we could examine them in Committee. But to use the tactics of attacking the principle of the Bill by referring to its drafting is really not worthy of the Hon. Mr. Burdett. He is doing it for a reason, and the reason is that he does not want the Opposition to get the credit for having corrected something that the Government should have done months ago. That is the critical issue in this matter.

The Government has shilly-shallied around; it has known of this problem since it was elected on 15 September. As Attorney-General, I gave undertakings that this matter would be corrected before Christmas 1979. The Liberal Party knew all about it, but now six months later it has done absolutely nothing. What is more, we have the Premier replying to legitimate representations from an interested organisation in these terms—and let the Council consider how absolutely ridiculous it is. The reply states:

> Due to the heavy legislative load in the coming short session of Parliament it will not be possible to have any amendments drafted for the June session but would suggest that you speak again with the responsible Minister to put forward your case.

**The Hon. J. C. Burdett:** What is the date of the letter?

**The Hon. C. J. SUMNER:** The date is 27 May 1980. The letter states, "Due to the heavy legislative load . . . " I have done the Parliament and the Government a favour. I have had the Bill drafted and introduced. As to the heavy legislative load, how many days has the Parliament sat in the first year of a Liberal Government? The Government has sat 35 days since it took office. The first Parliament in 1970-71 after the Labor Government came into office sat for 75 days, and the next Parliament—1971-72—sat for 74 days. The Government says that it has a heavy legislative work load but what can it come up with? It has sat for 35 days, which is about half the number of days that Parliament sat in the Labor Government's first year in office, and yet it talks about a heavy legislative load. The simple fact is that the Government does not want to do anything. It is a conservative Government, as the member for Mitcham in another place said; it has nothing on its plate, and it is in the control of organisations such as the Festival of Light. That is why it used its numbers in the House of Assembly to throw out Mr. Millhouse's private member's Bill.

**The Hon. J. C. Burdett:** It wasn't voted on.

**The Hon. C. J. SUMNER:** Of course it was not voted on. It was not voted on in contempt of the existing and well-established procedures in the House of Assembly that private members' business in that House should be voted on when there has been a speaker in favour of the matter and a speaker against. The Government is not only not voting on the Prostitution Bill in the House of Assembly, but it is also not voting on any private members' legislation in that Chamber. The Labor Government, over its years in office, almost always allowed a vote for private members in the House of Assembly. In this Council, what is the Government trying to do? Exactly the same thing. A perfectly sensible amendment has been put up, and it is agreed to in principle.

If a problem exists in the Bill's drafting, it can be looked at in the Committee stage. The Government does not want the Opposition to get the credit for having fixed up the delay and prevarication over this issue. In the last days of 1978-79, when one might say that the Labor Government was winding down, Parliament sat for 55 days, compared to the 35 days that this Government has sat. That is inexcusable.

**The Hon. J. C. Burdett:** The letter was dated only about a fortnight ago.

**The Hon. C. J. SUMNER:** Yes, but I had the Bill drafted in that time. Parliamentary Counsel assisted me. The Hon. Mr. Burdett has access to the Parliamentary Counsel. Perhaps he might like to discuss the matter with him.

**The Hon. J . C. Burdett:** Retrospective legislation is bad in principle.

**The Hon. C. J. SUMNER:** The Hon. Mr. Burdett says that it is retrospective legislation. Perhaps he might like to have a word with the Parliamentary Counsel.

**The Hon. J. C. Burdett:** It has your name on it.

**The Hon. C. J. SUMNER:** Of course it has my name on it; I had it drafted. I take full responsibility for it, and I do not wish in any way to place the responsibility on Parliamentary Counsel. Parliamentary Counsel is available to the Minister if he wishes to discuss the drafting of the Bill with his permanent officer of the Public Service. In the Committee stages we could discuss the technical problems, and there is absolutely no excuse for the Government wanting to throw this matter out. It does not want to sit, because it does not believe in sitting the Parliament for any length of time. It wants to get into and out of Parliament as quickly as possible. The talk of a heavy legislative load is absolute nonsense. I do not believe that the drafting of the Bill is defective; that is merely a smokescreen argument that the Minister has tried to use.

The Bill is retrospective only in that it picks up what it was intended to do when the Bill was passed in 1978, that is, cover periodic tenancies. That was the intention of Parliament at that time but, because of drafting problems and the subsequent decision of the Supreme Court, it was held that it did not pick up periodic tenancies. All we are saying is that those periodic tenancies ought to be picked up. It is a simple issue, and it is an anomaly that has occurred.

The Government has had nine months to do something about it, but it has done absolutely nothing. When I present a simple Bill like this for the Council's consideration, the Government takes its bat and ball home and says, "We are not going to have anything to do with that Opposition amendment." It then puts up a smokescreen about the drafting. The drafting is satisfactory: if there are any minor problems with it, I suggest voting for the second reading and then looking at them in Committee. Presumably, the Minister does not want to do that, because, first, he does not want Parliament to sit very much, and he does not want to be shown up about having done nothing on this issue over the last eight months.

If the Government will make the time available in the House of Assembly (which it could do), we will give a full undertaking that we will not even debate the issue. The Government agrees that the Bill could be passed in less than five minutes. Surely that is an offer that we can make in good faith if the Government is genuine about the matter. It can then be fixed up by tomorrow night just as we considered in one afternoon the motion moved by the Hon. Mr. Milne in relation to the Waite Agricultural Research Institute. The Minister knows that that can be done, and we all know it can be done if the Government has the will.

For another three, four, five or six months, these people are not going to have the benefit of the Residential Tenancies Act. Because of an anomaly, it means that the people in the category of periodic tenants who entered into their tenancy agreement before December 1978 are not only not covered by the Residential Tenancies Act but also are not covered by the Excessive Rents Act, and they are therefore in an even worse position than they were before the Residential Tenancies Act came into being. The Government has kept that situation trundling along for eight months, and it is prepared to keep it trundling along for another six months. It wants to be pig-headed, and it puts its head in the sand, refusing to admit that the Opposition has a legitimate viewpoint and not wanting the Opposition to take the credit for the Bill. For those reasons, I urge the Council to consider supporting this Bill on the second reading. The Government might then consider its attitude to allowing the matter to be discussed in Committee in this place and passed in the House of Assembly tomorrow.

The Council divided on the second reading:

Ayes (8)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, J. E. Dunford, N. K. Foster, C. J. Sumner (teller), and Barbara Wiese.

Noes (9)—The Hons. J. C. Burdett (teller), L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill, D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

Pairs—Ayes—The Hons. C. W. Creedon and Anne Levy. Noes—The Hons. M. B. Cameron and J. A. Carnie.

Majority of 1 for the Noes.

Second reading thus negatived.

## STATUTES AMENDMENT (INTEREST ON JUDGMENTS) BILL

Adjourned debate on second reading.

(Continued from 5 June. Page 2305.)

**The Hon. K. T. GRIFFIN (Attorney-General):** It is interesting to note that the Bill takes up an amendment that the Leader of the Opposition had on file in relation to the Wrongs Act Amendment Bill, which I indicated would be allowed to lapse because of a recent decision that establishes the principle that I was endeavouring to establish in the Wrongs Act Amendment Bill. With his amendment the Leader is attempting to reverse the decision of the Privy Council in the case of *Faraonio v. Thompson*.

I cannot accept the proposition in the Bill, for a number of reasons. In indicating my opposition, I point out that

not only Faraonio's case has spoken out regarding the question of interest. If the Supreme Court Act and the Local Courts Act were to be amended to provide for the payment of interest on that portion of the judgment relating to future loss, South Australia would find itself out of step not only with the Privy Council and English decisions but also with the rest of Australia.

Between the time that the appeal to the Privy Council was lodged in *Faraonio v. Thompson* and the hearing of that case in February 1979, the High Court of Australia, in *Fire and All Risk Insurance Company Limited v. Callinan* (1978) 52 ALJR 637, took the opportunity to deal with the question of interest on judgments. In a unanimous judgment, Stephen, Mason, Jacobs, Murphy and Aickin J.J. held in relation to similar legislation in Queensland (which to all intents and purposes is no different from the South Australian legislation) that the court must have regard to the time when the detriment is to be suffered before it can determine whether or not interest should be payable on that portion of the judgment and therefore whether or not it can be fairly said that the plaintiff has been wrongly kept out of the money. It was said by the court, at page 638:

> The claim for general damages contained elements of loss of earning capacity, pain and suffering and loss of amenities. Each of these represented detrimental consequences, some of which had already been borne by the plaintiff before the trial and others of which he would bear in the future. To allow interest on the award of general damages without discernible regard for this temporal distinction was wrong, and this for the reasons stated by the Full Court. It is enough to refer to the conclusions to which the members of the Full Court arrived in relation to the various heads of general damages. In the case of loss of earning capacity interest should, they concluded, be allowed only on that part of the damages awarded under that head which represents compensation for those detriments the practical impact of which, in terms of economic loss actually incurred, has already, at the date of judgment, been experienced by the plaintiff. In the case of pain, suffering and loss of amenities it was said that they too "should have a time differential applied to them for the purpose of giving interest on damages within the terms of section 72". These conclusions accurately reflect the application to the Queensland legislation of the principles enunciated by a majority of this court in *Ruby v. Marsh* (1975) 123 CLR 642 . . . the need remains, when exercising the discretion to award interest which the Queensland legislation gives to trial judges, to pay regard to the distinction which exists between items of detriment already suffered and those to be suffered in the future. A money award is the only compensation which the law can provide in respect of the suffering of those detriments and if interest is to be awarded on the whole or any part of that sum for the whole or any part of the period between the arising of the action and judgment—a proper exercise of discretion must necessarily involve the paying of due regard to the time of manifestation and to the duration of the various detriments in question.

The House of Lords in *Cookson v. Knowles* (1978) 2AER 604 said the same thing in relation to economic loss. That case concerned a claim for loss of support as a result of death, but the House of Lords made clear that there was no distinction between future lost support in a death claim and future lost earning capacity in an injury claim when considering the question of interest. Lord Diplock, at page 612, then said:

> 1. In the normal fatal accident case, the damages ought, as a general rule, to be split into two parts:
>
> *(a)* the pecuniary loss which it is estimated the dependants have already sustained from the date of death up to the date of trial (the pre-trial loss); and
>
> *(b)* the pecuniary loss which it is estimated they will sustain from the trial onwards (for future loss).
>
> 2. Interest on the pre-trial loss should be awarded for a period between the date of death and the date of trial at half the short-term interest rates current during that period.
>
> 3. For the purpose of calculating the future loss, the "dependency" used as the multiplicand should be the figure to which it is estimated the annual dependency would have amounted by the date of trial.
>
> 4. No interest should be awarded on the future loss.

The principle, in my view, is clear, and so is the logic. If there is to be an award of damages and if one of the components is an award for future estimated loss, whether loss of earnings or some other future loss, the judgment takes into account that it is awarded from the date of judgment.

It seems to me illogical to suggest that the interest should be calculated from the date of the issue of the writ. Taking it a little further, if the accident occurred four years ago, the writ was issued a year after the date of the accident, and the judgment was given three years after the date of the issue of the writ, the court will ordinarily consider an award based on certain factors, the first of which is the amount which should be awarded for damages to compensate for pain and suffering. The court will also address its mind to the loss of, say, earnings which the plaintiff has suffered from the date of the accident to the date of the judgment, and it will also, as at the date of judgment, address its mind to calculating the present value of what it estimates to be the future loss suffered by the plaintiff.

I can agree in general terms with the court in granting interest on the amount of that part of the judgment which relates to pain and suffering and that part which looks at past loss, because the fact that the plaintiff has not had the use of that money from the date of the issue of the writ should be recognised by an award of interest but, the court having taken account up to the date of judgment, that is, what the loss of earnings is—and that is a factual calculation—then, if it goes ahead to make an award for loss of future earnings, the plaintiff would not have had the use of those future earnings as at the date either of the issue of the writ or the date of the judgment.

It seems to me to be illogical that interest should be awarded from the date of the issue of the writ on that part of the award when the plaintiff would not in any event have had the use of the amount of money which represents loss of future earnings. That is the principle, and it is for that reason that, if the Bill achieved its objective of providing that the court shall award interest on that future loss, I would not be able to accept it.

If I could turn briefly to the Bill, I cannot see how the proposal advances the proposition which I understand the Leader is seeking to advance, and that is to require the courts to grant interest on an amount awarded for future loss from the date of the issue of the writ until the date of payment. I shall leave that aspect to other honourable members to pursue. It is for those reasons that I cannot support the Bill before us.

**The Hon. R. C. DeGARIS:** I should like to look quickly at the history behind the changes made to the Supreme Court Act in 1972 and 1974. In 1972, the Parliament amended the Supreme Court Act to allow an award of interest to a successful plaintiff from a date prior to the date of judgment. Before the 1972 amendment was passed, interest began from the date of judgment, with certain exceptions. The 1972 Bill passed both Houses of

Parliament unanimously.

The purpose of the amendments was to remedy what the Parliament saw as an injustice where the defendant was delayed settlement of a claim, so depriving the defendant of his proper compensation. These 1972 amendments were considered by the court in the case of *Sager v. Morten and Morrison,* and the question in this case was whether the 1972 amendment empowered the court to award interest on loss suffered by the plaintiff after the date of judgment. In his second reading explanation, the Hon. Frank Kneebone, in introducing the 1974 amendment, said:

> The major question in this case—

that is, the Sager case—

> was whether the amendments made by Parliament in 1972 empowered or obliged the court to award interest on future economic loss (that is, loss to be suffered by the plaintiff after the date of judgment). A consideration of the judgments in that case discloses the considerable difficulty inherent in a distinction for this purpose between loss or injury to be incurred or suffered in future and loss or injury incurred or suffered before judgment.

The view of the judges expressed at that time was that greater freedom and flexibility should be allowed to the court in awarding interest. Following the Sager case, in 1974 the Parliament passed a Bill conferring on the court power to fix a lump sum in lieu of interest, or to fix an appropriate rate of interest to be paid by the defendant. Quoting again from the second reading explanation, the Hon. Frank Kneebone, in introducing the 1974 amendment, stated:

> The amendments proposed by the present Bill therefore confer on the court power to fix an appropriate rate of interest to be paid by the defendant, or alternatively to fix a lump sum to be paid by him in lieu of interest.

The Hon. John Burdett, in the only speech made in this Chamber other than that of the Minister, supported the Bill, saying that the main provision related to interest which is only just to the litigant. The 1972 amendment provided that no interest would be awarded in relation to damages or compensation in respect of loss or injury to be incurred or suffered after the date of judgment. The 1974 amendment provided that interest shall be payable in respect of the whole or any part of the amount for which judgment is given in accordance with the determination of the court, and, where any party to any proceedings before the court is entitled to an award of interest under this section, the court may, in the exercise of its discretion, award a lump sum in lieu of that interest.

What the 1974 amendment did (and whether that was the intention of Parliament or not appears to be the bone of contention at the moment) was to remove the prohibition against awarding interest in respect of loss or injury to be incurred or suffered after the date of judgment.

**The Hon. C. J. Sumner:** That's right.

**The Hon. R. C. DeGARIS:** That is right. I said that whether that was the intention of Parliament or not appears to be a bone of contention in this argument.

**The Hon. C. J. Sumner:** It did.

**The Hon. R. C. DeGARIS:** You say it did.

**The Hon. C. J. Sumner:** Why else would they move an amendment?

**The Hon. R. C. DeGARIS:** Because all we did was remove the prohibition. There was a prohibition up until 1974 on the allowing of interest.

**The Hon. C. J. Sumner:** And now the courts have reimposed it.

**The Hon. R. C. DeGARIS:** No, they have not. We removed the prohibition and allowed the courts to make their decision on this matter.

**The Hon. C. J. Sumner:** And they have decided against it.

**The Hon. R. C. DeGARIS:** We will come to that in a moment. It comes right back to your Bill, if you read the wording of it. I shall deal with that question at a later stage. The present provisions of the Supreme Court Act relating to the questions raised by the Bill have been unanimously approved by the Parliament.

They relate to the removal of the prohibition against the court considering this particular question. The Leader, in his short second reading explanation, said that the Privy Council's decision in the *Faraonio v. Thompson* appeal thwarted the intention of Parliament. This Council has to decide whether that contention is correct or not. I believe the Hon. Mr. Sumner would agree with that.

**The Hon. C. J. Sumner:** That is not the only issue, but it helps us along.

**The Hon. R. C. DeGARIS:** It is an issue in this particular argument. As I argued in my contribution on the Wrongs Act Amendment Bill, if there is any doubt in honourable members' minds on this question, it is best to leave the common law alone and allow the courts to decide.

**The Hon. C. J. Sumner:** There is no common law in this area.

**The Hon. R. C. DeGARIS:** Yes there is.

**The Hon. C. J. Sumner:** It is a Statute.

**The Hon. R. C. DeGARIS:** The major part of the whole law relating to this question is a question of the common law. Very little statute law covers this situation.

**The Hon. C. J. Sumner:** It is a Statute that allows interest to be awarded.

**The Hon. R. C. DeGARIS:** No it does not. It removes the prohibition, and that is the difference I am trying to make to the honourable member.

**The Hon. C. J. Sumner:** Before the amendment in 1974, and before the Bill came in in 1972, interest could not be awarded.

**The Hon. R. C. DeGARIS:** Right.

**The Hon. C. J. Sumner:** That was the problem. Therefore, the whole question of interest on judgments has been introduced into the law by a Statute passed in this Parliament in 1972.

**The Hon. R. C. DeGARIS:** Which removed the prohibition—that is all it did. This question is raised in the judgment I have referred to. The South Australian Parliament removed the prohibition from the court considering it. If the Privy Council has in its judgment thwarted the intention of Parliament—and I am certain that Parliament's decision then was not that there shall be an award in relation to the question of interest on future loss (all Parliament did was remove that prohibition)—then we should be taking action to ensure that a unanimous decision of the South Australian Parliament is clarified.

I agree with the Hon. Mr. Sumner that, if Parliament decides that the Privy Council has thwarted Parliament's intention, then we should correct it. I am saying that Parliament only removed the prohibition that was then existing in the Supreme Court Act.

I now turn to the *Faraonio v. Thompson* case in relation to the amounts of money granted to the plaintiff. In the Supreme Court, Hogarth, J. awarded $68 448·80 made up as follows: loss of wages until trial, $7 580; loss of earning capacity after trial, $21 500; household help, $325; other special damages, $293·80; general damages for pain and suffering and loss of amenities, $35 000. That gave a total of $64 698·80. Interest was then added under section 30c, amounting to $3 750, giving a final total of $68 448·80.

The defendant appealed to the Full Court against the decision—the plaintiff cross-appealed against the assess-

ment of interest. The Full Court reduced the general damages from $35 000 to $25 000 so the total damages reduced from $64 698 to $54 698. On the question of interest the Full Court held that interest should be awarded for future effects of loss of earning capacity, and it was against that judgment of the Full Court that the defendant appealed to the Privy Council.

In other words, the Full Court found that interest should be allowed upon the amount of money that was calculated for future loss. In the Full Court judgment, Bray, C.J., said:

> In my opinion the first question before us should be answered by saying that interest should normally, and subject to the discretion of the court, run on the sum awarded for the future effects of loss of earning capacity.

The Full Court allowed a sum of $14 547 applying the interest on the sum for future loss of earnings as well as past loss of earnings from 1 September 1975 to 4 May 1978. The defendant then appealed to the Privy Council, the board taking a different view. Lord Fraser said in part of the judgment:

> If damages for economic loss are calculated in two parts—as compensation for pre-trial loss and for post-trial or future loss, it cannot be right to award interest on the part awarded for future loss. The reason for awarding interest is to compensate the plaintiff for having been kept out of money which theoretically was due to him at the date of his accident.

It is on this point that both the decision of the Full Court and that of the Privy Council turn, and it becomes an extremely difficult mental exercise to determine what is right and just. What has to be decided here is whether the amount that is awarded for future loss would be the same amount if granted at the time of the accident or some other time before the trial, compared to the amount at the time of the trial. If the amount is the same, discounting the time factor and inflation, then clearly the addition of interest can be reasonably justified. But Lord Fraser does not think this would be the position. Continuing with his Lordship's judgment:

> But the amount of damages that would have been awarded to him at the date of the accident in respect of economic loss would not have been the same as that awarded to him at the trial because it would have been discounted to the earlier date. This has nothing to do with inflation although inflation makes the difference between the two awards larger and more striking.

Lord Diplock, in *Cookson v. Knowles*, made this point:

> Once it has been decided to split the damages into two components which are calculated separately, the starting point for the second component for future loss is the present value not as at the date of death but at the date of the trial of an annuity equal to the dependency starting then and continuing for the remainder of the period for which it is assumed the dependency would have enured to the benefit of the widow if the deceased had not been killed. To calculate what would have been the present value of that annuity at the date of death its value at the date of trial would have to be discounted at current interest rates which had elapsed between the death and trial.

What their Lordships are saying is that the amount for future loss is higher at the time of trial disregarding the question of inflation than at a previous time, therefore the addition of interest on that portion of the damages relating to future loss cannot be sustained. With due respect I doubt whether this is the correct assumption. I tend to agree with the views of Zelling, J., where in the judgment on this question in the *Faraonio v. Thompson* case he said:

> As far as South Australia is concerned both on principle, as to the proper way in which one considers loss of earning capacity and when it occurs, and on ordinary justice, if one looks at it weighing the fact that the plaintiff is getting money now and not later as against the disadvantages that I have detailed and others, the award ought to be both in law and in justice an award of interest from the date of commencement of the action on the future economic loss as well as on other components of the judgment.

I think it is reasonable while on this point to quote Bray, C.J. The Chief Justice referred to the historical origin of the power to award interest, enunciated by Lord Denning in *Jeffort v. Gee* as follows:

> Interest should not be awarded as compensation for the damage done. It should be awarded to a plaintiff for being kept out of money which ought to have been paid to him.

The Chief Justice in his judgment in *Faraonio v. Thompson* said that he adhered to this principle in his judgment.

**The Hon. C. J. Sumner:** Are you supporting the Bill?

**The Hon. R. C. DeGARIS:** I am not supporting the Bill, and in a moment I will give the reasons why I am not supporting it. In other words, the Chief Justice is saying that the amount awarded for future loss would have been the same amount with the normal charges such as inflation being discounted from it as would have been awarded at the time of the accident. If that is so, then the whole amount should bear interest under the principle enunciated that the defendant has been kept out of money for a period when he was entitled to the use of that money.

This Council really has two questions to answer. First, what did Parliament intend in the 1974 amendment to the Supreme Court Act? I believe that Parliament only removed the prohibition existing in the 1972 amendment and allowed the court in that amendment its discretion in this most complex question. Secondly, has the decision of the Privy Council thwarted, as proposed by the Leader, the intention of Parliament? I do not believe that the Privy Council decision has thwarted the intention of Parliament. In its judgment it considered the 1974 amendment but came to the decision that in justice the amount awarded for future loss should not attract interest as the defendant is only entitled to that sum at the date of the judgment.

I make it quite clear that I do not entirely agree with the arguments of the Privy Council in its judgment and that I tend to agree with the views of the South Australian Full Court.

The next question I pose is whether the amendment of the Hon. Mr. Sumner makes any difference to the Privy Council decision or, even if the proposed amendment were law, would that make any difference as far as the Privy Council is concerned? The Hon. Mr. Sumner's amendment proposes that, where the court considers it appropriate to do so, it may award interest in pursuance of the section upon damages or compensation for the future effects of a loss or injury.

I believe that the Full Court has already made a judgment based upon the power of the court where it considers it appropriate to do so—to award interest on the compensation for future loss. The Privy Council decision was not based upon the power of the court to do so but that it was not appropriate nor just or right that that judgment should be made.

I ask the Council whether the Hon. Mr. Sumner's Bill makes any difference regarding the Supreme Court of South Australia and the Privy Council. I do not believe that at this stage this Chamber can resolve this extremely complex matter. I have indicated that my sympathies lie with the intention of the honourable member's Bill, and my feelings lie more with the judgment of the Full Court of South Australia than with the judgment of the Privy Council.

I do not accept that the amount awarded for future loss

should be any less apart from inflation at the time of trial than at a previous time. I take the same general stand that I took on the Wrongs Act Amendment Bill: we are dealing in this Bill with one small corner of a large and complex area of the law and should, as the legislation does now, allow the court discretion in this matter.

All we did in the 1974 amendment was to remove the prohibition on the court considering this matter, and all the Hon. Mr. Sumner's Bill does is to say that it is appropriate for the court to consider this matter. I am putting to the Council that the Leader's Bill does virtually nothing; the court can consider that now. Even if the court considers it here, the question of whether or not it was appropriate for the State court to consider that matter was not a question upon which the Privy Council made decisions.

If we are to codify the law in this area, then it should be done in co-operation with other States and over the whole field covered by this section of the law. To deal with just one part of it is difficult to justify, and that is the point I made in dealing with the Wrongs Act Amendment Bill. For those reasons I intend to vote against the Bill, not because I am opposed to its principle but because I believe that the determination of justice in these matters is best left to the discretion of the courts, where I believe it rightfully belongs.

**The Hon. L. H. DAVIS:** I move:

That the debate be adjourned.

The Council divided on the motion:

Ayes (9)—The Hons. J. C. Burdett, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

Noes (8)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, J. E. Dunford, N. K. Foster, C. J. Sumner (teller), and Barbara Wiese.

Pairs—Ayes—The Hons. M. B. Cameron and J. A. Carnie. Noes—The Hons. C. W. Creedon and Anne Levy.

Majority of 1 for the Ayes.

Motion thus carried.

## NATIONAL PARKS AND WILDLIFE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 June. Page 2195.)

**The Hon. J. R. CORNWALL:** I will be very brief in my reply, as there is not a great deal to reply to. This is a very simple Bill, restricting all agricultural pursuits except grazing or beekeeping in the parks system. Introducing the Bill, I said that there was a degree of confusion in the community at the moment as to the Government's attitude to farming in national and conservation parks, because of public statements made by Ministers.

The Minister, during the debate, referred to sweeping changes proposed to the National Parks and Wildlife Act. That does not in any way alter my view that it is time for all members in this Council and, indeed, in this Parliament, to stand up and be counted as regards farming in national parks and to remove all suggestion in the public's mind that it could be countenanced by political Parties of whatever persuasion. Possibly we will see in the so-called sweeping amendments that come before the Council to the National Parks and Wildlife Act some changes in the nomenclature and classification of national parks and some amendments to protect a few additional species of flora. They do not seem to be sweeping changes in any normal definition of the term.

However, another thing that causes me a great deal of concern is the fact that the Minister has foreshadowed, in a letter to the Editor in the *Advertiser* recently, that he is seriously contemplating putting farmers and local councillors in charge of local policy and the management of parks in certain regions of the State. I believe I made the point yesterday that certainly there ought to be far more consultation with local community groups as to what national conservation parks are about. Certainly, there ought to be much better liaison than currently exists between the staff of the National Parks and Wildlife Service and local groups. On the other hand, if there is any suggestion that the management of parks as such is to be handed over to local interest groups and local pressure groups, then that would be an abominable thing.

Unless the Act is amended to specifically exclude farming other than grazing or beekeeping, there will be quite irresistible pressure applied to this Government to allow extensions of farming under licence in parks. I do not think any member could reasonably countenance that if they understood what the national and conservation parks system is all about. For that reason, I urge members to support the Bill.

The Council divided on the second reading:

Ayes (8)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall (teller), J. E. Dunford, N. K. Foster, C. J. Sumner, and Barbara Wiese.

Noes (9)—The Hons. J. C. Burdett (teller), L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill, D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

Pairs—Ayes—The Hons. C. W. Creedon and Anne Levy. Noes—The Hons. M. B. Cameron and J. A. Carnie.

Majority of 1 for the Noes.

Second reading thus negatived.

## APPROPRIATION BILL (No. 1), 1980

Adjourned debate on second reading.

(Continued from 10 June. Page 2475.)

**The Hon. C. J. SUMNER (Leader of the Opposition):** If one read superficially the Attorney-General's explanation when introducing this Bill, one could be excused for thinking that everything was rosy in the financial garden of South Australia. Indeed, the Attorney-General said:

> . . . it does seem likely that the Government could show a surplus of at least $30 000 000 on the 1979-80 operations of its combined accounts—

that is, Loan and Revenue Accounts. On the face of it (indeed, this is how the Government has promoted it—sound economic management) the Government has ended up the financial year with a $30 000 000 surplus. It may be good financial management, but it is not very good budgeting at the beginning of the year. However, I will leave that aside.

The simple fact is that things are not all rosy in the financial garden, and that surplus has been obtained, for the major part, by deferring important Loan programmes. The Premier has sought to blow this surplus up as an indication of how well the Government is managing the State's finances.

**The Hon. L. H. Davis:** It's a very good indication.

**The Hon. C. J. SUMNER:** It is no indication at all. The Premier has tried to criticise the Opposition, particularly the Leader of the Opposition in the other place, by saying,

quite stupidly, that the Leader is $70 000 000 out in his calculations. That is in relation to what the Leader said earlier in the year. The Premier consistently maintains that the Leader said that there would be a $40 000 000 deficit this financial year. He goes on to maintain that there would not be a deficit of that amount but that there is a $30 000 000 surplus and that, therefore, the Leader is $70 000 000 out in his calculation. I wonder how members of this Council can stomach that sort of rubbish.

First, the Leader did not say that there would be a $40 000 000 deficit this financial year: he said there would be a deficit of $40 000 000 next year, which is what the Premier is on public record as having said. As to the $30 000 000 surplus, I think members will realise that, although that has been painted as a rosy picture, it certainly is not. The original position on Revenue Account was one for a $6 000 000 surplus, which would be transferred to Loan Account this financial year. The Government now says that it can increase the amount that it can transfer from Revenue Account to Loan Account this year by about $14 000 000.

It says that that is made up by an increase of $5 000 000 in receipts, plus a saving of $2 000 000 in payments. There has apparently been an increase in receipts because of some increases in pay-roll tax revenue, $2 000 000 more than expected, an increase in succession duty revenue of $2 000 000 more than expected, and an increase in receipts from marine and harbor charges, as a result of the buoyant rural conditions, of an extra $4 000 000. That amounts to $8 000 000, but there were some offsetting areas where revenue did not come up to expectations. However, the Treasurer has told us that, overall, revenue receipts will be up by about $7 000 000.

He says that there has been a saving of $2 000 000 on expenditure in the Revenue Budget. That is $2 000 000 in a total of about $1·38 billion, and I do not think that that indicates that there was a lot of fat in the Government service that could be trimmed. I am sure that that is what Ministers are finding as they search for the fat that the Premier talked about when he was Leader of the Opposition. On the expenditure side, $2 000 000 was saved. On the revenue side, there was an overall improvement of $5 000 000, making a total effect of $7 000 000 on the Budget. If we add that to the $6 000 000 originally budgeted to be transferred from Revenue Account to Loan Account, we get a total of $13 000 000. However, according to the Attorney's explanation, there will be a transfer of $20 000 000, and that has been completely inadequately explained to this Council. I believe that it is inexcusable that that sort of transfer ought to be made without a proper explanation being given to the Parliament. The only reference is as follows:

> This Bill makes provision for the transfer of $20 000 000 from Revenue Account to Loan Account on the assumption that the unexplained improvement in May continues into June 1980.

In addition to the $13 000 000 which I have mentioned and which is accounted for by the $6 000 000 originally budgeted and the $7 000 000 by which the Government knows it is better off, $7 000 000 has been transferred, and it appears that the Government expects to get that from an unexplained improvement in the Revenue Account during May and hopes that it will be continued into June. Surely it is completely unacceptable to this Council to have that statement made.

**The Hon. L. H. Davis:** Why?

**The Hon. C. J. SUMNER:** The Treasurer does not know. He is still getting details but he seems to think he has $7 000 000 that will come during May and June that he can transfer, despite the fact that he does not know where it will come from. I ask the Government where the extra money will come from and what factors have resulted in the unexplained improvement in Revenue Account in May and June. I believe that the Council should have been given all those figures when it is considering this appropriation. Regarding the Loan Account Budget, originally it was proposed that $2 200 000 would be unspent. The Treasurer has said that the Loan Account is in a much better position. He states:

> For several reasons, however, including a more critical examination of projects before entering into firm commitments and the letting of contracts to competitive tender, it now seems likely that savings of some $16 000 000 will emerge on payments from Loan Account.

The budgetary position was that there would be $2 200 000 unspent at the end of this financial year. The Government now says that it has made savings of up to about $16 000 000 and, regarding the expected savings, the Treasurer states:

> The main details of the expected savings are about $7 000 000 on waterworks and sewers, $2 000 000 on school buildings, $3 000 000 on other Government buildings and $5 000 000 on hospital buildings.

The Government then takes into account other variations in the account to arrive at the conclusion that the payment from Loan Account will be about $16 000 000 below the original estimate. Let us now consider the Government's reasons for the so-called savings. I believe that the reference to a more critical examination of projects before entering into firm commitments and the letting of contracts to competitive tender is a euphemism for deferring projects. I do not believe that the letting of contracts to competitive tender in this financial year has resulted in a saving of $16 000 000.

Even the Hon. Mr. Davis would recognise that that is absolutely ludicrous. I imagine that most of the contracts that were let this year were already in train when the previous Government left office, and it is most unlikely that the Government could have saved $16 000 000 by competitive tendering in this financial year. That is ridiculous. The likelihood is that the Government and the taxpayers have lost money over this year and will lose in future as a result of increasing competitive tendering in some areas and maintaining the policy of no retrenchments in the Public Service, because it is not only paying people to be employed by the Government and will continue to do that, but, in addition, it is paying private contractors who have competitively tendered for a job.

**The Hon. K. T. Griffin:** Are you suggesting that we should retrench?

**The Hon. C. J. SUMNER:** No, I am suggesting that you should continue the policy of the previous Government.

**The Hon. L. H. Davis:** You are also paying people who in fact do not show on the Public Service pay-roll.

**The Hon. C. J. SUMNER:** I do not know about that. I am suggesting that the Government would do well to continue the previous Government's approach, which was for competitive tendering in the great majority of cases to the private sector in relation to Government contracts, but to maintain an active public sector and an active Public Service sector. That is another argument, and I am sure we will return to it when the Appropriation Bill is presented in the next financial year.

There seems to be a case at the moment that although the policy of the Liberal Government is to put more contracts out to the private sector, its policy of no retrenchments has resulted in an overall loss to the taxpayer. The point is that $16 000 000 could not have been saved in this financial year by the letting of contracts to competitive tendering, and I want to know how much

has been saved in this financial year in doing that.

The other statement the Premier made referred to a more critical examination of projects before entering into firm commitments. That is a straight euphemism for deferrals. I want to ask the Government a question. The Premier has given some very general figures which I have quoted in relation to waterworks, school buildings, Government buildings, and hospital buildings, and I want to know the breakdown of those deferrals, if they are deferrals; if they are complete cancellations, I would like to know that, too.

I think the Hon. Mr. DeGaris would agree that presenting the statement to the Council in that form for Parliament to consider is completely inadequate, because it does not contain the information that is necessary for us to make a proper decision. I will be asking the Government what specific projects have been cancelled completely or deferred which have resulted in a saving of $16 000 000 on the Loan Account. What is meant by this so-called good economic management which the Government is trying to promote? First, it wrongly budgeted at the beginning of the year for receipts to the extent of $7 000 000. It was out. Now, it is out conservatively, so the Revenue Account is $7 000 000 better off, but the Government was $7 000 000 out in its calculations. Ironically enough, part of that resulted from an increase in receipts from succession duties and pay-roll tax which the Government says it has abolished.

**The Hon. M. B. Cameron:** Not pay-roll tax.

**The Hon. C. J. SUMNER:** The Government has abolished succession duties and given so-called concessions in pay-roll tax.

**The Hon. M. B. Cameron:** That is inaccurate.

**The Hon. C. J. SUMNER:** I think my statements are very accurate in comparison with the Government's budgeting and its so-called good economic management.

*Members interjecting:*

**The Hon. C. J. SUMNER:** I will tell honourable members about the $40 000 000 forecast. I have the documents here, and I will be pleased to enlighten the Hon. Mr. Cameron on the Premier's projected $40 000 000 deficit for the next financial year, with his so-called good economic management, and the figure of $16 000 000 resulting from deferring projects on the Loan Account. That, I am convinced, had absolutely nothing to do with the letting out of works to competitive tendering, at least in this financial year. For the Premier to claim that as a reason is, I believe, specious, and is treating Liberal members as fools.

As a result of the increase in revenue, especially from the so-called unexplained increases in revenue in May and June, the Government has managed to put away $20 000 000 in the Loan Account from the Revenue Account which it says will be for future capital works, even though in this financial year it has obviously deferred or cancelled a large number of capital works which could have been used through the year to stimulate the building industry and employment in this State.

Let us look at the Revenue Account. We are told that $20 000 000 has been transferred from Revenue Account to Loan Account, and that that is a good economic measure. Let us look at the future of Government finances in that area. I have asked where the $2 000 000 saving was effected in the overall Revenue Budget, and I trust that the Government will provide that information at some later stage. The $40 000 000 deficit has been mentioned. There is absolutely no truth in the continual assertions of the Premier that the Leader of the Opposition said there would be a $40 000 000 deficit this year. The problem relates to what will be the deficit next year, and the Premier has said that there is likely to be a $40 000 000 deficit in 1980-81.

**The Hon. M. B. Cameron:** From the way your Budget was going—

**The Hon. C. J. SUMNER:** The Hon. Mr. Cameron cannot deny that the Premier has made that statement.

**The Hon. M. B. Cameron:** That is the sort of problem you left that we have to cure.

**The Hon. C. J. SUMNER:** That has nothing to do with it. The Hon. Mr. Cameron knows as well as I do that the $40 000 000 deficit will result from two factors: one is that the Premier is unable to get from Mr. Fraser the amount of money he wants; the other is because the Liberal Party hopelessly bungled its calculations when it went into the last election.

**The Hon. L. H. Davis:** It doesn't sound like a hopeless bungle to be $30 000 000 in surplus.

**The Hon. C. J. SUMNER:** The Hon. Mr. Davis talks of a $30 000 000 surplus—

**The Hon. L. H. Davis:** As being a hopeless bungle! You can't have it both ways.

**The Hon. C. J. SUMNER:** The surplus the Hon. Mr. Davis talks about has been arrived at primarily by the deferral of projects from this year. It is not a surplus that can be seen as an absolute gain, but it is because the Government did not go on with certain works. I have already explained to the honourable member that it is not this year that we are talking about, but next year. It was a $40 000 000 deficit which the Premier has indicated to his Ministers is likely next year. He asked them, as honourable members know, to look at a 3 per cent cut in their Revenue Budget.

The Premier hopes to finance his $40 000 000 deficit by a 3 per cent cut in Government expenditure. He was very disappointed when he asked his Ministers to try to find where that 3 per cent of fat could be cut from. As members will recall, the Premier sent his Ministers a memorandum, which received some press publicity.

**The Hon. M. B. Cameron:** After you stole it.

**The Hon. C. J. SUMNER:** It was not stolen by anyone, Mr. Cameron, I can assure you of that. The document became public through the press. The Premier said:

> I have received your responses and, with very few exceptions, I am most disappointed with the relatively superficial review which each department made, considering the many opportunities that are available to reduce activity. In my memorandum to you of 17 December 1979, I indicated that funds in 1980 would be as much as 3 per cent less in real terms than 1979-80.

Therefore, he was looking for that type of cut in expenditure. The memorandum continues:

> At the Premiers' Conference on Friday 7 December the Prime Minister informed the Premiers that the existing guarantee provision under personal income tax sharing arrangements would cease as from 30 June 1980. The effect of that decision is that South Australia now expects to receive about $20 000 000 less than was previously expected from tax sharing in 1980-81 and now faces the prospect of a $40 000 000 deficit on Revenue Account next year. There are a number of measures which must be looked at to alleviate the position. One of those measures is to keep the tightest practicable control on the payments side of the Revenue Budget and, if possible, to look for an overall reduction before the 1979-80 expenditure level of as much as 3 per cent in real terms for 1980-81.

This Government faces a $40 000 000 deficit for the two reasons I have outlined. The first is the lack of continuation by the Fraser Government with the Whitlam Government's policy on funding to the States. The other big problem that the Liberal Party has is that it bungled its

calculations in relation to the tax concessions offered last year. One must now ask where the 3 per cent cut will come from. More importantly, if a cut is made how will the Government implement the extraordinarily extravagant promises it made at the last election? If there is no cut in Government expenditure, when and where will charges rise to compensate for the miscalculations made by the Liberal Party at the last election? There is no question but that it badly miscalculated the position at that election. If it did not miscalculate the situation, it was being completely dishonest with the people by saying that it would grant tax cuts and not increase charges.

The tax cuts that it has granted have been given with one hand, but the Government will take back revenue with the other hand by increasing charges or through some new form of taxation. The Hon. Mr. Davis knows that the Government will not be able to make up the shortfall of $40 000 000 by pruning the public sector of 3 per cent. In relation to the implementation of promises, if the Government does proceed with its proposed 3 per cent cuts and it does not increase charges, how will it implement its extravagant promises?

**The Hon. L. H. Davis:** Aren't you going to talk about your 10 years of mismanagement?

**The PRESIDENT:** Order!

**The Hon. C. J. SUMNER:** The trouble with the Hon. Mr. Davis is that he talks about 10 years of Labor financial mismanagement but there is little evidence to suggest that there was any financial mismanagement during that period.

**The Hon. M. B. Cameron:** Just Monarto and the Land Commission.

**The Hon. C. J. SUMNER:** The Land Commission's problem did not relate to financial mismanagement. The Land Commission was a great bonus to the people of South Australia, because it restrained land prices.

**The Hon. M. B. Cameron:** You have to be joking.

**The Hon. C. J. SUMNER:** I am not.

**The Hon. M. B. Cameron:** No wonder you got thrown out of office.

**The Hon. C. J. SUMNER:** I feel a bit sorry for the Hon. Mr. Cameron, because he is falling into the trap of believing his own Party's propaganda. Once a politician starts doing that, particularly one so astute, I do not believe he will ever find his way on to the front bench, if he has that aspiration.

**The Hon. M. B. Cameron:** No wonder they put you at No. 6 on the ticket.

**The Hon. C. J. SUMNER:** I did very well at No. 6 on the ticket. I am not worried about that, and in fact I am quite proud of it.

**The Hon. L. H. Davis:** Will you offer to be No. 6 next time?

**The Hon. C. J. SUMNER:** I will offer, but I do not believe the Party will want that. I like to think that it was my presence at No. 6 that got the No. 6 position up at the last election. I am aware that that is a matter that annoys honourable members opposite and I know they feel very upset that I was elected at No. 6. I feel very proud of having been No. 6 and, secondly, at having been elected so convincingly at that position on the ticket.

**The Hon. M. B. Cameron:** You are the only non-elected member of this Council.

**The PRESIDENT:** Order!

**The Hon. C. J. SUMNER:** I was wondering whether you were going to intervene, Mr. President; I have been getting a rough time. There were serious miscalculations in the Liberal Party's election promises. If it cuts funds for projects I ask the question—and in three years time people in South Australia will be asking—how does it intend to implement the promises it made? I do not wish to go through all those promises at this stage. However, in relation to the Attorney-General's area, for example, there is a perfectly good law reform committee operating. It is not a full-time committee but a voluntary committee. That committee has done a good job over a 10-year period, but the Liberal Party has decided that it does not want that committee to continue any more, but that it wants a full-time commission; that is, it wants the Commissioners paid from the public sector. That is one minor example where a promise has been made that involved Government expenditure.

In relation to the Ethnic Affairs Department, the Hon. Mr. Hill has made some extraordinarily extravagant promises, particularly in relation to migrant education and the teaching of migrant languages. I will be interested to see how the Hon. Mr. Hill copes with those extravagant promises when he has to deal with his 3 per cent cut across the board. The most outrageous promise from the Liberal Party, not in relation to what should happen in the long term, but certainly from the point of view of the Liberal Party making false promises during the last election, related to the education area.

One has only to query how the 3 per cent cut in the education budget will enable the fulfilment of the promises. What has happened in respect of kindergartens for 3½-year-olds? There has been limited extension of pre-school programmes, no extra funds and insufficient money to cater for four-year-olds. How will the Liberals fix that? With respect to the promise of reducing class sizes, the action has merely taken the form of waiting for student enrolments to decline: no extra funds, no additional teachers.

*The Hon. B. A. Chatterton interjecting:*

**The Hon. C. J. SUMNER:** My colleague tells me that in Ceduna they were not taking children into the school.

**The Hon. M. B. Cameron:** Who wouldn't take them?

**The Hon. C. J. SUMNER:** The teachers, because the class sizes were grossly out of proportion. In respect of the promise of increased school autonomy, the only action has been reduced funds to pay for more unavoidable costs. Regarding the promise of a reduction in teacher rentals, reaction has been that rents have increased. Regarding the promise that the Childhood Services Council should get greater control of assessing needs and arrangements for pre-school, no action has been undertaken because there is not enough money. Regarding the promise to include new trends in further education, that has not been done; the Department of Further Education is to reduce its budget. Regarding incentives for remedial teacher training, the only action taken has resulted in reduced release time scholarships.

All I can say to Government members is that they cannot have it all ways. Either their promises were made with the knowledge that they were not going to implement them (in other words, it was a complete con job) or, if they made such promises in the hope that they could implement them, then their financial calculations were absolutely out of skew; if they think that there is 3 per cent fat in the Government service and at the same time they think that they can maintain these promises, then they do not know the facts of economic life.

The Opposition knows what will happen, and I have made this prediction here before. We know for certain that Government charges will increase to overcome the shortfall that will occur next year as a result of the tax cuts that were granted. Secondly, I believe that we will see in South Australia in 12 to 18 months or even two years a State income tax surcharge. In other words, I do not think that there is any doubt, unless the Fraser Government

changes its mind, that this Liberal Government will force on this State an income tax surcharge.

The Attorney has just had a good chuckle, but I will be interested to know how he justifies the tax that his Government will be imposing within two or three years.

The question that I wish to put to the Government and to which I would like replies are as follows. First, where was the $2 000 000 saving made on Revenue Account? Secondly, how is the $20 000 000 transferred to Loan Account calculated and, in particular, where has the extra $7 000 000 over and above the $13 000 000 surplus of Revenue Account come from? Thirdly, what contracts have been let for competitive tender in the 1979-80 financial year that would not have been let under the former Government, and what savings have resulted? How are those savings calculated?

Fourthly, what projects have been critically examined? Fifthly, what are the precise details of the expected savings in each of the areas of waterworks and sewers, school buildings, other Government buildings and hospital buildings? In each case, which projects have *(a)* been abandoned completely; and *(b)* been deferred and, if so deferred, until when, and what is the expected saving in each case? Finally, what is the unexplained improvement in the May figures which are expected to continue into June? When will this be explained to Parliament, and why should the public and Parliament be asked to accept such incomplete information when considering the appropriation? I support the Bill.

**The Hon. K. T. GRIFFIN (Attorney-General):** The reason why Parliament and the public are asked to accept the statements that have been made in respect of the Supplementary Estimates is that it is the time for considering Supplementary Estimates. The time for reviewing the performance of the Government with respect to its Budget is at the time of the annual Budget, which covers a whole year. It is then that the income and revenue, as opposed to the cost and expenditure, can be compared properly with the performance of previous Governments over previous years.

The Premier in dealing with this matter in another place need not have given the sort of wide-ranging information that attempts to set the present picture of the financial affairs of the State whilst considering the Supplementary Appropriation and Estimates. The fact is that he has attempted to give an accurate picture of the present position in the Treasury and make some comparisons with the position as it was projected to be when the Budget was considered last year. There can be no criticism of the Government for not making available more information than is presently available to the Council because, in the context of the Bills that we are considering, it is not appropriate to do so.

We are looking at the reason why there needs to be some supplementary appropriation. I suggest to the Council that, with respect to that task, adequate and full information has been given. The other information with respect to income and revenue has been provided gratuitously in the context of explaining what is happening in the State Treasury field.

The Leader and other honourable members ranged far and wide in the consideration of the limited matters before us. I do not want to deal with the points that have been raised in detail. The Leader made some criticism of the Government's policy of increasing its emphasis on competitive tendering, and in conjunction with that he appears also to be criticising the policy of no retrenchments.

At the time of the last election we gave a clear commitment that we believed that there were advantages, not just to Government but to the private sector as a whole, in moving towards competitive tendering as the principal emphasis of the way in which Government work is undertaken, as opposed to the previous Government's emphasis of having it done within Government circles, without any opportunity for the atmosphere of competition to be brought to bear on the placing and financial structure of particular projects. That policy of competitive tendering has been increased by the Government. I am not able to give honourable members the precise detail that has been requested by the Leader.

The policy of no retrenchments was a clear commitment to employees of the Government at the time of the election. We believed that there ought to be a reduction in the public sector and that it should come about by attrition rather than retrenchment. The Leader has attempted to suggest that the good financial position that we have been able to indicate is a blunder or a serious miscalculation.

One could understand criticism if we were running into a deficit situation. We could be accused of blundering if we were not able to achieve positive results in the revenue field. In fact, we have been able to make savings in the Government sector by a variety of methods; that has in fact resulted in a more advantageous position for the Treasurer than we were able to project soon after we came into Government with insufficient information then available to us as to the way in which things would progress in the current financial year. The Leader of the Opposition has not appeared to understand the clear indication that I gave when making the second reading explanation that the savings had occurred in specific areas and there has been an increase in revenue, particularly in the pay-roll tax field, in the areas of increased harbor charges and increased succession duties.

He has then gone on to suggest that many of the promises we made were false promises and that we have not been able to implement many of our promises and have no prospect of doing so in the future. I point out to honourable members that we have been able to implement a significant number of our policies early in the life of this Government. I point out that we have a minimum of 3½ years within which to implement the policies with which we went to the people in September last year and upon which we were elected. We, in the first several months of office, were able to implement some substantial concessions in the tax field. That is a significant thrust in our favour in the process of implementing policies. Since that time there have been a number of other policies, not necessarily those requiring expenditure, but those which indicate a change of emphasis of this Government and which have in fact been implemented. Others still have to be implemented, but that will be done progressively during the life of this Government.

The Leader of the Opposition has sought to make some criticism of our policy to establish a Law Reform Commission in place of the Law Reform Committee when finances permit. That is no criticism of the Law Reform Committee; that is a recognition of the valuable work which that committee has been doing and it is also recognition of the changed circumstances in which we now find ourselves in the area of law reform. In the light of changes that have occurred federally and in other States it is important for us to recognise that the burdens which are borne by members of the Law Reform Committee such as ours in conjunction with their other full-time occupations are quite tremendous and ought to be alleviated in some way. When finances permit and we move towards the establishment of a Law Reform Commission it will be to the advantage of law reform as well as to the advantage of

the members of the committee and it will enable them to perform even more efficiently the task which they are presently performing.

In the area of ethnic affairs, we have made some significant advances in implementing our policies. I suppose that is what has led the Leader to make a criticism, as he is envious of the progress we have been able to make and the way in which the ethnic communities have responded to the announcements which we have made.

There are various other matters which have been referred to, some of which are specific questions upon which I will endeavour to obtain advice, but I will not be able to obtain such advice during the Committee stages of the debate. However, I will undertake, where I am able, to obtain answers that I will communicate to honourable members where appropriate by letter. I ask for support for the Bill.

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

## SUPPLY BILL (No. 1), 1980

Adjourned debate on second reading.
(Continued from 5 June. Page 2301.)

**The Hon. C. J. SUMNER (Leader of the Opposition):** This is the normal Supply Bill that is introduced at this time every year to enable the Government to function in the first couple of months or so of the financial year until the Budget is introduced for the next financial year. So, in a sense, it is a machinery measure. In his second reading explanation, the Attorney-General said:

> In the absence of special arrangements in the form of the Supply Acts, there would be no Parliamentary authority for appropriations required between the commencement of the new financial year and the date, usually in October, on which assent is given to the main Appropriation Bill.

My query is that he is there referring to special arrangements in the form of Supply Acts. I understand that that would mean some kind of permanent statutory arrangement for this regular Supply that it has been traditional to introduce. I would have grave doubts if in fact such a permanent form of Supply were to be introduced, because it would be yet another reduction of Parliament's capacity to consider Government actions, particularly in the House of Assembly, where the Supply Bill, under Standing Orders, provides for a grievance debate. This gives back-bench members in particular an opportunity to put their viewpoint. Will the Attorney-General say whether the Government, in view of the statement in relation to Supply Acts, intends to introduce such legislation?

**The Hon. K. T. GRIFFIN (Attorney-General):** I understand that this statement was really just pointing up that, in the absence of a Supply Act, whether the principal Supply Act that we consider in the first part of the financial year or the supplementary Acts such as the legislation that we are now considering, there would not be any authority for appropriation. I see nothing sinister as the Leader may interpret it. I know of no arrangement that would override or seek to override the authority of Parliament.

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

*[Sitting suspended from 5.54 to 7.45 p.m.]*

## FISHERIES ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 10 June. Page 2430.)

**The Hon. B. A. CHATTERTON:** I support the principles of this Bill, which was introduced by the Government, but I will be moving some amendments in Committee to improve it. I understand why the Government has introduced this legislation and I sympathise with its predicament. I share the Government's concern over the problems of the marine scale fishery. In fact, when I first became Minister of Fisheries I recognised that the scale fishery was something of a Cinderella industry in South Australia and that most of the effort by the Fisheries Department was concentrated on the more glamorous managed fisheries of rock lobster, prawns and abalone, and that the scale fishery was not receiving the attention that it truly deserved.

I asked officers of the department whether we could develop some areas of management within the scale fishery and I was told that that was impossible because of the lack of research in that area. I suggested that research into the scale fishery should receive a very high priority. That was done and a scale fishery research officer was appointed, Dr. Keith Jones, who has been a great asset to the department. Dr. Jones has been able to undertake research into the scale fishery and produce a very good report which was released last year.

That report provided the basis for a better understanding of the scale fishery and a better understanding of the resource problems in that area. After that report was released I set up a review committee to examine the report and prepare recommendations that the Government could act on to improve the economic wellbeing of the fishermen within that fishery. That review committee reported to the present Government, which set up a Cabinet subcommittee to look at those recommendations. That is a brief background of my involvement in the scale fishery.

I realise just how difficult the problems are in this area. This Bill is necessary for two specific and quite different reasons. First, there is a need to close the marine scale fishery from entry by any other fishermen, because at present all fishermen in the State have a basic A or B class fishing licence. If fishermen are lucky enough to be involved in a managed fishery they have an authority to fish rock lobster, prawns or whatever is endorsed on the licence. However, the scale fish licence still gives fishermen the right to enter the marine scale fishery. Therefore, there are a number of people who are involved full-time or part-time in the marine scale fishery and there is another group of people who are involved in managed fisheries and who hold residual rights to enter the scale fishery. In the present circumstances it is very unlikely that those fishermen would enter the scale fishery because of the poor economic situation in the marine scale fishery. It is only the economic situation that holds them out.

There is no economic incentive for those fishermen to fish for scale fish. That is a very unsatisfactory situation, because if the management that this Government wishes to introduce for the scale fishery is successful, that management will improve the economic wellbeing of the fishermen. It will also improve their livelihoods and provide a situation where other fishermen might be encouraged to enter that fishery. I believe that that would be very unfair indeed, because those other fishermen already have the benefit of some other managed fishery. Legislation is necessary, because it can allow the endorsement of species of fish on licences and prevent fishermen outside that fishery from coming in at some future date if they are encouraged through good returns.

Naturally, there are some grey areas. There are some people in the northern rock lobster fishery zone and there are other people who are partly in and partly out. However, I am sure the Government can handle that situation and impose the necessary conditions on licences to cope with those fringe areas. Basically, before one looks into the management of the marine scale fishery, it is necessary to define which people have access to it.

The second major reason why this legislation is necessary is that the marine scale fishery is the oldest continuously fished fishery in this State, so it is immensely complicated. I believe that the Government found that out when it received a report from the review committee and it tried to implement some of its recommendations. Crown Law gave the Government an opinion that it could not do that through the normal means under the Act; that is, by regulation or by proclamation. The scale fishery contains many complicated factors: there are A class and B class fishermen; line fishermen; net fishermen; some people who use a surface trawl technique; there is emphasis on different species; and there are different numbers of employees. I could go on at length about the different techniques and the different types of fishing operations that come within the marine scale fishery. It is the very complexity of this industry that defies the ingenuity of people wishing to make regulations or proclamations concerning the management of this scale fishery. This Bill is important because it is very far reaching. It probably contains the most substantial changes that have been made to the Fisheries Act since it was introduced in 1971. The Bill gives very wide powers to the Director of Fisheries to apply conditions to licences to cover the wide complexity of fishing operations that I have just described.

At present we have a situation, which was described by the Minister in his second reading explanation, where the fishermen are entitled to equal access to the marine scale fishery, and that is by virtue of the licences that are issued to them under section 30 of the principal Act. What is meant by "equal access to the fishery" is that any restrictions apply to all of them equally, that regulations concerning nets or aquatic reserves, or gear of any sort, apply to those fishermen in an equal manner.

This Bill completely changes that situation. When this Bill is passed the conditions that apply to a licence apply to individuals and not to classes or groups of licence. The Director can put a condition on any licence, and that is the absolute literal truth of the situation: he can impose a condition concerning gear, the area in which the fisherman may fish, concerning the species, its sex, its size, the quantity caught, or any other facet of the licence; he can impose a condition concerning the closed season or the number of boats that a fisherman may operate with that licence.

To ensure that everything is covered, another clause provides that the Director can put in any other restriction, whether related to those above or not. He can cover any situation, and that applies to any individual licence, not to a group of people or a class of licence but to one single individual. One could have a situation where one fisherman might be restricted in terms of the area in which he can fish, the amount that he can catch or the season during which he can operate, whilst perhaps a neighbouring fisherman could have a completely different set of conditions applying to his licence.

I am sure that members will admit that those are wide-reaching powers indeed. I was surprised that in introducing these powers the Minister had not consulted with the fishing industry. I was surprised because of the specific statements that were made by the Minister when he became Minister of Fisheries. In the *South Australian Fishing Industry Council Journal*, which is the Department of Fisheries magazine, of November 1979 (volume 3 No. 4), the Minister stated:

> While change may be necessary, we will be concerned to minimise its effect. We believe that a high level of prior consultation will assist in this process. I have invited the Fishing Industry Council in South Australia to join the department in setting up advisory committees for each fishery. I have also invited the industry to be represented on our licensing tribunal. This will be a heavy responsibility but one which should complete industry's involvement in management.

Yet when this legislation was introduced in another place last week, and when I telephoned members of the Australian Fishing Industry Council, they expressed to me some surprise that the Bill had been introduced, because they knew nothing of it at all. In fact, when I started talking to them about the Bill, they believed I was talking about some earlier Government announcements of regulation changes concerning the industry, and it took me some time to convince them that, in fact, this was a Bill to amend the Fisheries Act and to provide wide powers for the Director. The Minister claims that he did consult with the industry, but that is certainly not what I have been told. This is surprising, because only one person to whom I spoke had any knowledge of this Bill, and he had only been told over the telephone and had not seen a copy of the Bill.

I am disappointed that something as far reaching as this, a Bill that changes the whole nature of the Fisheries Act and provides such wide powers, should have been introduced without more consultation with the industry, which will be seriously affected. While I have been talking about the marine scale fishery, it is important that the new powers do apply elsewhere, and the Minister in his second reading speech said that they are to be used only in the marine scale fishery at present. However, he did admit that they would apply to others in due course.

It seems to me that, if that situation occurred, then the whole of the Fisheries Act and fisheries management would move out of the area of Parliamentary control and under the control of the Director acting with Executive powers. The needs of the Director or the Minister to get Parliamentary approval for regulations disappear. Anything required in terms of fisheries management under the new powers can be done by applying conditions to licences. In fact, the rest of the Fisheries Act has little relevance at all, because it really will not be necessary to use the powers in the remainder of the Act. It will not be necessary to pass proclamations or regulations: it will only be necessary for the Director to apply conditions to a licence, and he can do anything that he wants in any fisheries under the jurisdiction of the Act.

We are taking a serious step in giving the Director, under this amending legislation, powers that go well beyond what has been the normal position in this Parliament. Members of the Government when they were in Opposition were concerned that things were being done by proclamation which should have been done by regulation, or about things that were being done by regulation which should have been done within the Act itself. Here we are going much further than either regulation or proclamation, and it can be done not just by the order of the Minister but by the order of the Director.

I said earlier that I was not opposed in principle to this legislation, because I see the complexity for the marine scale fishery. I see that it must have a management plan, and I realise that the present powers under the Act concerning regulations and proclamation just cannot deal with the complexity that we have in the marine scale

fishery. What I would be suggesting in terms of the amendments that I will be moving is that the Director use these powers that he will gain under this amending Bill in terms of an authorised management plan.

That authorised management plan (and obviously I will give the details when we come to the Committee stage) will lay down guidelines. It will lay down principles for the management of the scale fishery or any other fishery that the Government decides should come under this legislation. It will provide fishermen and other people in the community with an opportunity to be fully consulted on the principles that will guide the future of that fishery. It will give them an opportunity to know what their own future is and what the future of their fishing operation will be. It will give them the opportunity, if they disagree with the decisions of the Director, to appeal against those decisions in a meaningful way.

It is not just the fishing industry, it is not just the people in the community who will benefit from such a management plan: it is for the benefit also of the Director of Fisheries himself. I know from my own experience in the fishing industry that over a number of years the Director has been accused, somewhat unfairly, of favouritism and vindictiveness. I am quite sure that, with the powers that will be given to the Director under this legislation, those accusations will be made again, however unfairly. However, a management plan will protect the Director from such accusations. I think we should look at it as benefiting both sides of the fishing industry—the managers and the managed. It has been asked, "What is the fisheries management plan? What is this concept that is being put forward by the Opposition?" I am surprised that the Government in another place should make that sort of statement, expressing surprise that we should introduce this concept, because, after all, the Minister of Fisheries himself has referred to the management plan for the fishing industry. It is not a new concept, and I will refer to a statement that the Minister of Fisheries made in 1979, which was reported in the SAFIC magazine as follows:

> Management is not a static thing. As circumstances change, so should management plans. These changes must affect the lives of fishermen.

Further on in the article he states:

> I would go further and say that if the industry wishes to participate in formulating management plans then it must be prepared to accept some—not all—but some of the responsibility for implementing these plans.

So, the concept of a management plan for fisheries is not new. It is something that the Minister of Fisheries himself has referred to.

**The Hon. C. M. Hill:** I think you are stretching the point a bit.

**The Hon. B. A. CHATTERTON:** The Minister said so in his own statement

**The Hon. C. M. Hill:** The Bill is a part of the plan, too.

**The Hon. B. A. CHATTERTON:** That is what I am doing in the amendments. I am taking up the words of the Minister when he was inviting the fishing industry to participate in the establishment of these management plans. So, it is not a new idea or something that has been suddenly developed when this legislation came in. It is something that the Minister is well aware of and something that he put in his own statement in a magazine of the Fisheries Department shortly after he became Minister of Fisheries.

It has also been stated by the Government that the development of a fisheries management plan will cause undue delay; it will cause the situation where the decisions that are necessary for the proper management of the marine scale fishery are delayed unduly. I think the reason that the Government has made that statement is that it has not really understood the amendments to be moved. When I first proposed these amendments to the original Bill that was introduced in the House of Assembly, I admitted that the amendments would have caused undue delay. However, I held discussions with a number of people in the fishing industry over the weekend and discussed the amendments that I am proposing, including the reasons for them, as well as the way they would affect the fishing industry. The comment that I got back was that the time scales I had put in the amendment were too long and would cause undue delay. I do not believe that that accusation can be justly made at all.

The Minister should produce a management plan. In the case of the marine scale fishery, most of the work has already been done by the report of Dr. Keith Jones and by the review committee in the scale fishery industry. So, there is no reason why the Minister of Fisheries could not provide that first draft management plan for the scale fishery almost immediately. Everybody in the fishing industry admits this. The work has been done. After that we have a period of two months in which there is public consultation and then 14 sitting days of Parliament before it comes into effect. I do not think that that is an unreasonable period of consultation for a plan that could very seriously affect the livelihood of many people. To think that we could countenance the situation where these changes may be made without that consultation and without that opportunity for people to make a public comment on these plans is quite disgraceful. I realise that there is a danger. I realise that we could have a situation, as we had in 1967, where we did establish, for the first time in South Australia, the management of the rock lobster fishery.

In that situation, we had a mad scramble of people trying to get into a managed fishery and a situation where the word "management" was mentioned. People wanted to get in and establish rights to that fishery that they had not had previously. One only has to consider the figures between 1965 and 1967, when we saw this incredible peak of lobster pots used in the fishery. I think the figures went from 1 800 000 rock lobster pots to about 3 000 000 in one year as those people tried to establish rights to a managed fishery.

In my amendments, I have recognised that danger and have provided for interim powers for the Director while the management plan is being prepared. Those interim powers allow the Director to maintain the *status quo* and prevent people from trying to acquire rights that they did not have previously. It seems to me important that the Director should have those powers. With the depressed state of the marine scale fishery, I do not know whether people will scramble to get such rights: probably economic conditions will be such that not many people will be involved. However, my amendments relate the interim powers to the present situation in the fishery.

The Director would not be able to take away existing rights and he could refuse to grant additional rights, so that he could hold the *status quo*. The Government says that it is essential that these new powers be introduced so that substantial change can be made to the licences issued to fishermen on 1 July this year. I am surprised at this, because from talking to fishermen in this State I know that they are not aware of these changes. It seems to me extraordinary that the Government should be talking of these wide powers to change licences that will be issued in less than three weeks time, without there having been a great deal of consultation with the industry.

The interim powers granted to the Director in my amendments are sufficient to ensure that the situation in

the marine scale fishery does not deteriorate. I would be disturbed to think that the Government intended to make sweeping changes to the livelihood of people in three weeks time without consulting them and the industry. I do not see how that process of consultation can take place in that short time.

I support the second reading, because I realise that legislation of this kind is required to enable the marine scale fishery in this State to be managed, and I realise how important that is for a large number of fishermen who are suffering because of the economic decline of the fishery. However, I feel that the powers in the legislation are too far reaching and too arbitrary, and that the development of a fisheries management plan, to which the Minister referred in statements last year, will provide guidelines for fishermen, the Director, and the community.

It seems to me that the development of that plan, after consultation with all interested parties, is very desirable. It would provide real protection for the fisherman if he wished to appeal against any decision by the Director. I do not think the present provisions for appeal give any real protection: they simply deal with a situation where the fisherman's word is pitted against the Director's word. There is no overall policy, and there are no overall guidelines that can be used in the proceedings. It seems to me that the development of this fisheries management plan provides security for the fishing industry and the guidelines and policies for the Government and the Director to operate under.

**The Hon. R. C. DeGARIS:** It has been an experience tonight to hear the former Minister of Fisheries talk about things that he did not do. The Council is indebted to him for trying to continue the Cabinet debate that doubtless took place prior to September 1979. What the honourable member has said tonight has nothing to do with the Bill. I suggest that his correct approach would be to seek the appointment of a Select Committee to investigate the somewhat frustrated policies of the previous Minister or to try to introduce a private member's Bill or motion, not to use a small, although much needed, Bill such as this to try to introduce a new concept into the management of the department and the fisheries.

What the Hon. Mr. Chatterton has said could be of value to the management of fisheries, but I submit that this matter deals with sections 28, 32, and 34 of the Act and with only the question of licences. I am not debating the value of what he has said or the worth of his submissions, but most of the matters he has raised have nothing to do with the Bill. In the pages of amendments suggested by the Hon. Mr. Chatterton, there are amendments to clause 5.

Three pages of the amendments do not deal at all with the Bill. Clause 5, the only clause that the Hon. Mr. Chatterton wants to amend, will cause the most contention. I submit that that clause is a redraft of section 34 of the Act and that it makes certain changes which I believe may need some form of amendment. The Hon. Mr. Chatterton suggested that proposed new subsection (5a) in clause 5 should be deleted entirely. The clause deals with the review of a decision made by the Director not to issue a licence or to impose conditions thereon. New subsection (5a) provides:

> Upon a review under this section, the person who requested the review must establish that the decision of the Director refusing the licence or imposing a condition of the licence was not justified by reasons relating to the proper management of the fishery in relation to which the licence was applied for.

Although the review can be made by the Minister, there is only one ground of appeal, relating to the proper management of the fishery in respect of which the licence has been applied for.

**The Hon. B. A. Chatterton:** Who determines that?

**The Hon. R. C. DeGARIS:** The Director does.

**The Hon. B. A. Chatterton:** He determines what proper management is.

**The Hon. R. C. DeGARIS:** If it comes to that, I suppose that the Minister does so, but this would be done on the Director's advice.

**The Hon. B. A. Chatterton:** So it is an appeal from Caesar to Caesar.

**The Hon. R. C. DeGARIS:** That is so, but, as the honourable member would realise, under section 34 the Minister appoints a competent person to undertake that review.

**The Hon. B. A. Chatterton:** But the ground for the review is the proper management of the fishery. Is that so?

**The Hon. R. C. DeGARIS:** Yes. However, my point is that it should not be restricted.

**The Hon. B. A. Chatterton:** Well, it is.

**The Hon. R. C. DeGARIS:** But it is not restricted in the principal Act. The Hon. Mr. Chatterton wants to strike out the whole of new subsection (5a).

**The Hon. B. A. Chatterton:** No, I want to substitute another ground of appeal. I have a new paragraph (aa), which gives the grounds on which the Director shall determine the matter.

**The Hon. R. C. DeGARIS:** Nevertheless, I make the point that there are restrictions on the appeal, and I do not believe that there should be restrictions on grounds of appeal to the Minister. If a person considers that he has grounds for appeal, he should appeal to the Minister, and the grounds should be as they are at present in the principal Act. They are indeed wide grounds of appeal, and are not restricted to the management of the fishery alone. Any person who considers that he has been aggrieved by the Director's decision should have a right of appeal to the Minister on that decision, irrespective of what the grounds may be.

**The Hon. B. A. Chatterton:** They can appeal, but they will lose.

**The Hon. R. C. DeGARIS:** Perhaps that is so, and perhaps they will win. I am merely saying that there should be no restriction on the available grounds of appeal to the Minister from a decision made by the Director.

**The Hon. B. A. Chatterton:** But he makes the decision on the licence and on the proper management of the fishery, under which the appeal will be heard.

**The Hon. R. C. DeGARIS:** I am saying that it should not be restricted to those grounds.

**The Hon. B. A. Chatterton:** That is what it says in the amending Bill.

**The Hon. R. C. DeGARIS:** And that is what I am criticising. This clause restricts an appeal to the question of management of the fishery alone and does not refer to other grounds. The Hon. Mr. Chatterton's amendment would strike out the whole clause and insert in the Bill a provision that restricts the grounds of appeal. I do not believe that those grounds should be restricted at all. Any person who feels aggrieved by the Director's decision should have a right of appeal to the Minister and should be able to state to the Minister his grounds of appeal; he should not be restricted to two or three points only, namely, the point in the Bill and the two points in the Hon. Mr. Chatterton's amendment.

I return to the main point that most of the Hon. Mr. Chatterton's second reading speech was not concerned with this Bill. The matters that he raised should be the subject of a report by a Select Committee, a resolution of the Council, or a private member's Bill. The matters to which the Hon. Mr. Chatterton referred had nothing to do

with this Bill.

**The Hon. B. A. Chatterton:** It all deals with clause 3.

**The Hon. R. C. DeGARIS:** This is a totally new approach. Although honourable members are indebted to the Hon. Mr. Chatterton for his knowledge on this matter, this is not the way in which he can get what he desires.

**The Hon. C. M. HILL (Minister of Local Government):** I thank the Hon. Mr. DeGaris for emphasising the point that I am sure would have occurred to all honourable members when the Hon. Mr. Chatterton made his contribution to the debate. The facts of life are that the Government came to office last September with a fisheries policy. The Government has developed that policy to the legislative stage, and it does not in any way object to the Opposition in Parliament moving amendments to the Bill that implements that policy. However, in the Hon. Mr. Chatterton's case we have an entirely new policy, which is his view of what should be happening in the fishing industry.

The Hon. Mr. Chatterton's amendments, to which he referred in the second reading debate, are an entirely new approach to the problem at present facing this State's scale fisheries. Because it involves an entirely new approach, the Hon. Mr. Chatterton should introduce a private member's Bill.

**The Hon. B. A. Chatterton:** What was the Minister referring to in his statement?

**The Hon. C. M. HILL:** The honourable member is using the words "plan" and "management" that the Minister used in his public statement, and he is inferring from that that the Minister envisaged a scheme or plan identical to that which he is proposing in his amendments, and that is not true. The fact is that the Minister had management plans in mind, and those plans are written into this Bill.

The implementation of those plans is entirely different from the specific management plan brought forward in the Hon. Mr. Chatterton's amendments to this Bill. The Government's approach and the Hon. Mr. Chatterton's approach are entirely different.

**The Hon. B. A. Chatterton:** No, I do not agree.

**The Hon. C. M. HILL:** Well, I am afraid that is a hard fact of life. The Hon. Mr. Chatterton's amendments deal in totality with the implementation of a management plan. As his amendments show, the Hon. Mr. Chatterton is trying to implement a new package that will take up to six months to put into effect. That is entirely different from the Government's approach through this Bill. The Hon. Mr. Chatterton cannot escape the charge that, if he was so keen to change this legislation when he was in Government and if he was so keen to introduce his particular approach to improving this Bill, why did he not do it then? The Hon. Mr. Chatterton had his time in which to do that. Parliament was waiting for change. Indeed, the whole fishing industry was wanting change and was looking to the Minister of the day for that change.

**The Hon. L. H. Davis:** What did he do?

**The Hon. C. M. HILL:** He did not do anything. This Government has been democratically elected to power in this State to introduce its policies through legislation. Therefore, I seriously challenge the Hon. Mr. Chatterton's right to say, "I and my Party are simply not interested in the Government's policy which was endorsed by the people last September. I and my Party have a new approach by implementing a management plan." The Hon. Mr. Chatterton has brought forward his plan and expects this Council to throw out the Government's Bill based on its policy, and in its place introduce his management plan which in its entirety is involved with the amendments that he has placed on file. All of the Hon. Mr. Chatterton's amendments relate to one master plan.

**The Hon. B. A. Chatterton:** They do not.

**The Hon. C. M. HILL:** They do, and the Hon. Mr. Chatterton cannot deny that. I believe that the Council will accept that the Hon. Mr. Chatterton's approach is entirely different from the Government's approach. In its plan to improve the fishing industry, the Government has already taken steps to implement its policy. The Government recognises the importance of having proper management of the State's fishing resources and soon after being elected it established a separate Department of Fisheries. As honourable members are aware, a Director was recently appointed and approval has been given to increase the number of fishery officers by seven.

The Government is taking action step by step in accordance with its policy to improve the situation. This Bill is part of the Government's scheme. The new department also has the comprehensive policy that was presented to the people on 15 September last year and the Government is proceeding to implement that policy and it seeks the Council's support to do that.

There is an urgent need for corrective action to be taken. By "urgent" I mean such urgency that within a month or so the Government can take positive action in this particular area. That could not be achieved under the Hon. Mr. Chatterton's vision. With the obvious decline over recent years in the commercial catches of spotted whiting, schnapper and garfish, the State's scale fishery appears to be at a critical stage. Effort by all fishermen has apparently forced the fishery past the point of sustainable yield for spotted whiting and probably garfish. The schnapper stock is being depleted. Honourable members should not need to be reminded that these are the premium quality fish in this State, and are highly fancied by recreational fishermen and consumers.

A two-year biological and economic study by the Departments of Agriculture and Fisheries was completed in 1979. That report is known as the Jones Report and it confirmed that fish stocks in Spencer Gulf—where the majority of garfish, schnapper and whiting are being caught—are being depleted, and further controls on effort are needed. Honourable members will also be aware that a consultative committee comprising representatives from the commercial and recreational areas together with departmental officers spent several months working through Dr. Jones' report. That group made a series of recommendations to the new Government. In turn, those recommendations were studied by Cabinet and on 21 April this year Cabinet approved a comprehensive series of management proposals for the marine scale fishery.

I now make particular criticism of the Opposition's proposal. First, I cannot overstress that the need for action is urgent. Departmental officers are greatly concerned at some of the indications of stock depletion in this fishery in particular areas of the State. Therefore, the Government believes that it should implement firm management action as soon as possible. The Bill seeks to give power to the Director of Fisheries to specify these marine scale fisheries through a number of appropriate characteristics that would allow the fishery to be managed in the same way as are the fisheries for rock lobster, prawns and abalone, which are in much better condition as a result of that management. Of course, the powers of the Director will be subject to review by the Minister, and the Government believes that that is essential. Surely, what is not essential is any further extensive debate on this problem or on the need for quick and decisive action.

Implementation of the Opposition proposal would result in unacceptable delays in taking the necessary corrective action. In the meantime, fish stocks already at a

critical level for some species would be further depleted and irreparable harm to the resource could result. The Opposition proposal provides for the Director of Fisheries to produce a plan for each fishery followed by a period of public comment. The Director would be required to review the plan with the modified plan which would then be laid on the tables of both Houses of Parliament.

While the Government does not question the need for consultation on matters affecting the livelihood of fishermen, it believes that there has been ample consultation on this matter and that it is now time to make decisions. The Government has strong support from the industry for this approach. The Government realises that in fisheries management it cannot hope to have the unanimous support of all fishermen, but they have had their opportunity to make their case and, if the dissenters believe they are unfairly dealt with in the application of further management, there is provision in the Bill for them to seek review of the Director's decision in this particular case. Therefore, their normal rights, which apply under any legislation, are amply covered. Since that is the case, the Government sees no purpose in further procrastination of this magnitude, because urgent action is required now to protect this resource.

The fourth point I make is that the Government Bill is necessary to give effect to Cabinet decisions. The Bill before the Council has been introduced to give effect to Cabinet decisions on management of the marine scale fishery. The first thing that is necessary is that the department be able to separate the marine scale fishery from the fishery in the Riverland, the Lakes and the Coorong, because hitherto they have been covered by the same general licences. The next requirement is that persons who have special endorsements on their licences, giving them access to the prawn, rock lobster or abalone fishery, should not be able to compete unfairly with scale fishermen during the off-season for their particular fishery.

It is only reasonable that, if the scale fishermen cannot enter the other managed fisheries and effort in the scale fishery is to be reduced, then the reductions should apply to those with other fisheries to support them. The amending Bill would allow the Director of Fisheries to endorse conditions on licences without necessarily having to make those conditions apply to all licences. In particular, the Director would be able to limit the taking of fish by reference to species, sex, size and other factors and, if necessary, impose quotas and restrict the seasons and circumstances in which species may be taken under any particular licence.

Thus it will be possible for the first time under this Act to adjust fishing effort to allow for local characteristics of stocks and local methods of operation. The Bill would also require a licensee to be on board his vessel and be responsible for all operations involved in taking fish for sale unless he were sick or had to be absent because of some other contingency. This would effectively restrict each licence to one fishing unit, ensuring that employees did not operate independently from the licence holder and outside his control, and the Government would expect this to further strengthen the department's ability to control illegal cash sales by unlicensed fishermen.

The department considers these amendments to be the minimal essential control to give effect to the decisions of Cabinet on the scale fishery. In so doing, the Bill provides wide-ranging controls in all fisheries. The use of these powers in fisheries other than the scale fishery will of course be subject to consultation with the Australian Fishing Industry Council (South Australian Branch) Incorporated and the South Australian Recreational Fishing Advisory Council. The Bill puts the ultimate power with the Minister of Fisheries; that is, the Minister now has the power to review the decision of the Director in relation to any particular licence. Discussion with AFIC representatives has indicated their broad support for the Bill.

I emphasise this because the honourable member seemed to give the impression that the Minister or his Director had not been in touch with the council at all. As a further management measure, the support of industry is being sought to continue to cull licences upon expiry where there is evidence of insufficient individual effort. The Government recognises that taking out the low-performance fishermen does not substantially reduce overall effort, but it would reduce the total number of entitlements to this fishery, and this is necessary to establish a basis for effective long-term management.

In short, the Government's attitude to the situation has been sufficiently analysed. The Government has made its policy guidelines very clear through the Cabinet decision of 21 April, and the state of the fishery requires these powers so that the Government's policy can be implemented with the next issue of licences within the next month.

I refer to the honourable member's plan and suggest that by simply depending on when Parliament sits the whole process envisaged in that plan could take more than six months to implement.

**The Hon. B. A. Chatterton:** That's only if the Minister fails to produce a draft plan quickly. It is up to the Minister as to how long it takes.

**The Hon. C. M. HILL:** First, the honourable member believes that the Minister has to prepare a fishery management plan for each declared fishery. That might take a month. That is a reasonable period.

**The Hon. B. A. Chatterton:** I would say it would take less than a month.

**The Hon. C. M. HILL:** Then he has to give notice through the *Gazette*. A couple of weeks could be absorbed in that.

**The Hon. B. A. Chatterton:** Why?

**The Hon. C. M. HILL:** Because it all takes time to get notices in the *Gazette*, as the honourable member who has been in office as a Minister knows. Then a copy of the plan must be made available for inspection by the public over a period of not less than two months from the day of the advertisement. The Minister can do nothing about that, yet the honourable member seemed to indicate that he could. That is a fixed period, and then the Minister may vary the plan after representations have been made.

One can say that, by the time representations were received and the plan was varied and with office procedure being what it is, another month could be taken in that process. Then the plan has to be published in the *Gazette*, and it is not unreasonable to assume that two weeks would be lost in that process. Then each House of Parliament has to be given the option within 14 sitting days of considering the plan. Does the honourable member realise that 14 sitting days involves about five weeks? Again, that has nothing to do with the Minister. The honourable member has failed to realise that long periods pass between the sittings of Parliament.

**The Hon. Frank Blevins:** With this Government, a very long period.

**The Hon. C. M. HILL:** It happened in your time, too. When the former Government started to run out of puff a couple of years ago it had extremely short sessions. The time that Parliament is not sitting means that the whole plan of the honourable member has just got to wait, yet meanwhile there is an urgent need for action in the scale

fishery. If one adds up those periods to which I have just referred one gets a period of perhaps a little more or a little less than six months. That is the kind of urgency and length of time that the honourable member, who held office as a Minister and who had years of service as a Minister to implement his proposals and did nothing, is now expecting this Council to accept as a process in which to take urgent action. The Government's Bill means that in about a month there will be urgent action implemented.

I have been upset by the misrepresentations that the honourable member made in his speech that this matter had received no consultation or acceptance by the industry. He gave the impression that the Bill was prepared and that there was no contact with the industry at all. Let me tell the honourable member that the scale fishery representatives from AFIC have been in touch with the Minister or his Director and have approved the measure.

**The Hon. B. A. Chatterton:** When did they get a copy of the Bill?

**The Hon. C. M. HILL:** I do not know when they got a copy of the Bill—I am merely telling you the facts. The Vice-President of AFIC has indicated his approval of the Bill, as has the council's Executive Officer. Today a telegram came from the South-East Fishermen's Association approving the Bill, yet the honourable member claimed a few moments ago in this Chamber—

**The Hon. B. A. Chatterton:** I support the Bill, too.

**The Hon. C. M. HILL:** I do not care whether or not the honourable member supports the Bill. He gave the clear impression that the Government had not been in touch with the industry and nor was there any approval by the industry to the measure. Those facts were completely wrong.

**The Hon. B. A. Chatterton:** That was after the Bill was introduced.

**The Hon. C. M. HILL:** Now the honourable member is putting riders on his claim. In conclusion, one cannot overemphasise the need for proper management of the scale fishery. The main reason why the Government is faced with so many problems in the marine scale fishery is that there has never been any management like we have had in the other fisheries such as the prawn, lobster and abalone fisheries.

The honourable member had ample time in which to take some action. His Government was in office for 10 years. The honourable member agrees that the scale fishery is in a poor state, yet he pursues some different approach to the problem which can only result in further procrastination and further time wasting that can jeopardise any chance of recovery in the industry.

The Hon. Mr. Chatterton also made the point about consultation about which I remind him that the industry repeatedly asked in his day for Government decisions to be promulgated by regulation.

Because the Government's decision cannot be carried out by regulation it is neccessary to bring this Bill before us. The honourable member mentioned that these powers would be used in other managed fisheries. I indicated in my second reading explanation that these powers would not be used in other managed fisheries without consultation with the people in those managed fisheries. If the honourable member has discussed his proposal with the industry he can tell the Council during the Committee stage what the industry's reaction is to his proposal and he can quote the people with whom he has been in contact. I will be very interested to hear his response to that.

In summary, the Government's policy is on the line in this matter. As I said before, we were democratically elected. We are entitled to make every effort to implement our policies by legislation. We accept the fact that, from time to time, the Opposition can make some constructive amendments to our Bills. The amendments do not generally alter the main thrust of those Bills but some side issues are varied, and that is a point of the democratic process. However, it is entirely wrong for a member of the Opposition to discard the Government's approach entirely.

**The Hon. B. A. Chatterton:** I have not.

**The Hon. C. M. HILL:** Yes, the honourable member has. He has brought in a package which introduces a scheme for a managed plan for the fishery; a managed plan which necessitates preparation of the plan by the Minister, a process of making it public, a process of gazettal and of final approval and bringing it down to the Houses of Parliament for approval and ultimately a hope that, in about six months time, it can be your approach to the problem. That approach is entirely different from that of the Government, which has this simple procedure involved in the Bill before us which I explained in full during the second reading explanation. It is a plan which, within approximately a month, could be implemented, and we can begin to cope with all the danger which exists now in scale fishery in that short time. In view of those facts, I urge the Council to support the Government's Bill.

Bill read a second time.

**The Hon. B. A. CHATTERTON:** Mr. President, I seek your guidance as to whether it is necessary for me to move for an instruction for the Committee to consider the amendments that I have on file.

**The PRESIDENT:** It is a matter of which comes first, because until the Committee is formed I am not in a position to consider the amendments.

**The Hon. B. A. CHATTERTON:** I was only seeking your guidance as to whether I need to move an instruction at this stage before the Council moves into Committee. As I understand it, I cannot do that in Committee.

**The PRESIDENT:** The honourable member has to have Standing Orders suspended.

**The Hon. B. A. CHATTERTON:** I am seeking guidance from you, Sir, as to whether I need to do that.

**The PRESIDENT:** I have sought some guidance on this situation. It is a matter that could be decided either way but, having sought some guidance, I believe that it will not be necessary for an instruction to be moved.

In Committee.

Clauses 1 and 2 passed.

New clause 2a—"Arrangement of Act."

**The Hon. B. A. CHATTERTON:** I believe that I have been misrepresented in the amendments that I put forward. The Hon. Mr. Hill, in his summing up, said that I was trying to alter the Government's policy and that I was trying to change the situation in the marine scale fishery. I completely disagree with that, because the management plans that I am proposing under the amendments are completely the prerogative of the Government. They are not the prerogative of the Opposition. It is the Minister who draws up the plans. It is only a mechanism that is laid down in these amendments to draw up these management plans. It is not as though we are putting forward any management plans for the marine scale fishery. That is the prerogative of the Minister; he draws it up and has consultation on it. I completely disagree with what the Minister said in his summing up that my amendments are in opposition to the Government's proposal. I made quite plain in my speech that I understood why this Bill was necessary. The complexity of the marine scale fishery meant that it could not be done by regulation.

**The CHAIRMAN:** Order! The controversy over Standing Orders will come in a little later. The Hon. Mr.

Chatterton.

**The Hon. B. A. CHATTERTON:** The point I was making is that these amendments establish a mechanism by which a management plan could be established. They do not establish a management plan, as that is the prerogative of the Government, which has been given the responsibility by the electorate to manage the fishery, and that is what it should do.

**The Hon. C. M. Hill:** Can't you see that the management plan is your scheme?

**The Hon. B. A. CHATTERTON:** The management plan has been referred to by the Minister. He says that there should be a management plan. There is nothing new about that. My amendments simply take that management plan and—

**The Hon. C. M. Hill:** They do not take that management plan at all.

*Members interjecting:*

**The Hon. N. K. Foster:** It's disgraceful, back there.

**The Hon. C. M. Hill:** What are you talking about?

**The Hon. N. K. Foster:** Behave yourself.

**The CHAIRMAN:** Order! The Hon. Mr. Foster.

**The Hon. N. K. Foster:** Yes, I know I am out of order, but what they do makes me sick. They're just using the gallery.

**The CHAIRMAN:** The Hon. Mr. Foster had better stop at this stage.

**The Hon. B. A. CHATTERTON:** All that this amendment does is put the management plan, which is not new, despite what the Minister in this Chamber has said, into the legislation. Why is the Government frightened that its management plan will be open to public scrunity? The purpose of the management plan is to provide the guidelines under which the remainder of the Bill will operate, and that is where the Minister of Local Government misrepresented me when he said that this was new material that was not in the Bill. That is not so. It relates to the power given to the Director. There would be no purpose in moving these amendments and introducing the management plan if it were not for the powers that have been given to the Director. That is the sole reason for the amendments. Clause 3 gives wide powers, and that is why we have introduced the amendment. It is not a new concept.

**The Hon. C. M. Hill:** It is.

**The CHAIRMAN:** I draw the attention of honourable members to the fact that *Hansard* has the right to hear the member who has the call, and three or four conversations are going on at the same time. The Hon. Mr. Chatterton will be heard.

**The Hon. B. A. CHATTERTON:** The amendment is not new material.

*The Hon. N. K. Foster interjecting:*

**The CHAIRMAN:** I have appealed to the Hon. Mr. Foster. I will not appeal any more.

**The Hon. N. K. Foster:** It's terrible, sitting here.

**The CHAIRMAN:** Order!

**The Hon. B. A. CHATTERTON:** The amendment relates to clause 3, where completely arbitrary and far-reaching powers are given to the Director. Normally, those powers would be given by regulation or proclamation but I have agreed with the Minister that the management of the marine scale fishery is too complex for that to be done, so it is necessary to have other guidelines. I am surprised that the Minister of Local Government has not seen that the same problems occur with the Planning and Development Act. It was impossible to carry out development of the City of Adelaide under the regulations.

**The Hon. N. K. FOSTER:** I rise to ask that this nonsense cease. If the member here is a message boy, he should get back to his seat.

**The CHAIRMAN:** Order!

**The Hon. N. K. FOSTER:** I want a ruling on whether we can sit here and listen to the debate, or—

**The CHAIRMAN:** Order! The Hon. Mr. Foster will cease interrupting further. Otherwise, I will take action.

**The Hon. C. J. SUMNER:** I rise on a point of order. It is all very well to castigate the Hon. Mr. Foster. What happened was provoked by the fact that audible conversation was being conducted by the Hon. Mr. Dawkins with the Hon. Mr. Milne, alongside the Hon. Mr. Foster.

**The CHAIRMAN:** I thank the honourable member for drawing my attention to that fact but I do not intend that the Hon. Mr. Foster will jump up and shout. The Leader may support him, if the Leader wants to do so.

**The Hon. B. A. CHATTERTON:** The amendments would be guidelines for the Director to operate under when using the new powers granted in clause 3. The reason for the amendments is not to introduce something unrelated to the Bill. On page 4, one of my amendments provides:

> (1) The Director shall, in determining whether to grant or refuse a fishing licence or licence to employ, or in formulating any conditions of such licence—
>
> *(a)* in so far as the licence sought relates to a fishery for which an authorised fishery management plan is in force, have regard to the terms of that plan; and
>
> *(b)* in so far as the licence sought relates to any other fishery, have regard—
>
> (i) to any existing fishing practices lawfully carried on by the applicant in relation to that other fishery; and
>
> (ii) to the proper management of that fishery.

The purpose of the amendment is to provide guidelines for the Director when he is determining the things that I have mentioned so that we will know where the Director and the department are going. The Minister said that the introduction of a management plan would cause undue delay and that the situation required urgent and immediate action. I said in the second reading debate that I had allowed for that situation. The amendment allows the Director to have the powers that the Government wants him to have but, before a management plan has been authorised, the Director is allowed to use the wide powers only when he has had regard to any existing practice lawfully carried on by an applicant in relation to that other fishery and to the proper management of that fishery. That gives the Director complete powers to ensure that there is no deterioration of or encroachment into that fishery by people who have not existing rights to it.

That amendment gives the complete protection that the Government wants. It recognises that a situation exists that requires these powers. I disagree with the Minister that a management plan will take six months. It will certainly take that time if the Government is slow. Certainly, the Minister put the longest time on any action that the Government could take. However, if the Government acts swiftly it could have a management plan operating in half that time.

The Minister also asked what was the reaction of the fishing industry to my proposals. I contacted as many people as I could in the fishing industry over the weekend, and their first reaction was exactly as the Minister has said: that the time scale was too long. However, they were referring to my earlier proposals that allowed a longer period in which consultation should occur and for which the plans should be before Parliament.

When I stated that that was my first proposal and that I was willing to alter those scales if they considered them to be unreasonable, the persons to whom I spoke said that it would be a good idea if I did so. There was certainly support among members of the fishing industry for my proposals. I cannot understand what the Government is worried about. The Minister has already said that these management plans should be produced.

**The Hon. C. M. Hill:** No, he hasn't. Don't come about that again. Any proposal can be deemed a plan. It is not a specific management plan as you are proposing in your amendment.

**The Hon. B. A. CHATTERTON:** I am proposing not a management plan but the mechanism by which a plan should be established. It is the Government's job to establish that plan. Somehow, however, the Government is afraid that perhaps the management plan will be openly available for discussion and comment.

**The Hon. L. H. Davis:** Why didn't you do it when you had the chance?

**The Hon. B. A. CHATTERTON:** I will come to that. The Government, having been elected, has the job of running the management plan. Therefore, the Minister will set up the plan, consider the submissions, and amend the plan as he thinks fit in the light of those submissions. Then, he lays the plan before Parliament. That is not unreasonable, as the same sort of thing happens with regulations.

However, a plan that could have far-reaching effects on the livelihood of fishermen should be laid before this Parliament. The amendment sets up a mechanism by which a fisheries management plan can be established for an authorised fishery. Government members have repeatedly asked why I did not do this when I was Minister; that is their major argument. However, they are not discussing the rights and wrongs of the matter.

**The Hon. C. M. Hill:** The Minister in another place did.

**The Hon. B. A. CHATTERTON:** I did not hear any argument, except that he thought that there might be some delay as a result of arguing against it. The Government's main argument is that I did not move for this fisheries management plan, but the reasons for that are simple, and it is surprising that the Government has not seen them.

First, we had Dr. Keith Jones' report into the scale fishery, and, after the receipt of that report, which examined the resource situation, it was necessary to set up a committee comprising representatives of the fishing industry and the Department of Fisheries to try to reach some sort of consensus on policies that might flow from the report. I set up that committee, which reported to the present Government, which in turn has considered the committee's report. I believe that the Government has set up a Cabinet subcommittee to see whether the committee's recommendations can be adopted. Only then did the Crown Law Department discover that the powers contained in the Fisheries Act were not sufficient to enable the Government to implement some of the recommendations, bearing in mind the marine scale fishing industry. Because of that, it became necessary to draft this Bill. It therefore seems extraordinary for the Government to say that I did not introduce such a Bill when it became obvious that it was necessary.

I am moving amendments which do not contradict the provisions of the Bill but which will improve it and give people an opportunity to be consulted and involved in the fishery, which, after all, is their livelihood.

The Hon. Mr. DeGaris and the Minister referred to appeals. Without my amendments, an ordinary fisherman has only a nominal right of appeal. Certainly, he can appeal under the legislation but, as I said to the Hon. Mr. DeGaris, such a person would be appealing from Caesar to Caesar, as there is no independent document to which he can refer and on which he can hang his case. Such a person can merely say that he believes that the condition imposed on his licence is not "justified by the proper management of the fishery". When a person says that in the appeal procedure, he is arguing with the Director of Fisheries, who says that it is the proper management of the fishery. It is the Director's responsibility, and almost automatically the Director's word will be taken against that of the individual fisherman.

How will an individual fisherman prove in an appeal situation that the Director's interpretation of the proper management of the fishery is incorrect? I suggest that that is virtually an impossible situation for an individual fisherman to actually prove. A fisherman is given the power under the Government's Bill to appeal, but I suggest that that power has only a nominal effect, because he is unable to muster the necessary evidence. The fisherman virtually has to have an alternative Fisheries Department to prove that there is an alternative and different management that can be put forward.

My amendment has a management plan available to everyone, and fishermen can refer to that, as can everyone else in the community. They can say, "That is the guideline, the Director has not followed it in my opinion, and I will appeal against his decision." In that situation the fisherman will have something he can hang his hat on, which he cannot do under the Government's Bill. The fisherman is in a face-to-face situation with the Director and he has to say, "Well, I do not regard the Director's opinion of the proper management of the fishery as the correct management." I cannot see how any fisherman—

*There being a disturbance in the President's gallery:*

**The CHAIRMAN:** Order! The gallery is no place for a conference. Honourable Ministers and members are well aware of that.

**The Hon. N. K. FOSTER:** On a point of order, Mr. Chairman. Your task is being made most onerous tonight. Has there been any change in Standing Orders to prevent a Minister's adviser from sitting with him in this Chamber at the end of the front bench in order to advise him?

**The CHAIRMAN:** That provision still remains.

**The Hon. B. A. CHATTERTON:** The appeal procedures as they presently exist in the Bill really only give nominal protection to an individual fisherman. The fisherman must try to prove that the Director's interpretation of proper management is an incorrect interpretation. I submit that that is virtually impossible. Further, my amendments give fishermen something concrete and something that is authorised by Parliament to aid them. They will have a document which they can refer to and use during appeal procedures.

Interim powers for the Director will be necessary to ensure that the situation in the fishery does not deteriorate any further. There again, the Director's powers are clearly laid down in my amendment, and once again fishermen have something concrete upon which they can institute an appeal. The appeal will relate to the Director's powers pursuant to the interim controls where an existing fishing practice is involved. That appears to be very reasonable until the plan is produced and until the consultation process is completed. I do not believe it is unreasonable that the Director should use his wide powers under this legislation to preserve the situation in the fishery, as it is now, to prevent encroachment by other fishermen and to prevent fishing practices by fishermen not using those practices at present. The Director should be able to use his powers in that way, but he should not be able to take those rights away from fishermen. There again, the fisherman

has something specific in the amendment which he can relate to an appeal. If a fisherman believes that he is being unfairly treated he has that specific clause to relate to.

The Hon. Mr. DeGaris said that my amendments restrict the rights of fishermen to appeal. He claimed that they were not as restrictive as the Government's Bill but they still restricted the rights of fishermen. That is not so. Fishermen will have specific grounds on which they can appeal rather than this nebulous action in the proper management. That proper management would be determined by the same person who imposed the conditions on the licence that he might be appealing against. As I have said, that is an appeal from a decision of Caesar to Caesar.

**The Hon. K. T. GRIFFIN:** This is the first available and appropriate opportunity I have had, Mr. Chairman, to seek your ruling on a point of order. Before we went into Committee there was nothing substantive before you upon which you could rule. Standing Order 293 provides:

> Any amendment may be made to any part of a Bill, provided the same be relevant to the subject matter of the Bill or pursuant to any instruction, and be otherwise in conformity with the Standing Orders of the Council; but if any amendment shall not be within the title, the Committee shall amend the title accordingly and report the same specially to the Council.

If the material which the honourable member now seeks to move is in fact new material, there needs to be instruction, and notice needs to be given to the Council of the intention to move that the Council give that instruction to the Committee. In relation to Standing Order 293, the Bill deals with conditions applicable to a licence, but in fact the amendments deal with the procedure for establishing a fishery management plan. That is a totally new area that the honourable member seeks to have included in a Bill that presently does not deal with fishery management plans. Whether out of an excess of caution or as a matter of appropriate procedure, when this sort of thing has occurred in the past it has always been obligatory to seek instruction from the Council. Mr. Chairman, I seek your ruling based on Standing Order 293 as to the competence of the honourable member to seek to move these amendments which introduce a new subject matter to the Bill.

**The CHAIRMAN:** The Hon. Mr. Chatterton asked for my ruling, and I judged the situation as a matter being relevant and ruled at that time that an instruction was not necessary for him to move an amendment. I am of the opinion at this time that the matter introduced by the honourable member is in fact relevant to the Bill, and I rule accordingly.

**The Hon. K. T. GRIFFIN:** I recognise that I have an opportunity to object, but I indicate to you, Mr. Chairman, and to the Committee that I do not intend to pursue that course. I would reserve for another occasion on another matter the question on which I have raised a point of order. The Committee's time is limited, and the procedures through which we would need to go to pursue that objection suggest to me that the wiser course is to accede to your ruling, Mr. Chairman, and simply note my objection.

**The CHAIRMAN:** I should like at this stage to clarify the position regarding the Hon. Mr. Chatterton's amendments. I suggest that he now move to insert new clause 2a.

**The Hon. B. A. CHATTERTON:** Very well, Sir. I move:

Page 1, after line 9—Insert new clause as follows:

2a. Section 3 of the principal Act is amended by inserting after the item:

PART II—REGULATION OF FISHING

The item:

DIVISION AI—FISHERY MANAGEMENT PLANS

**The Hon. M. B. CAMERON:** I hope that I will be allowed latitude in speaking to all the amendments. I have watched with some interest the antics of members who have previously been in the Ministry as they slowly come to realise that they are no longer in the Ministry and no longer managing the portfolios that they previously held. It is a slow process of realisation. Certainly, they would be the first to complain if we used material that we had gained from the records they left behind in office, yet they in no way are shy about taking material out of their heads or from anywhere and using it to prepare and present Bills to this Council while knowing that the majority of items that they bring forward are matters that they had previously considered.

**The Hon. D. H. Laidlaw:** Why didn't they do it previously?

**The Hon. M. B. CAMERON:** I suppose we should allow them their dying moments of glory in having some knowledge, because once that is gone they will have nothing left. Looking at the list of amendments, one could imagine that the Hon. Mr. Chatterton had never been a Minister and believes that he must now introduce this large management scheme for the fisheries. It is unfortunate that he did not do anything over the previous six or eight years. It seems an interminable time. Looking at the management of fisheries in this State, I refer to the prawn fishery. I can well remember when the prawn fishermen of Spencer Gulf asked for an extension of the protected area. What did the Hon. Mr. Chatterton do as Minister? He moved the other way and made the area smaller. The fishermen themselves had to come up with a management plan for that northern gulf area.

The *Sunday Mail* of 16 March 1980 contains a report by Dick Fowler, who honourable members know has a deep knowledge of fisheries. He stated:

> In South Australia we have not been successful in managing prawn fishing. Spencer Gulf has only been saved by the action of the fishermen—not the Government.

He was referring not to this Government but to the previous Labor Government. Why did not the Hon. Mr. Chatterton introduce a management plan to save that gulf area? Why did he instead leave it to the fishermen? Then this sort of Bill that he has introduced might have been of help. The honourable member's record in that area is not good.

*The Hon. L. H. Davis interjecting:*

**The CHAIRMAN:** Order! The Hon. Mr. Davis has had a fairly good run.

**The Hon. M. B. CAMERON:** It is audacious of the former Minister to take a Bill that is so different from what he was trying to do and then add something that he should have been doing over the past six or seven years. It is time that the honourable member realised that there was an election last September and that there is a new Government with a job that it is going to do, and it is going to do a good job, regarding not only fisheries but other areas in the State, bringing South Australia back to a reasonable level. The honourable member must realise that he is no longer the Minister and can no longer dictate to the State what is going to happen. He can no longer neglect the prawn fishing industry as he did for so long. However, the honourable member can now take heart because he has in another place an excellent Minister of Fisheries who will do the job.

**The Hon. R. J. RITSON:** It is with difficulty that I have restrained myself from leaping up and saying things unparliamentary, and it has been with even more difficulty that I have restrained myself from copying certain

members of the Opposition by foaming at the mouth. I refer to the weight of these amendments as I turn the pages, which resemble a new Bill and not amendments. There are many matters of concern, but I will restrict my comments. I refer to the provision of disallowance within 14 days on motion of one House of Parliament. This matter involves not democratic principles or broad policy but machinery administration of the elected Government of the day, which will be thwarted and delayed for months if the so-called amendment should unfortunately be passed.

The machinery administration of Government is subject to disallowance by one House of Parliament. The Minister may introduce a plan now and, after the months which the Hon. Mr. Hill described for the plan to be implemented, at whim it may be disallowed.

**The Hon. B. A. Chatterton:** That happens now with managed fisheries. They are managed under regulations that can be disallowed by Parliament.

**The Hon. R. J. RITSON:** Is there any provision for disallowance of the plan through a body akin to the Subordinate Legislation Committee, which certainly expedites such matters? It is for Parliament to call to account those who govern, but it is not for Parliament itself to govern. I am suggesting that this is an attempt by the Opposition to usurp the role of daily administration of Government and, in fact, to govern through the Democrat.

**The Hon. K. L. MILNE:** I have listened to this debate with great interest and a certain number of qualms. I do not think that it is a matter of one side attacking the other or what one side is doing or the other side has done. In my discussions with the Hon. Mr. Chatterton, I believe that he has tried to do a great deal for the fishing industry, and I do not propose to attack him on that. It is one of the most difficult areas to administer because of the different interests of the different kinds of fishermen and fisheries. I have been associated with Mr. Fowler for a long time, and I know the difficulties he has in his own company. It seems that the situation confronting members now is unsatisfactory in many respects from both sides. The situation of the scale fishing industry in this State has deteriorated, and it has been discovered by the department that it has deteriorated faster than anybody anticipated; therefore, the Government is taking drastic action. I assume that it does not like it any more than anybody else does but I think that it ought to be allowed to take that action. I do not believe that the Hon. Mr. Chatterton is trying to prevent it.

Disagreement exists on whether his amendments would help or hinder that drastic action. In my own inquiries, I have asked when the Bill will be reviewed, as I understand it is a somewhat temporary measure. To introduce a measure as drastic as this without making it a temporary measure would be lunacy. I have an assurance that the Bill will be reviewed in the Budget session. The Director's powers are stronger than I daresay he would like, and his powers will be reviewed at the same time. In another place yesterday a provision was inserted into the Bill that the Director's decisions would be subject to the Minister. That brings it back to Parliament. I know the Hon. Mr. Chatterton's feelings about appealing to Caesar. I do not think it is quite as bad as that, but it is not good and I would prefer to see (and I hope later we will see) better support for the fishermen, who are not all that aware of legislation and often are not always very articulate. They ought to have a greater opportunity of being heard.

The argument as to whether the fishing industry has been consulted depends on whether it was consulted on what the Government was going to bring in by regulation or on what, after it had taken advice from the Crown Solicitor, the Government has to bring in by legislation. I do not think it is worth having a fight about. The amendments do not quite preserve the *status quo,* in my view. From my investigations, they would not allow the Director and the Minister to direct fishermen to fish in certain areas and to prevent other fishermen from coming into those areas. This is one of the important parts of what the Government wants to do.

In other words, the Director already has a management plan. We may or may not like it. Admittedly, I do not know precisely what it is but if we do not like it then we have plenty of action we can take. I will say now that, if we do not like it, if there are serious deficiencies in the Act as amended tonight and if there are justifiable complaints which come back to us, then I for one will either support a private member's Bill introduced by the Opposition or introduce one myself.

**The Hon. G. L. BRUCE:** I am a bit like Dr. Ritson; I can hardly contain myself. I rise to support the amendments. It amazes me that the Government can see them as a Bill. I see them as guidelines to the Minister and Director of Fisheries to proclaim those areas that they want as protected areas and also to proclaim what sort of fish can come out of those areas. If we are going to accept the Bill, it means that the industry can change direction from day to day. The industry does not know where it stands and that is not fair. This Bill is very sweeping, particularly clause 3 (2) *(g)*. The Minister can chop and change to anything he likes without any reference to the guidelines.

The Opposition's amendments are trying to spell out guidelines as to how these areas should be proclaimed. We are not here to see the industry destroyed but rather to see it protected. The people involved in the industry ought to have the guidelines spelt out, and if the amendments are carried that will be done. The industry will know where it is going and if it does not like it it can put its objection to the Minister and have those objections heard. I object to this being done by regulation. Everything should be subject to review by Parliament. It is a day-to-day change of footing with the Director of Fisheries as he sees fit. That is not good enough for the industry.

In fact, just looking through the Ombudsman's Report of 1978-79, I note that he devotes four to five pages to fishermen getting an A-class licence. It was licensing by regulation; fishermen were getting different information from the department and did not know whether or not they had a licence. It took the wisdom of Job to sort it out. It should have been done by legislation and not by regulation. The amendments are not a Bill but lay down guidelines for the Minister. We are not saying what areas have to be proclaimed or what restrictions should be imposed, as that is still the prerogative of the Minister. We are saying that the fishermen in the industry are entitled to guidelines. We are just as concerned about the future of the fishing industry in South Australia as the Government is, but we see it being tackled in a different light. The amendments are worthy of support.

**The Hon. B. A. CHATTERTON:** I wish to take up a number of points raised by honourable members. The Hon. Mr. Milne is quite correct in saying that the amendments that I am moving are not in any way trying to destroy the Government's intention or to in any way derogate from its powers and obligations in managing the fishery.

The Hon. Mr. Cameron and the Hon. Mr. Ritson seemed to avoid the basic principle that these powers are being given to the Director without any form of control. The Hon. Mr. Cameron kept coming back to the argument that I should have introduced this legislation. The

management of the prawn, rock lobster, and abalone fisheries is done under management regulations. When these management plans are changed, they come before Parliament. However, I have accepted that the marine scale fishery is too complicated to lay down similar regulations to those for the other fisheries. It is beyond the ingenuity of Crown Law or anyone else to draw regulations that cover the wide diversity in the marine scale fishery. That is why I have suggested a plan that lays down the principle under which the Director shall operate that gives him wide power and flexibility. The Director is given the power that the Government wants to give him.

**The Hon. R. C. DeGARIS:** It seems that we are dealing with the insertion of a new clause that is related to the amendment that the Hon. Mr. Chatterton intends to move to clause 5, which deals with the issue of licences by the Director and refers to authorised fishery management plans. Without that amendment, the other amendments do not stand. I suggest that the best procedure would be to deal with clause 5 before dealing with the other amendments. Otherwise, the new clause with which we are dealing now is not relevant.

**The CHAIRMAN:** The new clause proposed by the Hon. Mr. Chatterton is the question before the Chair.

**The Hon. R. C. DeGARIS:** The amendments are related to a proposed amendment to clause 5. I think we should consider what the amendments do to that clause before we vote on them. As I read the amendment to clause 5, it removes any present provision regarding appeals.

**The Hon. B. A. CHATTERTON:** That is certainly not the position as I understand it. My understanding is that the appeals are against the decision of the Director, and this clause lays down how the Director shall determine the matter. Basically, there are two situations. In one there is an authorised fishery management plan, in which case the Director can make substantial changes to the fishery. If a certain enterprise should be phased out or an area closed and if that has gone through the proper processes, the Director should be able to act under that plan.

Where a plan is not in force, the Director must have regard to existing practice so that he can prevent practices such as occurred with the rock lobster fishery in 1967, when people jumped in and wanted rock lobster pots because the fishery would be closed in future and they wanted entitlements. When an appeal is made by a fisherman against the Director's decision, it is based on the provisions.

**The Hon. R. C. DeGARIS:** Where is the right of appeal if the amendment to clause 5 is carried? The whole of proposed new clause 2a is related to the Hon. Mr. Chatterton's amendment to clause 5 and, if we accept proposed new clause 2a, we must accept the Hon. Mr. Chatterton's amendment to clause 5.

**The Hon. C. M. HILL:** Will the Hon. Mr. Chatterton give an assurance that, if the Committee rejects his first amendment, he will not proceed with his remaining amendments, as all of them are a part of the one package? In other words, will the honourable member treat his first amendment as a test case?

**The Hon. B. A. CHATTERTON:** I assure the Minister that I will not call for a division on all the amendments. However, I will certainly speak to the other clauses, as I have a number of points to make about them. I will call for a division on the amendment that I have moved and treat it as a test case.

**The Hon. R. C. DeGARIS:** Without the Hon. Mr. Chatterton's amendment to clause 5, new clause 2a that he has moved to insert has no relevance. I suggest that the Committee should deal with the honourable member's amendment to clause 5 and, if that amendment is carried, it will be reasonable for the honourable member to move to insert new clause 2a. Unless honourable members understand what the Hon. Mr. Chatterton is doing in relation to clause 5*(a)*, it would not make sense for the Committee to vote on proposed new clause 2a. I am trying to ascertain what the Hon. Mr. Chatterton intends to do regarding clause 5, in relation to which he is relying entirely on the Director; there will be no right of appeal in relation to a so-called management plan.

**The Hon. B. A. CHATTERTON:** I do not think that the point made by the Hon. Mr. DeGaris is correct. Certainly, it is not the advice that I have received, as the power of appeal still remains in clause 5. Under the Government's amending Bill, an applicant who is aggrieved by the Director's refusal to grant a licence or his decision to impose a condition thereon may ask the Minister to have the Director's decision reviewed. That power still remains; it is an essential part of the Bill. My amendments are inserted in addition to that, coming as they do after line 17. The last provision is deleted, as I have laid down specific grounds of appeal.

The Committee divided on the new clause:

Ayes (8)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton (teller), J. R. Cornwall, J. E. Dunford, N. K. Foster, C. J. Sumner, and Barbara Wiese.

Noes (9)—The Hons. J. C. Burdett, M. B. Cameron, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill (teller), D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

Pairs—Ayes—The Hons. C. W. Creedon and Anne Levy. Noes—The Hons. J. A. Carnie and L. H. Davis.

Majority of 1 for the Noes.

New clause thus negatived.

Clause 3—"Fishing licences."

**The Hon. B. A. CHATTERTON:** This is the most important clause in this short Bill, because it gives the Bill all its teeth in relation to the Director's powers to apply conditions to fishing licences. In my second reading speech I outlined the very wide ranging powers that the Director now enjoys. The Director can also impose any other restrictions or prohibitions similar or dissimilar to those referred to in this clause. The Director will be given a completely all-embracing power that he can apply to any particular licence—not a group of licences—but to an individual licence.

The Minister has said that it is important that this Bill passes completely unchanged because it must be implemented as quickly as possible. This is the clause that the Government will use to impose those changes on individual licences. What changes will be made in the next three weeks to fishermen's licences under the new conditions laid down in this clause? There are a number of areas where the Minister needs to be very specific as to what he will do.

As I briefly mentioned in my second reading speech, there are a number of grey areas in the fishing industry in relation to how one can limit the entry of people into the marine scale fishery. Clause 3 (2) *(d)* is the principal power under this Bill that enables the marine scale fishery to be closed. Fishermen who have access to other fisheries should not be permitted into the marine scale fishery when fishermen in the marine scale fishery are not permitted into their fishery. What does the Minister intend to do about these grey areas? For example, there are a number of fishermen in the northern rock lobster fishery who move into the scale fishing industry during the off season for rock lobster. Will the Government take those fishermen out of that particular fishery and prevent them from catching scale fish during the rock lobster off season?

Another problem raised by fishermen is in a sense the reverse situation. What will happen in the southern rock lobster fishery where those fishermen have been catching tuna during the off season? Will the Government alter that situation, making the catching of tuna a prerogative only for tuna fishermen? I would also like some detailed information from the Minister as to how this Bill will be implemented.

In relation to the conditions to be applied to a licence, a very real problem raised by a number of fishermen is that when a fisherman receives a condition on his licence he is allowed to catch a certain species of fish that may be outside his normal fishery (for example, rock lobster fishermen catching tuna), but when that condition is put on someone's licence what happens if he does not use it? In other words, if a fisherman does not expend a certain amount of effort in that fishery will he be liable to lose his licence? That is what the Government's policy of attrition is all about. If fishermen fail to use their licences or fail to fish for a certain number of months of the year, will they lose their right to fish? If a fisherman is given a condition on his licence (for example, to catch tuna) what will happen if he fails to exercise that right?

**The Hon. C. M. HILL:** The honourable member has asked for a lot of detail. Much of that detail involves new departmental policy. I do not believe that the honourable member should expect information about the Government's full intentions in relation to these licences. I assure the honourable member that every point he has made tonight will certainly be taken into account.

I assure the honourable member that there will be no moves in other fisheries until consultation with the industry has taken place. That should be some assurance to him that those involved areas such as the rock lobster fishery will not suddenly be told about decisions that will concern them greatly or adversely affect them because, in the first instance, they will be consulted.

After consultation it will be up to the Government to work out the best policies that it believes should be implemented, bearing in mind the dangers to the industry and considerations in respect of the industry, as well as considering the best interest of the licensees. That assurance is given, but to expect the Government to explain every point about the actual practices in all the fisheries is asking too much.

Regarding licence re-issue, the Government intends to put into force the full Cabinet decision of 21 April. That has been explained in the second reading explanation and in general debate. If the honourable member is greatly concerned that any decisions by the Government in pursuing its policies under the new legislation may adversely affect fishermen or people in the industry with whom he is in contact, I emphasise that the rights of appeal are fair and just. I hope that they will be supported, although I note the amendment on file by the Hon. Mr. DeGaris which seeks to make those rights of appeal even more generous.

**The Hon. J. C. Burdett:** They are strengthened.

**The Hon. C. M. HILL:** Yes. They are more generous than the original provision in the Bill when it first came to this Chamber. With that protection, combined with the fact that the new department has been established and a new Director appointed, and considering that new staff has to be recruited, the policies that will flow as a result of this legislation should be considered by the Hon. Mr. Chatterton because, with the passage of time, I am sure he will be satisfied with the follow-up decisions of the new Government.

**The Hon. B. A. CHATTERTON:** The Minister claims that the Cabinet decisions on the fishing industry will be implemented. In Question Time today I asked what those Cabinet decisions were, because I wrote to the Minister asking what the policy was, which parts were under review, and which parts were to be implemented, but the Minister did not even reply to my letter. Now the Minister of Local Government refers to the Cabinet decisions, but I understand that those decisions have been altered considerably and that parts are under review and have been suspended until further consultation with the industry is achieved.

It is not true for the Minister to say that the policies determined by Cabinet will be implemented. I would have thought that the Minister of Fisheries would reply to my letter and make available to me the decisions that were to affect the marine scale fishery in South Australia. Further, the Minister of Local Government seemed to imply that my questions were difficult and technical ones. I assure the Minister that, while I used specific examples, the questions I raised were fairly simple questions of principle as to how the new conditions are to be applied to licences. It is not good enough for the Minister to say that this matter will be sorted out in time.

It is the usual practice for a Minister who has responsibility for the carriage of legislation in this Chamber—I do not blame the Minister of Local Government for this—to have a departmental officer within the Chamber (which is allowed under Standing Orders) to give him the necessary advice on such matters. Perhaps now the Minister has had an opportunity to consult with officers outside the Chamber and he can give me a reply to the questions that I have raised.

**The Hon. C. M. HILL:** It is not a question of having to consult officers. There will be many decisions that will be made by the Minister and his department when this Bill is proclaimed. The Government does not intend to go into much detail. It has given clear guidelines to the honourable member.

**The Hon. B. A. Chatterton:** Where?

**The Hon. C. M. HILL:** In clause 3, numbered from *(a)* to *(g)*. Does the honourable member expect me to tell him of every decision that the Director will make about licences as a result of this Bill? It is a ridiculous set of questions that the honourable member has asked. His questions can be considered in the same light as a member asking a Minister during Question Time, "Tell me all the decisions that your department will make in the next three months."

**The Hon. J. E. Dunford:** Give us one.

**The Hon. C. M. HILL:** We are going to cull some of the licences where insufficient effort has been put in. I should not have to repeat that because I have already indicated that in my speech. Also, the Director will require all employees to be attached to the principal fishing vessel. In pursuing these questions the Hon. Mr. Chatterton is being unrealistic, because I have never heard such questioning in this Chamber before. Further, it is indicative of the theoretical approach that he has in relation to legislation generally.

**The Hon. B. A. CHATTERTON:** The points I raised did not involve individual decisions that the Director should take. I was referring to three general areas of policy, but not in any theoretical way. I was trying to help the Minister by giving practical examples of where these problems might occur. We are granting the Director some very wide powers to manage the marine scale fishery, especially when one refers to the second reading explanation and sees that part of that power is to exclude other people from the marine scale fishery. I agree that people who are in other managed fisheries should not have the right to go to the scale fishery when it is not a

reciprocal right by marine scale fishermen. My point is that there are some fringe areas. If the Government is intent on implementing this legislation immediately after it is proclaimed, in other words, for the new licensing period, surely the Government would have thought about some of these obvious fringe areas.

It must be able to make some general statement on what its policy will be regarding these people who are operating on the edge of the marine scale fishery. It is not a clear-cut case like that of the prawn fishermen or abalone divers. There are other cases where there is a whole group of people. I am not talking about the individual fishermen, and the Minister is misrepresenting me if he is trying to say that. I am asking for some idea of what the Government's policy will be in these fringe areas. In his second reading explanation, the Minister referred to marine scale fisheries, as follows:

> More particularly, the Bill is designed to enable the marine scale fishery in South Australia, that is, the fishery for species such as whiting, snapper and garfish, to be managed separately from the tuna fishery and from the rock lobster, prawn and abalone fisheries, which are managed under the managed fisheries regulations made pursuant to section 36 of the principal Act.

I am pointing out that it is not always quite as clear cut as that statement suggests. There are some fringe areas and surely, if the Government intends to implement this legislation in the next licensing period, it has to think about some of these fringe areas. It seems that the Parliament is quite entitled to know what direction the Government is taking on these policy issues.

**The Hon. C. M. HILL:** As the honourable member read out my second reading speech, it is quite clear what our principal guidelines are and what they intend to do in regard to this scale fishery. It is acknowledged that there are some fringe or grey areas, as the honourable member described them. Each of the grey areas will be taken on their merits and will be dealt with as fairly as the Minister and Director think fit. Those decisions will then be conveyed to the licensee who will have ample opportunity to appeal, if he is dissatisfied with the Minister's decision.

**The Hon. B. A. CHATTERTON:** I understand, from what the Minister is implying, that the Government has not thought about these fringe areas at all and has not yet discussed these matters with the fishing industry. I hope that that is not so, but it is certainly what the Minister is implying. If that is the case I find it disturbing indeed. If changes under this Bill will be implemented on licences on 1 July 1980, it will not give the fishing industry ample time to consult. They can be told in the next three weeks what the Government's intention is but that is not a process of consultation, and it is not an opportunity for fishermen to call meetings of their associations in the ports to discuss the guidelines and policies put forward by the Government. It is not an opportunity for them to make their views known to the Director and the Minister.

It seems an extraordinary situation where we have been told earlier this evening that it is important that this Bill go through quickly and that we get these powers enforced for the new licensing period. When I raised the question of the fringe areas (which are going to affect many fishermen in the State), I was told that it will be sorted out some time in the future. That is unsatisfactory. How can it be sorted out in the future if these changes are to be implemented on licences on 1 July?

**The Hon. C. M. HILL:** There will be optimum consultation with the fishermen subject to the urgency of the problem. We know what would happen if the honourable member's plan was proceeded with. In other words, despite the fact that there is an urgent need for action, he would be calling his meetings and having his consultations, and weeks and months would go by with nothing happening where action is needed. The honourable member is going back to his original proposal of having a six-monthly gap between now and any action being taken. The Government does not intend to waste that time and believes that it would be entirely irresponsible to waste time in trying to plug the gaps that exist now in this problem. The need for urgent action is apparent. It might mean that the degree of consultation that would normally take place will not take place.

In saying that I reiterate that the Government has written in adequate appeal provisions within this Bill so that, if any fisherman feels hard done by as a result of a decision within the next month in the scale fishery industry, he has the right to come to the Minister and make his appeal. However, he must bear in mind that the Government is forced to act quickly because of the problems facing the industry and the urgent need to preserve this resource.

**The Hon. B. A. CHATTERTON:** I thank the Minister for admitting exactly what I thought he was going to say; that is, that consultation with the industry will take place after and not before. That seems quite an extraordinary situation but that is exactly what he admitted in his explanation.

Clause passed.

Clause 4—"Licences to employ."

**The Hon. B. A. CHATTERTON:** I think this is something on which the Minister must be able to provide an explanation. Whatever the situation is under clause 3, this is probably the most direct example of people's livelihood being altered in a very drastic way by the provisions of this new legislation. I think we all know that there are some fishing operations in this State that consist of a number of vessels operated by employees under the protection of the licence of a single individual. One example involves Mr. Nigel Buick on Kangaroo Island. He has a number of vessels which are operated by employees under his licence. A number of other people have four to six different vessels.

What is the Government's intention regarding these sorts of fishing enterprises? Is it the intention, on 1 July, to immediately close them down and prevent these additional fishing units from operating under the control of the employees, or is it the intention to continue that practice indefinitely?

Alternatively, is it the Government's intention to give a fishing licence to the employees, who have demonstrated a genuine right to be involved? It seems that there are a number of options, and this situation cannot be avoided, because it crops up immediately on 1 July. Whatever was said in relation to clause 3 about conditions, I point out that this is not a condition on the licence at all. It means that many people operating fishing units as employees may find themselves in a situation where they are no longer entitled to fish at all or, rather, not allowed to take fish for sale.

**The Hon. C. M. HILL:** The Government does not intend to take drastic action. I understand that the Minister of Fisheries has certain plans. I think I have said that he intends to require all employees to be attached to fishing vessels. The exact details of the Government's plans have not been completed and the Government feels that, until they have been, it would prefer to give an assurance that it appreciates the problems that can be faced and that it intends to be as fair as it possibly can and avoid drastic action, which would be upsetting to the people involved. I give an assurance that the Government intends to be fair and reasonable in this matter.

**The Hon. B. A. CHATTERTON:** Fair and reasonable in what way? I understood that the Minister was saying that the Government intended that all employees should be attached to the principal vessel. That means that those employees could no longer fish. Will these people be granted licences to continue existing operations? There is not a large number involved and grave injustice could be done to people who have been fishing for a long time if they are suddenly told that they have to fish on the principal vessel operated by a licence holder. Effectively, they would be told that they were not to fish at all, because a licensee would have other people and would not want to take on these employees.

**The Hon. C. M. HILL:** There will be a call of applications from employees of A-class fishermen who operate in a remote situation from the principal fishing unit. This will enable those employees to participate legitimately in the scale fishery. They must have been employed prior to 27 June 1977 and since and must operate as a separate fishing unit from the A-class licence holder.

**The Hon. B. A. CHATTERTON:** I think the Minister.

Clause passed.

Clause 5—"Grant of licences and imposition of conditions."

**The Hon. B. A. CHATTERTON:** I will not proceed with the amendments to clause 5 that I have on file, because they need the establishment of a fishery management plan. However, I wish to raise a question about the appeal. When a fisherman is refused a licence or there is a condition on the licence, he is refused by the Director and the ground of appeal is that there was no justifiable reason relative to the proper management of the fishery. Who, other than the Director, will say what is the proper management of the fishery? It seems that the proper management will come from the department, which has the research, management and economic capacity to determine the proper management, and the Director must make the final decision.

If the only evidence is from the Director, the fisherman cannot establish an alternative Department of Fisheries to provide an alternative viewpoint on management. As long as the Director says, "That is the proper management of the fishery: my department has said so," it seems impossible for an appeal to have a chance of success. That is why I said earlier that the appeal provision was for an appeal from Caesar to Caesar.

**The Hon. C. M. HILL:** The Hon. Mr. DeGaris has on file an amendment that would remove the whole reference to proper management. From my perusal of that amendment, I am inclined to support it and not to proceed with the present provision.

The Director makes the decision and, if an applicant is aggrieved, he can appeal to the Minister. Under the Act, the Minister must appoint a person to hear and determine the appeal, and I do not consider that that is an appeal from Caesar to Caesar. If the Hon. Mr. DeGaris's amendment was carried, it would be an exceedingly generous proposition, and the Hon. Mr. Chatterton's fears should be allayed.

**The Hon. B. A. CHATTERTON:** They are not altogether allayed. We are still talking about fisheries management, and it seems to me that the person hearing the appeal must determine what is proper management. That will be the major reason for not granting a licence or imposing a condition thereon. In the absence of any document, the Director is the only person who can say what is proper management, and this seems unfair when a fisherman must appeal against the Director's decision. No-one will be able to query from day to day what is proper management.

This is a situation in which many fishermen find themselves in relation to appeals. This matter has been raised in another place by members on both sides. It therefore seems that this question has not been properly tackled, and it becomes much more important because of the additional conditions that can attach to licences. It would be difficult for a fisherman to sustain an appeal, because he has the whole force of the Department of Fisheries under the Director against him, and no document to which he can refer can say, "That is what you have said, and you are not carrying out your ideas." Although I agree that the Hon. Mr. DeGaris's amendment is slightly better than the provision in the Bill, it is still not totally satisfactory.

**The Hon. C. M. HILL:** I can appreciate that fishermen may well have raised this point with the honourable member and that some of them may consider that they will be at some disadvantage. However, I will not accept that the expert opinion on the question of proper management is the sole prerogative of the Director. I should think that a person who was chosen wisely to hear an appeal would certainly make inquiries from other experts. Indeed, I think that the appellant might well obtain evidence that could be accepted as expert evidence on the subject of proper management.

Much will depend on the person chosen by the Minister to hear the appeal and, if a wise choice was made, that person would probe the subject fully and weigh up the points made by the Director, as well as obtain expert opinion that would support the appellant. Although I accept that some appellants may consider that they will be at a disadvantage, I do not consider that, if the Minister chooses properly the person to hear the appeal, prospective appellants need fear the consequences of an appeal to which the honourable member has referred.

**The Hon. B. A. CHATTERTON:** I do not think the Minister understands fully how much further we have moved from the normal situation that obtained previously when the appeal procedure was introduced. First, there are managed fisheries regulations which provide the guidelines and, therefore, the sort of appeal that can take place. In the scale fishery, the other aspect is whether a person should have a licence, and this is where the bulk of appeals have occurred. When the Director has refused people A-class and B-class licences, he has been able to produce proof that the granting of a licence was not in the best interests of the management of the scale fishery.

However, in this Bill we are talking about a much more complicated situation, where conditions will be applied to individual licences. I claim that it will be much more a matter of opinion whether or not it is proper management, whether a specific area should be opened or closed to net fishermen, or whether a certain group of fishermen should be allowed nets. That is not nearly as clear cut a situation as we had previously when we spoke about whether there should be additional entries into the scale fishery.

We are now dealing with a much more complicated situation, and it seems to me that the dice are weighted in the department's favour. I dispute the Minister's statement that fishermen could obtain alternative advice, as very little is available. Marine scale fishery research is limited in Australia and certainly in South Australia and very little research is being done outside the Department of Fisheries. Certainly, it would be difficult for a fisherman to get together a body of competent expert witnesses with an alternative plan of management to that put forward by the Director.

**The Hon. C. M. HILL:** The honourable member has pressed the case he made when he was on his feet

previously. I am quite prepared to admit that some of the fears he raised do exist in the minds of prospective appellants. Indeed, obviously those fears also exist in the honourable member's mind. I still hold my ground that if the Minister makes a wise choice in selecting the person to hear the appeal, that person will weigh up all the problems and considerations that the honourable member has highlighted in his last two contributions.

If it is too difficult to obtain expert opinion on this question of proper management and other questions relating to the subject, a prudent arbiter would very closely question the Director and his submissions to substantiate the reasons for his decision. I still believe that those fears need not prove in practice to be as serious as the honourable member suggests. If the Minister makes a wise choice, the matter will be fully canvassed and all aspects of a particular case will be considered. I believe that wise and proper decisions will be brought down by the person appointed by the Minister.

**The Hon. R. C. DeGARIS:** I move:

Page 2, lines 39 to 42—Leave out "by reasons relating to the proper management of the fishery in relation to which the licence was applied for.";

and

Page 3—Leave out paragraph *(c)*.

I do not believe there is any need for me to explain my amendments, because they seem to have been fully explained by the Hon. Mr. Chatterton and the Minister. The grounds upon which review is undertaken are somewhat restricted by this clause. My latter amendment deals with the costs that can be ordered to be paid under this section. As the Minister can appoint a competent person to hear that review it seems to be taking things a little too far for that person to be able to levy costs against a person who requires a review of the decision of the Director. A case can be made for costs to be applied where the appeal is frivolous or the person deliberately wastes the time of the competent person delegated to the job.

**The Hon. C. M. HILL:** I support the amendments and give notice that I will not move the amendment that I have on file in relation to this clause. The Government will monitor the situation in relation to the number of appeals. If it becomes evident in due course that there are appeals that might be deemed frivolous, some further legislative action might need to be taken in the future.

Amendments carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

## CROWN LANDS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 June. Page 2492.)

**The Hon. J. R. CORNWALL:** The Opposition supports this Bill with two reservations. The first is that it finds the reference to implementing the Government's shack policy in the Minister's second reading explanation rather curious. With the possible exception of the Minister himself, no-one at present seems to know just what that policy is. We do know what the policy was as set out for all councils on 27 November last year. However, it seems that policy now means nothing in view of the Government's extraordinary performance in supporting the District Council of Willunga in what amounts to a clear breach of that stated policy.

The Government apparently still retains a commitment to its policy of granting freehold title to Crown leases for shacks in so-called acceptable areas. Therefore, one must presume that at least 14 per cent of the Government's policy still stands. The second reservation concerns the full scope of the amendments in this Bill.

The current provisos in sections 210 and 212 relate to land used solely for pastoral or agricultural purposes, or both, and to land which in the opinion of the Minister will not be required for subdivision or for public purposes. These provisos may well be too restrictive for sensible land resource management in the 1980's. It may well be that when we receive a full explanation the Opposition will have no difficulty in supporting this Bill. However, the full ramifications of lifting those restrictions are not detailed in any way in the Minister's speech.

The other matter on which I would like further information concerns valuations, and I have given the Minister advance notice of that. In changing tenure from Crown leases to freehold, how does the Government propose to arrive at a figure that is fair to the lessee and at the same time allows the Government to adequately capitalise on what are currently public resources? I hope the Minister can give a much more comprehensive explanation of the real significance of the amendments proposed in this Bill before we go into Committee, in order to expedite the Bill's passage, because at this late hour of the evening I do not want to be unduly obstructive.

My other comment concerns the limited scope of the Bill. When I first saw that the proposed legislation to amend the Crown Lands Act was on the Notice Paper I had high hopes that the Minister of Lands was going to adequately overhaul this extraordinary relic from the colonial days.

It is interesting that the last amendments of any consequence were made to the Act in 1929. Much of the Act still goes back to the days when it was a legislative instrument to ensure orderly distribution of land in the colony and to control corrupt practices. I hope we have advanced a fair way since that time. These requirements have persisted in such a pristine condition that there are still clauses requiring the Minister and the Governor to sign certain documents personally in their own hand.

Honourable members may recall that when Sir Mark Oliphant was Governor he actually resisted this provision and saw it as being quite unnecessary and no longer relating to the sort of function that the department, the Minister or the Governor should perform in the 1970's. He literally had a stamp prepared for him to cover the problem. The fact is that the Minister still personally has to sign an extraordinary amount or correspondence, dockets and authorisations, and I can personally vouch for the fact that much of a Minister's time is spent not on matters of great moment or on affairs of State, or on important matters of policy or administration but in counter-signing mountains of dockets that are prepared by junior clerical officers.

**The Hon. C. J. Sumner:** That sort of thing would suit the Liberal Government.

**The Hon. J. R. CORNWALL:** It may be why it is not moving to try to do something about it.

**The Hon. C. M. Hill:** Why didn't you do anything about it?

**The Hon. J. R. CORNWALL:** I will tell you shortly. The Act is the basis on which administration in the department remains firmly in the nineteenth century. Section 210, which is considered in this Bill, for example, was last amended in 1902. Section 212 was last amended in 1928. The Act is no way relevant to enlightened land resource management in the 1980's.

*The Hon. J. C. Burdett interjecting:*

**The Hon. J. R. CORNWALL:** It is relevant to the last century when we were a colony. I know there is a nostalgic

attraction to that situation by members opposite, when the land was there to be distributed in an orderly manner, when the Minister was personally required to read the small flow of documents that went across his desk, to examine them in some depth, to sign them and pass them on to the Governor for his signature. That situation should not be allowed to persist as we move into the 1980's.

I hope that the Government will do something about the great scope that exists in the Act for delegation or relegation of power to streamline the administration and to take away the public image that persists of the Lands Department being staffed by elderly clerks sitting on high stools and using feather-quilled pens.

There are many sections in the Act that are now quite outdated or, alternatively, that are grossly deficient. To give one example, there are quite inadequate powers in the Act to even prevent the removal of soil or the dumping of rubbish on Crown land. Indeed, in the Minister of Lands' own electorate there is a shocking example of this adjacent to Renmark. The uncontrolled dumping of rubbish which occurs on this large area of Crown land is horrifying. Surely the Minister should have taken the opportunity when amendments were before Parliament to correct this dreadful anomaly in his own backyard.

Earlier a member of the Government front bench interjected and asked me why we did not do anything about it. I would like to say briefly as a matter of interest that at the time when Parliament was prorogued in August last year, a Cabinet subcommittee considered 44 amendments that I had been able to produce in my brief period in the department. At least 40 of them were non-controversial machinery-type amendments to streamline the situation and increase the efficiency in the department and, more particularly, to provide for more efficient and effective client service. They were the sort of things that I would have hoped the Government would pick up and go on with, because they did not involve matters of policy and would have done much to improve administration.

I would have thought that in the time available to the Minister he could have produced something better than the Bill before us. Having said that, and bearing in mind the hour, I do not propose to go into the details of this matter or give the Chamber the benefit of my great knowledge of the Crown Lands Act. I support the Bill, subject to a more satisfactory explanation of the amendments. I hope we will see many more amendments to this Act in the next session.

**The Hon. C. M. HILL (Minister of Local Government):** I thank the Hon. Dr. Cornwall for his contribution. I do not believe he really needs any explanation from me about the purpose of the Bill, because that was given in some detail yesterday in the second reading explanation. Its purpose is to facilitate change so that Crown leases may be made freehold.

**The Hon. J. R. Cornwall:** To what classes does it apply?

**The Hon. C. M. HILL:** To all Crown leases, but in this instance, because it deals with those that have not been held for at least six years, it does not relate to a great number of perpetual leases. As I explained yesterday, in the main it relates to miscellaneous leases for holiday accommodation purposes, because these were first issued in July 1976. In order that some shacks or shack sites can be changed to freehold title and as most of these come within this category of not being held for at least six years, this Bill applies particularly to them.

I think the honourable member was interested to know of the Government's approach to the value of be taken into account regarding freeholding and about the charge which the Government makes of a leaseholder for conversion from leasehold to freehold. The charge is 30 per cent of the current unimproved value of perpetual leases only; regarding terminating tenure, which of course includes the miscellaneous shack leases to which I have just referred, the charge is the current unimproved value. The method of assessment by the department is that the department accepts the method of assessment by the Valuer-General. That should clear up those questions for the honourable member.

**The Hon. J. R. Cornwall:** Is it for the full value?

**The Hon. C. M. HILL:** The full value on an unimproved basis before conversion for all terminating leases, not just the miscellaneous leases. Regarding the further amendment of the Act, I have no doubt that the Minister of Lands has that matter well in hand. I am inclined to agree with the Hon. Dr. Cornwall that there is a need for further legislation concerning the general administration of the department. That comes within the ambit of my colleague and is entirely up to him. I shall be pleased to convey to him the concern of the honourable member and, if the Minister of Lands can gain any benefit from the document that the Hon. Dr. Cornwall prepared during his short term as Minister, then I am sure that my colleague will do whatever he can with that document.

I thank the honourable member for his support of the Bill, which I hope will have a speedy passage.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Power of lessee to surrender for perpetual lease or agreement."

**The Hon. N. K. FOSTER:** I am interested in what the Minister has to say in regard to shack site areas and what the Bill is intended to do, particularly in regard to clause 2. The Minister responsible for the Act, in those areas where the jurisdiction of Crown land may be vested in a local government organisation or a department, ought to acquaint himself with the intentions of such bodies as to what use, if any, they propose to put the land to which they are seeking to acquire, by the force or otherwise, through removal of people who have some type of tenure or lease on that land. I have been reliably informed that the occupants of the shack sites at Aldinga are about to have an order and a penalty placed on them at the end of the month, and I am very disturbed about that. Tonight I saw a television programme which showed the higher-water mark to the area where the shacks are actually built. I believe that the shacks are on the seaward side of the sand dunes. My information is that the Willunga council, after acquiring the land, will build a bituminised car park on that area. Everyone in this Chamber will be shocked to hear that that may come about. If that is the case, wide publicity ought to be given to it and there is no way, this side of heaven, hell or earth, that those shacks ought to be removed, as their removal will take away the protection of the natural sand dunes, which have taken millions of years to form.

I implore the Minister to ascertain what the land use will be and whether that land will remain in its natural state. Is the land subject to any town planning plan and is there any existing mineral lease? A.C.I. has leased natural sand dunes further south. It is quite obvious that it is not just a question of the Willunga council saying that the dunes are unsightly. I do not give a damn how ugly they might be. It seems obvious that they protect the natural line of sand dunes immediately landward of those shacks. Once the bulldozers go in to push them down, irreparable damage will be done. I regret that, at the hour of almost midnight, I find myself demanding information from the Minister. I foreshadow that tomorrow in Question Time I will ask a

series of questions in regard to the sand dunes. The Minister is obviously surprised that I raise this aspect and I believe that he was ignorant of the site of the shacks until late today. I ask the Minister whether there is any town planning plan or lease which should be made fully known before the Council rises at the end of this session.

**The Hon. C. M. HILL:** I am not surprised at the honourable member's raising the question of the preservation of sand dunes, as he is very interested in that subject. He raises it from time to time in this Council. He has usually made the point that the sand dunes at Noarlunga are the only remaining sand dunes. I believe that it is the Noarlunga dunes and also the sandhills near West Lakes. What he has failed to mention in the past is that there are other sand dunes quite close at West Beach near the airport. I acknowledge his concern and commend him for his views on the preservation of sand dunes. I am quite happy to endeavour to find out from the council what its plans are in regard to the land in question at Aldinga and I am quite happy to ascertain whether any action has been taken by the council concerning the preservation of sand dunes that might be in the area to which the honourable member refers. Regarding future planning for car parking, it is quite in order for some inquiry to be made of the council as to its plans in that respect. I shall take up those questions and, if the honourable member asks the questions at tomorrow's sitting, I shall endeavour to obtain a reply.

**The Hon. J. R. CORNWALL:** The Minister still has not been able to satisfy me as to the ramifications of these apparently simple amendments.

Presumably, in the freeholding policy, the Government can and will have the power to sell not only the leases on which shacks are sited but a whole range of Crown leases throughout the State. It seems that a further amendment to Part XI regarding authorisation of land development and land use restrictions is necessary. One reason is that that would contribute to retention of prime agricultural land for primary production. It could also assist in orderly subdivision where there was pressure in expanding urban areas in some country towns. The provision seems to hand the whole thing over without writing in a proviso that would allow conditions or restrictions to be put into land grants regarding perpetual lease development.

**The Hon. C. M. HILL:** I think the honourable member is taking a wide berth on some issues dealt with in the Bill. In my second reading explanation, regarding clause 2, which deals with the proviso that is struck out from section 210, I stated:

> Clause 2 amends the section of the Act that provides for the surrender of Crown leases for a perpetual lease or an agreement to purchase. At present, this section only applies to leases that are used for pastoral or agricultural purposes, or leases that are not required for subdivision or public purposes. These limitations are removed, with the result that the power to surrender under this section will be available in respect of any Crown lease.

The clause opens the way for any Crown lease to be available for surrender so that a transfer of freehold title can be given to the former lessee. I think it was necessary for the Minister to open the door fully as a first step because a provision refers to the time being less than six years.

**The Hon. J. R. CORNWALL:** There is a reference to the Government's policy of freeholding, and in many cases that may not be objectionable. I would like to be assured that it will not result in a *laissez faire* open slather situation, without restrictions on all Crown leases as to their future use. We could get a position where, because there was no restriction or covenant when the freeholding occurred, there could be all sorts of land use that might be incompatible with the area. It seems to me that it would be a matter of policy as to what the Government might permit, and I seek information on how far the Government intends to go with its freeholding policy.

**The Hon. C. M. HILL:** Freeholding does not apply to all Crown leases. Pastoral leases are exempted from the plan. I stand to be corrected now, because I have not the exact policy with me, but I understand that, other than with pastoral leases, all leases come within the policy. I do not know about any encumbrances that the Government may insist upon but I am of the view that encumbrances will not be placed on the titles. There may be reasons for control that may apply to some sites, specifically the ones to which the Bill refers, but, generally speaking, the procedure is that the former lessee obtains freehold title.

That does not mean that the owner of the freehold has a *laissez faire* opportunity to do what he likes, because he is subject to council and town planning controls that apply to all land. If he gets clear title, having paid a considerable amount for it, subject to the usual council regulations and any controls exercised in that region by the State Planning Authority, he takes his place with any other freeholder. It has been brought to my notice that marginal perpetual leases may be excluded. I understand that they are but, if the honourable member wants to know the specific policies of the Government on freeholding every category of lease, I will get the information for him.

Clause passed.

Clause 3 passed.

Title passed.

Bill read a third time and passed.

## SOUTH AUSTRALIAN MUSEUM ACT AMENDMENT BILL

Returned from the House of Assembly with the following amendment:

Page 3, after line 35, to insert new clause No. 8 as follows:

8. Sections 18 and 19 of the principal Act are repealed and the following sections are enacted and inserted in their place:

18. (1) Proceedings for an offence against this Act shall be disposed of summarily.

(2) In any proceedings for an offence against this Act an allegation in the complaint that a meteorite to which the proceedings relate was on a date specified in the complaint the property of the Board shall be deemed to be proved in the absence of proof to the contrary.

19. (1) Except as provided in subsection (2) of this section, the moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for these purposes.

(2) The Board may borrow money from the Treasurer, or, with the consent of the Treasurer, from any other person.

(3) Any liability incurred by the Board with the consent of the Treasurer under subsection (2) of this section may be guaranteed by the Treasurer.

(4) Any moneys to be paid in pursuance of a guarantee under subsection (3) of this section shall be paid out of the General Revenue of the State which is hereby, to the necessary extent, appropriated.

Consideration in Committee.

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

That the House of Assembly's amendment be agreed to.

Honourable members will recall that, many weeks ago when the Bill passed through the Council, the money clause therein was in erased type. The Bill subsequently

went to another place, where it has been dealt with today. The House of Assembly passed the money clause in the Bill, which has now returned to the Council for the normal agreement to be obtained.

Motion carried.

## ART GALLERY ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

## DOG CONTROL ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

## JUSTICES ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

## CHILDREN'S PROTECTION AND YOUNG OFFENDERS ACT AMENDMENT BILL

Returned from the House of Assembly with the following amendments:

Clause 8, page 2, after line 14 insert paragraph as follows:

(aa) by inserting in paragraph *(d)* of subsection (1) before the word "without" the passage "upon convicting the child, or";

Clause 15, page 5, line 11, after "section" insert "(not being a direction relating to a child on demand)".

Consideration in Committee.

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

That the House of Assembly's amendments be agreed to.

The first amendment deals with the addition of an option available to the Children's Court in sentencing young offenders against whom a charge has been proved. Honourable members will recall that, when the matter was before the Council yesterday, we debated whether or not the Children's Court should have power, if it finds a charge proved against a child, to discharge the child without penalty with or without convicting the child.

The present option is that the Children's Court may discharge a child without penalty only if it does not convict the child. The amendment seeks to widen the options available to the court. I point out, as I pointed out yesterday, that the option of convicting without imposing a penalty is available to all other courts, and it seems anomalous that the Children's Court should not be included with the other courts in having that sentencing option available to it.

Since debating the matter yesterday, I have had the matter discussed with the Senior Judge of the Children's Court, who has indicated his concern if the additional sentencing option is not available to the court. He made a number of points, but one of the best examples is that, if a child is before the court on a road traffic charge and the charge is proved, the court may consider that the appropriate penalty is that the child should receive several demerit points against his or her driver's licence under the provisions of the Motor Vehicles Act. Honourable members will undoubtedly recall that demerit points are attracted only if a conviction is recorded.

Therefore, if the Children's Court is unable to convict and does not impose a penalty it will not in those circumstances have available to it the option to impose a conviction without any penalty other than the attraction of demerit points. It is important that the Children's Court have that additional option. The other amendment inserted by the House of Assembly deals with the transfer of young offenders from one training centre to the other. It is only a question of transferring from one centre to the other, because two training centres alone are involved. The proposition adopted by the House of Assembly's amendment is that where a child is transferred by the Director-General, unless it is a transfer while the child is on remand, the Director-General must report the transfer to the Training Centre Review Board, which reviews the transfer as soon as possible. That is a transfer where permanent detention is being served and not where the child is in detention on remand.

The House of Assembly's proposition is perfectly reasonable: it does not create an injustice, nor is there any potential for that. It makes subject to the review of the Children's Training Centre Review Board those transfers where the child is in permanent detention. Therefore, I urge the Committee to support the amendments made by the House of Assembly.

**The Hon. C. J. SUMNER:** I believe the arguments on these two issues have been adequately canvassed. First, the Opposition still does not believe that if a penalty is not imposed there should be a conviction. Secondly, there should be for remand prisoners and prisoners in permanent detention an overriding supervisory role for the Training Centre Review Board to monitor transfers from one institution to the other. The Attorney-General's remarks are really a restatement of what he said yesterday, and nothing he has said in any way changes the attitude of honourable members on this side. Accordingly, the Opposition believes that the amendments moved by this Council yesterday should be insisted upon, because nothing has happened in the intervening period that should influence the Council to change its mind in any way.

The Committee divided on the motion:

Ayes (8)—The Hons. J. C. Burdett, M. B. Cameron, M. B. Dawkins, R. C. DeGaris, K.T. Griffin (teller), C. M. Hill, D. H. Laidlaw, and R. J. Ritson.

Noes (9)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, J. E. Dunford, N. K. Foster, K. L. Milne, C. J. Sumner (teller), and Barbara Wiese.

Pairs—Ayes—The Hons. J. A. Carnie and L. H. Davis. Noes—The Hons. C. W. Creedon and Anne Levy.

Majority of 1 for the Noes.

Motion thus negatived.

The following reason for disagreement was adopted:

Because the amendments are not appropriate to the scheme of the principal Act.

*Later:*

The House of Assembly intimated that it insisted on its amendments to which the Legislative Council had disagreed.

Consideration in Committee.

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

That the Legislative Council do not insist on its disagreement to the House of Assembly's amendments.

The Committee divided on the motion:

Ayes (8)—The Hons. J. C. Burdett, M. B. Cameron, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, D. H. Laidlaw, and R. J. Ritson.

Noes (9)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, J. E. Dunford, N. K. Foster, K. L. Milne, C. J. Sumner (teller), and Barbara

Wiese.

Pairs—Ayes—The Hons. J. A. Carnie and L. H. Davis. Noes—The Hons. C. W. Creedon and Anne Levy.

Majority of 1 for the Noes.

Motion thus negatived.

*Later:*

A message was sent to the House of Assembly requesting a conference at which the Legislative Council would be represented by the Hons. Frank Blevins, M. B. Cameron, K. T. Griffin, K. L. Milne, and C. J. Sumner.

*Later:*

A message was received from the House of Assembly agreeing to a conference, to be held in the House of Assembly conference room at 10.30 a.m. on Thursday 12 June.

## CONSTITUTION ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

## SUPREME COURT ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

## TRAVELLING STOCK RESERVE: COBDOGLA

Adjourned debate on the resolution of the House of Assembly:

> That section 389, hundred of Cobdogla, Cobdogla irrigation area (area 12·18 ha) dedicated as a travelling stock camping reserve, as shown on the plan laid before Parliament on 6 October 1977, be resumed in terms of section 136 of the Pastoral Act, 1936-1976.

(Continued from 10 June. Page 2494.)

**The Hon. J. R. CORNWALL:** I am under much pressure from the Hon. Mr. Foster not to hold up the Council long, but this matter involves the dedication by a resolution of both Houses of Parliament of an area of 12·18 hectares in the Cobdogla irrigation area. This area is to be attached to the proposed Lock Luna game reserve. I am rather disappointed that the Government has not provided the Opposition with more information on this important matter. Any dedication or undedication of land of this class for a game reserve, national park, conservation park or any other class of park or reservation under the National Parks and Wildlife Act is an important matter.

It is so important that it is dedicated, or undedicated, only by a resolution of both Houses of Parliament. Therefore, I am most disapointed that the Government has not seen fit to provide the Opposition with more details about the exact location of this area, its topography, including an indication whether it is subject to flooding or whether it is dry land, and information about the proposed Lock Luna game reserve. It is difficult to say that we support the dedication and leave it at that, because I should like to know exactly what this situation involves. Especially as the National Parks and Wildlife Service is at present grossly understaffed, is it appropriate to dedicate such an area in these circumstances?

**The Hon. C. M. HILL (Minister of Local Government):** I went to great lengths when this matter came before the Council to have a map pinned on the board in this Chamber for honourable members to see. If the Hon. Dr. Cornwall has not seen it I am sorry about that. It is for all to see who come in and go out through the corridor at the rear of this Chamber.

Regarding the location of this area, if one travels from Adelaide to the Riverland and crosses the Kingston Bridge, the land in question is immediately on the left-hand side. The purpose of the resolution is to consolidate the land on the left of the main road with the land on the right of the main road. The land to the right is known as the Lock Luna game reserve. The 12·18 hectares involved will be a worthy addition to the reserve. Apparently the Lands Department and the Minister himself is content with the dedication of this land as part of the reserve. I am sure it will prove to be a worthy consolidation of land in that region of the State.

On introducing this motion I indicated that the Pastoral Board had considered the resumption and had no objection to the land being used for this project and for the public benefit of the Lock Luna game reserve.

Motion carried.

## FISHERIES ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

## ADJOURNMENT

At 1.15 a.m. the Council adjourned until Thursday 12 June at 2.15 p.m.