LEGISLATIVE COUNCIL

Wednesday 19 November 1980

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

PUBLIC WORKS COMMITTEE REPORTS

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

Royal Adelaide Hospital—Second Cardiac Catheter Laboratory,

Aberfoyle Park Primary School—Joint School Complex.

QUESTIONS

PRISONS ROYAL COMMISSION

The Hon. C. J. SUMNER: I seek leave to make a brief explanation before asking the Attorney-General a question about the terms of reference of the Royal Commission into the prisons system.

Leave granted.

The Hon. C. J. SUMNER: According to a report in today's *Advertiser*, a discussion has taken place before the Royal Commission on the compliance by the Department of Correctional Services with prison regulations. It was suggested that these regulations are not being, and had not for some time been complied with. The question now arises whether an inquiry into this non-compliance with the regulations falls within the terms of reference of the Royal Commission. I believe the appropriate term of reference is as follows:

> Allegations of graft, corruption, misappropriation of goods, and irregular practices at prisons under the charge and direction of the Director of the Department of Correctional Services.

One would have thought that non-compliance with prison regulations was an irregular practice. However, I understand that the point has now been put that, because this non-compliance was a regular occurrence, the inquiry into this matter is not covered by the current terms of reference.

If this was the case, it would clearly constitute a very severe limitation on the inquiry that the Royal Commissioner could carry out. Accordingly, I ask the Attorney-General whether he believes that an inquiry (including cross-examination by counsel acting for the parties before the Royal Commission) into compliance with the prison regulations is within the terms of reference of the Royal Commission. If it is not, will the Government amend the terms of reference to ensure that this subject can be canvassed by the Royal Commission?

The Hon. K. T. GRIFFIN: Really, it would be improper for me to give an opinion on matters that have been reported in the media as evidence given before a Royal Commission. The question whether or not the compliance or non-compliance with regulations is within the Royal Commission's terms of reference is a matter for the Royal Commission and, as evidence has been given to the Royal Commission on that subject, it would be improper for me to speculate on it at this stage.

SUPERMARKET PRICES

The Hon. B. A. CHATTERTON: I seek leave to make a statement before asking the Minister of Consumer Affairs a question regarding computer check-outs at supermarkets.

Leave granted.

The Hon. B. A. CHATTERTON: Some weeks ago, I asked the Minister a question regarding this matter, and my understanding of the Minister's reply was that he was prepared to agree to the practice of computer check-outs at supermarkets provided that the price shown on the shelf where the product was stored was exactly the same as the price that was being fed into the computer and charged to the customer. I understand from press reports that the Minister's department is involved in a working party to carry out the same thing nationally.

At present, I believe that one supermarket, namely, the Bi-Lo chain, is operating with a computerised check-out system. I understand also that the method of showing the price on the shelf at Bi-Lo supermarkets is exactly the same as it is in other supermarkets and that there is no way of ensuring that the price which is fed into the computer is the same as that on the shelf at that chain's supermarkets.

Is the Minister aware that no special precautions are taken at Bi-Lo supermarkets to ensure that the price on the shelf is identical to that in the computer programme and, if so, will he take action to ensure that some form of electronic device or other method is used to make sure that the price shown on the shelf and that in the computer programme are identical?

The Hon. J. C. BURDETT: In the first place, I did not actually say, as I recall, that I approved of the system provided that it was not possible to increase the price at the check-out without also increasing the price shown on the shelf. The really controversial thing, which is still being examined, is item pricing.

At last Friday's meeting of the Standing Committee of Consumer Affairs Ministers in Melbourne a motion was moved by me and carried to set up a working party to examine the whole subject as a matter of urgency. We realise that these things are being introduced now, and we do not want to be blamed by supermarket chains if we impose on them conditions with which they have not complied and which will cost them money.

I am aware of the situation in regard to Bi-Lo: that chain has introduced electronic check-outs on a trial basis, but they are not complete because they do not yet have bar coding. We have contacted Bi-Lo, and I intend to look at the system personally. However, the standing committee has certainly already agreed that, as a minimum requirement, the system should ensure that the price cannot be increased at the check-out point without also being increased on the shelves.

PERPETUAL LEASES

The Hon. J. R. CORNWALL: Has the Minister of Local Government a reply to a question I asked on 5 November about freeholding perpetual lease land?

The Hon. C. M. HILL: Lessees of perpetual leases can obtain the freehold of the land for 15 per cent of the current unimproved value of the land or the rent capitalised at the current rate of 11 per cent, whichever is the greater. While the majority of perpetual leases may be freeholded, the freeholding of some classes of lease is not permissible under the statute creating them, for example, irrigation perpetual leases, and for others the freeholding

price is a condition of the lease, for example, war service leases. The purchase money for the land is to be paid in cash or, alternatively, if the purchase money for the land is more than $2 000, the purchaser has the option of buying the land over five years with a deposit of 20 per cent of the purchase price and four equal annual instalments.

Following the approximate trial period of six months, Cabinet reduced the percentage of the current unimproved value from 30 per cent to 15 per cent on 15 September 1980. No further review will be undertaken, as Cabinet considers that the current formula permits those people who are genuinely interested in obtaining freehold of their land to do so.

PRISONS ROYAL COMMISSION

The Hon. C. J. SUMNER: My question to the Attorney-General is supplementary to my earlier question. If it were found that the terms of reference of the Prisons Royal Commission were not broad enough to canvass the allegations of non-compliance with the prison regulations, would the Government expand the terms of reference to ensure that the Royal Commission could canvass this matter?

The Hon. K. T. GRIFFIN: I am not prepared to speculate on a hypothetical set of circumstances.

PHOTO LICENCES

The Hon. ANNE LEVY: Has the Attorney-General an answer to a question I asked on 30 October about photo licences?

The Hon. K. T. GRIFFIN: The Minister of Transport advises that the inclusion of photographs on drivers' licences has been under consideration for several years. The investigations reached their peak in early 1978 when tenders were called for the supply, delivery and installation of equipment to be used in the implementation of a system of photographic identification of licence holders. Among the tenders received was one proposing to use techniques substantially the same as outlined in the *Photo Licence Bulletin*.

However, the assessment of all submissions resulted in a failure to establish the feasibility of the scheme. The main disadvantages and problems were the initial identification of applicants, high cost, the need for each licence holder to present himself for a photograph, endorsements of changed addresses and restrictions, and the need for annual renewal of licences of holders with medical problems. Similar problems have been encountered by transport authorities in other States, and as yet none has introduced photographs on licences. This matter is being kept under review.

PROGRAMME PERFORMANCE BUDGET PAPERS

The Hon. ANNE LEVY: Has the Attorney-General an answer to my question of 30 October about programme performance budget papers?

The Hon. K. T. GRIFFIN: The Treasurer has informed me that programme performance budget papers will be made available to all members of Parliament to assist in Parliament's consideration of the 1981-82 expenditure proposals.

TOURISM

The Hon. L. H. DAVIS: Has the Minister of Community Welfare an answer to my question of 29 October about tourism?

The Hon. J. C. BURDETT: The pamphlet on the Torrens Gorge ring route was published by some of the foundation members of the Adelaide Hills Tourist Association Inc. The Department of Tourism accepts many such brochures and distributes them to visitors to assist the operators of tourist plant. The brochure referred to is perhaps a little higher in quality than many similar publications. The Department of Tourism is about to produce a more extensive brochure, with better maps, on the Adelaide Hills than the pamphlet referred to by Mr. Davis. The actual publication date has not been set.

Officers of the department do not systematically check venues advertised in tourist brochures. However, where departmental officers undertake familiarisation trips or where a venue is to be included in a day tour run by the department, tourist attractions are carefully inspected. Inspection also occurs if complaints are received about a venue. The department would need a considerable inspectorial staff to maintain minimal surveillance over hotels, motels, flats, restaurants, caravan parks, museums, galleries, picnic grounds and other plant which may be defined as tourist venues or attractions.

HUGH CULLEN

The Hon. BARBARA WIESE: I seek leave to make a brief explanation prior to asking the Attorney-General a question about Hugh Cullen.

Leave granted.

The Hon. BARBARA WIESE: On 21 August this year a petition was presented to the House of Assembly praying for the release from prison of Hugh Cullen without further delay. Since that time a question has been asked by the member for Mitcham in another place concerning what action, if any, the Government had taken to have Mr. Cullen released. The Premier replied that the matter was under consideration. Will the Attorney-General ask his colleague to be more specific about what is being considered, and by whom, and will he advise the Parliament when a decision will be made on this matter?

The Hon. K. T. GRIFFIN: I will not ask the Premier to be more specific. Secondly, the matter is essentially a decision for which the principal responsibility is with the Chief Secretary, although ultimately it is a matter for Cabinet.

Mr. TOM McLAUGHLAN

The Hon. N. K. FOSTER: I seek leave to ask the Minister of Local Government a question about a matter that has previously been raised in this Council. I am fully cognisant of the investigations being made and, therefore, I do not expect a reply until the first or second week in December.

The PRESIDENT: What is the subject?

The Hon. N. K. FOSTER: The subject matter involves a senior officer of the Housing Trust.

Leave granted.

The Hon. N. K. FOSTER: The matter I raised and the investigation being undertaken are such that I would not expect a reply from the Minister until the first or second week in December.

The Hon. C. M. HILL: I am pleased at the honourable member's moderate tone on this occasion. I can inform

him that it is the intention of the General Manager of the trust to have his inquiry completed by 8 December. I am sure that that will afford the necessary time for a further answer to be given if the honourable member wishes to pursue his question.

MEAT HYGIENE

The Hon. B. A. CHATTERTON: Has the minister of Community Welfare a reply to the question I asked on 23 October about meat hygiene?

The Hon. J. C. BURDETT: I am advised by the Minister of Agriculture that it is true that the Meat Hygiene Authority will not be operating as far as slaughterhouses and meat from abattoirs coming into the outer-metropolitan area are concerned until January next year. The Minister, with the support of the Premier, has instructed the authority to treat this matter as its first priority.

VINDANA WINERY

The Hon. B. A. CHATTERTON: Has the Minister of Community Welfare a reply to my question of 30 October about the Vindana winery?

The Hon. J. C. BURDETT: I am advised by the Minister of Agriculture that it is true that growers who have outstanding debts with the Vindana winery are eligible to apply to the Agriculture Department for carry-on loans.

AGRO-FORESTRY

The Hon. B. A. CHATTERTON: Has the Minister of Community Welfare a reply to the question I asked on 30 October about agro-forestry?

The Hon. J. C. BURDETT: I am advised by the Minister of Forests that the difference of opinion between the department and the council surrounded the location of the experiments, not a matter of whether to proceed or not. There is no residual hostility between the department and the council, and the experiments are proceeding. The experiments are being conducted jointly with the Department of Agriculture, and their location is satisfactory, but not as good for demonstration purposes as it might have been.

RATES

The Hon. C. W. CREEDON: Has the Minister of Community Welfare a reply to my question of 28 October about rates?

The Hon. J. C. BURDETT: The reply is as follows:

1. The council has adopted a differential rate for the financial year 1980-81, and the rates are as follows: For properties used wholly or mainly for residential use, 11.6c in the dollar of the assessment. For non-residential properties, 14·8c in the dollar of the assessment.

2. The overall increase in 1980-81 of rates collectible is 19·4 per cent as against an increase during 1979-80 of 7·2 per cent, so that in effect the council was below the average inflation in 1979-80 and above in 1980-81.

3. The council required the additional rate revenue to provide increased services within the community.

4. The council did not protest to the Valuation Department about the increases in valuation, as the council is of the view that it is the right of every individual property owner to appeal against the assessed value of his property.

5. See 4 above.

6. In valuing properties in any area, the Valuer-General has regard to prices paid for properties at the relevant date of completion of the valuation, that is, 17 May 1977.

7. Residential properties, an approximately 150 per cent increase. Commercial properties, an approximately 107 per cent increase. Industrial properties, an approximately 100 per cent increase.

8. No section of Thebarton council could be identified as having had the highest increase in value.

9. Seventeen owners objected to their valuation.

10. Notices of valuation advising details of the valuation were forwarded to each owner in the area.

11. No.

In reply to the supplementary question concerning valuation notices being printed in ethnic languages, translation of notices of valuation are not provided in ethnic languages.

NOISE CONTROL

The Hon. J. R. CORNWALL: I seek leave to make a short statement before asking the Minister of Community Welfare, representing the Minister of Environment, a question about noise control.

Leave granted.

The Hon. J. R. CORNWALL: The Noise Control Act was applauded generally at the time of its introduction as a significant step forward for South Australia. It is generally agreed that it is excellent legislation. However, there are administrative difficulties, because the unit is short staffed. It is virtually impossible at present to enforce the Act outside the metropolitan area, because all of the staff is located in the city of Adelaide. It has been obvious for some time that it needs considerable input from local government. Many domestic noise areas, in particular, could be best administered by local councils. That would be an immediate and effective way to decentralise these important areas of administration. Local councils, of course, as members on the other side never tire of telling us, can provide local knowledge and can apply the provisions of the Act throughout the State immediately, because the infrastructure is already there. They would be in a position to provide suitable staff, subject to the Government's providing satisfactory financial input and support.

Can the Minister say, first, how many people are currently employed in the noise control section of the Department for the Environment? Secondly, what is the average time taken to process domestic and industrial noise complaints to a solution or conclusion? Thirdly, will the Minister negotiate with councils, particularly non-metropolitan councils, to involve them in administration of the Noise Control Act? Finally, will he ensure that, in accordance with the policy of the Local Government Association, adequate finance is made available to councils which may opt to participate in the administration of the Act?

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

HOMELESS TEENAGERS

The Hon. ANNE LEVY: I seek leave to make a brief statement before asking the Minister of Community Welfare a question about homeless teenagers.

Leave granted.

The Hon. ANNE LEVY: A statement appeared in the press yesterday concerning a report presented to the Government regarding the situation of homeless teenagers in South Australia. The Minister may remember that I first questioned him on this matter over 12 months ago. The report presented has, I think, borne out a number of conclusions I suggested at that time. I was horrified to read that there are between 4 500 and 9 000 young people who are homeless each year in South Australia, and that the main cause of that is poverty from being on the dole, particularly for those under the age of 18 years who receive only $36 a week in unemployment benefits. I understand, too, from the press statement that the report urges that everything possible be done to try to get the unemployment benefit increased for that category of people so that they will be able to afford accommodation. I am sorry if I have misinterpreted the result of the report, but I have seen only what has been reported in the press and may not have the details accurately.

Will the Minister say, first, whether members can get a copy of this report so that they do not have to rely on press accounts of it? Secondly, if as I have quoted, one of the recommendations is to increase unemployment benefits for those people under 18 years, will the Minister undertake to lobby the Federal Government and urge it most strongly to take steps to relieve the poverty and misery caused by this homelessness?

Thirdly, if such lobbying proves to be unsuccessful (as I would not be surprised to find, in view of the fact that other people have previously lobbied the Federal Government quite unsuccessfully in relation to this matter, although I wish the Minister well in the efforts he may make in this area), will the Minister consider granting these young people a supplement from the Department of Community Welfare so that they will not be in this accommodation crisis situation? If the State Government does that as a matter of common humanity, how much is it likely to cost, and will the Minister treat this matter as one of real urgency?

The Hon. J. C. BURDETT: In relation to the first question as to whether members of Parliament can be provided with a copy of the report, that is certainly a reasonable request, but I am not the Minister in charge of it. I will pass that request on to the Minister in charge of the report. In relation to the other matters, the honourable member would have read in the press that the report has been released for a period of public discussion prior to Government action being taken thereon. Therefore, I cannot give any undertakings until that period of public discussion has elapsed.

SEX DISCRIMINATION ACT

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Attorney-General a question about the Sex Discrimination Act.

Leave granted.

The Hon. BARBARA WIESE: In March this year the South Australian Sex Discrimination Board prepared a report on the Sex Discrimination Act. That report was subsequently presented to the Attorney-General for consideration. Among the 26 recommendations made in the report were several designed to streamline the operations and effectiveness of the board and the Commissioner by improving staff funding and procedural arrangements. Other recommendations called for legislative additions affecting such areas as awards, superannuation and sporting bodies and clubs.

As the Attorney-General has now had several months to study that report, will he tell the Council what his attitude is to the recommendations contained therein? Secondly, will he say which recommendations, if any, the Government intends to implement? Thirdly, if the Government does not intend to implement any of the recommendations, will the Attorney-General say why?

The Hon. K. T. GRIFFIN: The report referred to by the honourable member was prepared on the initiative of the Sex Discrimination Board and was delivered to me as the Minister responsible for the board. In fact, I am somewhat surprised that the honourable member seems to know so much about it, because it was a report that was presented to me. No decision has been made by the Government on any of the recommendations contained in the report.

MEAT SALES

The Hon. N. K. FOSTER: I seek leave to make a brief statement before asking the Minister of Consumer Affairs a question about meat cuts.

Leave granted.

The Hon. N. K. FOSTER: Recently, I heard a radio broadcast about meat cuts which should be a matter of some concern to officers of the Minister's department and the Minister himself. The matter has not been sufficiently reported in the press for me to have a great deal of information about it. Most certainly, if wide publicity was given to this matter by those responsible for marketing meat in the retail sector I am sure that housewives would be expressing a great deal of concern about it. Generally, butchers come in for more than their fair chop of profits.

The Hon. L. H. Davis interjecting:

The Hon. N. K. FOSTER: I would like to inflict the unkindest cut of all on my colleague opposite. The meat industry is considering widespread changes involving various cuts of meat, and the question whether there will be a lowering in the quality and quantity of meat cuts leads me to be somewhat concerned. If one looks at the yarding figures quoted in the *Stock Journal* each week (I read the *Stock Journal* as well as the trade union journals) one will find that they involve lambs, hogget, and so on. However, one can wander into any city supermarket and find long meat counters displaying scarcely any hogget or mutton; it is all lamb, whereas the yarding figures quoted indicate that the quantity of lambs sold in some instances has been far less than 50 per cent of the total sales.

There is a great rip-off—and I am going to use that term now, because the *Advertiser* has stated that I have used it before, even though I have not. There is a great price differential between hogget or mutton chops and what it is preferred to call lamb chops, especially in the off season. Will the Minister request his department to prepare a report on the meat industry and ascertain whether or not any such changes are contemplated? Secondly, if changes are contemplated, what are they? Thirdly, will the designation of cuts of meat alter in such a way that the public will be informed and housewives will become aware of the difference? Fourthly, will the quality of the meat change? Finally, and most important, if the profitability of retailers increases will the price of meat to the consumer be increased?

The Hon. J. C. BURDETT: There is no need for a report to be prepared, because the Government is quite aware of what the meat and allied trades have done. In fact, I launched their current campaign last evening. Actually, the question of meat packaging comes under the Food and Drugs Act and is the responsibility of the Minister of Health, but I am aware of what is going on. There is no

need to worry about retailers' margins, because they introduced this method of packaging. This system has been introduced by the Master Butchers Association, for whom the honourable member seems to have some concern; he is concerned about butchers. It was introduced by the meat and allied trades, and it simply involves a method of providing uniformity in relation to packaging.

The Hon. N. K. Foster: It goes further than that.

The Hon. J. C. BURDETT: I am sorry, but it does not. An excellent pamphlet was launched by the meat and allied trades last night, and I hope that the honourable member obtains a copy of it. Instead of many differing descriptions of various cuts of meat, it is simply intended that there will be a uniform description and the meat will be packaged accordingly. Regarding lamb, hogget and mutton, there is already a protection against unfair advertising and, if complaints are made to my officers, they will be investigated.

The Hon. N. K. FOSTER: Can the Minister tell the Council when this scheme will operate? If the Minister says that it will operate forthwith, will he, in the interests of the purchasing public, including housewives, prevail on those involved to ensure that the change is delayed until the pamphlet has been widely circulated?

The Hon. J. C. BURDETT: No, I am not prepared to do that.

APHID RESEARCH

The Hon. B. A. CHATTERTON: Has the Minister of Community Welfare, representing the Minister of Agriculture, a reply to the question I asked on 28 October regarding aphid research?

The Hon. J. C. BURDETT: I am advised by my colleague, the Minister of Agriculture, that the matter has been given careful and deliberate consideration and, in view of the Government's policy for surplus daily paid employees, it was decided to appoint two surplus workers from another area of Government. It is appreciated that some other people may have a level of experience in this area, but in the final analysis it was obvious that, if the policy for transfer of surplus employees was to succeed, there was no alternative but to apply it in this case.

LEAD-FREE PETROL

The Hon. J. E. DUNFORD: I seek leave to make a short statement before asking the Minister of Community Welfare, representing the Minister of Environment, a question regarding lead-free petrol.

Leave granted.

The Hon. J. E. DUNFORD: Since you, Mr. President, have been living in the city, you would no doubt have heard people talking and showing much concern about lead-free petrol. I was interested to read that a legislator in Victoria, a member of the Australian Labor Party, has introduced a private member's Bill providing for the introduction of lead-free petrol. That legislator has rejected statements by the Federal Government and State Governments that petrol consumption would increase if lead was removed from petrol. This person said he was concerned that young children who absorbed too much lead in their bodies could suffer irreversible health hazards.

It has been said on some occasions that South Australia has a pollution level as high as that in Sydney. Indeed, only the other day I heard the Hon. John Cornwall make a remark which struck home to me. He said that it is easier to get the lead out of petrol than it is to get it out of a child's brain. I do not know how long this move will be agitated for, especially in South Australia, but I think that something ought to be done today. Although I do not know the Minister of Environment (Hon. D. C. Wotton) very well, I am told—

The Hon. J. R. Cornwall: He has as much muscle in Cabinet as a swamp parrot.

The Hon. J. E. DUNFORD: I do not believe that.

The PRESIDENT: Order! I think that the Hon. Mr. Dunford should proceed with his question.

The Hon. J. E. DUNFORD: I should not be laughing, Sir, as this is a serious matter. Will the Minister of Community Welfare ask the Minister of Environment whether he will support the appointment of a joint committee to investigate the desirability of legislation to introduce lead-free petrol in South Australia?

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

DISCRIMINATION AGAINST WOMEN

The Hon. ANNE LEVY: I seek leave to make a brief statement before asking the Attorney-General a question regarding the United Nations convention on the elimination of all forms of discrimination against women.

Leave granted.

The Hon. ANNE LEVY: Honourable members may be aware that there is a United Nations convention on the elimination of all forms of discrimination against women, which convention was signed on behalf of Australia by the responsible Federal Minister (Hon. R. D. Ellicott) in July this year at a ceremony in Copenhagen.

However, before this convention can be ratified by Australia, it is necessary that all State laws and practices conform to the convention. I understand that the Federal Government is keen to achieve ratification of this United Nations convention and that it is consulting with all States to see that all the requirements in relation to it are fulfilled.

I further understand that a committee has been set up in this State to examine South Australian law and practice to ensure that we conform to all the necessary details to permit ratification of this convention by Australia. I certainly hope that this committee will find that we do not need any further legislation in this State and that we will not be responsible for holding up any ratification on the part of Australia of this important United Nations convention.

I have heard that the problems may lie not so much with South Australia as with Western Australia and Queensland, and that ratification may be delayed as a result of a lack of legislation or lack of action on the part of the Governments of those States, which will prevent Australia as a nation ratifying this convention.

Can the Attorney-General say whether there are any legislative procedures or administrative practices that we in South Australia need to alter before Australia can ratify this convention? I hope that the answer will be that there is none. Secondly, will the Attorney-General give his support to the Federal Attorney-General in urging Western Australia and Queensland to change their laws and practices so that early ratification of this convention can be undertaken by Australia?

The Hon. K. T. GRIFFIN: Before signing the convention in Copenhagen in the middle of this year, the States were asked whether or not they thought the

Commonwealth should participate in the signing ceremony. South Australia indicated that it supported Australia's being a signatory to that convention in Copenhagen.

The usual practice in Australia where conventions are to be ratified is for the Standing Committee of Attorneys-General to work through the conventions and then participate in the development of appropriate legislation at the Federal level for the purpose of ratifying the conventions.

In some cases, the special legislation that is required contains provisions that make some exception to the application of such a convention. The process is usually a fairly long and somewhat complex one because, when a convention is to be ratified in Australia, there needs to be a review of all legislation not only at the Commonwealth level but also in the States and Territories.

In relation to the convention on the elimination of discrimination against women, a small working group has been established with the Women's Adviser as Chairman, one of my own officers, and some other officers. They have the task of making an assessment, first, of the detail of the convention, and, secondly, regarding its application in South Australia. That working group is to report to me by early 1981. From there, its report will be considered by Cabinet, and it will then go to the Standing Committee of Attorneys-General, probably next February.

At this stage, I am not aware of any legislation that may need to be amended or administrative action that may need to be taken in South Australia. It is really premature for me to speculate on that, because that is one of the tasks of the working group. The attitude of the other states is a matter for them rather than for this State Government. I am not aware of any difficulties that any of the other States have faced in regard to the convention, but I would certainly not seek to intrude on the way in which other States conduct their affairs or the attitude that they may adopt on State matters or matters that affect the State. Positive action is being undertaken in South Australia to examine the convention closely and its relationship with South Australian law and administrative practices, and I can assure the honourable member that we will be moving ahead with that review as quickly as possible, hopefully with a view to making decisions, perhaps of an interim nature, early next year.

92-OCTANE FUEL

The Hon. N. K. FOSTER: My question is directed to the Attorney-General as Leader of the Government in the Council, because it may cover more than one portfolio area, and I seek leave to make a brief explanation before asking a question about 92-octane fuel and other related matters.

Leave granted.

The Hon. N. K. FOSTER: It is well known that most automobiles in this country could run on a much lower octane fuel than is now being marketed; in fact, one would find it very difficult to buy, in any quantity, low octane fuel that may be referred to as standard fuel by the oil producing countries or, to be fair, by the oil refining companies. Advanced technology in regard to ignition systems allows this fuel to fire efficiently, and it produces as much efficiency as high lead fuels produce, which were referred to in a previous question.

It is well known that carbon monoxide and the emission of nitrate are drastically reduced; therefore, because technology is available to produce 92-octane fuel, atmospheric pollution could be considerably reduced. This year, Adelaide will probably experience a greater pollution haze than has been produced before, and it is for this reason that the Government should pay close attention to a certain portion of the question that I will ask.

I also draw honourable members' attention to the fact that, with the advanced technology in regard to car ignition and electrical systems, it is now known that an independent electrically operated fan, which is not driven by the motor, does away with the need for fan blades on the motor, which are counter productive and are petrol users, and which are most inefficient. These blades can be completely discarded. Products that work on the thermostatic principle have been tested and proven. When a vehicle becomes stationary, by the present method the cooling fan becomes a load on the motor and uses a vast amount of fuel, being at its most inefficient stage from a cooling point of view; it is then that the electrically operated fan will cut in and give off about 4 000 revs per minute, as a minimum. When the vehicle moves—

The Hon. L. H. Davis interjecting:

The PRESIDENT: Order!

The Hon. N. K. FOSTER: —the fan cuts out and there is no counter load on the crankshaft to drive the vehicle, which means a fuel saving, at a conservative estimate, of 10 per cent to 20 per cent (12 per cent to 16 per cent is the norm, if I may use that term). American Government petrol consumption is down 10 per cent, and this is not based on the pricing policy in America but on the fact that water ways, canals, and railways are being used instead of road transport; it is also based on the fact that the size of the average automobile in America has shrunk considerably. In Australia, the reduction can be related to industrial stoppages. Pricing is quite fatalistic in regard to conservation.

Will the Attorney-General prepare a Cabinet submission based on the question I asked, and will he conduct research through Government departments in relation to electrical fans on automobiles, and the use and availability of 92-octane petrol; and will he also request the Cabinet to consider rebates for motorists who are prepared to convert their vehicles from a crankshaft driven cooling fan to an automatic electrically operated fan?

The Hon. K. T. GRIFFIN: I will not prepare a Cabinet submission, but I will forward a—

The Hon. N. K. Foster: Would you like me to prepare one?

The PRESIDENT: Order!

The Hon. K. T. GRIFFIN: I will forward the information that has been prepared by the honourable member, as well as conveying his remarks, to the Minister of Transport.

AMATEUR FISHING LICENCES

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 amateur fishing in South Australia and Victoria.

Leave granted.

The Hon. B. A. CHATTERTON: Recently, the Minister of Fisheries in Victoria announced that he would recognise amateur fishing licences issued in New South Wales and South Australia as being valid in Victoria. That is a very sensible move to try to help people who travel interstate to fish without going through the problem of obtaining a fishing licence locally. South Australia does not have an amateur fishing licence system as such: amateur fishermen

must register their gear, but they do not have a licence to fish, as is the case in Victoria.

The Hon. C. M. Hill: Thank goodness!

The Hon. B. A. CHATTERTON: Yes, I agree with the Minister's comment. If discussions are held with the Victorian Minister, South Australians may benefit from the offer that has been made, and I ask whether the Minister of Fisheries will take up this matter with the Victorian Minister of Fisheries to see whether there are ways of allowing South Australians to have the right to fish as amateurs in Victoria without applying for a Victorian amateur fisherman's licence.

The Hon. C. M. HILL: I will refer this matter to the Minister of Fisheries and bring back a reply.

MENTAL HEALTH ACT

The Hon. ANNE LEVY: Has the Minister of Community Welfare a reply to my question of 28 October on the Mental Health Act?

The Hon. J. C. BURDETT: I am advised by my colleague the Minister of Health that the Statement of Legal Rights—Form No. 7 under the Mental Health Act—is available in English, Italian, Greek, Serbo-Croatian and Vietnamese languages.

RELIGIOUS EDUCATION

The Hon. ANNE LEVY (on notice) asked the Minister of Local Government:

1. In how many schools (primary, secondary, and area schools) is the subject of Religious Education being taught in 1980, and which are they?
2. In each of these schools, which years of students are taking the subject of Religious Education, and approximately how many students are in these classes?
3. In how many schools (primary, secondary, and area schools) is the subject of Religious Education expected to be taught in 1981, and which are they?
4. How many teachers in the Education Department have been specially trained (either pre-service or in-service) to teach the subject of Religious Education?
5. Are any teachers teaching the subject of Religious Education who have not had either pre-service or in-service training for this subject and, if so, how many?

The Hon. C. M. HILL: I regret that I have not been able to obtain a reply to this question from the Minister of Education. I respectfully suggest to the honourable member that she places the question on notice for Tuesday next.

COMMUNITY AID ABROAD

The Hon. C. W. CREEDON (on notice) asked the Minister of Local Government: In view of the fact that Community Aid Abroad has stated, through its Director, that it has now turned its attention to Australian Aborigines because "State Governments are not delivering the goods":

1. Is the State Government financially involved with C.A.A. funding of any projects in connection with South Australian Aborigines?
2. If so, what proportion of State Government funding constitutes the total cost of the particular projects?
3. Is the Government aware of C.A.A. funding in any other projects involving South Australian Aborigines, and, if so, what are the particular projects?

The Hon. C. M. HILL: Again I must apologise that I have not the reply to this question and ask the honourable member to place it on the Notice Paper for Tuesday next.

FREEHOLD LAND

The Hon. J. R. CORNWALL (on notice) asked the Minister of Local Government:

1. How many applications to freehold land held under perpetual lease have been received since the announcement of the Government's policy?
2. How many applications have been approved?
3. What areas of land are involved?

The Hon. C. M. HILL: The replies are as follows:

1. 832.
2. 627. The remainder of the applications are presently being processed.
3. 298 112 hectares approximately.

MARGINAL LANDS

The Hon. J. R. CORNWALL (on notice) asked the Minister of Local Government:

1. How many applications to clear and cultivate areas in marginal lands have been received by the Minister of Lands since 17 September 1979?
2. How many have been approved?
3. What are the names and addresses of the people to whom approval has been given?
4. What acreages are involved in each case?

The Hon. C. M. HILL: The replies are as follows:

1. Nil.
2. Not applicable.
3. Not applicable.
4. Not applicable.

NUCLEAR ATTACK

The Hon. BARBARA WIESE (on notice) asked the Attorney-General: In view of the fact that the new American nuclear strategic doctrine makes American bases in Australia nuclear targets, and in view of the fact that Nurrungar within the Woomera Restricted Area in the north of South Australia is such a base and one which plays a key role in American monitoring of Soviet missile tests, will the Attorney-General inform the Council:

1. Whether he is aware that this base is considered a potential nuclear target?
2. What the functions are of this base?
3. What the effects would be of fall-out from a 0·5:1 megaton nuclear strike, either air burst or ground burst, on this station?
4. In particular, what is the probability of wind speed and direction being such that nuclear fall-out would reach Adelaide in the event of such a nuclear strike?

The Hon. K. T. GRIFFIN: The matter of defence and likelihood of a nuclear attack on Australia is essentially a matter for consideration by the Federal Government.

ABORTION STATISTICS

The Hon. Frank Blevins, for the **Hon. ANNE LEVY** (on notice) asked the Minister of Community Welfare: When will the Minister reply to the question first asked 12 months ago, and most recently on 23 September 1980, regarding the numbers of terminations of pregnancy

carried out in the Queen Victoria Hospital, Queen Elizabeth Hospital, the Royal Adelaide Hospital, the Modbury Hospital, and the Flinders Medical Centre for the last six months of 1979?

The Hon. J. C. BURDETT: The numbers of terminations of pregnancy notified between 1 January and 31 December 1979, the period covered in the 10th annual Report of the Committee Appointed to Report on Abortions Notified in South Australia (to which the honourable member's question of 23 September 1980 refers) in the major metropolitan hospitals are:

Flinders Medical Centre	459
Modbury Hospital	181
Queen Victoria Hospital	1 191
Royal Adelaide Hospital	144
The Queen Elizabeth Hospital	975

NATURAL DEATH BILL

Adjourned debate on second reading.

(Continued from 5 November. Page 1764.)

The Hon. J. A. CARNIE: When delivering his second reading explanation the Hon. Mr. Blevins gave a brief history of his involvement in this matter. As he said, he first raised the matter in speaking to the Address in Reply debate in 1978. I remember taking note of what the Hon. Mr. Blevins said. In my own Address in Reply speech on 3 August 1978 I stated:

> The Hon. Mr. Blevins raised a point which is bound to raise a lot of controversy, the question of the right to die. I agree with the Hon. Mr. Blevins in this matter. I can think of nothing worse than being kept alive on a life support system, and at this moment I can say that I would prefer to die. I stress that I say this now. It is one thing to say one would sooner be dead than kept alive that way when one is in full possession of one's health and faculties. It could well be a different story when one is actually faced with the prospect. One of the strongest instincts in man is the desire to live; as a general rule that instinct will override all others. A person who may be horrifed at the thought of living on a machine may sign a directive, as suggested by the Hon. Mr. Blevins, but, when given the opportunity, when actually faced with the prospect, of living on a machine or dying, that person may regret having signed it. But of course by the time it reaches that stage he may not be in a position even to know that he was going on a machine, and would not be able to revoke the directive. It would be much too late.

I then went on and cited two cases that had occurred at about that time in America, each of which proved opposite viewpoints. I then went on to say:

> Both of these cases are distressing, but they point to the difficulty of making a judgment in these matters. For this reason, I believe that Parliament should not become involved. There is no problem in this connection in South Australia. I have not heard of any problem and, if the Hon. Mr. Blevins has heard of a problem, he did not mention it. The matter is best left to the judgment of the doctor in charge of the case. Each case should be treated individually and, almost certainly, in conjunction with the family. It would be dangerous for the Legislature to become involved in this matter. While I have sympathy for what the Hon. Mr. Blevins was trying to do, at this stage I would oppose any move to legislate.

That is what I said when this matter was raised in 1978. Following the history as given by the Hon. Mr. Blevins, in March of this year he introduced a Natural Death Bill and indicated in introducing that Bill that he would move for the appointment of a Select Committee. My views were still the same as those which I have just stated. Because of the emotionalism engendered by this subject, already at that time it was being referred to as a euthanasia Bill, and nothing could be further from the truth if people were to read it. I did believe and still do that it was an ideal subject for a Select Committee to allow interested parties, all branches of the medical profession, the legal profession, the churches and any member of the public to express their views, which would then be assessed by the committee, and a considered report would be brought before Parliament. This was done, and I congratulate the committee on the work that it did.

In passing, I must say that I was disappointed that the Law Society, in a letter to the committee dated 18 July 1980, stated that it did not wish to comment on the Bill. This is surely an irresponsible attitude on the part of the Law Society. Whether or not one agrees with the Bill, whether or not one thinks it is necessary, there is no question that points of law are involved. I feel sure that members of the committee would agree that an opinion from the Law Society would have been helpful to them. I believe that it shows a degree of irresponsibility that the representative body of the legal profession in South Australia did not see fit to make some sort of submission.

In saying that points of law are involved, I am afraid that I cannot agree with the comments of my colleague the Hon. Mr. Davis in this regard. He foresaw legal difficulties which I am sure would not exist in fact. I have referred to the evidence given to the Select Committee. I have read that evidence, and two things ran through it: first, there was a profound misunderstanding of the purposes of the Bill; and, secondly, the other theme was that it was unnecessary.

The first, the profound misunderstanding, was mainly by the churches, and the second (perhaps understandably), was by the medical profession. One sentence of the evidence submitted by the Most Reverend Keith Rayner was typical of the evidence that was given time and time again. In the second paragraph of his submission he states:

> Such legislation should only be introduced if it can be conclusively demonstrated that it is necessary.

It is often said that one's first thoughts are the best. My first thought was as I quoted a few moments ago from my speech of just over two years ago. The present system, as it exists, is working, so why disturb it? I must admit that in recent months I have thought that I might support this Bill, but it was in a rather negative way. My support was along the lines that the provision was harmless, so why not let people sign such a declaration if they wish to do so.

Probably my thinking was coloured by the obvious sincerity of the Hon. Mr. Blevins in introducing his Bill. I place on record the fact that I know that the Hon. Mr. Blevins was prompted to introduce this Bill because of his compassion and sincerity.

The Hon. R. C. DeGaris: People can still make a declaration even if the Bill does not go through.

The Hon. J. A. CARNIE: That is true. That is my argument. In fact, the Bill finally presented by the Hon. Mr. Blevins does nothing. By that I mean that the main concept, as envisaged by the honourable gentleman, does nothing. One matter that did come out of the Select Committee is of great importance, and I will deal with that later. I now turn to that area which is of great concern to the Hon. Mr. Blevins, that is, the fact that no-one should be subjected to "extraordinary measures" as defined in the Bill against their wishes. To put it simply, no-one should be put on a life-support system if they do not want it.

In his second reading explanation, the Hon. Mr. Blevins said that the introduction of the Bill was a sign of the

times, that it was the result of modern technology. Indeed, I always remember being surprised at the time of the assassination of President John F. Kennedy in 1963 that, although half his head was shot away, he was not pronounced dead for about half an hour. As a layman I would have assumed that, with a bullet in the brain or the heart, death would have been classed as instantaneous. Honourable members learned from the comments of the Hon. Dr. Ritson that there is really no such thing as instantaneous death, that in fact we die by degrees. The Hon. Dr. Ritson spoke of the fact that the brain dies within a few minutes, and organs such as the kidney can live for half an hour or more. I speak from memory of what Dr. Ritson said, and I hope that I am correct. He said that skin could live for several days. However, I agree with what the Hon. Mr. Blevins said in his second reading explanation: that it is modern technology that has made even the thought of a Bill such as this enter anyone's mind.

I would like to examine this aspect of the Bill in some detail. First, whom will the Bill affect? The Bill defines "terminal illness", and the definition is clear. Earlier speakers have referred to elderly people. The Hon. Miss Levy made some mention of elderly people and the fear people have when they reach the terminally ill stage of their life. They fear that they will be kept alive unnecessarily by means of modern technology. This is a very real fear and one with which I sympathise.

The other patients who come to mind when one talks about terminal illness are the terminal carcinoma patients. The fact is that neither of these types of patient is in standard practice subjected to "extraordinary measures", because the normal processes of death are allowed to occur. They are not put on life-support machines. In fact, with cancer patients it is more than possible that the pain relieving drugs that are given, particularly in the latter stage of such terminal illnesses, actually have the effect of shortening life. This raises the point of the clause that was put in the Bill.

It was stated in the report and the evidence that the clause was put in the Bill to satisfy those people who were not convinced that the Bill was not a Bill to condone euthanasia. Clause 5 (2) provides:

> Nothing in this Act authorises an act that causes or accelerates death as distinct from an act that permits the dying process to take its natural course.

When one thinks of terminal cancer patients one wonders what the effect of that clause could be, because I know from my professional experience that quite large doses of pethidine and morphine and so on are administered fairly frequently in the latter stages, and this could have the effect of actually shortening life and could be in contravention of this provision.

In any case, in the cases that I am quoting (the geriatric cases and the terminal carcinoma situation), in most cases patients are conscious and can refuse any form of life support or even medication, if it comes to that. I have always considered the actions of Jehovah's Witnesses in refusing blood transfusions and injections to be quite stupid, but I respect their right to make that choice. That brings me to the next point. If the patient is conscious, no problem exists, because the doctor can explain to the patient his condition, he can explain the treatment he proposes, and the patient can make his choice whether to accept the treatment as proposed or to refuse it. It is a simple choice. It is the choice of the patient and it must be respected by the doctor.

In regard to the question of who will be affected by this legislation, it is the victim of trauma, the patient who is taken to a hospital in an unconscious condition, usually the result of a road accident or some other accident, a cardiac arrest, a stroke or a drug overdose (either accidental or intentional), and in almost all of those cases the victim will be taken to a major hospital.

How will the doctor on duty know whether or not the patient has signed a declaration as prescribed in the schedule? In any case, what does it matter, because under this Bill there is an overriding clause which supports my argument that the Bill does nothing. That is clause 2, which is the interpretation clause. It defines "recovery", as follows:

> "recovery" in relation to a terminal illness includes a remission of the symptoms or effects of the illness:

It then defines "terminal illness", as follows:

> "terminal illness" means any illness, injury or degeneration of mental or physical faculties—

Paragraph *(b)* states:

> *(b)* from which there is no reasonable prospect of a temporary or permanent recovery, even if extraordinary measures were undertaken.

In regard to the examples that I have quoted of people who could be affected by this Bill, in the first case a road accident victim could be taken to a hospital in an unconscious condition, say, with massive head injuries which would first involve the doctor putting that patient on a respirator while the doctor made his assessment of the extent of the injury.

How could a doctor assess whether or not there was any real chance of recovery unless he did that? I understand that the normal practice in the case of patients with brain damage where recovery is virtually impossible involves the respirator being switched off, but the doctor must have time to assess the probability.

The Hon. R. C. DeGaris: That is the present practice.

The Hon. J. A. CARNIE: Exactly, and that is my point. This Bill really does not alter standard practice at all. Therefore, what is the need for the Bill? This situation is going on now and will continue whether or not the Bill is passed. In the case of a cardiac arrest, with this type of patient the chances of recovery are quite high, provided that help is obtained quickly, that is, within minutes.

The record of the intensive care unit of the Royal Adelaide Hospital is very good indeed. A stroke victim is in much the same circumstances, although very often in stroke cases recovery is not complete, as a patient is often left with some paralysis or speech impediment. It must be remembered that clause 2 of the Bill does not state "complete recovery". "Recovery", in the context of this Bill, can mean any improvement, however slight. In the last case I quoted, that of drug overdose, either accidental or otherwise, the same thing applies; provided that circulation has not been restricted for long enough to cause brain damage, then total recovery will result. Whether or not anybody, doctor or not, has the right to interfere with anybody who wishes to take his or her own life does not come within the ambit of this Bill.

The fact is that under clause 2b the question of the chance of recovery can override any declaration which may have been made by the patient, so I say again, "Who will be affected by this legislation?" As I said before, if a patient is conscious, no problem exists: he can accept or reject any treatment suggested by his doctor. However, if a patient is unconscious his doctor can override any declaration made by the patient, on the grounds I have already mentioned, or under subclause (3) of clause 3 which deals with the actual making of a direction against artificial prolongation of the dying process and provides (where a person has made such a direction) in part:

> . . . it shall be the duty of that medical practitioner to act in accordance with the direction unless there is reasonable ground to believe—

(a) that the patient has revoked, or intended to revoke, the direction;

or

(b) that the patient was not at the time of giving the direction, capable of understanding the nature and consequences of the direction.

The question arises here of the time span. Would a decision taken in this regard by a fit, healthy 30-year-old be the same as that taken by a 70-year-old to whom death in the reasonably near future is a statistical certainty? Yet, that 70-year-old could well have forgotten that 40 years before he had signed this particular declaration, and his wishes could be quite different now.

One doctor to whom I have spoken about this matter, and one who I may say supports the general principle of this Bill, has told me he would disregard any declaration signed under this Act, if it became law, if that declaration was more than 10 years old, on the grounds of what is provided in clause 3 (3) *(a)*. He takes the view that it would be a safe assumption that the patient, after such a lapse of time, may have wanted to revoke that direction. I mentioned earlier that I disagree with many aspects of the points made by the Hon. Mr. Davis in his speech, although I join him in opposing this Bill. I disagree with many aspects of the speeches made by the Hon. Mr. DeGaris, the Hon. Mr. Ritson and the Hon. Anne Levy, who all support the Bill. I think this indicates how very grey is the area covered by this Bill. It is easy to find cogent arguments for both sides of the case, and this is the tragedy of the matter.

As I have already said, I can understand and sympathise with the Hon. Mr. Blevins and his motives for bringing this Bill before us, but it will not achieve, in my view, what he wants it to achieve. I very much doubt that it is possible to write into legislation the concept which he wants. To make it acceptable, it is necessary to write into the law the overriding clauses which I have mentioned. Those overriding clauses render the Bill meaningless. I mentioned at the beginning of my remarks that there is one thing that came out of the Select Committee into this matter which is of vital importance. This is incorporated in Part II of the Bill, which deals mainly with the definition of "death".

The Australian Law Reform Commission, under the chairmanship of Mr. Justice Kirby, in its report on human tissue transplants, recommended a definition of "death" which did not exist in any Statute in Australia. In fact, I do not believe that any definition of "death" existed at all. It was generally accepted that death occurred when breathing ceased or the heart stopped beating, but nothing was written into legislation, as I understand it. To be quite cold blooded about it, until recent times this definition, that death occurred when breathing ceased or the heart stopped, was really close enough, because without the aid of modern technology death was certain at that stage. Things have changed in comparatively recent times. I think it was the Hon. Mr. DeGaris who made the observation that the law is limping rather badly behind modern medical technology. This modern medical technology makes it essential that an accurate definition of "death" should exist on the Statute Book. As I have said previously, modern technology can do things undreamt of a short time ago.

First, even though heart and respiration may have ceased, complete recovery can be effected without any physical damage whatever, provided that the treatment is commenced soon enough, and as I mentioned a little earlier that means within minutes. But, provided that is done, complete recovery can be effected in many cases. Secondly, it is possible to keep most organs of the body functional even though brain death may have occurred. This is recognised in the Bill by the inclusion of clause 5, which is designated as a saving clause and is another way in which any wishes of the patient could be overridden.

The Hon. J. R. Ritson: This clause applies to after death.

The Hon. J. A. CARNIE: The point I am trying to make is that recognition of the fact that organs can still function even though brain death may have occurred is recognised as implicit in this Bill. Clause 5 provides, in part:

(1) Nothing in this Act prevents the artificial maintenance of the circulation or respiration of a deceased person—

(a) for the purpose of maintaining bodily organs in a condition suitable for transplantation; or

(b) where the deceased person was a pregnant woman—for the purpose of preserving the life of the foetus.

I stand to be corrected by the Hon. Dr. Ritson on this, but I would imagine that, really, the patient should be on the life support system if the organs are going to be used for transplant before death has actually occurred. Perhaps I am wrong.

The Hon. J. R. Ritson: No, you are right.

The Hon. J. A. CARNIE: I do not think that it would be advisable to put a body on a life support system after brain death had occurred if one wanted to use the organs for transplant purposes. That clause also answers those people who expressed the fear that the Bill would inhibit the use of transplant units, particularly the renal transplant units, in our three major hospitals. However, under clause 5 (1), a doctor has the power to see that a body is kept on a machine for the purpose of keeping the organs in a fit state for transplant. The A.L.R.C. made the point strongly that the definition of "death" should be incorporated into the Statutes of all States and Territories and that such legislation should be uniform. Queensland, Northern Territory and the Australian Capital Territory have already enacted such legislation, and I understand that Victoria and New South Wales are about to do so.

Therefore, it is of vital importance that South Australia has a similar provision as soon as possible. I recognise that this Bill does that and that the definition of "death" included in the Bill is that recommended by the Australian Law Reform Commission. That is one of the reasons why at one stage I thought that I might support this Bill. However, the precise definition of "death" is better related to the question of tissue and organ transplants, and it was in that context that the A.L.R.C. made its recommendation.

I consider it to be far more appropriate that the definition of "death", as recommended by the A.L.R.C. and embodied in this Bill, be provided as an amendment to the Transplantation of Human Tissue Act. Because of the importance that I attach to this definition and because I would like to see it enacted as soon as possible, I seek an assurance from the Minister, either now or in Committee, that the Government will move with all possible speed to introduce a Bill to amend the Transplantation of Human Tissue Act.

I now turn back to the substantive part of the Bill as envisaged by the Hon. Mr. Blevins. For the reason I mentioned earlier, namely, that I do not believe that such an Act would benefit anyone, I believe that current practices are operating quite satisfactorily. As I have said, one recurrent theme emerged from the Select Committee's evidence, that is, that no legislation should be introduced unless it is shown to be necessary. Not one witness who supported the concept of the Bill advanced any concrete evidence proving that this legislation was necessary or urgent. We already have far too much

unnecessary legislation, and I cannot support the introduction of any more. I oppose the Bill.

The Hon. J. C. BURDETT (Minister of Community Welfare): I support the second reading. When the Hon. Mr. Blevins, who introduced this Bill, first referred to its concept in an Address in Reply speech in 1978, I privately commended him outside the Chamber for his action, and I commend him for persisting with and introducing a Bill, taking it to a Select Committee, withdrawing it, and finally bringing this Bill before the Council. I am disturbed about the number of people outside this Chamber who have referred to this measure as a euthenasia Bill.

The Hon. J. A. Carnie: That's nonsense.

The Hon. J. C. BURDETT: It is nonsense, as the Hon. Mr. Carnie says. Many people have referred to the Bill in that way in the press and elsewhere. I believe it is quite mischievous to make statements such as that, because the Bill includes a specific prohibition against euthenasia. It has been said that this Bill could be the thin end of the wedge towards euthenasia and that supporters of euthenasia support this Bill. I suppose they would, but I do not believe that that has anything to do with it.

From the outset, when the Hon. Mr. Blevins first raised this matter in his Address in Reply speech, I have seen this measure as being anti-euthenasia, because people who have supported euthenasia from time to time have usually used as their main emotive appeal references to persons on life support systems who were vegetables, and they have said how horrible that is. They have also referred to persons on life support systems who were in pain, and they have referred to that horror in support of euthenasia.

I see this Bill as being a way of removing that horror and, therefore, that argument. People will be able to sign a declaration, knowing that in the circumstances set out in the Bill their life support system will be turned off. The argument used by many pro-euthenasia people will be taken away. I cannot see how the Bill in its present form creates any problem for the medical profession, although the original Bill may have done so. In its present form, the Bill contains many forms of protection for members of the medical profession, and I cannot see how they can be disadvantaged in any way whatsoever. However, according to the American figures, the fairly small number of persons who choose to use these declarations will receive peace of mind. I think the American figures indicate that only a fairly small number of people use such declarations, but for some people the fear of being kept alive artificially, as it were, on a life support system when they would rather have it turned off is a very real and disturbing fear.

If by passing this Bill we can give those people peace of mind and the assurance that in the proper circumstances, in acordance with the Bill, the life support system will be turned off, I believe we will have done a service to mankind. I make clear that this is a private member's Bill and that I am speaking as a private member. I am not in any way seeking to bind the Government, because it has not formed any opinion in relation to this Bill. As Minister of Consumer Affairs, I administer the Births, Deaths and Marriages Registration Act. Therefore, Part II of the Bill, which deals with the definition of "death", certain aspects of causation and particularly the provision of a death certificate concern me, and I have sought from officers of my department a report on that aspect. In relation to clause 2a (2), I will be moving an amendment to remove the words "in legal proceedings". Clause 2a (2) provides:

> A certificate of death given in accordance with the law of this State or of a place in which the person to whom the certificate relates is alleged to have died shall be proof, in legal proceedings, in the absence of proof to the contrary, that the person to whom the certificate relates—
>
> *(a)* is dead;
>
> and
>
> *(b)* if a time of death is specified in the certificate—died at the time so specified.

I believe that that should apply for all purposes. I do not see why a bank to whom such a certificate is produced by a relative of the deceased person should not be obliged to act on it, or an insurance company, and so on. In clause 3, the use of the words "adult person" is fraught with problems and difficulties.

The Age of Majority (Reduction) Act, 1970-1974, does not use the term at all. Rather, it refers to persons of or above 18 years of age being *sui juris* and of full age and capacity. Not even that provision (s.4 (4)) that certain expressions in Acts are to be construed in accordance with the Age of Majority (Reduction) Act cites "adult" as one of those expressions. (The expressions are "majority", "full age", *"sui juris"*, "minor", "minority", "infant", "infancy", "nonage", and "any other similar expressions".)

The High Court held in *King v. Jones*, (1972) 128 C.L.R. 221, that despite the Act "adult" means, for the purposes of voting at Commonwealth elections, a person 21 years old or above, as they were the only "adult persons" in South Australia, despite the age of majority being 18. To avoid all doubt, I recommend that "an adult person" be replaced by "a person of or above the age of 18 years." I will be moving that amendment in Committee. That same amendment also provides that a person should be of sound mind when the declaration is executed. I will be moving other amendments, but they are essentially of a technical and minor nature and are better discussed in Committee. With those fairly minor reservations in principle, I again commend the honourable member for having persisted with this Bill, the second reading of which I support.

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

KANGAROO ISLAND LAND

Adjourned debate on motion of the Hon. J. R. Cornwall:

> That in the opinion of this Council the area of unallotted Crown land on Kangaroo Island adjacent to Flinders Chase national park in the hundreds of Gosse, Ritchie and MacDonald should not be alienated for development. The Council also calls on the Government to dedicate the area under the National Parks and Wildlife Act of 1972 for conservation in perpetuity. It further calls on the Government to provide adequate management in the area so that adjoining landowners are not disadvantaged.

(Continued from 29 October. Page 1564.)

The Hon. M. B. DAWKINS: I find myself quite unable to support this motion. If I could agree with any of the motion, it would be its last sentence only. To my mind, the motion is quite inappropriate, in this case, as a considerable portion of the land in question is suitable for economic development and, indeed, should be developed. However, there is room for compromise, as something like one-third of the land is not suitable for development and should remain as Crown land. I will go into that matter in more detail shortly.

First, I make clear that I am not anti-national parks; indeed, far from it. On the other hand, I do not approve of the indiscriminate dedication as national parks of land

which can be developed for the production of food when we already have more national parks than we can properly control. I understand that the policy of the United Farmers and Stockowners is for no more national parks until we can manage those which we now have. In my view, that is a sensible outlook.

However, that apart, who are we to say in a world that is crying out for food that we will forever close up land that could and should be developed for food production? Of course, that is just what the honourable member's motion seeks to do: it will close it up forever. There is no doubt that about two-thirds of the land in question is suitable for economic development. Last week, I made a close inspection of it and, more important, of the immediately adjoining land.

It is most important when surveying unimproved land and looking at land that has some potential for development to look carefully at what is just over the fence. Unfortunately, not everyone does this. It is important to look at land that was a few years ago in a similar state to the land in question, and I did just that. I saw some beautiful pastures on land that had been developed only a very few short years ago, and it was within 22 yards (only one road width) of the area that the Hon. Mr. Cornwall wants to keep out of production forever. In this regard, we have heard some comments that I believe are way off beam. I am not saying that the Hon. Mr. Cornwall in particular made those comments; some of them may have been made by some of his colleagues.

We have also heard much of the so-called failure of soldier settlers on Kangaroo Island. This is a very great misrepresentation. Although I am speaking off the top of my head, I think there have been 176 soldier settlers on Kangaroo Island since the Second World War. Fewer than 10 per cent of them have failed, and over 90 per cent have succeeded and have done very well indeed. In many cases this has happened on land of the type about which we are now speaking.

I have also seen other areas of good pasture in that location right up to the fence line between the virgin land and the improved land. There was no road between the developed and undeveloped land in this case. I also want to underline the fact that this land is in a 30in. assured rainfall area. There are no droughts here. I was told by one local landowner whose property is located immediately adjacent to the land in question that over a considerable number of years the lowest annual rainfall that he had experienced was 26in. and the highest 37in. This illustrates to the Council the reliability of rainfall in that area.

Adjacent to the properties to which I have referred were two areas, one of which was sown down in 1979 and one this year, and that land has been rolled and prepared fairly economically for seeding. The growth of balanced pasture on one-year and two-year stands was quite fantastic. This is on land that a year or two ago looked, and in fact was, quite similar to the undeveloped land in question.

I believe that good settlers will develop this land to a high state of fertility, as has successfully been demonstrated in the Upper South-East on barely two-thirds of the rainfall that this portion of Kangaroo Island receives. I believe also that those on Kangaroo Island will do this in the same way as has occurred in the Upper South-East.

The Hon. Mr. Chatterton has been quoted as saying that the area was suitable for growing wool only and that freight charges were prohibitive. If I have misquoted the honourable gentleman, he can correct me. In the first place, it is nonsense to say that this land is suitable for growing wool only. Such a statement is denied by the results that one can see, and is made nonsense by what is happening in the area.

The carrying capacity of the adjacent land which is within a few hundred yards (and in one or two other cases within half a mile) of the land about which we are speaking is of the order of five to six sheep an acre. I saw them there. This is not an isolated instance, because it was typical of the area. I saw several instances of this carrying capacity in close proximity to this virgin land.

Large numbers of fat lambs are grown. Cattle are carried on some properties, and the so-called prohibitive prices for freight are comparable with those on Eyre Peninsula, where they have, as you, Mr. President, would know, a combination of good and dry seasons. I do not know whether the honourable member would suggest that Eyre Peninsula should grow wool only, but I can assure him that other farm products are, as you, Sir, would also know, successfully produced there, as they are on Kangaroo Island.

The high carrying capacity and the complete absence of drought in this area more than compensate for the extra freight charges. I am sure that that would be appreciated by people in other parts of the State and possibly in your area, Sir, in particular. One has only to use some imagination, plus the evidence of one's own eyes (if in fact one is prepared to look over the fence; I understand that a number of people went there and did not look over the fence as they should have done), as well as the hindsight of experience, to know what this land can do.

I can cast my mind back to Breckan in the Upper South-East, the hub of the A.M.P. scheme, and remember what an oasis of highly improved pasture that was in those days, in what was then known as the Ninety Mile Desert and which is now known as Coonalpyn Downs, to realise just what adequate dressings of superphosphate, trace elements and legumes can do, and have done, to what, to the uninitiated, would look to be hopeless country, and I realise also what can be done with about 10 000 hectares (or 25 000 acres) of economically viable country in this area of Kangaroo Island, most of which can be easily and economically rolled in the first instance. In other words, it can be easily and economically cleared. In South Australia, as I said recently in this place, we have only relatively small areas of country that are still suitable for development, and they are on Kangaroo Island, in the Upper South-East, on Yorke Peninsula, and on Eyre Peninsula. To city people and people who are uninitiated or inexperienced, the land appears to be worthless country.

The Hon. J. R. Cornwall: Not at all. It's first-class country for conservation.

The Hon. M. B. DAWKINS: If the honourable member knew what he was talking about, he would change his mind. The whole point is that this land is not considered to be worthless country by those people who know what can be done: to others it may appear to be worthless. Speaking of the uninitiated and uninformed, I refer honourable members to a programme that appeared on the A.B.C.'s *Nationwide* last night: it would be hard to conceive of a more biased presentation, confined almost entirely to those people who either know nothing about land development or who are hopelessly biased against it. So much for the A.B.C.'s alleged objectivity!

I repeat that, to city people and to the producers of last night's show who do not know any better, this land would appear to be worthless. However, one only has to look at the examples that I have cited to see first and foremost what can and should be done in a world crying out for food. In Western Australia, that progressive State that has been steadily and surely catching up with us, as much land

is developed annually as South Australia has left in total for development. When I first became a member of this place, Western Australia was about four-fifths the size of South Australia. A lot of Western Australians had never come east, and they believed that there was no place like Western Australia. If they were told that that was not so, they looked down their noses. That State was about four-fifths the size of South Australia in regard to population and revenue, and now it is practically equal to this State in that regard, and even passes us in some respects.

By the Hon. Mr. Cornwall's admission, we have not alienated any significant area of land for development in the past 10 years. This, of course, is Labor Party philosophy—no development, no initiative and no enterprise. The world would starve if A.L.P. policy was carried to the "nth" degree. The Labor Party should be ashamed to admit that its policy does not permit the freeholding of land and that it wants to return to "big government" all of the land it can lay its hands on. It should also be ashamed that it has permitted the Land Settlement Committee of this Parliament, which did most valuable work, to become a useless body because of lack of management and expertise.

The Hon. J. R. Cornwall: You're in Government now.

The Hon. M. B. DAWKINS: I now refer to the present Government, and perhaps the honourable member can keep quiet while I do so. I am sorry that the members of the Land Settlement Committee are not here. It is high time this Government gave the committee something worth while to do so that it could get on with the job of land development not only on Kangaroo Island but in the other places I have mentioned. It is also high time this Government updated the Rural Advances Guarantee Act. That very useful legislation was enacted in 1963, soon after I came into this place, and enabled a considerable number of young men to go on to the land. However, the legislation is now outdated by the escalation of land values and costs.

There is no doubt in my mind that about two-thirds of the land in question on Kangaroo Island is suitable for development and should be developed. There is room for compromise, in that the remaining one-third of the land should be retained as Crown land. I examined the country in some detail and I found that its so-called tourist attractions, which some conservationists have promoted, are absolutely nil as far as I can see. I have been told that all of the tourist buses rush straight through to the Flinders Chase without realising that the land in question might be of interest, and I saw one bus do this. This land has no flora or fauna that is not already available in the adjoining Flinders Chase.

Much has been made by the conservationists of the flora and fauna, and as I proceeded into the area in some depth, I could find very little flora and fauna of significance. In fact, there was practically no evidence of bird or animal life; the flora is not significantly different from that available in the adjoining Flinders Chase National Park, where at least 59 000 hectares (or nearly 150 000 acres) are already reserved. The bird and animal life in this area of the chase and in the area in question tends to live close to adjoining farms, where food is available, and it is natural for wildlife to live close to food sources.

In conclusion, I reiterate that it is my considered opinion that a substantial area of this land should be made available for settlement, particularly as other large areas of Kangaroo Island have already been reserved, as has the Flinders Chase area. However, I believe that this land should only be made available to settlers who are prepared to make it their home, and under no circumstances should it be allocated to Rundle Street farmers or the like. The farmers on Kangaroo Island are conservation conscious; they have suitable areas of natural scrub scattered over their properties, and this point should be kept in mind when the land is allotted. In this case, as I have already indicated, a compromise would be to retain about one-third of the area as Crown land, because it would be suitable for such a purpose, instead of for development. About 10 000 hectares are suitable for development. I oppose the motion.

The Hon. B. A. CHATTERTON: I support the motion. The Government has a difficult job in deciding what this land is to be used for; it must make a judgment as to how the greatest benefit can flow to the community. The value of this land for conservation purposes has been well established, and no-one has argued successfully against the case that has been put by conservationists, namely, that it is an important, valuable area for the whole of South Australia. On the other side of the equation are the possible economic benefits that may come from clearing the land for farming. I am surprised that the Government has not bothered to put forward a strong case for clearing the land for farming and for the benefits that will accrue to South Australia. At last the Government has started an inquiry into the development of the land, but only because of public pressure that has arisen over the issue.

The Government has admitted, when one looks at the benefits that could accrue to the State and the farmers on Kangaroo Island by the clearing of this land, that it would be economic only with very generous tax concessions that are available for this type of development. However, if we are to consider the use of this land in regard to the community as a whole, we cannot include these subsidies as part of a cost benefit study. Also, the land was rejected as marginal land by the Commonwealth Government for the soldier settlement scheme.

I find it extraordinary that the Hon. Mr. Dawkins should consider that the high rainfall and low drought frequency in this land is the only criterion of any importance: I could point to many areas of high rainfall in Australia that are considered to be marginal for farming purposes. While rainfall is a very important factor in farming, it is certainly not the only factor. I am also surprised that the Government should embark on this new settlement scheme on Kangaroo Island when the previous scheme (the soldier settlement) has run into so much trouble and when there are so many obvious things that need to be done to correct it.

It seems extraordinary that the Government has in its own hands a Kangaroo Island Land Management Scheme which puts forward a number of proposals to help the settlers out of their trouble and is embarking on a new scheme before it is prepared to release that report, discuss that report with the settlers, and take steps to improve their position. The Hon. Mr. Dawkins says that the Kangaroo Island war service scheme was a great success and quoted figures to prove it. The figures that have been provided to me on that same scheme are quite different. I have been informed that less than one-third of the original settlers are now in possession of their properties. That seems an extraordinarily low figure and certainly lower than the figures for other soldier settlement schemes in South Australia and the rest of Australia.

Any economic assessment of what the potential value to the State would be from clearing and farming activities must take account of the ups and downs of rural prices. It seems that a number of the protagonists of clearing and farming this area are looking at a situation of current high prices for most rural commodities and are assuming that those high prices will continue indefinitely and even go up

further. That is an extraordinarily optimistic view of what actually happens in rural industries. Those of us who have had practical experience in farming and selling commodities on world markets are well aware of the fact that prices for rural commodities go up and down quite frequently and that the economic assessment of this land must be taken on an average basis and not on the basis of a current rural boom.

The benefits in terms of what will come to South Australia as a whole would be in the areas of wool and livestock. Those are the farm enterprises that will increase South Australia's total rural production. I am well aware of the fact that farmers on the island, people with whom I have discussed this matter, talk about oil seeds and clover seeds as being potential crops for this land. If one looks at the production of oil and clover seeds in South Australia one will find that the production of these crops is limited by market demand, not by the lack of suitable land. So, if this land was to be cleared and if it was to be planted to oil or clover seed crops, it would be a transfer of production from one area to another area: it would not be a net increase in value of agricultural production for South Australia as a whole. That seems an important point when we are looking at this from the viewpoint of the value that will accrue to the South Australian community.

The Minister of Agriculture, who is a strong supporter of the clearing of the land and who has been making a number of public statements about it, said on television last night that it was important that this land be cleared because it was the duty of South Australians to do what they could to feed the world, to help the people in starving countries such as Bangladesh and in Africa to overcome the famines that occur there. That is a complete nonsense statement. What happens on Kangaroo Island in terms of clearing additional land will make absolutely no impact at all on famines occurring in Bangladesh or parts of Africa. There is, in fact, no shortage of food in the world at all at the present time. It is a question of distribution of food and a question of the money to pay for the food. If the countries with food deficits had the money, there would be no problem in getting the grain.

We only have to look at the world trade in grain presently to see that nearly two-thirds of grain production is devoted to animal feed and to see that a colossal amount of potential grain is available for human consumption if people have the money to buy it. If the Minister of Agriculture were genuinely concerned about people overseas and if he had a genuine desire to help in their nutrition and standard of diet, he would have taken up the offer by the Chinese Government for an agricultural co-operation agreement with the province of Inner Mongolia. That would have been a concrete way of helping a large number of people in China to do something about their food. It would have done a lot more for those people than the clearing of 10 000 hectares on Kangaroo Island.

There are other potential benefits from the farming of that area that would have to be looked at. Those potential benefits are outside the question of the individual farmers. The people on the island have said that additional population would be a great help to the Gosse community and that this would assist them in a number of community activities. That proposition seems to have a very marginal effect. The number of farms that would be produced from the subdivision and clearing of this area is probably around 10 or 12. So, the total increase in population may be of the order of 30 people. I find it very hard to believe that that number of people will make a significant impact on the local community. It certainly will not allow the employment of additional teachers or the building of additional facilities.

People also say that having this large area of undeveloped Crown land makes an impact upon the rates that are paid by other people. I believe here that they do have a legitimate grievance. There is no reason, if this land is retained for conservation purposes, why the community as a whole should not pay for the cost of that conservation. If there is a burden being placed on other people in that council area in regard to rates, the community as a whole through the State Government should compensate them for it. Regarding community benefits that could accrue from the clearing of this land, again the Government has failed to demonstrate what they are and what their value is.

With the establishment of the committee inquiring into this question (and that has happened due to public pressure on the Government) I hope that it will be able to look into the question much more thoroughly. If there are other economic benefits that have not so far been revealed, I hope these will be put forward and evaluated. At the present time it seems that the arguments are favouring strongly the conservation of this area as a national park. I support the motion.

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

MONARTO LEGISLATION REPEAL BILL

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

SECURITIES INDUSTRY ACT AMENDMENT BILL

The Hon. K. T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Securities Industry Act, 1979. Read a first time.

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

That this Bill be now read a second time.

The purpose of this short Bill is to correct two minor errors in the Securities Industry Act, 1979. This Act regulates the securities industry in South Australia and was enacted to make the law in this State uniform with interstate law. The administration of the Act is vested in the Corporate Affairs Commission which is a body corporate established under Part XIII of the Companies Act, 1962-1980. That Part, which was enacted in 1979, also provides for the appointment of the Commissioner for Corporate Affairs.

The responsibility for the granting, revocation and suspension of licences under Part IV of the Securities Industry Act, 1979, is vested in the commission. However in both section 40 (1) (b) and section 47 (1) (b) there is an incorrect reference to "the Commissioner" instead of to "the Commission". The Bill rectifies these errors.

Clause 1 is formal. Clauses 2 and 3 substitute the passage "the Commission" for "the Commissioner" in sections 40 (1) (b) and 47 (1) (b) of the principal Act.

The Hon. FRANK BLEVINS secured the adjournment of the debate.

DOG CONTROL ACT AMENDMENT BILL

The Hon. C. M. HILL (Minister of Local Government) obtained leave and introduced a Bill for an Act to amend the Dog Control Act, 1979-80. Read a first time.

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

That this Bill be now read a second time.

It proposes amendments to the Dog Control Act which are

considered necessary to ensure that the provisions of the Act are reasonable and sufficiently flexible to meet the varying nature of the dog control problem in rural and urban areas while at the same time ensuring that councils have adequate powers to deal with irresponsible dog owners. The principal amendments contained in the Bill are:

(a) The provisions of the Act requiring the tattooing of dogs registered for the first time are repealed. The tattooing provisions incorporated in the Act when it was passed have never been implemented for, while the value of tattooing as providing a permanent means of identification of a dog is recognised, it is considered:

(i) that the level of pain to the dog associated with tattooing would be unacceptable to the average dog owner;

(ii) tattooing would require the maintenance of a Central Register of Dogs the cost of which would be high and would inevitably result in higher dog registration fees in the short term.

The Bill deals with the problem of identification of dogs by providing with certain exemptions for working dogs, greyhounds, and dogs participating in shows, that dogs shall at all times wear a collar with the name and address of the owner and the current registration disc attached.

(b) All constraints on persons under 18 years of age having a dog registered in their name or in their possession are removed. This provision in practice has been found to be unreasonable, and the dog problem in the community is not such as to warrant such harsh provisions.

(c) The Central Dog Committee is abolished and replaced by a Dog Advisory Committee which will have the function of advising the Minister on matters related to the proper funding of pounds and the Royal Society for the Prevention of Cruelty to Animals. Dog control is essentially a local government problem which is best handled at the local level by councils, which can develop dog control programmes suited to their local needs. In the past there has been criticism of councils' performance in this area, but in fairness to councils it must be pointed out that registration fees were low and their financial resources limited. This situation has now changed and with higher and more realistic registration fees, councils are in a position to mount effective dog control programmes.

The retention of an advisory committee is necessary, as a need exists for funding from a central source to those organisations which accept stray and unwanted dogs from the public to ensure that they have sufficient financial resources to continue this work. The moneys to provide this funding will be raised by means of a levy on the dog registration fees collected by metropolitan councils and those rural councils which benefit from the activities of these organisations.

(d) Other changes necessary to improve the administration and enforcement of the legislation and to strengthen control of dogs by owners and councils included in the Bill are:

(i) The Outback Areas Community Development Trust to be responsible for the registration and control of dogs in areas of the State not served by conventional local government. This amendment will satisfactorily deal with many of the matters which have been of concern in the administration of the Act in outer areas, permit greater flexibility in administration and allow the community to become more involved in designing a programme to meet its needs.

(ii) Providing that council dog control officers can be employed on other duties. The Act at present requires Dog Control Wardens to be engaged full-time in the administration of the Act. Few councils in South Australia can justify such an appointment and it should be the council's decision as to how it will use its manpower resources.

(iii) Provide that only half fees shall be payable on the first registration of a dog under three months of age on 1 January during the period 1 January to 30 June. At present the full registration fee of $10 is payable if the dog is first registered in May and a further fee is payable on renewal in June.

(iv) Providing a period from 1 July to 31 August in each year for the renewal of a dog registration. At present the Act is uncertain in this area and much confusion resulted at renewal time this year.

(v) Replace the present restrictive definition of pensioner with a definition of a person of a prescribed class to enable concessions similar to those allowed under the Rates and Taxes Remission Act. At present many people with low incomes and war service pensioners are not receiving the benefit of concessions.

(vi) Providing for a person to be able to obtain a certificate extract from the register of dogs and for a council to be empowered to correct an error in the register.

(vii) Exempting guide dog owners from the obligation to remove faeces from a public place and giving them similar rights of access with their dogs to public places and transport as existed in the former Registration of Dogs Act. The Guide Dogs for the Blind Association is concerned that its member are presently disadvantaged by many aspects of the Act.

(viii) Providing that actions alleging nuisance caused by a dog may be instituted by any aggrieved person; at present complaints can only be instituted by a council.

(ix) Providing that where an authorised officer is of the opinion that any dog

is mischievious or dangerous the officer may obtain an order from a Justice of the Peace, who shall not be a member or officer of that council, authorising the seizing and holding of the dog in a pound pending the hearing of an application by a court for an order for the destruction of the dog. In recent months there have been numerous attacks by savage dogs at large inflicting quite serious injuries on the victims. The owners of the dogs in most instances have not been prepared to either have them put down or to take effective action to contain them on their properties.

Although every effort is made by the authorities to have proceedings in these matters expedited, it necessarily takes some time for the matter to be listed for hearing by Court during which time the dog could continue to create a serious nuisance. The proposed amendment will enable an authorised officer to obtain an order from a Justice of the Peace authorising it to seize and hold the dog pending the matter being heard.

(x) Providing a common period for the payment of expiation fees for offences under the Act.

(xi) Providing councils with greater flexibility in determining kennel standards when granting kennel licences so that regard may be had to such factors as the size and temperament of the dog.

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

Leave granted.

Explanation of Clauses

Clauses 1, 2 and 3 are formal. Clause 4 makes various amendments to the definitions. These amendments are consequential upon the substantive changes to the principal Act. It should be noted that the definition of "council" now includes the Outback Areas Community Development Trust which will in future be responsible for enforcing the Act outside local government areas. Clause 5 amends section 6. This amendment is consequential upon the assumption by the Outback Areas Community Development Trust of responsibility for administration of the Act outside local government areas. Clause 6 removes from the Act specific reference to dog control wardens. The Act will in future refer to officers with the powers of enforcement conferred by the Act simply as "authorised persons". New section 7 provides that each council must have at least one authorised person in its employ. A member of the council is not to be appointed as an authorised person.

Clause 7 deals with the power of delegation by registrars of dogs. The present power to delegate to officers of the council is widened to cover delegation to any person. However, under the amendment, the council must approve the delegation. Clause 8 deals with the provision of pounds by councils. Clause 9 provides that the regulations may require councils to pay a prescribed percentage of moneys received by way of registration fees to the Minister. These moneys will be credited to the Dog Control Statutory Fund established by a later provision of the Bill. Clauses 10, 11, 12 and 13 repeal the provisions of the principal Act establishing the Central Dog Committee. In its place an advisory committee is established to advise the Minister on grants to the R.S.P.C.A. and to councils and other organisations in respect of the maintenance of pounds. Clause 13 also establishes the Dog Control Statutory Fund which is to be financed largely by a proportionate part of registration fees. This fund is to provide the money for the grants referred to above.

Clause 14 amends the registration requirements to provide that the obligation to register does not arise until the dog has been kept in one area for 14 days or more. Clause 15 amends the registration procedures to some extent and widens the classes of persons who may be entitled to registration at concessional rates. Clause 16 removes from the Act the requirement of tattooing a registered dog. Clause 17 deals with the duration of registration. It provides that where application for renewal of registration is made before the end of August, the registration will operate retrospectively from the date of expiry. Clause 18 deals with the keeping of a register by a council. Clause 19 deals with an application to transfer registration from one owner to another. Clause 20 deals with the obligation to ensure that a dog is wearing a collar and registration disc. The obligation is to apply in future whether or not the dog is in a public place. Clause 21 makes consequential amendments.

Clauses 22, 23 and 24 exempt guide dogs from certain provisions preventing access by dogs to shops, schools and places where food is prepared. The obligation to remove the faeces of a dog that defecates in a public place will not apply to a guide dog. Clause 25 provides for recovery of the costs of seizure, detention and destruction of a dog infested with parasites. Clause 26 provides that a court, on convicting the owner of a dog that has caused a nuisance, may order the owner to take steps to abate the nuisance. If he fails to do so in accordance with the order he will be liable to a substantial penalty. Clause 27 enables an authorised person, on the authority of a justice, to seize a dog that is reasonably believed to be dangerous. An application is to be made immediately for an order for destruction of the dog. If that application fails, the dog is to be returned to its owner. A council may recover, as a debt, costs incurred under the new section. Clause 28 ensures that a blind person may be accompanied by his guide dog in a public place, or in public transport. Clause 29 is a drafting amendment. Clause 30 provides for the standard of kennel establishments to be determined by a council rather than prescribed by regulation. Clauses 31 and 32 make consequential amendments.

The Hon. C. W. CREEDON secured the adjournment of the debate.

ELECTRICITY TRUST OF SOUTH AUSTRALIA ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

It is designed to enlarge the membership of the Electricity Trust from five to seven members and to shorten the term of office of members from five years to three years. The Electricity Trust faces quite momentous decisions which must be made in the near future in relation to fuel supplies, generating capacity and a variety of other matters. The Government believes that the trust would be

better equipped to make the difficult decisions that presently confront it if its membership were widened to include additional experts with skills in planning and managing major industrial enterprises and in energy management.

The expansion of the present membership coupled with a reduction in the term of office of members will, it is hoped, enhance the expertise of the trust and ensure that its composition and the range of skills of the its members are appropriate to the needs of a rapidly developing society. I should point out that the amendments will not affect the term of office of present members who will remain in office until the conclusion of their present five-year terms. The Bill also removes restrictions which prevent employees of the trust being appointed as members of the trust. I seek leave to have the explanation of the clauses of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 expands the membership of the trust from five to seven and removes the restriction against employees of the trust being appointed as members of the trust. Clause 4 shortens the term of office of members from five years to three years but preserves in operation the present five-year terms of existing members. Clause 5 is consequential upon the removal of the prohibition against employees being appointed as members of the trust. Clause 6 increases the quorum of the trust from three to four.

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

WORKERS COMPENSATION (INSURANCE) BILL

Adjourned debate on second reading.

(Continued from 18 November. Page 1922.)

The Hon. D. H. LAIDLAW: I support the second reading of this Bill the object of which is to create a Statutory Reserve Fund to protect a person entitled to workers compensation who cannot obtain relief because of the insolvency of his employer or the insurance company, or because the employer has failed to obtain workers compensation cover and when called upon cannot meet the necessary claim.

The lastmentioned situation can occur in quite innocent circumstances. The Act prescribes that an employer must obtain full insurance cover for every worker, unless the employer has obtained an exemption from the Minister because he has adequate reserves to meet compensation claims. However, in some instances it is difficult to establish whether a person is one's employee or a self-employed subcontractor. I have been confronted with this situation many times, and I could give examples, but I understand that the matter is being considered by the Committee of Inquiry into Workers' Rehabilitation, and I shall not pursue it at present.

My main reason for speaking in this debate is to refute allegations made by the Leader and Deputy Leader of the Opposition in another place that the Liberal Party in this Council stopped a Bill passing in 1976 which would have created funds to protect persons who have suffered because of the collapse of Palmdale Insurance and its subsidiaries and the like.

The Hon. C. J. Sumner: Of course you did.

The Hon. D. H. LAIDLAW: We did not. Those allegations are quite false because the Liberal Party in both Houses actually commended the Labor Government for introducing these measures. Mr. John Bannon was not a member of Parliament at that time. He would have heard second hand the account of what transpired at the conference of managers of both Houses and may be excused for being misinformed. Mr. Jack Wright, on the other hand, was the Minister in charge of the Bill and presided at the conference. The most charitable interpretation one can place on his remarks is to suggest that in his declining years his memory is failing. In 1976—

The Hon. C. J. Sumner: What did you say then? Your comments are contained in *Hansard*; you said that the insurance provisions were worthless.

The Hon. D. H. LAIDLAW: I will quote out of *Hansard*, too. In 1976 the Labor Government introduced a Workers Compensation Act Amendment Bill with three objectives. First, it aimed to improve the financial benefits of workers by prescribing *inter alia* that no longer would average weekly earnings for the purpose of compensation be calculated on the basis of the past 12 months. Instead, a worker would receive the highest of either (and I stress "either"), the average weekly earnings excluding overtime and special payments during 12 months plus average overtime during the weeks immediately preceding his injury or industrial sickness, or the weekly wage excluding overtime and special payments at the time of injury or his prescribed wage.

This could have led to a spate of compensation claims from malingerers who may have been working long hours of overtime for some weeks or had a second job which they were about to lose. What better time to allege that one had suffered a strained wrist or to discover a chronic back ailment. The Liberal Party objected strenuously to this section of the Bill and introduced amendments of its own. The second objective was to correct various anomalies in the existing Act, and the Liberal Party concurred with most of these amendments.

The Hon. J. E. Dunford: You haven't got much faith in workers, have you?

The Hon. D. H. LAIDLAW: I have said many times that 90 per cent of workers are quite genuine. The third objective was to make changes with respect to insurance cover. The Labor Party proposed to establish an advisory committee to advise the Minister. Secondly, it wanted to create a nominal insurer who would give protection to workers in the event of the insolvency of an insurance company or an exempt employer or an uninsured employer. This was similar to the provisions of the Bill before us today. Thirdly, it would establish an insurer of last resort who would provide the means whereby hitherto uninsurable risks could be covered at a reasonable rate. Fourthly, it set a fixed scale of fees for insurance brokers.

The present Minister of Industrial Affairs supported in principle the insurance provisions of this 1976 Bill in the House of Assembly. I was the main spokesman for the Liberal Party on this Bill in this Council and I said, and I quote from *Hansard* 1976, pages 2338 and 2339, as follows:

> I commend the Labor Government for creating the committee.

Later, when referring to the nominal insurer and insurer of last resort, I said:

> I also commend these innovations, although the Insurance Council of Australia has pointed out that, although there is talk of employers with a bad safety record who cannot obtain workers compensation cover, it should like to know more, because up to now it cannot identify them.

Mr. Dean Brown and I each moved some amendments

connected with the insurance sections of the 1976 Bill, but these dealt with points of detail rather than those of principle. Our amendments passed in the Council, then were sent back to the House of Assembly, and in the main were rejected. A conference was called, Mr. Wright, the then Minister of Labour and Industry, presided. He refused to consider any modification to his proposals regarding improved average weekly earnings. Therefore, the council members had to accept them in order to get the insurance provisions passed. We refused after stressing that there should be two Bills: one dealing with financial benefits for workers which may not pass, and the other dealing with the creation of a nominal insurer and insurer of last resort which would be passed.

Mr. Wright refused to consider splitting the Bill into two. Apparently his pride was at stake. The conference failed to reach a compromise, and the Bill lapsed. The creation of an insurance fund in 1976 failed to come into law because of the intransigence of the Labor Minister, not because the Liberal members in this Council blocked it, as has been alleged. Opposition members have criticised the Government for delaying so long in introducing this legislation. If the Labor Party felt so strongly about the issue, why did it not introduce comparable legislation in the next Parliament after the previous Bill lapsed, that is, between August 1977 and September 1979?

The Hon. C. J. Sumner: You would not have passed it.

The Hon. D. H. LAIDLAW: In 1976 we were prepared to introduce an insurance fund, even though we did not agree with the Labor Party's form of insurance fund. Furthermore, as the Minister has pointed out, this Bill under consideration will have retrospective application. A worker can claim against the fund for any moneys due because of the insolvency of an employer or insurer or the failure of an employer to insure that occurred on or after 1 July 1979. It should be stressed that the injury or industrial sickness which is the cause of a compensation claim may have arisen many years prior to the date of insolvency. Therefore, retrospectivity could apply well before 1 July 1979.

I agree with the concept that a worker on compensation should have redress from some fund if his employer cannot pay, but it has been difficult to determine the most suitable way of funding the project. The Government has decided to make an interest-free loan of $2 000 000 to the fund to start it off, and I believe that it is appropriate for the State to be involved to some extent, especially since there is a pressing need to provide relief for the Palmdale victims in South Australia.

When determining a suitable form of contribution from insurers, why should a reputable insurance company that charges a higher premium on workers compensation policies in order to remain viable have to add the same percentage to his quoted premiums as the financially unstable insurer who takes risks to win business? The responsible would be suffering an imposition in order to enable employers to place business with risky insurers quoting lower rates in the knowledge that, if insolvency ensues, employees could have recourse to the Statutory Reserve Fund. That is a valid argument.

However, the Government has decided that it is too complex to impose differential rates of levy upon insurers. Instead, the Government decided intially to limit the liability of the fund to 80 per cent of claims, which means that employers would have a residual liability of 20 per cent on all claims in the event of insolvency of the insurers.

The Opposition objected to this principle in another place and moved amendments to increase the liability of the fund to 100 per cent with respect to both employers and employees. I appreciate their reasons, but I still believe that it is essential to deter employers from accepting the lowest workers compensation premiums offered, irrespective of the financial viability of the insurer. Leaving an employer with a residual liability should ensure that he takes some care before accepting the lowest quote on offer.

I note that the Government has now tabled amendments in this Council maintaining 80 per cent with respect to employers but allowing employees to recover up to 100 per cent. I support this solution, because there is no just reason for depriving workers of some of their entitlement once the principle of overcoming their loss has been established.

Clause 4 (3) provides that the levy will be collected by means of additional stamp duty on premiums payable. The maximum percentage is limited to 2 per cent, but the Minister estimates that initially the impost will be 1 per cent. Furthermore, the fund is not to increase above $5 000 000. If it does, the levy will be waived in the ensuing year. This is a sensible provision. No-one can estimate accurately how many claims will be made against the fund. Hopefully, there will be very few, in which case, in the absence of some limit, the fund would have become a handsome and unwarranted source of revenue for the Treasury.

In conclusion, I point out to the Minister that there is no provision in this Bill to afford safeguards against the insolvency of insurance brokers, who by custom hold large sums paid to them by employers as workers compensation premiums. The insurance broker may hold these funds for months before being called on to hand them over to the insurance company that has underwritten the business. The Federal Government has been talking for years about regulating the activities of insurance brokers. This is an area where uniform legislation is desirable, and I only hope that it happens soon. I support the second reading.

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

ROYAL COMMISSIONS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 November. Page 1920.)

The Hon. C. J. SUMNER (Leader of the Opposition): The Opposition supports this Bill, which contains a general amendment to the Royal Commissions Act to give a Royal Commissioner the same power regarding the suppression of publication of names or the suppression from publication of evidence as that which presently exists in the Evidence Act and which relates to proceedings before a court. It has been pointed out in relation to the Royal Commission that the Government has recently set up into the prison system that, if this power does not exist, certain very unfortunate results could ensue. It has also been pointed out that allegations could be made by prisoners about prison officers and vice versa. In particular, allegations could be made about people working in prisons, which allegations are untested and could subsequently turn out to be unsubstantiated.

It has been put to the Government and to the Royal Commissioner that, in order to solve this problem, there ought to be power to suppress the publication of the names of witnesses and people named at the Royal Commission. There is no doubt that if, over the next few months during the course of this Royal Commission, these accusations and the names of people involved were bandied about in

the press (that is, prison officers' accusations against prisoners, and vice versa) it could lead to a difficult situation arising in the prisons themselves.

So, the Opposition agrees that some power of suppression ought to be given to the Royal Commissioner. This Bill leaves it to the Commissioner to decide in each case. It does not provide for a blanket coverage where every name or bit of evidence would be suppressed. Therefore, the Commissioner will have to consider each individual case on its merits.

It might be that, having received submissions from counsel representing a certain party, the Royal Commissioner could decide that all the names of the people mentioned by witnesses for a certain party ought to be suppressed. However, the point is that this will be a matter entirely for the Royal Commissioner. I do not think that the public interest would be served by a complete suppression of the evidence, although the names may be suppressed. Certainly, I hope that the Royal Commissioner will not exercise the power that is being given to him by this Bill to suppress large amounts of the evidence. I do not imagine that that would be the case.

Obviously, there is a case for the power to exist in relation to names, and one would hope that the Royal Commissioner will use the power wisely and with discretion, balancing the right of the public to know what is happening with the rights of certain individuals to have their interests protected until a final decision is made about any action in which those individuals have been engaged. So, the Opposition supports the Bill. However, it is no secret that this Bill has come about, although it involves a general amendment to the Royal Commissions Act, because of the Royal Commission into prisons which has recently been set up by the Government and which is receiving prominence in the press at present.

I should like to take this opportunity to make some comments about that Royal Commission and, in particular, about its terms of reference, with a view to moving an amendment to this Bill. There is no question that this matter has been badly mishandled by the Government. Right from the beginning, the Government has tried to bury its head in the sand. Right from the time of the dramatic escape of Tognolini from Yatala, the prevailing view of the Government has been to try to protect the Chief Secretary (Mr. Rodda).

The Cassidy Report, which is part of a report undertaken by Mr. Stewart, the Director of the Department of Correctional Services, had been in the Minister's hands for some months before Mr. Tognolini escaped, and yet no action had been taken on the matters contained in that report. As the furore about Mr. Tognolini's escape continued and as further allegations were made about the prison system in South Australia, the Government continued to stone-wall and to say that there was no need for an investigation. It hoped that the problems would go away, and it tried to bury its head in the sand in an effort to shield the Chief Secretary from scrutiny. In fact, the Chief Secretary released the Stewart Report and the Cassidy Report only after pressure was brought to bear in the media and in the Parliament. The *Advertiser* of 25 September stated:

> The Government would not bow to cries for a judicial enquiry into South Australia's correctional system, the Chief Secretary (Mr. Rodda) said yesterday . . .
>
> "The Government has commissioned a very thorough inquiry into the correctional system and we are certainly not going to bow down to Mr. Duncan's continuing cries for a judicial inquiry," Mr. Rodda said.

The thorough inquiry to which he referred was an inquiry by private consultants and the Public Service Board into some aspects of staffing and security at the prison, but it certainly went no further than that. That was the Government's attitude on 25 September—there would be no judicial inquiry. The Government was afraid that Mr. Rodda's head would be on the block if there was an inquiry.

Further attempts by the Government to hide from this issue are exemplified by requests that I made to the Chief Secretary for a briefing on the problems of security in South Australian prisons and on reports that the Government has commissioned on this aspect. Shortly after the escape of Tognolini from Yatala, I wrote to the Chief Secretary and requested that a number of reports be made available to me, including the Stewart Report, the Cassidy Report and reports into the escape of Mr. Tognolini. In particular, I asked what steps had been taken since the escape to improve security in South Australian prisons. My letter of 24 July stated:

> Are you prepared to permit me to be briefed by your department on the problems of security in South Australian prisons and in particular the escape of Mr. Tognolini from Yatala? I would also like the opportunity of visiting Yatala to assess the situation at first hand. Please let me know if you consent to such a briefing and visit.

The Government's response on 31 July, under the hand of the Chief Secretary, was as follows:

> I refer to your letter of 24 July 1980 regarding the circumstances surrounding the recent escape from the Yatala Labour Prison of Joseph Tognolini and investigations into prison security arrangements. I shall be presenting a Ministerial statement to the Parliament today which will cover the various points which you have raised.

That reply had very little relationship to the questions I asked: it completely evaded the issue, and the Ministerial statement did not present any answers to the questions that I raised. I wrote to the Chief Secretary on 12 August and repeated some of my previous requests, including my request for a briefing, because the Minister had obviously not covered that issue, and I asked for consent to visit the gaols.

The PRESIDENT: Order! I point out to the Leader that only yesterday it was brought to my attention that a debate had strayed too far from the point at issue, and I believe that the Leader should pay more attention to the clauses of the Bill which have nothing to do with his account of the escape of Mr. Tognolini.

The Hon. C. J. SUMNER: As you would appreciate, Mr. President, my amendment to the Bill deals with an extension of the terms of reference of the Royal Commission, and it is to that matter that I direct my attention. What I have to say is an essential lead-up to my argument on whether or not the terms of reference of this Royal Commission should be extended. I assure you, Mr. President, that I do not intend to stray from the point, and I will ensure, as I always do, that my remarks are relevant to the matter at hand. In response to my correspondence, after a bit of prodding, the Chief Secretary replied on 15 September (about a month later) as follows:

> I am not prepared to approve your request for a briefing on the problems of security at these institutions. As I have recently announced, a consultancy will be set up to carry out an extensive survey into the operation of the prison system. I therefore see no need or purpose in briefing members of Parliament on the matters to be canvassed in this and other related investigations.

On 18 September, not to be put down, I again wrote to the Chief Secretary and renewed my request for a briefing. The Chief Secretary had said I could visit the prisons but, of course, a visit to the prison would hardly be of any use unless I was permitted a briefing on security. In that letter,

I undertook to keep confidential matters that would breach security. The Chief Secretary took almost two months to reply to that letter, and I received his reply on 10 November, as follows:

> I refer to your letter of 18 September 1980 in which you repeat your earlier request for a briefing session on correctional services and for the release of certain reports. So far as the requested reports are concerned, these are reports to Government and have a direct bearing on the security arrangements within the prison system. I therefore consider that it is my right, and indeed my responsibility, as the Minister concerned to determine what information in this area should be made available to members of Parliament. In all the circumstances, I consider it to be inappropriate to either provide you with the reports to which you refer or to permit the requested briefing.

In other words, the Chief Secretary dodged around the issue: he was not even game to let the Opposition spokesman speak to responsible people in his department about the administration of the department, on a confidential basis in some circumstances, which I was quite prepared to agree to. On 10 November, the legitimate Opposition spokesman on penal affairs and matters covering the Chief Secretary's portfolio was refused a briefing on these issues. Quite clearly, I have been refused a briefing because the Chief Secretary is afraid for his position. This is further evidence that, right from the start, the Government has sought to protect the Chief Secretary's position, and it is still doing that.

On 7 October the Government finally announced the Royal Commission, in other words, a judicial inquiry that it had resisted up until that time. Why did it announce it on 7 October? The Government announced it because on 8 October the Chief Secretary was due to appear in this Chamber before the Estimates Committees of the House of Assembly to examine the Budget. The Government knew that Mr. Rodda's neck was very much on the chopping block. At that time, and only then, did the Government concede that a judicial inquiry by means of a Royal Commission was necessary.

The Hon. K. T. GRIFFIN: I rise on a point of order. I have been fairly easy-going about this. However, the Leader is not really addressing himself to the subject of the Bill, which does not relate to the Royal Commission as such: it relates to the question of suppression of name. I believe that the Leader is out of order and is digressing from the subject.

The PRESIDENT: I uphold the point of order.

The Hon. C. J. SUMNER: I appreciate your ruling, Mr. President. However, I need to develop my argument on this point, and I am sure that the reason for doing so will be seen in a very short time.

The Hon. K. T. Griffin: What is the relevance?

The Hon. C. J. SUMNER: The relevance is in dealing with the terms of reference.

The Hon. K. T. Griffin: The terms of reference are not before us.

The Hon. C. J. SUMNER: They are, because I have circulated an amendment.

The PRESIDENT: I would have thought that it would be more appropriate to develop the argument in Committee when the amendment is moved.

The Hon. C. J. SUMNER: I certainly will. The terms of reference have been designed to protect the Minister.

The Hon. K. T. GRIFFIN: I rise on a point of order. The question of the terms of reference is not relevant to the Bill. The amendment that the Leader has on file has nothing to do with the question of suppression of name. The Leader can debate that in Committee, when it will be before the Chair.

The PRESIDENT: I agree entirely. I have tried to suggest to the Leader that he was straying from the matter before us at this stage. Part of his speech is quite irrelevant to the subject of the Bill.

The Hon. C. J. SUMNER: Are you, Mr. President, now saying that I cannot in this debate on the second reading canvass the matters that are necessary for me to discuss in support of the amendment which I have placed on file?

The PRESIDENT: I think the Leader has indicated quite clearly the purpose of his amendment. I believe that he has digressed from the amendment and from the Bill.

The Hon. C. J. SUMNER: Are you, Mr. President, ruling that I may continue speaking about the terms of reference?

The PRESIDENT: I will not prohibit discussion on the terms of reference if that is what the Leader wishes to discuss, but his requests to visit gaols have nothing to do with the Bill.

The Hon. C. J. SUMNER: I will confine my remarks to the terms of reference.

The Hon. K. T. Griffin: He didn't say that.

The PRESIDENT: The amendment, as I indicated, would be more appropriately dealt with in Committee.

The Hon. C. J. SUMNER: I take it, Mr. President, that you are ruling that in Committee I may move the amendment which deals with the terms of reference of this Royal Commission and, at that point, may develop my argument on the terms of reference of this Royal Commission.

The PRESIDENT: I do not think that the terms of reference are indicated anywhere in the Bill.

The Hon. C. J. SUMNER: They are indicated in my amendment.

The PRESIDENT: We will have to see how far the Leader develops his argument in regard to the amendment when we reach that stage.

The Hon. C. J. SUMNER: What I am seeking is your ruling in regard to my amendment on file. All honourable members have a copy of the amendment, and I am merely seeking an indication from you, Mr. President. If I am sat down now and cannot debate the issue, then I am asking for a ruling as to what the position will be in Committee. Will I be allowed to move this amendment, and will I be allowed then to speak to it? The amendment deals in part with the terms of reference of the Royal Commission.

The PRESIDENT: The Leader has asked for a ruling on how far he can develop his argument on the amendment when we reach that stage.

The Hon. C. J. SUMNER: I am seeking a ruling, Mr. President, on whether I can move that amendment and speak to it in Committee.

The PRESIDENT: There is no objection to the amendment being moved, but the question of how far the debate can be developed will be judged on its merits. The amendment is not before the Council at this stage, even though it is on honourable members' files. We are dealing entirely at this stage with a Bill to amend the Royal Commissions Act which contains only two clauses.

The Hon. C. J. SUMNER: I have not researched that point. I believe that in some circumstances that could be a great restriction on members' rights to debate in this Chamber. In other circumstances, I may wish to consider that ruling. However, Mr. President, as you have indicated that in Committee I can move my amendment and speak to it (and I believe that implies that I will be able to canvass the terms of reference of this Royal Commission, as that is what my amendment is about), I will not contest the ruling at this stage.

The PRESIDENT: I have no desire to stifle the Leader's debate. However, I ask him to return to the Bill and keep

his remarks as relevant as he can to its two clauses at this stage.

The Hon. C. J. SUMNER: I appreciate that. I think that I have said all that I can about the clauses in the Bill. I have placed an amendment on file. It is usual in the debate at the second reading stage to canvass the amendments at least in general terms that we intend to move, and that is what I was doing. However, if you, Mr. President, would prefer me to do that in Committee I will defer to your ruling and say, as I did at the beginning, that the Opposition will be supporting the Bill, but with the amendment which I have foreshadowed and which I will move shortly.

The Hon. K. T. GRIFFIN: I appreciate that the Opposition will be supporting the Bill, which is designed specifically to deal with the difficulty that has been identified by the Royal Commissioner inquiring into the prisons system.

There is provision in the Evidence Act for judicial officers when sitting as courts to exercise the power of suppressing names of both litigants before the court and witnesses in circumstances which are specified in the Evidence Act. The difficulty which the Royal Commissioner has seen is that that does not apply to him because he is not sitting as a court of inquiry. He is sitting as a Commission of inquiry. Although the amendment results from the determination of the Royal Commissioner, the fact is that it will apply to all Royal Commissions.

I, too, share the hope that the Royal Commissioner will not use this power on a general basis, with a blanket cover with respect to the suppression of names. The courts use it on a selective basis. I believe that any Royal Commissioner would do the same, and each particular application would need to be judged on its merits and in the light of the circumstances in which the request is made. There are a number of other matters to which the Leader of the Opposition has referred dealing with the broader question of prisons, but I do not want to embark on a discussion of those questions. The course of action which the Government has followed is clearly on record. It is a responsible course of action which is designed to get to the facts without bringing in a lot of red herrings, and without seeking to manipulate the media for purely political purposes.

Bill read a second time.

In Committee.

Clause 1 passed.

New clause 1a—"Commencement."

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

Page 1—

After clause 1 insert new clause as follows:

1a. (1) This Act shall come into operation on a day to be fixed by proclamation.

(2) A proclamation shall not be made for the purposes of subsection (1) until the Royal Commission has been empowered to inquire into and to report upon the general working of the Department of Correctional Services, its policies, facilities and practices in the light of contemporary penal practice and knowledge of crime and its causes and, without restricting the generality of the foregoing to inquire into and report upon:

(a) the custody, care and control of prisoners and the relationship between staff and prisoners;

(b) the selection and training of prison officers and of other staff engaged in training, correctional and rehabilitative programmes for prisoners;

and to recommend any legislative and other changes necessary or desirable in consequence of its findings.

(3) In subsection (2)—

"the Royal Commission" means the Royal Commission to Inquire into and Report upon Allegations in relation to Prisons under the Charge, Care and Direction of the Director of the Department of Correctional Services and certain related matters.

The effect of this amendment is to broaden the terms of reference of the Royal Commission to ensure that there is a proper and full-scale inquiry into all aspects of not just prisons in South Australia but the Department of Correctional Services. The amendment provides that the Act, in so far as it deals with the suppression of names, shall come into operation on a day to be fixed by proclamation, and that the proclamation shall not be made until the Royal Commission into the prison system has had its terms of reference expanded to include what were in fact the terms of reference of the New South Wales Royal Commission that was established in 1976.

In the second reading debate, I said that the whole basis of the Government's action in this matter has been to protect the Chief Secretary and the Government. I believe that the terms of reference formulated by the Government for the Royal Commissioner are so confined as to mean that he can only carry out an investigation that will deal with the situation in prisons and the real relationship between individuals in those prisons, whether officers or prisoners, but that it ought also to deal with the general situation in the Department of Correctional Services and other aspects of the prison system. The original terms of reference are as follows:

Allegations of graft, corruption, misappropriation of goods and irregular practices at prisons under the charge and direction of the Director of the Department of Correctional Services.

Allegations of sexual and non-sexual assaults at those prisons.

Allegations relating to the security of the prisons and discipline of the prisoners.

Allegations of the presence of unauthorised material within those prisons.

Where appropriate, the inquiry will include the prevalence of such occurrences and such matters, the periods over which they have occurred and the people responsible.

Since the terms of reference were laid down and the Royal Commissioner has started hearing submissions, there has been considerable controversy about the terms of reference. Some of the unions involved—the A.G.W.A. and the P.S.A.—have threatened in the past couple of weeks to undertake industrial action, because they believe the Government has failed to listen to their claims that the terms of reference are too narrow.

The Government's case is that the matter ought to be left to the Royal Commissioner. That is a complete abdication of the Government's responsibility. Certainly, in some circumstances, it would be proper for a Government to say that whether there should be any extension of the terms of reference of a Royal Commission is a matter that could be looked at and recommended by the Royal Commissioner. For example, in this particular Royal Commission investigating the prisons system an allegation was made that through lack of proper medical treatment in a prison a prisoner died. A submission was made by counsel representing the Aboriginal Legal Service Commission that the terms of reference were not broad enough to cover that factual situation.

That is the sort of situation concerning which I would expect one would be justified in saying that, if the Royal Commissioner would make a recommendation, the Government could extend the terms of reference, because it is clearly one of those matters that is within the spirit of the terms of reference that the Government has laid down. What is being sought by this amendment, and what is

being suggested to the Government by the amendment, is a different situation. We are calling for a broader inquiry into the department itself, because it is responsible for the position in the prisons. It should not just be an inquiry into actions involving individual prison officers and prisoners within the prisons system; it should also include matters concerning the Department of Correctional Services and those responsible for the position at present existing in prisons.

The broad inquiry should look at whether it is the system that is at fault. It has been said that it should deal with the disease and just not the symptom. The simple fact is that the men who work in the prisons are concerned that they will be made scapegoats for the inadequacies of the system for which they have not responsibility. In this respect the Government is adopting a double standard; for those men who work in the prisons there is a judicial review, that is, a Royal Commission, and they are subject to rigorous cross-examination about their action in the prisons, as indeed are the prisoners.

However, for the department itself there is a Public Service Board and private consultant's review as to what manning levels there ought to be, and for other matters dealing with the department. For the hierarchy within the department, there is a soft review, not the hard questioning, examining, probing examination that can be carried out by a Royal Commission. That is good enough for the men; that is good enough for the people who have to work in the prisons, the Government says, but for those people in the hierarchy in the Public Service it is all right to have a review by private consultants in conjunction with the Public Service Board. I believe that that exemplifies the double standards that the Government is displaying in this matter. Suggestions have been made for an extension of the terms of reference, and I would just like to refer to one such suggestion, which came from the Public Service Association. There certainly have been others. A press report states:

> The P.S.A. has told the commission it wants an inquiry into and a report on all aspects of Department of Correctional Services activities with "special regard" to:
>
> The adequacy of the security system to protect the public, officers and prisoners.
>
> The suitability, capacity and quality of the correctional service facilities for officers and prisoners, having special regard to the training and rehabilitation services available to prisoners and the promotional opportunities and the adequacy of existing staff numbers and the structure of the prison service.
>
> The existing level of in-service staff training and its suitability, and the overall conditions of employment of all correctional service staff.
>
> The cost effectiveness of present correctional practices in South Australia in achieving the department's stated objectives.
>
> Proposed plans for development in the light of present correctional research and practices.

In other words, the submissions that have been put so far for an extension of the terms of reference of this inquiry have said that the Government's proposal is too narrow and that we should not just concentrate on what has happened in the prisons, the relationships and actions between the people who work in the prisons and the prisoners, but that there ought to be a broader inquiry, that we ought to look at all aspects of the Department of Correctional Services itself, and that we ought to look at the system and at the physical conditions in the gaols to see whether there is any need for improvement.

In that sense, it is an abrogation of responsibility for the Government to say that that should be left to the Royal Commissioner. It is clearly inappropriate for that to be left to the Royal Commissioner, because it is suggesting that the Royal Commission be expanded to be of a different character, to be much broader. It is, as I said yesterday in the Council, buck-passing and duck-shoving for the Government to say that it leaves it to the Royal Commission. The Royal Commissioner has said that it is not proper for him to amend the terms of reference. I do not believe that it is proper for the Royal Commissioner to recommend amendments to—

The Hon. K. T. Griffin: He didn't say it was not proper.

The Hon. C. J. SUMNER: He said it was not for him, or something.

The Hon. K. T. Griffin: We'll wait and see.

The Hon. C. J. SUMNER: Perhaps the Attorney would like to hear what he said at the opening of the Royal Commission when the question of extension of the terms of reference was raised, as follows:

> That is not within my power, of course.

The Hon. K. T. Griffin: That is different from whether or not it is proper.

The Hon. C. J. SUMNER: All right, but what I am saying is that it is not proper for the Government to land the Royal Commissioner with all the responsibility in this area, particularly when a call has been made for an extension of the terms of reference, not some minor amendment to the terms of reference within the spirit of the original terms of reference, but for an extension of the inquiry, an extension of the nature of the inquiry. That is clearly a matter that the Government ought to take up; not to take it up is an abrogation of responsibility.

The Attorney yesterday mentioned the Salisbury Royal Commission, but the argument in that case was whether or not the terms of reference set out by the Labor Government covered whether the dismissal was justifiable, whether the word "justifiable" in the terms of reference of that Royal Commission meant not only lawful but also justifiable in terms of the general merits of the case and natural justice. And, in that sense, the Government of the day said that it was up to the Royal Commissioner to say whether or not the terms of reference that had been given to her extended so far as to cover the justice of the situation, as opposed to the strict legality of the situation. She defined those terms of reference as meaning not just the legality of the situation, but the general merits of the situation, the general justice of the situation and, therefore, she felt there was no need to recommend an extension of the terms of reference.

The Hon. K. T. Griffin: The same direction can be requested here.

The Hon. C. J. SUMNER: In that case, what I am saying is that the suggestion there, in relation to the Salisbury Royal Commission—

The Hon. M. B. Cameron: You are giving yourself a big—

The Hon. C. J. SUMNER: In the case of the Salisbury Royal Commission we agreed that the Royal Commissioner should look at more than just the legality. We said that if she found the terms of reference not sufficiently broad she could recommend a change.

The Hon. K. T. Griffin: You didn't say you would accept it.

The Hon. C. J. SUMNER: You did not say you would accept it. It was proper in that case, as it would be in the case of this Royal Commission, to leave to the Royal Commissioner certain aspects of the terms of reference which were within the general spirit of those terms of reference. What the Government is asking the Royal Commissioner to do here is to make recommendations across the board about the terms of reference. The

submissions in relation to the terms of reference from the interested parties, so far, have gone not just into the relationship of the prisoners and the people on the ground working in the prisons, but also into the whole structure of the system, and it is quite wrong for the Government to leave that to the Royal Commissioner.

There has been one example of the inadequacy of the terms of reference of the Royal Commission that I pointed out earlier today in Question Time. Apparently, there is now some suggestion that the breach of regulation issue which has been raised in the Royal Commission is not covered by the terms of reference because there is a suggestion that in the first term of reference the fact that these breaches of regulations have apparently been going on for some years makes them no longer irregular and makes them regular. And, in making them regular, that does not bring them within the terms of reference of the Royal Commission. It would be quite absurd if this question of the compliance with prison regulations could not be canvassed by the Royal Commissioner. Does the Government want that? I would like the Attorney to answer that question, because he certainly did not answer it when I asked it earlier today.

I cannot understand the Government's resistance to the calls that have occurred over the past few weeks for a broadening of the terms of reference. I would have thought that the Government would have welcomed a broadening of the terms of reference. It is exhibiting an extraordinary paranoia about this inquiry. Why does the Government not want the terms of reference broadened? Surely, all the parties before the Royal Commission would then feel that justice had been done. The amendment that we propose is that the terms of reference ought to be broadened, and we have chosen as the appropriate vehicle for that the terms of reference of the New South Wales Royal Commission into Prisons, which was set up in 1976. That, we believe, would cover all the matters that have been raised by the P.S.A. and the A.G.W.A. and other counsel who have made submissions to the Royal Commission about extending the terms of reference.

To briefly emphasise what is suggested by this extension of the terms of reference, it calls upon the Royal Commissioner to report upon the general workings of the Department of Correctional Services, its policies, facilities and practices in light of contemporary penal practice and knowledge of crime. Therefore, it would deal with the system itself. It would deal not only with the Department of Correctional Services but also with custody, care and control of prisoners, and the relationship between staff and prisoners. It would also deal with the selection and training of prison officers, and rehabilitation programmes for prisoners.

The experience in New South Wales shows that those terms of reference are broad enough to cover an investigation into all aspects of the prison system. Therefore, I believe they are broad enough to cover the situation at Adelaide gaol, for instance, where apparently the facilities are in need of much improvement. Those facilities would have been improved by the construction of a remand centre, which was a proposal approved by the previous Government, but which at present is in limbo. I refer also to actual facilities within the prison and the breach of regulations question. All these matters could be covered by extending the Royal Commission's terms of reference.

We believe that the Government should grasp the nettle and extend the terms of reference, and I cannot understand why the Government does not want to do that. Surely, the Government wants this matter properly investigated. Surely, the Government does not want the parties before the Royal Commission to be dissatisfied or to feel that they have not been given a fair go by the Government. Surely, the Government does not want employees in these institutions to feel that they are being made scapegoats for a system which has led to the problems that we have been discussing. This amendment is an attempt to encourage the Government to seriously consider the representations that have been made to it about the terms of reference and extend them to ensure a broad, wide ranging inquiry into all aspects of correctional services in South Australia.

[Sitting suspended from 5.49 to 7.45 p.m.]

The Hon. K. T. GRIFFIN: It is important to get the debate into some perspective and to start at a point where the Leader of the Opposition was asserting that the Royal Commissioner regarded it as not proper for him to recommend—

The Hon. C. J. Sumner: I said that it was not proper—

The Hon. K. T. GRIFFIN: If the Leader listens, he will hear what I have to say. The Leader said that it was not proper for the Royal Commissioner to recommend variations in the terms of reference. He then corrected himself and said, "Well, he didn't say quite that. He said that he would not do it." Then, the Leader asserted that it was not proper for the Government to rely on the Royal Commissioner—

The Hon. C. J. Sumner: In the circumstances.

The Hon. K. T. GRIFFIN: The Leader seems to make the rule fit the circumstances in this case. He tried to distinguish the events of 1978 in relation to the Salisbury Royal Commission by suggesting that they were different from the present circumstances. Although the Leader tried very hard, he did not convince me.

The Hon. C. J. Sumner: I couldn't convince you.

The Hon. K. T. GRIFFIN: The Leader tried very hard, but he did not quite get there, as the circumstances of 1978, in terms of principle, were identical. In that case, counsel before the Royal Commission sought from the Royal Commissioner a recommendation to the Government to widen the terms of reference.

The Hon. C. J. Sumner: How did they want to widen them?

The CHAIRMAN: Order!

The Hon. K. T. GRIFFIN: The Royal Commissioner in the Salisbury Royal Commission, having heard submissions, determined that it was not appropriate to widen the terms of reference. As the Leader of the Opposition has said, that Royal Commissioner made some observations on the scope of the terms of reference. He was not able to say why that course should not be followed here.

The Hon. C. J. Sumner: I did say it. I've explained why, and I'll explain again.

The CHAIRMAN: Order! The Leader has that privilege.

The Hon. K. T. GRIFFIN: The course that the Government has followed in relation to the present prisons Royal Commission is appropriate. The Leader of the Opposition has not really addressed himself to the question of why counsel should not make recommendations with respect to extending the terms of reference. Why should not counsel at the Royal Commission seek clarification on the extent and scope of the terms of reference? The Leader sought to throw it all back to the Government. I will now read what the Royal Commissioner said on 6 November regarding this point. He did not say that he was not going at any stage of the Royal Commission to recommend to the Government any variations in the terms of reference. Rather, he said:

What I do say is that I see no reason at this stage—

and one must emphasise "at this stage"—

for recommending any amendment to the terms of reference, and that at any time I would need considerably more than the existing circumstances to persuade me to recommend that an inquiry limited to the matters within prisons, specified in the present terms of reference, should be converted into a wide-ranging inquiry into the penal system of South Australia.

The Commissioner has not excluded the possibility that at some later stage during the course of the hearing he will reconsider that decision and make recommendations to the Government.

The course that the Government has followed is perfectly reasonable and proper. The Government has allowed counsel before the Royal Commission to make submissions regarding the extent of the terms of reference. No evidence at that stage had been called. The Royal Commissioner, who was given the opportunity to look at the scope of the terms of reference, reached the conclusion that at that stage he did not see any reason for making any recommendation for widening the scope of the terms of reference.

If one was to look at the Commission itself, one would see that the Royal Commissioner was appointed to inquire into and report upon allegations in regard to prisons under the charge, care and direction of the Director of the Department of Correctional Services and certain related matters. The terms of reference of the Royal Commission are to inquire into and report on the following:

(1) Allegations of graft, corruption, misappropriation of goods and irregular practices at prisons.

(2) Allegations of sexual and non-sexual assaults committed at the said prisons.

(3) Allegations relating to the security of the said prisons and the discipline of the prisoners held therein.

(4) Allegations relating to the presence of unauthorised material within the said prisons.

The Royal Commission will report upon the matters referred to above, including, where appropriate, the prevalence of the occurrence of such matters, the periods over which they have occurred, and the persons responsible for such occurrences, and in the event that any such allegations are found to be true, to recommend such legislative or other action as considered appropriate.

Those terms of reference are wide and obviously will allow a great deal of scope for those giving evidence to the Commission. If one was to look at the newspaper reports of the evidence given by the Director of Correctional Services, one would see that a variety of matters, including some of the matters referred to by the P.S.A., the A.G.W.A., the Aboriginal Legal Rights Movement, and lawyers representing some prisoners, might well be encompassed by the Commission's broad terms of reference.

The Hon. C. J. Sumner: What if they aren't?

The Hon. K. T. GRIFFIN: That is a circumstance that we will take into account and examine when the Royal Commissioner says what he regards as the scope of the Royal Commission. Therefore, it seems to me that we have got a group of people seeking to make political capital, without any substance, out of the Royal Commission.

The Hon. Mr. Duncan, who used to be a Minister in another place, has been making noises in public and all sorts of wild assertions about the way in which prisons have been conducted. The Government called his bluff and gave the Hon. Mr. Duncan an opportunity to put his money where his mouth is. Now a Royal Commission has been appointed, and the Hon. Mr. Duncan and his colleagues are still trying to make some political capital out of that decision.

Well, it is not really going to wash, because they will have their opportunity to present evidence and for that evidence to be judged on its merits. I believe that it is an improper means of achieving changes to the terms of reference to tag them on to this Bill in a way which will mean that, if the Government does not accede to the intention evidenced in the amendment, there will not be an opportunity for the Royal Commissioner to rule that names of witnesses and names of persons alluded to at the Commission should not be disclosed. The fact is that the Opposition, by attempting to put this provision into the Bill, will in fact be guilty of delaying the Royal Commission if the clause is passed and the Government does not act upon it.

The Opposition is being obstructive in the way in which it is dealing with this matter. We all agree that the Royal Commissioner needs to have the power to suppress names. He needs it as a matter of some urgency to get on with the job of hearing evidence on the matters covered by the Commission. The longer this thing drags on and the more ploys that the Opposition embarks upon to delay and attempt to make political capital from it, the more difficult it will be for the Royal Commissioner to do the task which he has been given. For that reason I believe that the amendment should not be acceded to by this Committee.

I will conclude by reading some of the comments made by the Royal Commissioner on 6 November in relation to this very condition of waiving the terms of reference. On that day, having heard submissions from counsel, the Royal Commissioner announced his decision. He made some very interesting comments about the function of a Royal Commission, before dealing with the question of widening of the terms of reference. I think it is important for members of the Committee to remember the functions of a Royal Commission. The Royal Commissioner said:

These proceedings in which we are engaged consitute merely an inquiry: they are not proceedings in a court of law. The function of this body is to inquire into the matters referred to it, to report thereon to the Governor-in-Council and to the extent that the terms of the commission require it to make recommendations. No conclusion reached as a result of the inquiry has legal consequences or affects the rights of anyone.

A commission is not appointed to try persons for offences nor to punish anyone guilty of an offence, that is the function of the courts. The function of a royal commission is essentially to investigate the matters referred to it. With that preliminary comment I turn to the suggestion that I should recommend an extension of the terms of reference.

For purposes of government, information is sought in a variety of ways, by select committees, standing committees, annual reports of statutory bodies, inquiries authorised by particular statutes and by royal commissions; by departmental and inter-departmental inquiries and so on. Each method has its own use and it is a matter for the Government to determine, when it requires information on a particular subject matter, what form of inquiry it will use.

Here, the information given to me indicates that at the present time there are three inquiries in progress which should be noted. Firstly, there is a current study by the Public Service Board of staff members and levels of classification at institutions. Secondly, steps were taken in September of this year to establish a joint review of the Department of Correctional Services by independent consultants and officers of the Public Service.

The Hon. C. J. Sumner: Double standard.

The Hon. K. T. GRIFFIN: It is not a double standard; we can deal with that later. The Commissioner continued:

The terms of reference of this inquiry include matters

relating to security measures, organisation structure and staffing, the cost effectiveness of the present system and recruitment and officer training. Thirdly, there is this commission which is required to inquire into recent allegations relating to misconduct in prisons, the security and discipline of prisoners and the presence of unauthorised materials in prisons.

The submission made by counsel for the Public Service Association and the Australian Government Workers' Association is that I should recommend that the terms of reference of the commission should be widened to include matters, many of which are within the terms of reference of the other two inquiries. This submission is supported in effect by counsel appearing for a number of prisoners.

It should of course be made quite clear immediately that I have no power at all myself to widen the terms of reference. At the same time there is nothing of which I am aware to prevent my recommending that the terms of reference be widened if I think such a recommendation should be made. Equally clearly there is nothing to prevent the Governor-in-Council rejecting any such recommendation which might be made.

In considering the submission made to me I naturally turned to see what has been done by experienced and distinguished commissioners in past inquiries. From my reading and my own knowledge I am aware of two sets of circumstances in which a royal commission may properly recommend that its terms of reference be enlarged.

The first is where there is some deficiency in the terms which is apparent on a reading of the commission. To take an unlikely case, the terms of the commission may, on close examination, authorise an inquiry into one matter but require recommendations regarding another. In such a case the commission would ask for clarification as soon as the discrepancy was discovered.

The second is where, as the evidence unfolds, it is found that the purpose of the commission cannot be fully achieved without inquiring into matters which, while inter-related with, are distinct from the matters specified for inquiry in the terms of reference. An example of this occurred in 1975 in the royal commission conducted by the late Judge Johnston into allegations made by prisoners at Yatala. The original terms of reference related to a number of incidents most of which were alleged to have occurred from 24 October 1974 onwards at Yatala. By a further commission some two months later, Judge Johnston was appointed to inquire into similar incidents which were alleged to have occurred during the period of 20 to 23 October 1974, that is, in the three days immediately preceding the date of the incidents, the subject of the original terms of reference.

The next part is important. The Commissioner stated:

Neither of these sets of circumstances exist here. The terms of reference are not specific in that they refer to allegations which have been made without specifying by whom or when those allegations were made. This means that the commission as an early task will be called on to identify these allegations with greater particularity and counsel assisting the commission no doubt has this task in hand. But there is nothing so far to indicate that there is, on the face of the commission, a deficiency of the sort to which I have referred.

I have referred to the position where it is stated that the purpose of the Commission cannot be fully achieved without inquiring into matters which are distinct from the matters specified in the inquiry.

The Hon. C. J. Sumner: That gives the whole game.

The Hon. K. T. GRIFFIN: In these circumstances the Royal Commissioner stated:

The second set of circumstances to which I have referred has not arisen for the simple reason that no witness has yet been called to give evidence. Whether it will arise is something for the future. I do not say that there are no other circumstances in which a Commissioner might properly ask for an extension of the terms of reference, nor do I exclude the possibility that some recommendations by this Commission might impinge on matters within the terms of reference of the other inquiries to which I have referred. What I do say is that I see no good reason at this stage for recommending any amendment to the terms of reference . . .

That puts the whole thing into context. The Royal Commissioner has considered the submission, he has not precluded the possibility of further consideration of widening the terms of reference at some time in the future, and he has not indicated what he sees at this stage as the scope of the inquiry, because he has not yet heard evidence to be able to make any decision on whether or not the evidence that is put is within the terms of reference.

Therefore, I and the Government take the view that it is most premature for any further consideration to be given by the Government to widening the terms of reference. We have indicated publicly, and I have indicated in this Chamber, that if the Royal Commissioner believes that there are good reasons for recommending the widening of the terms of reference, when that occurs the Government will give most careful consideration to the recommendations that the Royal Commissioner makes. For those reasons I believe that the amendment is an improper means of trying to achieve the objective of compelling the Government to change the terms of reference in circumstances in which we do not yet know what the Royal Commissioner's interpretation of these terms of reference might be. I urge the Committee to vote against the amendment.

The Hon. C. J. SUMNER: The Opposition has felt compelled to move this amendment dealing with the terms of reference of the Royal Commission into Prisons because of the total failure of the Government to adequately consider the submissions put forward by those groups who want the terms of reference altered. The Government has simply buried its head in the sand, simply avoided the issue, and refused to take responsibility for the terms of reference of an inquiry that it set up and whose terms of reference it laid down.

For that reason that Opposition has been compelled to move the amendment, to try to get the Government to see some sense on this issue. I remain completely unconvinced by what the Attorney has said. He tried to say that there were people making political capital out of the issue without foundation. Does he consider that two of the organisations agreeing as a last resort to industrial action, because of the failure of the Government to properly consider their submissions, are some groups trying to make political capital out of the situation? Of course they are not: these people are concerned. Prison officers who have to work in prisons are concerned that terms of reference are drafted in such a way as to lead to the possible conclusion that they are the scapegoats, when the Department of Correctional Services is let off scott free.

The Committee should not accept the Attorney-General's brushing aside of the arguments in this case by saying that the organisations concerned, the prisoners' legal counsel, and the Aboriginal Legal Rights Movement counsel before the Commission are making political capital out of the issue. Obviously, they want the matter to be a matter of public comment because they have not received satisfaction from the Government.

I come back to the point about the terms of reference that the Attorney has read into *Hansard*. Even he ought to be able to see that they do not cover matters such as facilities at prisons or the responsibility of the Department

of Correctional Services. They do not deal with the system of correctional services: they deal specifically with the relationship and the actions that have been going on in the prison system itself, in the prisons, not in the department. The terms of reference deal with allegations of graft, corruption, misappropriation of goods, and irregular practices at prisons. There is no mention of an inquiry into the Department of Correctional Services, and the Attorney knows that. He has read out the terms of reference yet he continues to say that they are broad enough to take into account the fears of the unions concerned in this matter.

The second term of reference is in regard to allegations of sexual and non-sexual assaults committed at the said prisons, allegations relating to security of the said prisoners and discipline of the prisoners held therein and allegations relating to the presence of unauthorised material within the said prisons. The whole of the terms of reference deal with the prisons, and for the Attorney to say that they are broad enough to take into account all of the matters that have been put to him by those people who are concerned about the terms of reference is just absurd. The Attorney-General must realise that from a reading of the terms of reference.

We do not know whether the terms of reference deal with the conditions in prisons. Do the terms of reference deal with the accommodation at Adelaide Gaol? Perhaps the Attorney can tell the Committee if he believes that that is the case. If he believes that accommodation and facilities at Adelaide Gaol ought not to be the subject of the Royal Commission, let him tell the Committee. What is the Government's view on that matter? The Attorney will not say. He just continues to parrot the phrase that it is a matter for the Royal Commissioner to consider. It is complete abdication of responsibility.

What is the position in regard to the regulations that have not been complied with for some considerable time? What about the regulations providing that there should not be only two prisoners in a cell at any one time and the fact that prison regulation 67 has been breached? Does the Attorney say that an inquiry into the breaches of those regulations is covered by the terms of reference? If he does, will the Attorney tell the Committee? He can tell the Committee whether the Government favours an inquiry into those matters.

Regulation 70 deals with the separation of prisoners, and apparently it has not been complied with. Is that matter covered by the terms of reference? If it is, will the Attorney tell the Committee now how it is covered? If it is not, the Attorney-General should say clearly whether he believes that the terms of reference should cover that, and whether it ought to be inquired into. These are specific matters that are not covered by the terms of reference.

There is the more general matter about the Department of Correctional Services, which is responsible for the system, where the system ought to go from now on, what other practices ought to be adopted, and what should be done. Should there be a new gaol? Is the Attorney willing to concede that that is a matter that the Royal Commissioner should inquire into? Of course he is not, because he does not want the Commissioner to have those responsibilities. As I said at the beginning, the terms of reference have been carefully couched and drafted to try to protect the Minister, because there is no way that these terms of reference can get at the Minister responsible for correctional services in this State and at the department. I hope that the Attorney will attempt to answer these questions and that he will not continue to evade the issue as he has done at the present time.

The Hon. K. T. GRIFFIN: This Government has nothing to hide in relation to prisons. If the wide-ranging inquiry to which the Leader of the Opposition refers was conducted, we would find that the blame for the current position in South Australian prisons must lay fairly and squarely upon the shoulders of the previous Government. In fact, Mr. Duncan, so we hear, raised the matter of prisons during his time as Minister in the previous Government, but he was consistently squashed and told to mind his own business.

If we wanted to cover up anything, and if we did not want to ensure that this was not brought out, we would certainly not allow the inquiry to be a wide-ranging one. The fact is, and I maintain again, that the scope of the terms of reference is particularly wide and until the Royal Commissioner has had an opportunity to hear opening addresses and evidence and to make his own assessment about whether or not there are other matters that ought to be inquired into which are raised by those addresses and that evidence, and until he makes a recommendation, the Government is not prepared to unilaterally widen the terms of reference just on the say so of the Leader of the Opposition and other members of his Party.

The Hon. C. J. Sumner: It is not just I.

The Hon. K. T. GRIFFIN: It is. The Leader is the one who is calling for a widening of the terms of reference.

The Hon. C. J. Sumner: What about the P.S.A. and the A.G.W.A., counsel representing prisoners, and counsel representing the Aboriginal Legal Rights Movement?

The Hon. K. T. GRIFFIN: They have their own interests to push. The Leader is the one who is principally responsible for calling for this widening of the terms of reference. The fact is that the Government has considered submissions made by various groups about the widening of the terms of reference and has encouraged those submissions to be made to the Royal Commission. It has encouraged the Royal Commissioner to consider, at this early stage, whether or not any widening of the terms of reference should be considered. The matter has been brought out into the open and has been considered where it ought to be considered initially, by the Royal Commission.

The Leader is suggesting that this Royal Commission will allow the department to get off scott free. That is a bit of nonsense, because the terms of reference impinge upon the way in which prisons have been run and that must necessarily impinge upon the involvement of the Government department in the running of prisons. The terms of reference are broad. I am not saying, as the Leader has suggested I said, that they are wide enough to cover all of those matters, but it is premature to make a judgment on those issues at this stage. It is for that reason that I believe it is improper for this amendment to be tied to a totally unrelated matter, that is, the question of the suppression of names of witnesses and persons alluded to in evidence before a Royal Commission.

The Hon. N. K. FOSTER: I strongly support this amendment. I do so because I consider that the powers of the Royal Commission are not wide enough to get information and correctly inform the Parliament about this matter, which I understand is the purpose of a Royal Commission. The Government of the day makes up its mind as to whether or not it will take any notice of such an inquiry. This inquiry is not broad enough because it looks only at prisons. Let me say that police brutality is a matter that has concerned me for a considerable time.

The Hon. K. T. GRIFFIN: I rise on a point of order, Mr. Chairman. That is totally unrelated to the matter before the Committee. I believe it is out of order under Standing Order 185.

The CHAIRMAN: I uphold the Attorney's point of

order. It is quite irrelevant for the Committee to consider matters not before the Chair.

The Hon. N. K. FOSTER: I am concerned about other areas where prisoners have punishment inflicted upon them by people whose control and care they are in, when that punishment has not necessarily been awarded by a court. I refer to sentences that cannot be described strictly in the terms of this Bill as being served in a prison, but four walls do a prison make. If honourable members were lodged in the prison watchhouse, the Mount Gambier holding cells, or the Elizabeth or Port Adelaide cells and had hell belted out of them, that would be a form of punishment.

The CHAIRMAN: Order! I cannot permit the debate to get too far away from the matter before the Committee.

The Hon. N. K. FOSTER: I have not done that yet.

The CHAIRMAN: The honourable member is quite out of order in taking this matter a long way from anything dealing with the Bill or the amendment before the Committee. We are discussing an amendment which is much broader than was anticipated, I presume, when we started on this Bill, but I do not want the matter to extend too far.

The Hon. N. K. FOSTER: I will not talk about army boots and provos. Honourable members opposite are quick to jump up and defend those things that they are ignorant about, but to suggest that something does not occur when it does occur gives me the opportunity to remark upon their ignorance and intelligence. The amendments before the Committee state, in part:

> (2) A proclamation shall not be made for the purposes of subsection (1) until the Royal Commission has been empowered to inquire into and to report upon the general working of the Department of Correctional Services, its policies, facilities and practices in the light of contemporary penal practice and knowledge of crime and its causes and, without restricting the generality of the foregoing to inquire into and report upon:—

and this is the operative clause that you, Mr. Chairman, ruled me out on—

> *(a)* The custody, care and control of prisoners and the relationship between staff and prisoners;

If you take that word "prisoner", Mr. Chairman, and say to me by way of a ruling (which I accept) that the only reference to prisoners is in relation to designated prisons within the ambit of the Department of Correctional Services, it is on that point that I say that this Bill ought to have been expanded to include those people held as prisoners, the prison I am referring to being a cell in the city watchhouse. A person can be held in a remand cell, which is a prison, for two years under existing State law, or for longer.

The Hon. K. T. Griffin: That is nonsense.

The Hon. N. K. FOSTER: That is not nonsense. Let the Attorney show me in the Act where a person on remand has the right to demand his release, even if he has been before the court on many occasions to be remanded in custody for a further period.

The CHAIRMAN: Order! This is probably a very valid argument, but does not relate to the amendment before the Committee. I ask the honourable member to relate his remarks to his support or otherwise of the amendment before the Committee and to not refer to the City Watchhouse, or any other place.

The Hon. N. K. FOSTER: It's a boob, whatever you call it.

The CHAIRMAN: Order!

The Hon. N. K. FOSTER: I accede to your ruling, Mr. Chairman, because I have said what I have wanted to say. There are those who seem to think that they ought to speak in this debate when I am on my feet but who do not want to utter a word in their own right when they have that opportunity, so let them shut up. The Hon. Mr. Davis and the Hon. Mr. Carnie have the right to get up and speak, but if they know nothing and have no compassion for the unfortunate in the community, let them shut up and cease interjecting.

The CHAIRMAN: Order! The Hon. Mr. Foster should contain his remarks, as I have told him to, to the matter before the Committee.

The Hon. N. K. FOSTER: It is a reflection upon the Government that we are discussing an amendment to this Bill. We are sitting tonight because of the shortcomings—

The Hon. L. H. Davis interjecting:

The CHAIRMAN: Order! The Hon. Mr. Davis will have an opportunity to speak later if he wishes, and I ask him not to interrupt.

The Hon. N. K. FOSTER: We are debating this matter tonight because the Royal Commissioner has not been given powers to properly inquire into this matter. The Royal Commissioner has had to seek further powers from the Legislature.

Members interjecting:

The Hon. N. K. FOSTER: Members opposite can cackle if they wish, but if they can give me any other valid reason I will accept it. We are discussing this matter tonight because the Royal Commissioner has said that he cannot suppress witnesses's names unless he receives that power from this Parliament.

The Hon. K. T. Griffin: Whose fault is that?

The Hon. N. K. FOSTER: It is the Attorney-General's fault for not doing his homework. Anyone who sets up a commission such as this and does not empower the commissioner properly should not call himself a responsible member of the legal profession, and I am referring to the Attorney-General. It is a gross oversight by the Attorney-General, and he should be condemned for it. The Attorney-General cannot argue about that because it is perfectly true; he was remiss in his duty and he knows it. A cardinal political sin appears to be the admission of a mistake, which is what the Hon. Mr. Hill did last week.

The Hon. C. M. Hill: What did I do last week?

The Hon. N. K. FOSTER: You kept breathing. The Hon. Mr. Hill asked for that and he got it. I refer to the Local Government Act Amendment Bill and the holding of elections on a holiday weekend—

The CHAIRMAN: Order!

The Hon. N. K. FOSTER: The Hon. Mr. Hill forced me into that, Mr. Chairman. We have before us, quite correctly, an amendment moved by the Leader of the Opposition. If this amendment is passed it will save the Government from future embarrassment, because if it is not passed, sometime during the course of the proceedings the Commissioner may find that he requires further powers to proceed with the Royal Commission. What is wrong with the concept of the amendment now before us that it should be so bitterly contested by the Government? The amendment refers to many aspects that are not provided in the Act. Apart from the Public Service Association and the A.G.W.A., it may well be that the Police Association may wish to give evidence. During periods of industrial unrest in the prisons, responsibility for security and other matters rests with the police, as happened on a large scale in New South Wales recently. At that time the New South Wales police had something to say about their added responsibility and their inability to cope with that particular situation.

Therefore, it is quite likely that the South Australian Police Association will want to give evidence, and this

amendment gives the police that right. One of the most difficult situations a prisoner faces is a medical complaint. Over the last three or four years deaths have even occurred, because it is very difficult for prisoners to convince those in authority that they are not well or that they require medical treatment. Too many cases have been reported where a prisoner has been refused medical treatment and has been found dead in his cell the following morning. This amendment means that not only will the Public Service Association and the A.G.W.A. have greater access, but it goes further into those areas I have referred to.

If the Royal Commission was set up to allow the Commissioner to fully investigate the entire prison system then, of course, members opposite should agree with this amendment. The Hon. Mr. Carnie can snigger, but that is a reflection of the Government's attitude towards amendments moved by members on this side of the Chamber. Any provision introduced by a member on this side is ridiculed and not accepted. If a member on this side dares to stand on his feet and either propose or support an amendment moved, he is constantly heckled by the gaggle of geese opposite. I realise you have a difficult task, Mr. Chairman, in your attempts to keep them in order. I see no reason why the complete amendment should not be supported, because it does not harm the Government.

What possible harm is there in this amendment? What does it deny the Royal Commission? The amendment simply gives the Royal Commissioner further powers. I commend the amendment to the Committee on the basis that it would make the Bill much fairer and would allow justice to be done. The amendment would allow a greater variety of witnesses to appear before the Commission and would allow the Commissioner to provide Parliament with a fuller report. I plead with the Attorney-General to do the correct and reasonable thing and accept the amendment—and I can do without the interjections of the Hon. Dorothy Dawkins.

The CHAIRMAN: Order! That comment has nothing whatsoever to do with the amendment.

The Hon. N. K. FOSTER: I support the new clause.

The Committee divided on the new clause:

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

Noes (8)—The Hons. J. C. Burdett, J. A. Carnie, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, and R. J. Ritson.

Pairs—Ayes—The Hons. G. L. Bruce and C. W. Creedon. Noes—The Hons. M. B. Cameron and D. H. Laidlaw.

Majority of 1 for the Ayes.

New clause thus inserted.

Clause 2—"Orders in relation to evidence, etc."

The Hon. R. C. DeGARIS: I cannot let this clause pass without making some comment on it. I do not know whether I am capable of giving a correct appraisal of this clause, certain matters in relation to which concern me. I should like to explain to the Committee my misgivings with part of the clause.

The first question that I must ask the Attorney-General is whether there is in Royal Commissions Acts in any other State such a permanent power to allow a Commission in the public interest, when it considers it desirable to exercise powers conferred in the Act, to forbid the publication of the name of any witness appearing before the Commission and to stifle any public comment or reporting of proceedings before the Commission.

I make clear at the outset that, because of the nature of the Royal Commission that has been appointed to inquire into South Australian prisons, there is a case for the Royal Commissioner to have such a power. However, in relation to the suppression of information from any Royal Commission, extreme caution must be exercised. A quite illustrious former President of this Council is reported to have said rather cynically that Royal Commissions are expensive ways of finding out what suits the Government.

The Hon. C. J. Sumner: Who said that?

The Hon. R. C. DeGARIS: A former President of this Council said it.

The Hon. C. J. Sumner: Who was it?

The Hon. R. C. DeGARIS: I think that everyone knows the story and who it was. It was Sir Walter Duncan, who made that comment or one like it. The Council must bear in mind that Governments, not Parliaments, usually appoint Royal Commissions, and sometimes they are appointed for political purposes to assist Governments over difficult political problems. That has been referred to on a number of occasions in House of Commons debates.

Indeed, the *sub judice* rule and the guidelines adopted by the House of Commons have largely been adopted because certain commissions and courts were appointed to do certain things, and, to prevent Parliament from being obstructed in the normal course of debate, new guidelines in relation to that rule were adopted by the House of Commons. In this case, in relation to the prisons Royal Commission, it was not Parliament but the Government that decided to give up its powers of inquiry into these matters.

If one goes back in history (unfortunately, I have not done much research on this), one finds that time and time again courts appointed in Stuart and Tudor times outside the normal scope of courts virtually became star chambers.

The Hon. C. J. Sumner: Is that what you're accusing the Government of?

The Hon. R. C. DeGARIS: No, I am not doing that in any way whatsoever. I have said in relation to the prisons Royal Commission that a case can be made out to allow evidence to be taken and inquiries to be made without the publication of names.

The Hon. C. J. Sumner: Why won't you move an amendment then?

The Hon. R. C. DeGARIS: The Leader should let me develop my case. Although I may be quite wrong in what I am saying, I should like to know the view of the Government and honourable members regarding this matter. I am concerned that this general power, which can be used by any Royal Commissioner, is being placed on the Statute Book. If a Royal Commissioner was under any influence from a Government, one can see exactly what could happen. I refer to the removal of power from Parliament to a Royal Commission and the suppression of information from that Royal Commission to the public.

The question that I have asked myself is what precautionary measure or what safety valve could be built into this clause to prevent that course of action taking place. One thing I have thought of is to allow the press or any part of the media to have a right of appeal against the suppression undertaken by the Royal Commissioner. I do not know whether that is a practical proposition or not. Alternatively, Parliament itself could take some responsibility in whether suppression should take place in regard to a Royal Commission, or Parliament itself could hand over the powers that it has in these matters to a Royal Commission, but I am not so concerned about the question of the Royal Commissioner having those powers.

The Hon. K. L. Milne: You mean a specific Royal Commission?

The Hon. R. C. DeGARIS: Yes. I am concerned where it

is possible for any future Government to appoint a Royal Commission and then tote that Royal Commission with the powers of suppression and prevention of publication and reporting in the media of this State. I am concerned that this clause in a Royal Commissions Act will be a permanent power to allow suppression on the grounds where the commission considers it appropriate to exercise those powers. It appears to be something that we should examine extremely carefully before we pass such wide powers without any protection against the abuse of those powers.

The Hon. FRANK BLEVINS: Having listened to the Hon. Mr. DeGaris, I must confess to having a great deal of sympathy with his views. I do agree completely that our courts and Royal Commissions should be as open as possible. To give any Royal Commission the right to suppress names and virtually become what the Hon. Mr. DeGaris likened to a star chamber is a very serious matter. It is something that Parliament should take very seriously indeed. I raised this question myself earlier today in a different form. The information I was given was that in the Evidence Act courts have this blanket right, anyway.

The Hon. R. C. DeGaris: There is a difference between the Evidence Act and a Royal Commission that is being appointed.

The Hon. FRANK BLEVINS: Maybe, but I think the principle is the same. Our courts and Royal Commissions should be as open as possible. I was persuaded that this power was not too wide because of the precedent that has already been set in the Evidence Act. My information earlier today was that the courts very seldom use the power available to them under the Evidence Act. I think that the Hon. Mr. DeGaris is wrong on one point, namely, that Parliament is giving away any rights. I do not think that that is the case at all. Parliament always has the power to amend the Act.

The Hon. R. C. DeGaris: I am not talking about that—you got me wrong.

The Hon. FRANK BLEVINS: Perhaps, but we can come back to that. What we are doing is very sweeping but, in effect, we are only delegating those powers to Royal Commissions, as I see it, on trust. If there is ever any question of Royal Commissions abusing this power by quite unnecessarily restricting the public's right to know what goes on in Royal Commissions and the investigations that they are undertaking, I will be strongly advocating that Parliament withdraw that power which it has given Royal Commissions. I think the safety is that Parliament does have the right, if it believes that there is any abuse, to alter the Act to make it apply specifically to each Royal Commission and to have that Royal Commission justify why it requires that power.

I would be much happier if it had applied only to this specific Royal Commission; I think it would be justified. I was concerned about broader powers, but I was persuaded by the precedent in the Evidence Act. I take the point that the Hon. Mr. DeGaris made, if I understood it correctly. Our courts and Royal Commissions are not to be star chambers. They are not, as far as possible, to take evidence in camera. The public has a right to know what is going on in a court and to know who is being charged and who is not. It is not in any way an invasion of privacy, in my opinion; it is part of our system. I take the point that the Hon. Mr. DeGaris made but I am sure that Parliament has the safeguard of withdrawing this power if it is abused.

The Hon. K. L. MILNE: I have been worried about the amendment to this Act. After what the Hon. Mr. DeGaris said, I am even more worried. I think it would be much better to take a hard look at clause 2, because what the Government is trying to do, in my opinion, is provide for something which is not normally necessary but which happens to be necessary in this case. It is a particular case where we are dealing with prisoners and prison officers. The Royal Commissioner, rightly I think, has suggested that to protect them they might have their names suppressed. It is an exceptional case and exceptions make bad laws. Like Mr. Blevins, I would prefer that a special clause about suppression of names be authorised by this Parliament for this Royal Commission only.

The Hon. K. T. GRIFFIN: I am not sure what provision there is in the legislation of other States with respect to powers of Royal Commissions to suppress the names of witnesses or the names of those alluded to in evidence given before a Royal Commission. I think that one needs to remember that in New South Wales there have been two recent controversial Royal Commissions: first, the Royal Commission into drugs; and, secondly, the Royal Commission into prisons. As I understand it, the Royal Commission in each case had the power to suppress names of both witnesses and those who were alluded to in evidence given to those Royal Commissions. So, it is not a novel provision that a Royal Commission should have power to suppress names if that is appropriate in the circumstances. I understand concern has been expressed by members about the prospect of this power being used by a Royal Commissioner in a way that would stifle information. Let me draw attention to the preamble of the proposed new section: the power is to be exercised where the commission considers it desirable to exercise powers conferred by this section in the public interest or in order to prevent undue prejudice or undue hardship to any person. It is in those circumstances that the names may be suppressed. That is a provision which is almost identical to a provision inserted in the Evidence Act by a previous Labor Government, because of its concern about limited powers of the court to order suppression of names.

Although there can be slight abuse, one has to accept that we are in a democracy and that there are safeguards, not the least of which is the concern which can be expressed by the media about any suppression of information, particularly in this area where the media has been particularly active on all occasions when names have been suppressed by courts.

There is that safeguard. There is the safeguard of Parliament itself, and whatever difficulties may be present in getting amendments passed to legislation, the fact is that Parliament is a forum for criticism if power is being abused. Whilst I appreciate the concern of members who have spoken on this clause, I believe that there are safeguards. I believe that, because of the precedent that has been established by the Evidence Act, we really have nothing to fear in any way about how Royal Commissioners exercise their power.

Whilst this particular provision has been prompted by the specific case of the Prisons Royal Commission, it is important to have that power in the Royal Commissions Act, should in the future any Royal Commission be conducted into what may be sensitive areas where individuals may be unduly prejudiced or suffer undue hardships as a result of the publication of names. If they were liable to such prejudice or hardship, then of course the very real risk is that their evidence would not be given to any Royal Commission. I take the view, notwithstanding the reservations expressed by some members, that the clause is an appropriate one.

The Hon. K. L. MILNE: Something that the Attorney-General has just said makes me stronger in my view that this provision should apply only to this Royal Commission. Members know what the public thought about the Salisbury Royal Commission. We are in danger of not only

giving away the power of Parliament but also damaging the trust of people in Royal Commissions. That is not fair to us, it is not fair to the public, and it is not fair to the Royal Commissioner. I ask that the Government be courteous enough to report progress in order to allow me time to consult the Parliamentary Counsel and draw up an appropriate amendment.

The Hon. K. T. GRIFFIN: Whilst I have listened to the Hon. Mr. Milne's request, this is an urgent Bill that will undoubtedly go to conference in the early hours of tomorrow morning, where there will be an opportunity to raise this question. The longer the Bill is delayed, the longer the work of the Royal Commission will be delayed, and I do not want to run the risk that, by reporting progress now, we will further delay the Bill.

The Hon. C. J. SUMNER: I had another matter to raise raise on this clause, but there is no doubt that honourable members have raised a particularly interesting point. The honourable Mr. DeGaris suggested that there may be some merit in an amendment which would limit the provision to the Prisons Royal Commission. There is some force in the arguments that have been put, first, by the Hon. Mr. DeGaris and then by the Hon. Mr. Milne. Therefore, I, too, ask the Government, in view of the concern expressed, to report progress to allow the Hon. Mr. Milne to prepare an amendment.

There may be some justification in limiting this Bill to the Prisons Royal Commission and then to have the matter more thoroughly investigated and compare the situation in other States and bring back a more carefully prepared piece of legislation which could be debated without the question of the Prisons Royal Commission pressing on it. That is more or less the proposal that we adopted last week in regard to petrol rationing when the Government introduced a permanent measure to deal with a particular crisis. We thought it was better to use a temporary measure for that crisis and to debate a permanent measure in a calmer atmosphere, after proper consideration. As this may be a similar situation, I would appreciate the Attorney's reporting progress.

The point that I wished to raise about clause 2 arises from fears expressed to me about what happened at the inquest into the drowning of Dr. Duncan in the Torrens River in about 1972. Orders were made for the suppression of the publication of the names of witnesses. However, it was alleged that certain television stations were photographing witnesses entering and leaving the court and juxtapositioning their news stories in such a way that there was no doubt to anyone who knew the person who was being filmed that that was the person who had made the comment being reported on the television programme. In other words, it may be possible to circumvent the intention of suppression and thereby reveal a person's identity when it is not otherwise permitted.

As I understand the position, and the Attorney can correct me if necessary, this matter was investigated by the Government of the day, and it was found that little could be done to stop it. I do not know whether the law was different at that time—I think it was to some extent—but I believe that an opinion obtained at that time indicated that little could be done.

I would have thought that that would be contempt of court under the present Bill, or under the present provisions of the Evidence Act, in relation to courts. However, doubts were expressed about this. The then Government, I think, could not do anything about it, and I would like the Attorney-General to indicate whether he feels that that situation is adequately covered and whether the Commissioner will have sufficient power to deal with that sort of circumvention of any suppression order made.

The Hon. K. T. GRIFFIN: I am not familiar with the events of 1972, or with any opinion sought at that time. I do know that the law was different then, because it was in the latter part of the 1970's that the amendment was made to the Evidence Act, which was in a form similar to that we are now considering in relation to the Royal Commissions Act. Under the amendment before us, the Commission may, by order, forbid the publication of the name of a witness before the Commission or a person alluded to in the course of the inquiry and any other material tending to identify any such witness or person, so if the device to which the Leader has referred were to be adopted in a Royal Commission it would, in my view, be a breach of proposed subsection (1) of section 16a, because it would be other material tending to identify any such witness or person.

The Hon. Frank Blevins: So one would have thought.

The Hon. K. T. GRIFFIN: Yes. The penalty provided in proposed subsection (3) is a period of imprisonment for not more than six months and a monetary penalty not exceeding $2 000. That is there because, of course, a Royal Commission is not a court of record. In the Evidence Act a breach of a section is contempt of court but, of course, you cannot have contempt of court in the context of a Royal Commission unless one provides specifically for that contempt, so, in this instance, the Government is providing for an offence and, upon conviction for that offence, a fairly substantial penalty.

The Hon. R. C DeGARIS: As I opened up this subject, causing proceedings to be held up for some time, I would like to make the following suggestion to the Attorney-General. The important thing at the moment is the haste to get through a Bill that will cater for the Royal Commission inquiring into prisons in South Australia. I must admit I would be loath to vote for the present clause in such haste when it is going to be in the Act as a power for all future Royal Commissions appointed by any Government to use. That is the point I want to stress. As the Attorney has said, this Bill will be going to a conference in relation to a previous amendment, but I am doubtful that we can consider clause 2 at that conference unless this clause is defeated. That places me in a difficult situation so far as this clause is concerned. I would be loath to vote for this clause to become a permanent power in the Royal Commissions Act without giving it much deeper consideration. I ask the Attorney whether an amendment could be drafted straight away to cover the present Royal Commission sitting so that we can get on with the job of clearing this matter up and getting this Bill off the Notice Paper.

The Hon. K. L. MILNE: I move:

Clause 2, page 2—After line 4 insert new subsection as follows:

(4) This section applies only in relation to the Royal Commission to Inquire into and Report upon Allegations in relation to Prisons under the Charge, Care and Direction of the Director of the Department of Correctional Services and certain related matters.

I have moved this amendment for the purpose mentioned by the Hon. Mr. DeGaris, so that the clause can be discussed at the conference, if there is one.

The Hon. K. T. GRIFFIN: The proposition which comes before the Council in the form of the Bill I have presented is the sort of solution I see as being appropriate for a Royal Commission. I believe, as I said earlier, that there are sufficient safeguards in the Bill. It follows the precedent in the Evidence Act, and I would be loath to accept the sort of limitation which would be placed upon it by this amendment. I believe that the existing clause is adequate,

and for that reason I am not prepared to support the amendment.

The Hon. FRANK BLEVINS: I support the amendment. When I spoke a few moments ago, I expressed some reservations about this clause in the Bill. The Hon. Mr. DeGaris has, along with the Hon. Mr. Milne, persuaded me that at this stage there is no need to put that power into the Royal Commissions Act until such time as Parliament changes it again. There is no urgency about this matter other than in relation to the Royal Commission sitting at the present time. The Attorney admitted, when he spoke after the Hon. Mr. DeGaris, that he did not know what happened in other States. Whilst that was an honest admission, it was a rather incredible one.

What the Government is doing is giving this blanket power to future Royal Commissions without knowing, in the words of the Attorney-General, what goes on in other States, or what goes on in other countries that use a system similar to ours. That alone is sufficient for me to say that that power should not be granted. The responsibility of a Government is to investigate giving this power to a Royal Commission—to investigate what happens in other States and other countries—and this is a very important issue.

The Hon. K. T. Griffin: If it were the same in other States and countries would you support it?

The Hon. FRANK BLEVINS: I would not necessarily support it. I would not give any blank cheque on that. I would think that an Attorney-General who was introducing a measure such as this, which has an enormous number of dangers in it, would have at least investigated what happens elsewhere in similar circumstances.

The Attorney-General referred to two recent Royal Commissions held in New South Wales. He has no idea whether the Royal Commissioners in both those cases had to apply to the Government for the suppression of names, and he has no idea whether they had a blanket right to use that power in connection with those Royal Commissions. I think that is a little neglectful on his part, to say the least. This is obviously an issue that disturbs all honourable members, because people have reservations about it. As the Hon. Mr. Sumner said earlier, a topic as important as this should be the subject of a full-scale debate divorced from any particular issue such as the one we are discussing at the moment.

If Government members were in favour of a Royal Commission to look into, for example, the price of bread—and Royal Commissions look into some very strange things as members opposite have pointed out—why on earth would such a Royal Commission be empowered to suppress names and evidence when investigating something as mundane as the price of bread? Why give that awesome power to such a Royal Commission when it is totally unneccesary? Without examining the position in other States and other countries, I believe that every time a Royal Commission requests from the Government of the day the right to suppress the publication of names and evidence it should have to justify such a request, and the Government should then justify that right to Parliament.

Open courts are one of the greatest protections that the citizens of this State and this country enjoy, because they allow the general public to see what is going on, and they can see that people are not being treated unfairly. I am a strong libertarian, and I do not believe that open courts or open Royal Commissions in any way violate civil liberties. In fact, I believe that they are one of the cornerstones of our legal system. When I spoke previously I admit that my views were rather wobbly. However, my views have certainly been strengthened enormously by the Hon. Mr. Milne, and I commend him for his speed and alacrity in drawing up his amendment. I also commend the Hon. Mr. DeGaris, who first raised this matter in debate, because he was quite correct. Perhaps his language was rather guarded, but nevertheless he was responsible for raising this issue and he should be commended because his remarks were totally correct. I urge the Committee to support the Hon. Mr. Milne's amendment.

The Hon. C. J. SUMNER: I must take issue with my friend the Hon. Mr. Blevins in relation to one matter. While the Hon. Mr. DeGaris deserves to be commended for raising this issue, that comment should be qualified, because the Hon. Mr. DeGaris should put his seat where his mouth is. One would expect that he would cross the floor and support this amendment. The Opposition supported this Bill and still does. Of course, it was introduced in relation to the Prisons Royal Commission, which is currently in progress. The Opposition had no intention of moving this amendment and would not have done so, but the matter was raised quite rightly by the Hon. Mr. DeGaris and has been taken up by the Hon. Mr. Milne. As a responsible Opposition, when we see a good point we are prepared to take it up. For that reason and others outlined by the Hon. Mr. Blevins, the Opposition believes that this amendment deserves support.

The Hon. N. K. FOSTER: I enthusiastically support this amendment and commend its mover. I wish to emphasise a point I made earlier in this debate. While problems that arise in relation to a Bill rest in the Government's hands, the Bill is not entirely its own province, because worthwhile amendments and suggestions can be introduced by other members in this Chamber. I believe we have reached a stage where the appointment of Royal Commissions and the fixing of their terms of reference, no matter what inconvenience it imposes upon Parliament, should be undertaken by Parliament. Political Parties of both persuasions have grossly misused Royal Commissions in this State.

The Hon. R. C. DeGARIS: I have no hesitation in supporting the Hon. Mr. Milne's amendment, and I will vote for it because I believe it is the correct procedure at this stage. However, I am not saying that in the future I will not vote for this particular clause. At this stage I am unhappy about a clause such as this, drawn up at such short notice, going into the Royal Commissions Act and becoming such a relevant part of that Act. It will not cause the Government any delay if the Hon. Mr. Milne's amendment is passed. At this stage, I believe that that is the correct procedure. The Evidence Act is applied in a totally different situation. Royal Commissions have political overtones and can be used to stifle Parliamentary debate.

The Hon. C. J. Sumner: The Government has done that in this case.

The Hon. R. C. DeGARIS: I am not saying that. That happens right throughout Western democracy.

The Hon. C. J. Sumner: That is what the Government did in this case.

The Hon. R. C. DeGARIS: I am not saying that. I am saying that it has occurred throughout Western democracy. There is a great difference between the question of suppression of evidence in relation to the Evidence Act and the question of applying a power such as this to a Royal Commission. I suggest that they are two entirely different matters that should be considered separately in that context.

The Committee divided on the amendment:

Ayes (10)—The Hons. Frank Blevins, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, R. C. DeGaris, N. K. Foster, Anne Levy, K. L. Milne (teller), C. J. Sumner, and Barbara Wiese.

Noes (7)—The Hons. J. C. Burdett, J. A. Carnie, L. H. Davis, M. B. Dawkins, K. T. Griffin (teller), C. M. Hill, and R. J. Ritson.

Pairs—Ayes—The Hons. G. L. Bruce and J. E. Dunford. Noes—The Hons. M. B. Cameron and D. H. Laidlaw.

Majority of 3 for the Ayes.

Amendment thus carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

HOLIDAYS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 November. Page 1850.)

The Hon. C. M. HILL (Minister of Local Government): In closing the debate, I thank honourable members for their consideration of the measure and for their contributions. We are dealing with only one argument in relation to the Bill. I wish to stress some points, and I will do so as quickly as I can.

First, there is no suggestion of removing Proclamation Day. It will simply not continue to be a public holiday. Celebrations at Glenelg will continue to be held on 28 December, or on 29 December should 28 December fall on a Sunday. The holiday occurs during the traditional holiday season, and, from that point of view, whether it is celebrated on 26 December or 28 December has very little impact indeed.

It has been suggested that a large group will have to forgo a holiday on 28 December if the Bill passes. However, that is not the case. Most industrial awards refer specifically to Proclamation Day or Commemoration Day. Some awards provide that there shall be a public holiday on Commemoration Day. In other awards, "28 December" is included in brackets. When dealing with an application to vary the Timberworkers Award, Mr. Commissioner Mathews, of the Commonwealth Conciliation and Arbitration Commission, said:

> In the great majority of Federal awards, the Commemoration Day holiday is substituted for Boxing Day in South Australia in recognition of the State's holiday position. A few other Federal awards prescribe both Boxing Day and Commemoration Day as holidays for South Australia, but such awards are exceptions to the general rule.

If members opposite are to pursue this matter of the industrial situation, I challenge any of them to find an appropriate Federal industrial award which relates specifically to the Holidays Act in South Australia and which means that, because of this amending Bill, anyone will lose a public holiday.

It is therefore clearly in the best interests of the vast majority of South Australians that the Bill be passed in its present form. It will ensure this year that most people will have a clear break of four days for Christmas celebrations and reunions with their families, and it will ensure that the same position will continue in future, in that 26 December will be a holiday in preference to 28 December.

In the debate on 5 November, the Hon. Mr. Blevins read a letter signed by Mr. R. J. Gregory, of the United Trades and Labor Council. In commenting on the letter, the Hon. Mr. Blevins said:

> The letter was written to the Chief Secretary, and certainly up until last Thursday he did not even have the courtesy to reply.

The facts are that on 20 August the Chief Secretary replied to the letter dated 8 August, and I have a copy of that reply with me. Subsequently, the correspondence was referred to the Minister of Industrial Affairs.

The Hon. Frank Blevins: It was an acknowledgement.

The Hon. C. M. HILL: It was a reply.

The Hon. Frank Blevins: Come on! It was an acknowledgement, and that was it.

The Hon. C. M. HILL: Although initially the letter did acknowledge, the second paragraph states:

> I am presently having discussions with the Minister of Industrial Affairs and will let you know the outcome of those negotiations at the earliest opportunity.

Subsequent to that letter, which was referred to the Minister of Industrial Affairs, that Minister also responded to the letter to the Chief Secretary. I am not saying that the Hon. Mr. Blevins knew when he made that statement that those replies had been sent. However, simply to put the record straight, I should indicate that those two replies were dispatched, no doubt unknown to the Hon. Mr. Blevins.

The Hon. Frank Blevins: I knew that it was an acknowledgement.

The PRESIDENT: Order! The Hon. Mr. Blevins has made his point.

The Hon. C. M. HILL: In summary, it seems that the whole argument simply comes down to the fact that the Government wishes to make a public holiday on the 26th in lieu of the 28th. We do not in any way want to damage the celebrations at Glenelg and all that happens down there on Proclamation Day. Those celebrations can still continue. We all know that a great number of people are on holidays during Christmas week and some go down to Glenelg. They will still be able to do that.

The strength of the Government's desire I think is emphasised by the fact that, in the principal amendment that we will debate soon, the Hon. Mr. Blevins agrees that in the coming Christmas period the 26th should be a public holiday. But, of course, his amendment goes further than that and declares that in the years thereafter we should revert to the present practice of the 28th being a public holiday, not the 26th. The Government wishes to bring the State into line with all other States of Australia as far as the public holiday is concerned, and that is to have it on the 26th.

I express the view that the vast majority of South Australians want that change. Employee groups want it, employer groups want it, and the public generally wants it. We have on file a whole list of letters supporting the change. It has been agitated for for years and years. For the past 10 years it has been agitated for in Whyalla, the very home town of the member who placed the amendment on file. The amendment will, of course, make the change only for this first year, not for the years after that.

Because of this fact, and because of the red herring that has been drawn across the debate about some workers suffering when they will not, the Council should strongly support the Government's measure in totality.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Days fixed as holidays."

The Hon. FRANK BLEVINS: I move:

Page 1—

Lines 13 to 15—Leave out subsection (2) and insert subsections as follow:—

"(2) Subject to subsection (2a), when the first day of January, the twenty-fifth day of December or the twenty-eighth day of December falls upon a Saturday or Sunday, the following Monday shall be a public holiday and bank holiday in lieu of that day.

(2a) In 1980 the twenty-sixth day of December shall be a public holiday and bank holiday in lieu of the twenty-eighth day of December."

Lines 22 to 25—Leave out subsection (5).

There are basically two amendments. Should the public holidays fall on a Saturday and a Sunday in future, they will be protected by the legislation, and the following Monday shall be a public holiday and a bank holiday in lieu of that day. The situation is probably all right now. I do not think that the Government has ever attempted to state that Monday would not be a holiday. However, while we are dealing with the Holidays Act, it seems appropriate to make sure of that position so that some Government in the future, if it chooses not to make the Monday a holiday, will be prevented by the Act from taking that nasty action.

The position probably is all right now. It gives some assurance or guarantee of workers' rights. I think the second part of my amendment is more contentious from the Minister's viewpoint. The second part of the amendment ensures that the change from 28 December to 26 December as a public holiday will occur only for this year and not be a permanent feature of South Australian holidays. There are two reasons why the Opposition is so opposed to the Government's proposal. First, I think that there is no doubt that to have 28 December no longer a proclaimed holiday will downgrade Proclamation Day in this State. There is no doubt about that; the Minister can pull his face. If he wants to pull his face against Proclamation Day, that is up to him. To a lot of people in this State it has always been a public holiday. It is something to be respected, if not cherished. It was mentioned that the holiday is not celebrated in Whyalla as much as it is in the rest of South Australia. I agree that that is the case, and that is to be regretted. I believe that in Whyalla we do lose something by not celebrating Proclamation Day in the way that the rest of the State does. It is something of which, over the past 15 years, I have felt in some private way deprived.

The Hon. L. H. Davis: But you haven't done anything about it.

The Hon. FRANK BLEVINS: I am doing it now. It is something that members of the Government see as humorous and something to joke about, but to members of the Opposition it is not. Proclamation Day is not to be downgraded or dismissed in a cavalier fashion. Quite frankly, the Opposition will not be in it. The second reason why the Opposition has moved this amendment is that, despite what the Hon. Mr. Hill said, the trade union movement in this State does believe that to alter the date from 28 December to 26 December could in the future result in a loss of one public holiday to a certain section of the work force of the State. According to the United Trades and Labor Council, 50 000 people get both days as a holiday. As has been outlined in the second reading debate, a lot of other workers get the two holidays by a private arrangement with employers. I maintain that it will be impossible to sustain the 28th as a public holiday in awards if it is not a proclaimed public holiday in the State. The justification for retaining in awards 28 December as a holiday will have gone.

I am quite sure that the employers will be very quick to seize upon this opportunity to reduce for a significant number of employees the number of public holidays they enjoy. There would be a reaction to that and the reaction would be quite simply industrial disputes. If the Government, for whatever reason, wishes to promote industrial disputes, the Opposition does not, because by and large it is the employees who are hurt by industrial disputes more than anyone else. That is the second reason why the Opposition has moved this amendment.

The Opposition has sympathy for the position of shop assistants. We appreciate that they can be inconvenienced by the way in which these holidays fall. However, we are making clear that for this year, to prevent any inconvenience to shop assistants or any other employees because of the days that the holidays fall on, the Opposition and the United Trades and Labor Council agree that it should be altered for this year and this year alone.

As a precedent for that I refer to the action taken by the Hon. Mr. DeGaris when he was Chief Secretary. That was the last time it occurred. At that time the Hon. Mr. DeGaris made no fuss whatever. He merely proclaimed the alteration, and that was the end of it. It did not need any Bill to be placed before Parliament, because it is a very simple procedure. There would have been no fuss, and no-one would have been threatened with the loss of a holiday. For the second time I commend the Hon. Mr. DeGaris for his good sense, and I hope that he will show some consistency when he comes to vote on this amendment.

In replying to the debate the Hon. Mr. Hill referred to employees in this State. I can tell the Minister that I was present at the United Trades and Labor Council meeting when this was discussed. The meeting was unanimous that representatives of organised labour in South Australia did not want the change. There was not one voice against the executive's recommendation, and the T.L.C.'s position was reaffirmed. I do not know where the Hon. Mr. Hill gets the information that employees want this change.

I do not want to canvass the whole debate again, because it was covered in the second reading debate, but in fairness to the Hon. Mr. Milne, who asked me to comment on his amendment to this clause, which is also on file, I hope that I am sufficiently in order to pay the honourable member the courtesy of so commenting. The Opposition does not agree with the Hon. Mr. Milne's amendment. He indicated that he will be supporting my amendment—

The Hon. C. M. Hill: When?

The Hon. FRANK BLEVINS: He told me tonight. I cannot agree with the honourable member's amendment, because exactly the same problem arises as with the Bill. The amendment could lead to a loss of a day's holiday for workers in this State. Of equal importance, it could be to the detriment of the racing industry in South Australia. Even if members think nothing of Proclamation Day, I hope they would have consideration for the racing industry, and I know that some Government members do because, in researching this matter, I referred to *Hansard* and went back to 1979.

I see the Hon. Mr. Hill smiling, because he spoke strongly and eloquently in favour of making Adelaide Cup Day a permanent holiday. Another brief speech of only a few lines was made at that time, and I wish to quote it to emphasise the importance of this matter not only to members of the Opposition but also to Government members in regard to the Adelaide Cup holiday. The speech is reported at page 3190 of the 1970 *Hansard* and states:

> I support the Bill. I recently said that the racing industry is of great consequence to this State, and a public holiday on Adelaide Cup Day is in keeping with the needs of the industry. I cannot agree that there is any great need for the rest of the workers, for I would say that about 80 per cent of the work force of Australia would not work in a barrel of yeast.

That was 10 years ago and you, Mr. Chairman, will recognise that it was your speech on this issue. The Hon. Mr. Milne's amendment, even with the assistance of

supporters of the racing industry, if not the workers, would be defeated. They really were simpler days, Mr. Chairman. Indeed, I was standing against you, Mr. Chairman, for election and I printed about 3 000 copies of that speech and distributed it in certain areas of Whyalla and obtained about 80 per cent of the vote, but perhaps it was the 80 per cent to whom you referred. I thought you would like to hear that speech, Mr. Chairman. To conclude, the Opposition is not willing to give away a day that is very special to South Australia. We are not willing to see an erosion of workers' living standards, and we are certainly not willing to invoke the almost certain industrial action that would follow. The problem can be fixed for this year by a simple proclamation or by supporting the amendment, and I urge the Committee to do just that.

The Hon. C. M. HILL: First, let me say that there is no intention whatever on the part of the Government to downgrade Proclamation Day. The Hon. Mr. Blevins expounds the virtues of the day and gives great support for it, but I have never seen him down at the Old Gum Tree on that day.

The Hon. Frank Blevins: You have not been in Whyalla to see the way we do it up there.

The Hon. C. M. HILL: The celebrations for Proclamation Day are at Glenelg, around the Old Gum Tree. My point is that the same people who have always visited the Old Gum Tree in recent years to celebrate that day will continue to go there in the future, even though it is not a public holiday. We want to lay to rest for all time—

The Hon. Anne Levy: You don't want workers to go!

The Hon. C. M. HILL: The workers who have a public holiday now will have one on 28 December, anyway—

The Hon. Frank Blevins: How?

The Hon. C. M. HILL: —and if they do not have one on the 26th, they will. Honourable members should face the facts of life. We know that a number of people, generally speaking, have Christmas week off. Generally it is a holiday period and there has been much celebration at Glenelg on Commemoration Day or Proclamation Day. That same holiday spirit will continue there, and I am sure that all the people that I have seen at the Old Gum Tree ceremony will continue to attend in the future.

The Government does not intend in any way to "downgrade" (which is the word the Hon. Mr. Blevins used) the ceremony or the significance to Glenelg or South Australia of Proclamation Day or Commemoration Day. The council can continue with its celebrations, and we want to support it as much as possible. All we want to do is shift the public holiday from 28 December to 26 December. The second point raised by the member concerned the fear on the part of the T.L.C. that in some way workers will be worse off as a result of this change. The Hon. Mr. Blevins questioned whether other organisations had been seeking change. As the honourable member knows, some unions have absorbed the change and prefer 26 December to 28 December.

I pointed out when I introduced the Bill that the workers involved in the Commonwealth Public Service will not be deprived of a public holiday this year by the amendment. Also, the question appears to be that those other awards that do not refer to Proclamation Day or Commemoration Day, as they are currently written, indicate that a second public holiday on 28 December or the following Monday will occur if the holiday falls on a Saturday or a Sunday. That holiday will still be retained by those workers. We were looking at about 17 000 workers, which is the 50 000 workers less the number of Commonwealth public servants. It seems to involve a total of about 460 000 wage and salary earners. I know that the Trades and Labour Council fears the change, but it appears that there is no need for it to do so.

The Hon. Frank Blevins: You can't guarantee it.

The Hon. C. M. HILL: Surely the argument put forward by the Hon. Mr. Blevins in submitting this amendment falls away when we look at it in that light. Again, we look at it from the point of view of the great agitation which has occurred over a long period for this change to take place. The fact that there is merit in the proposition is proven by the honourable member's own amendment, which states that during this coming Christmas period the change is to occur. The honourable member is insisting on that happening in the December period of 1980. Then he jumps back to a situation which is out of step with the rest of Australia. I cannot see the strength of his argument in that situation.

The Hon. Frank Blevins: You want to steal Proclamation Day.

The Hon. C. M. HILL: If the honourable member places the highest importance in his argument against the damage that might be done to Proclamation Day, I entirely refute that. Let us be quite frank about this: how many people go to the principal ceremony in this State on Proclamation Day?

The Hon. Frank Blevins: They celebrate it in their own way.

The Hon. C. M. HILL: What does the honourable member mean by that?

The Hon. Frank Blevins: Whatever people do to celebrate the day. You could not get near the Old Gum Tree if the entire population of South Australia went there.

The Hon. C. M. HILL: There is only a small number of people who gather at the Old Gum Tree, which is a rather sad thing.

The Hon. Frank Blevins: That does not mean that they are not celebrating the day.

The Hon. C. M. HILL: The Old Gum Tree is where the principal celebration takes place. That indicates that there is not going to be the damage done that the honourable member claims will be done if the holiday is changed from the 28th to the 26th and Proclamation Day remains on the 28th.

The Hon. Frank Blevins: You have no respect for the heritage of this State.

The Hon. C. M. HILL: The heritage of this State, so far as Proclamation Day is concerned, will forever remain and 28 December will remain Proclamation Day, or Commermoration Day, if we prefer to call it by its other name. The Government is not changing the name at all.

The Hon. Frank Blevins: It is stealing the holiday.

The Hon. C. M. HILL: We are changing the holiday from the 28th to where the workers want it, the 26th. It surprises me that a union secretary telephones me in this building and asks have we got the Bill through and I have to say, "No, because your representatives are opposing it." It is a remarkable situation, but it is true.

The Hon. Anne Levy: You haven't brought it on for debate.

The Hon. C. M. HILL: We are halfway through the debate, if the honourable member would only wake up.

The Hon. Anne Levy: It has been on the Notice Paper for days and we were ready to debate it, but it has not appeared in this Place, and that is not our business.

The CHAIRMAN: Order!

The Hon. C. M. HILL: I appeal to members opposite to fully appreciate and understand the Government's position. The Government is simply trying to do what the people have asked it to do. We are not downgrading Proclamation Day and have no intention of doing that. We will do everything in our power to assist the Glenelg

council with celebrations befitting that particular day. I appeal to members opposite to not be influenced by the fear expressed by Trades Hall. Let us be quite frank about this: that is where the pressure is coming from. I do not object to members opposite taking the lead from Trades Hall because they are involved with that particular organisation, but there is really no need for this fear to be yielded to in this way.

I mention an amendment placed on file by the Hon. Mr. Milne because the Hon. Mr. Blevins also mentioned it and I think Mr. Milne was absent from the Chamber at that moment. He has returned now. I did hear the Hon. Mr. Blevins say that he and members of his Party could not support the Hon. Mr. Milne's amendment because they felt that the racing fraternity deserved to have a holiday on that day.

The Hon. Frank Blevins: As you would say. I have read your speech from 1970, which was absolutely compelling.

The Hon. C. M. HILL: I supported the principle of a holiday for the Adelaide Cup in 1970 and I still feel, because the precedent has been set, that it would be unfair to those people associated with the racing industry to change that public holiday date as part of a package with the measure before us. I will be quite frank at this point with the Hon. Mr. Milne and say, as the Hon. Mr. Blevins did, that I cannot support him.

The Hon. R. C. DeGaris: How about having the Adelaide Cup on Proclamation Day?

The Hon. Anne Levy: So a race is more important than the Proclamation of the State?

The Hon. C. M. HILL: I do not know whether there is anything further I need say. The Hon. Mr. Milne mentioned during the second reading debate that he looked favourably upon the amendment proposed by the Hon. Mr. Blevins. I am not sure whether he still feels quite as strongly about the matter now as he did then, because he is not in a position where he is influenced by the Trades and Labor Council. I do not think he would yield to any pressures of any kind, but I make the point to him that there is a strong demand throughout South Australia for this change.

It certainly suits people to have a successive number of holidays at Christmas time. That is proved by the fact that the Hon. Mr. Blevins himself has indicated in his amendment that he wants this change to occur on this one occasion in December 1980. Because of the letters on file here from workers organisations, employer associations, and many other associations, I think it is certainly in the best interests of the State that this change be made and I ask all members to oppose the amendment.

The Committee divided on the amendment:

Ayes (9)—The Hons. Frank Blevins (teller), B. A. Chatterton, J. R. Cornwall, C. W. Creedon, N. K. Foster, Anne Levy, K. L. Milne, C. J. Sumner, and Barbara Wiese.

Noes (8)—The Hons. J. C. Burdett, J. A. Carnie, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill (teller), and R. J. Ritson.

Pairs—Ayes—The Hons. G. L. Bruce and J. E. Dunford. Noes—The Hons. M. B. Cameron and D. H. Laidlaw.

Majority of 1 for the Ayes.

Amendment thus carried.

The Hon. FRANK BLEVINS: I move:

Page 1, lines 22 to 25—leave out subsection (5).

This amendment is consequential on the amendment that has just been carried.

The Hon. C. M. HILL: I agree that this is a consequential amendment. I oppose the amendment but I do not intend to call a division. As a result of the previous amendment being carried, there would be no order in the Bill if this amendment was not carried.

Amendment carried.

The CHAIRMAN: The Hon. Mr. Milne has an amendment on file to clause 2.

The Hon. K. L. MILNE: As a result of the amendment that has just been carried, I will not proceed with the amendment that I had foreshadowed.

Clause as amended passed.

Clause 3 passed.

Clause 4—"Repeal of second schedule and substitution of new schedule."

The Hon. FRANK BLEVINS: I move:

Page 2, line 20—Leave out "twenty-sixth" and insert "twenty-eighth".

This amendment merely alters the schedule, and protects Proclamation Day as a public holiday.

The Hon. C. M. HILL: If this amendment is carried, will it not override the Hon. Mr. Blevins' amendment dealing with clause 2 (2a), because the Committee has decided that 26 December will be a public holiday in 1981?

The Hon. FRANK BLEVINS: Advice I have received indicates that that will not be the case.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

LIQUEFIED PETROLEUM GAS SUBSIDY BILL

In Committee.

(Continued from 18 November. Page 1927.)

Remaining clauses (2 to 20), schedule and title passed.

Bill read a third time and passed.

WORKERS COMPENSATION (INSURANCE) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1996.)

The Hon. C. J. SUMNER (Leader of the Opposition): The Opposition is prepared to support this Bill, which was introduced in this form because the Government was simply shamed into it as a result of the actions of various individuals and groups, including the Opposition and the member for Mitcham, the Leader of the Australian Democrats in another place (Mr. Millhouse), and the Parliament. Those groups drew to the community's attention the plight of workers and employers who had been affected by the collapse of Palmdale Insurance Limited.

The Bill deals with the establishment of a nominal insurer system for the future as well as with problems caused by employers who insured with Palmdale Insurance Limited, which collapsed last November. In effect, the Bill makes provision for a nominal insurer, with a fund called the Statutory Reserve Fund, from which employers or employees can be assured of workers compensation payments or reimbursement for them in the case of insolvency of insurers or employers, or in the case of the uninsured employer who cannot meet his claims.

The fund will be established by contributions from the Government, exempted employers (that is, employers who are exempted from insuring under the Workers Compensation Act), and a levy on workers compensation premiums.

The Hon. R. C. DeGaris: Do you agree with that system of allowing certain employers to be exempted?

The Hon. C. J. SUMNER: Yes. We are not raising any

issue on that point at this stage. However, they would not be exempted from this levy. They are exempted from insuring under the Workers Compensation Act because the Government considers that they have sufficient financial backing not to need to insure. B.H.P. is one company that has not been insured for many years, and I think that some of the motor vehicle manufacturers have been in that category on some occasions in the past.

The Government was shamed into introducing this Bill because of the furore that was caused and because of the action not only of the Opposition but also of other groups, as well as of Mr. Millhouse in another place.

This sort of legislation has been around for some time. The Hon. Mr. Laidlaw has already said that in 1976 a Workers Compensation Act Amendment Bill was introduced by the Labor Government but was laid aside after disagreement with this Council.

The Hon. R. C. DeGaris: Not on that point, though.

The Hon. C. J. SUMNER: I will deal with that in a minute, because it was partly on that point. The 1976 amending Act, which contained a number of provisions, attempted to deal with an anomaly that had occurred with weekly payments and the basis for the calculation of average weekly earnings, as well as with the question of the incapacity of an insurer or employer to make workers compensation payments to an injured worker. The Bill failed because of disagreement expressed by the Liberal Party in this Council.

There is no reason why the Government could not have acted earlier on the matter. Clearly, there were difficulties with the Labor Government's introducing legislation when it did not have control of the Legislative Council following the defeat of legislation in 1976. There was no urgency about the matter from the Government's point of view, as the Government clearly had absolutely no intention of helping the Palmdale victims, either the workers or the employers, who found themselves in a position of having to pay out workers compensation and not receive reimbursement from the insurance company that had gone into liquidation.

So, I say clearly that this Bill could have been introduced earlier. The Bill has no sense of urgency about it, because the Government did not really intend to support those people affected by the Palmdale collapse. The Minister of Industrial Affairs (Hon. D. C. Brown) has admitted that consideration had been given to this matter at least eight or nine weeks before 1 April. So, the matter could have been looked at way back in February or March, following the collapse last November, when the Government should have known of the problems that many people were suffering because of this collapse.

Initially, the Government's thinking on this Bill was that it should apply only to future claims, in other words, that it should not apply to the Palmdale situation. As I have said, as a result of actions by the Opposition, including the Leader of the Australian Democrats in another place (Mr. Millhouse), the Government has been forced into taking some action to deal with the Palmdale situation.

There is no doubt from what the Minister of Industrial Affairs, Mr. Brown, said. He said earlier that the Government had absolutely no intention of helping the people who are financially disadvantaged by the Palmdale collapse. As recently as 6 October this year, the Minister said in the *Advertiser* :

> The Minister of Industrial Affairs, Mr. Brown said last night legislation could be introduced into Parliament next year.

That was to deal with the general problem of the collapse of insurance companies involved in workers compensation. The press report continued:

> One way or the other the Government must make sure that people are protected. But he said any legislation would not cover people affected by the Palmdale insurance company.

In other words, he was only looking to the future. He had no care or consideration for those people affected by past collapses, particularly the Palmdale collapse. The report continues:

> Mr. Brown said that people affected by Palmdale could be helped only if employer associations and the insurance industry agreed to do this voluntarily . . . Mr. Brown said companies owed money by Palmdale were partly responsible for their dilemma because they had taken advantage of cut-rate premiums. "That in itself should have warned employers that they were taking a risk in insuring with Palmdale," he said. "It is important that people understand that their employer is liable to pay for workmen's compensation payments that would otherwise have been made by Palmdale." Mr. Brown said that the Government had no obligation to intervene and act as a benevolent fund.

That was the approach of the Minister of Industrial Affairs to the plight of these people. As one can anticipate, it caused somewhat of a furore from those people who were affected. Letters in response to that article came into the *Advertiser* and I will refer briefly to one or two of them to indicate how absurd and insensitive the Minister's remarks were. A letter from Mrs. C. A. Birchmore stated:

> One further comment: Mr. Brown's remark about "cut-rate premiums" is incorrect. We have re-insured with The Chamber of Manufactures Insurance Limited for $400 a year less than Palmdale's charges—hardly "cut-rate". In fact, our overall insurance is about $2 000 a year cheaper.

A letter from Mr. Malcolm S. Elliott stated:

> The Minister of Industrial Affairs, Mr. Brown, seems more petulant than rational when he denies any obligation to assist employers or employees who are losing through the collapse of Palmdale Insurance Ltd. He throws blame on to the employers who took "advantage of cut-rate premiums" (the *Advertiser,* 6/10/80) although the financial difficulties were brought about more by unwise investment than by bad insurance management.

In a third letter from Mr. Graham Smith it was stated:

> It would also appear we must in future treat cut-rate premiums with the utmost caution because they are not being offered as a result of improved business efficiency and productivity but rather as a sign that the particular organisation concerned is a risk.

That was quite a strong response from people who are concerned with the Palmdale collapse. Surely it gives the lie to what the Hon. Dean Brown was saying on 8 October when at that stage he had absolutely no intention of helping those people. On 14 October the Leader of the Opposition in another place made the statement that the Opposition would introduce legislation which would be retrospective to the extent of dealing with the Palmdale position. On 17 October, three days later, the Government was forced to act. The Premier then announced at a Master Builders Association dinner that the Government would act, but produced no details of the scheme. Despite requests following that, the Government was not able to provide any details of the scheme until the Bill was introduced some weeks after the initial announcement was made on 17 October. It was quite clear that the Government had done nothing. What it wanted to do was to apply the legislation to future claims. It had no intention of dealing with the Palmdale situation, but it was eventually forced into it, shamed into it.

The Premier came out with his hasty announcement on 17 October and then, after that, work was done in getting the Bill up to the present stage. The matter has been delayed. It could have been resolved if the Government

wished. The Government was reluctant to legislate retrospectively on the matter. I imagine that the Hon. Mr. DeGaris will have something to say about the fact that it is retrospective legislation. Honourable members opposite have time and time again whinged and carried on about proposals that are retrospective. This Government is introducing a Bill that is retrospective. We support its being retrospective, but honourable members opposite have on so many occasions in the past complained about legislation having a retrospective effect.

The Hon. R. C. DeGaris: That is not quite fair, and you know that it is not.

The Hon. C. J. SUMNER: Yes it is. Liberal members have complained time and time again about retrospective legislation. The Government does not seem to mind doing it in this case. I would like the Hon. Mr. DeGaris to know that we are supporting the Government on this occasion. The other matter I wish to raise relates to the comments of the Hon. Mr. Laidlaw earlier today. He tried to say that the responsibility for the loss of the Bill in 1976 rested with the Minister of Labour and Industry at that time, Mr. Wright. He tried to indicate that the Liberal Party supported the provisions for a nominal insurer which are contained in that Bill. It is true that in the early stages of consideration of the Bill, in the second reading stage, the Hon. Mr. Laidlaw did indicate support for those nominal insurer provisions. Let us look at what they said when the matter came back from the conference and when it looked as though the Bill was to be laid aside. On 8 December 1976 at page 2860 of *Hansard*, the Hon. Mr. DeGaris stated:

> Unfortunately, I cannot agree with this motion, which must be opposed. I believe the Council must insist on its amendments. The report of the conference by the Chief Secretary is reasonably accurate. One important amendment made by the Legislative Council was virtually the core of everything we did with this Bill. We decided to discuss that question—

I interjected:

> How does that relate to insurance matters? It was not the core of the Bill.

The report continues:

> **The Hon. R. C. DeGARIS:** All I am saying is that, for the managers on this side, any non-agreement on that clause—

that is the weekly payment computation—

> was tantamount to the whole Bill.
>
> **The Hon. C. J. Sumner:** How can you possibly say that? What about the insurance clause?
>
> **The Hon. D. H. Laidlaw:** Insurance matters were worthless.

That seems to be his view of the proposal for a nominal insurer at the time. The report continues:

> **The Hon. C. J. Sumner:** You put them in your Bill.

The debate then continued:

> **The Hon. R. C. DeGARIS:** The central amendment from the Legislative Council's point of view was discussed first, but it was found there that there was no compromise with the House of Assembly. As the Chief Secretary has said, the managers from the Council said they were willing to discuss compromises in that matter, but there was no ground for compromise on the amendment moved by the Council. While there was no area for compromise and as no compromise was possible, the conference concluded, as it was unable to achieve anything. I do not believe the Bill adds anything to the advantage of the employer or the employee. The Council should insist upon its amendments.

That is the Hon. Mr. DeGaris speaking after the conference and making it clear that he does not believe that the Bill adds anything to the advantage of employer or employee.

The Hon. R. C. DeGaris: In total!

The Hon. C. J. SUMNER: Yes, but in that Bill was a clause dealing with the nominal insurer, which would have dealt with the situation of the Palmdale collapse. Following the conference the Hon. Mr. Laidlaw said that these insurance matters were worthless and the Hon. Mr. DeGaris said that there was nothing in the Bill for employers or employees. So much at that time for the support of the concept of a nominal insurer. They were not even prepared to discuss it.

The Hon. R. C. DeGaris: We supported it.

The Hon. C. J. SUMNER: You did initially, but you were unwilling to try and proceed with it following the conference or to even discuss it at the conference. What was said in debate after the conference has been quoted. The Hon. Mr. Laidlaw said insurance matters in the Bill were worthless and the Hon. Mr. DeGaris said that there was nothing in the Bill for employers or employees, despite the fact that the matters relating to nominal insurers was in the Bill in 1976. On that point the Hon. Mr. Laidlaw stated:

> Regarding insurance, at no point in the debate did we suggest that insurance was a very important factor. In fact, I think that those insurance provisions should have been introduced in different legislation. They dealt with the nominal insurer. About a year or two ago, there was a failure by a certain insurance company that had been handling workmen's compensation, but since then the authorities have imposed on insurance companies control that is far more strict. I do not believe (and, certainly, the insurance industry does not believe) that this facility would be used very much in future, if at all.

He is saying that the nominal insurer provision was more or less worthless. He continued:

> In regard to the insurer of last resort, I have yet to find out the name of anyone who cannot get cover.

While the Liberal Party in the Council certainly mouthed support for the nominal insurer provisions at the second reading stage, when the conference broke down it did not want to know about it. It said that these provisions were worthless and certainly did not go out of its way to fight for their retention. Liberal members were too preoccupied with the question of computation of weekly benefits.

In another place the Opposition pointed out what it saw to be a number of defects with the Bill as introduced. One of these deals with the question of payment or reimbursement from the fund for legal and other costs incurred in relation to a claim, and we believe that those costs ought to be capable of reimbursement. The Leader of the Opposition in another place (Mr. Bannon) moved an amendment to that effect and the Minister (Hon. D. C. Brown) said that the Government was willing to consider that proposition. I now see that the Government has placed an amendment on file which agrees with the Opposition's submission made in another place.

Similarly, there was some doubt as to whether or not weekly payment reimbursement could be made for future weekly payments if settlement had been arranged on one weekly payment, given that weekly payments are normally a continuing matter. Again, this was a matter that was put by Mr. Bannon, and the Government said that it would consider it, and from the amendments that the Hon. Mr. Burdett has placed on file, the Government has acceded to that request. We thank the Government for the fact that it has agreed to the changes suggested by the Opposition.

The other proposition put by Mr. Bannon in another place dealt with the amount of indemnity that an employer would get from the fund. We moved that both for the past and the future there ought to be a 100 per cent indemnity from the fund to an employer, which is passed on to an

employee. The Government rejected that proposition and in another place did persist with its view that indemnity should be no greater than 80 per cent of the amount of the claim that the employer has against the insurer.

This could leave the worker, in some circumstances, with only 80 per cent. A compromise proposition was put up by the Leader of the Opposition which would in effect mean that the worker would not be disadvantaged in any circumstances, that he would always get 100 per cent of his claim. In the case of a collapsed employer the fund would pay 100 per cent—that is, if the insurance company and the employer collapsed. In the case of an insurance company collapsing the fund would pay 80 per cent and the employer would pay 20 per cent. The argument in favour of the original proposition of 80 per cent across the board was that employers ought to take care about the companies with whom they placed their insurance, that if employers know that there is an automatic fund that will back them up for 100 per cent indemnity in the case of liquidation of an insurance company, there is no incentive for them to behave responsibly and place insurance with a firm they know to be reputable. There may be something in the proposition that the Government put, and it was on that basis that the Opposition moved for this compromise proposal.

The Hon. R. C. DeGaris: How does a small employer employing one person make those inquiries and obtain the understanding of whether a company is reliable or not?

The Hon. C. J. SUMNER: What most employers do in that situation is to place insurance through a broker. One would expect the broker to have the expertise to assist the employer to get only the best deal, but a deal with a reputable company. That was the compromise proposition put up, and I am glad to see that the Government, again, has acceded to the Opposition's suggestion. So, on those three amendments, we have reached agreement. The area in which there is disagreement now and in which I intend to move an amendment relates to what should happen with respect to those employers who have been caught by the Palmdale situation. The Government says that employers should only be reimbursed for claims in the past up to 80 per cent and that they should pick up the balance themselves. We believe that for the past, in the Palmdale situation, there ought to be a 100 per cent indemnity paid from the fund. We say that because most of the people concerned placed their insurance with Palmdale through reputable brokers, shopped around the market and tried to insure with a reputable firm (there was no suggestion at that time that Palmdale would not be able to meet its obligations) and accordingly felt that they were safe to insure with that firm.

It has been pointed out to me that in nearly all the cases of employers insuring with Palmdale the business was placed through reputable brokers—there was no negligence at all on the part of those employers. Some of the brokers were international companies; they did not come off the street and were not fly-by-night organisations. One broker, I understand, has been contributing to his client's, the employer's, payments because he is so embarrassed by the situation.

Given that in this case there was no negligence in almost every case, that the insurance was placed through reputable brokers, and that we have the collapse of Palmdale, surely the fund, in this case, ought to cover those employers for 100 per cent of the amount involved. The Government does not believe that that ought to happen. It believes that its proposition of 80 per cent of the amount involved ought to apply in the past as well. We are in agreement except on that point. The Hon. Mr. Burdett made the point that industry is opposed to a 100 per cent reimbursement. That seems to be the case with respect to some of the industry organisations. However, it is not the view of all of them. I have a copy of a letter written by a Mr. Graham L. Mill, Executive Director of the Master Builders Association, to the Leader of the Opposition in the House of Assembly as follows:

> In respect to the matter of the fund meeting only 80 per cent of claims, thus leaving employers to bear the remaining 20 per cent, we advise that we have consistently supported a policy of 100 per cent reimbursement. This view has, however, not been supported by other employer groups and whilst we understand their reasoning, we still believe that a full pay-out is the most equitable policy to adopt.

I understand also that Mr. May, Secretary of the Insurance Brokers Association of Australia, agrees with that proposition, so it is not true to say that the industry is opposed in total, and speaking in one voice in opposition, to the 100 per cent pay-out. We have conceded the 80 per cent pay-out in the case of an insurer going into liquidation in future claims. Employers will now be placed on notice that, unless they take care about the company with which they place their insurance, they may be up for some payments, but no more than 20 per cent. We are prepared to compromise and go along with that, but we believe that, in the case of Palmdale, it ought to be a 100 per cent pay-out, and it is for that reason that I will be moving amendments in Committee, or an amendment to the amendment to be moved by the Hon. Mr. Burdett. I support the second reading.

The Hon. R. C. DeGARIS: I would like to reply to the Hon. Mr. Sumner's allegation that this Chamber prevented the nominal insurer provision going into the Act in 1976.

The Hon. C. J. Sumner: I did not say that you prevented it.

The Hon. R. C. DeGARIS: What did you say?

The Hon. C. J. Sumner: I said you caused the Bill to be laid aside.

The Hon. R. C. DeGARIS: I think the comment was made by the Hon. Mr. Wright on *Nationwide* that the Council had prevented the nominal insurer provision occurring in State legislation. That allegation has already been answered by the Hon. Mr. Laidlaw. I do not think that there is any need for me to go further with that, because when that Bill came before the Chamber it involved many matters, and the nominal insurer provision was supported by the Liberal Party in this House, but there was no compromise on the more important provision. I believe that in that debate, if the Leader reads the record, it was proposed that the Bill should be split into two and dealt with as two Bills, with the nominal insurer provision going straight through, so the claim that the Council is responsible for this position cannot be justified.

The Palmdale issue, which has been dealt with by the Hon. Mr. Sumner, raises more questions than just the question of the State accepting a responsibility towards the unfortunate people who have been caught by its failure. It raises the issue of the future of workers compensation insurance and how such insurance should be operated in South Australia. Indeed, it goes even further, to the point of the State's role in any legislation requiring compulsory insurance. I refer here also to motor vehicle and third party insurance. But, to begin with, let me confine my remarks to the question of workers compensation and perhaps to a few quotes from history, which might indicate the direction in which I believe we should be heading generally with this type of legislation.

At the close of the nineteenth century, in 1897 I think,

the English Parliament passed the first Workmen's Compensation Act, although certain European countries had adopted some forms of compensation for injured workmen prior to this. The reason given for the Statute being introduced in 1897 was the difficulties in applying the common law doctrine of negligence in the new and developing industrialised society. South Australia followed with compensation legislation in the early 1900's. The South Australian Act has changed over the years many times, but the original concepts still remain the basis of the Workers Compensation Act in South Australia.

It is time that we gave consideration to a totally new approach, and the failure of Palmdale could well be the catalyst to force this rethinking to take place. If there is to be a genuine rethink of the compensation approach we need also to rethink the present third party compulsory insurance system at the same time. Although the principal Workers Compensation Act is based on a no-fault system, the negligence aspect can still be pursued through common law claims. The employer is usually insured against all, or at least part, of any common law claims.

The first thing that needs to be done is to remove all common law claims so that the concept of negligence no longer is a factor to be considered. This should also apply to the reverse situation. Lord Beveridge, some 40 years ago, said:

> If what is judged to be adequate compensation is provided from a Social Insurance Fund for industrial accidents, irrespective of any negligence causing them, there is no reason why this compensation should be greater because the employer has, in effect, been negligent. The needs of the injured person are not greater. With the inevitable uncertainties of legal proceedings, suits for heavy damages on the grounds of negligence cannot escape having something of the character of a lottery. In so far as danger of such proceedings is a penalty for negligence it is more effective to make the penalty a direct one—of criminal proceedings undertaken by the public department responsible for securing industrial safety.

The views expressed by Beveridge have been held in Canada for 60 or 70 years. In Ontario, following a Royal Commission, with Chief Justice Sir William Meredith as the sole Royal Commissioner, Sir William emphasised "the necessity of getting rid of the nuisance of litigation", which he considered to be totally unsuitable to the needs and interests of both the injured and the employer. He stated:

> The whole purpose of a compensation system was to have swift justice meted out to the great body of men who might be injured in the course of employment.

As a result, he recommended that in this area the common law action should disappear and that administrative processes be used to handle all aspects of the compensation scheme to replace it. This view, expressed in 1914, was accepted by the Government of the day, and the concept was soon followed by all Canadian Provinces. So, for 60 years Canada has abolished damages actions for work-connected accidents.

I think it is important to report that the schemes in the Provinces of Canada obviously have the overwhelming support of the whole of the community to the point that a final appeal to the courts has no part in the assessment of claims. Justice Roach, Royal Commissioner reviewing the Ontario scheme in 1950, said:

> Labour and management disagreed on other matters but they were unanimous that there should not be even a limited right of appeal to the courts.

I know that in dealing with this question I can only touch briefly on salient points. The only point I wish to stress at this stage is that the system under which we operate deserves to be consigned to the pages of history and a totally new approach needs to be introduced. The system we are operating at the moment is cumbersome and inefficient—it is extravagant and costly, and I am indebted to the report of the Tripartite Committee on the Rehabilitation and Compensation of Persons Injured at Work, dated September 1980, for figures related to costs which I intend using in a moment. The system under which we in South Australia operate at the moment hinders the rehabilitation of injured persons after accidents and plays no part beforehand in preventing them. Returning to Lord Beveridge, 40 years ago he said that workmen's compensation legislation had been put forward on the wrong principle, and ever since had been dominated by a wrong outlook.

I now refer to the insurance administrative charges in each State as determined by the tripartite committee, which reported the costs of various schemes in relation to workmen's compensation. Administrative costs in relation to insurance schemes as a percentage of premiums are as follows: New South Wales, 20·3 per cent; Victoria, 22·4 per cent; Queensland, 9·8 per cent; South Australia, 26·4 per cent; Western Australia, 15·6 per cent; and Tasmania, 31·1 per cent. As a percentage of claims, the administrative costs are: New South Wales, 16·1 per cent; Victoria, 13·6 per cent; Queensland, 6·3 per cent; South Australia, 17·9 per cent; Western Australia, 14·8 per cent; and Tasmania, 20·8 per cent. Many more figures given in the tripartite committee report could be quoted, but I will confine myself to two more sets.

The cost in each State of administrative charges per civilian employee are: New South Wales, $40; Victoria, $48; Queensland, $15; South Australia, $39; Western Australia, $33; and Tasmania, $44. These figures show clearly in Australia that a centralised adminstratively based scheme such as has been in operation in Queensland is considerably cheaper to operate than any other approach. It cost 60 per cent less to deliver workers compensation in Queensland than in South Australia. But is it fair to make the comparison only with Queensland, which is the only State with a single fund and statutory board system in Australia? Therefore, one should examine the administrative cost position in other countries and the Canadian Provinces using a similar system to Queensland.

As a percentage of claims, taking into account in all cases outstanding claims, the total administrative cost in South Australia is 31·7 per cent of claims. In British Columbia it is 14 per cent, Saskatchewan, 8·3 per cent; Ontario, 6·8 per cent; and New Zealand, 14·9 per cent. I do not think I need go any further on this point. The most efficient method of handling the compensation question is to dispense with the litigation element and to operate a single board fund under a statutory board. It does not matter where one looks throughout the world: one will find that administrative costs to the community in this type of scheme are about half the cost of operating the system in South Australia. Such a system would for all time dispense with the need for special legislation to cater for crisis situations such as the issue facing us at the present time, and I refer to the Palmdale situation.

I repeat what I said earlier: our present system should be consigned to the scrap heap as soon as possible in the interests of employer, employee and the community generally. Many points could be made on this general theme, but I may be straying too far from the Bill if I expand any further. Suffice to say that it is an area of the law of this State that is in urgent need of radical reform.

The Hon. Frank Blevins: They're looking at it.

The Hon. R. C. DeGARIS: Of course they are. People have been looking at things for years, but nothing ever

happens. I am saying that it is time for a reform of all compulsory insurance systems; whether it be third party insurance or workmen's compensation insurance, it makes no difference. It is time for a radical reform in our approach to this. I leave that general theme and return to the clauses of the Bill.

I am pleased that the Government has acted to ensure that people through no fault of their own, both employers and employees, will not be adversely affected by the Palmdale collapse. My only query of any substance directed to the Government (and it relates to a matter raised by the Hon. Mr. Sumner) is to ask for an explanation of the 80 per cent limit on payment.

I notice that there are on file a number of amendments that I will support. However, I am not yet satisfied that we are doing the right thing by restricting the payment to 80 per cent of an employer's liability. In his second reading explanation the Minister said:

> In all cases, the maximum amount payable on any claim which is met by the fund will be 80 per cent, with the employer meeting the remaining 20 per cent.

He also said:

> Similar provisions are operating successfully in New South Wales, Victoria and Tasmania.

Inquiries to relevant Government offices and a perusal of the relevant legislation of those three States indicate that none of them provides for payment of a proportion of the claims from its comparable fund. Each of these States provides for payment of the full amount of any proved claim.

In New South Wales, for example, there is no ongoing fund to meet the claims of injured workers whose employer's insurer has become insolvent, although I am informed that such an ongoing fund is contemplated by the New South Wales Government. At present, New South Wales deals with each case as it arises. In recent years, New South Wales has had at least three insolvencies of which I know related to workers compensation in the collapse of, I think, the Northumberland, Standard and Riverina companies.

In the case of Palmdale, special legislation has already been passed in New South Wales. As members would know, Palmdale Insurance Ltd., however, was not licensed in New South Wales for workers compensation, but a subsidiary did operate in that State, and the special legislation dealt with that subsidiary. The legislation to permit claims against the failed Palmdale group to be satisfied is the Associated General Contractors Insurance Company Limited Act, 1980, which was assented to in New South Wales on 23 April 1980. The fund established under that Act (as with previous insurance company collapses in New South Wales) is operated by the Government Insurance Office. The scheme is to enable the liquidator of a company to meet fully the liabilities of the failed insurer in relation to claims for work injuries.

An ongoing fund exists in Victoria to deal with problems faced in this Bill in South Australia. The scheme provides for payment of the full amount of injured workers' proved claims out of the fund. The relevant legislation is the Workers Compensation Act, 1958, as amended by Act No. 8377, which was assented to on 16 May 1975. Part V of that Act, headed "Insurers Guarantee and Compensation Supplementation Fund", is the relevant Part. The Victorian fund is operated by the Insurance Commissioner (State Insurance Office).

In Tasmania, an ongoing system operates under the Workers Compensation Act, which provides for the nominal insurer. This scheme is similar to the South Australian nominal defendant scheme under the Motor Vehicles Act. In the case of an insurer's insolvency, the scheme provides for the nominal insurer to stand in and meet in full liability for the injured workers' proved claims. The relevant sections in the Tasmanian Workmen's Compensation Act are sections 16a to 16e. I have not been able to check the position in Western Australia, and the Queensland position does not apply because of the single board fund operating in that State.

So, one must ask why employers and employees are to be worse off in relation to these matters in South Australia than they are in any other State. I know that amendments are on file covering the question of employees who may be disadvantaged. However, I should like to know how the Government can justify, in a position like this, an employer in South Australia being disadvantaged compared to employers in a similar position in the other States. Although South Australia does not have a licensing system for insurance operators, those who insure should have confidence in the Commonwealth Commissioner and in the fact that the operating company is capable of providing the cover.

The Hon. N. K. Foster: They need some form of registration.

The Hon. R. C. DeGARIS: That is so. I am saying that an insurance company operates with a Federal licence, and people who insure with that company insure knowing that very point. They should be able to insure with confidence. However, we do not have a licensing system in South Australia.

The Hon. N. K. Foster: It doesn't afford protection. Is that what you're saying.

The Hon. R. C. DeGARIS: Certainly. Other States license insurance operators in order to give a further check on the ability of companies to accept insurance. Also, in South Australia certain exempted companies do not have to insure. If one looks at the administrative costs regarding the operation of workers compensation schemes in this State (with administration costs being as high as 31 per cent), one can see that there is a very big incentive for large companies not to insure, as they save themselves 31 per cent of the administration costs of the scheme.

In Queensland, where they work under a statuory board and a single fund, administration costs are down to about 6 per cent. If companies in South Australia that have received an exemption had carried their own insurance and one of them went bankrupt, as can happen (one rather large motor manufacturing company that was sold recently could well have been in this position), the Government would be forced to step in and meet the workers compensation claims for those people. In that case there is no question, if that happened, that the Government would have to meet all of those claims.

If one of the companies that is now receiving an exemption, and is virtually getting a financial benefit because it has an exemption, failed (of course, some of these companies are big enough in the Government's opinion to meet any workers compensation claims), the legislation would cover the people completely. I do not think there is any doubt in anyone's mind that that would be so.

The Government would need to have a very strong argument to convince me, with the evidence that I have placed before the Council, that the 80 per cent indemnity should be accepted. However, I would be prepared to consider any argument that the Government might wish to present to justify that percentage.

The only argument advanced by the Hon. Mr. Laidlaw is that the 80 per cent figure would give an incentive to an employer to check on whether the insurance company was able to accept the commitment. I submit that this is not a very strong argument, as many small employers around

the State employ only one worker. How will those people make any assessment of the companies that are offering their services for workers compensation? How will they be able to understand whether the company involved is capable of meeting any commitments? I suggest that there is very little argument in that case to justify the 80 per cent payment from an employer.

The Hon. J. C. Burdett: The liability is basically the employer's liability in the first place.

The Hon. R. C. DeGARIS: I agree that it is the employer's liability in the first place, but, if every other State in the Commonwealth accepts 100 per cent, how can we in South Australia say that we will only accept responsibility for 80 per cent? That is a hard case to justify.

In conclusion, I emphasise again that the time is ripe for radical change in our approach to the provision of compensation cover. I restate the view expressed by Lord Beveridge 40 years ago that our workers compensation legislation was put forward on a wrong principle and ever since has been dominated by a wrong outlook. In Australia the States use private insurers as the funders of compensation schemes, with the exception of Queensland, where the administering body is a statutory board using a single board fund as the funding medium. Victoria, Western Australia and New South Wales use a statutory authority as the administrative medium, but use private insurers. South Australia and Tasmania use departmental administration with private insurers. New Zealand and all Canadian Provinces use statutory authorities and single board funds. The creation of a statutory authority with single board funding clearly is the most efficient and satisfactory method, dispensing with the litigating processes of our present system.

I reiterate that I believe that our present system should be consigned to the scrap heap of history and that we should operate on a new system in relation not only to workers compensation but also other compulsory forms of insurance, particularly third party insurance in this State. I support the second reading.

The Hon. J. C. BURDETT (Minister of Community Welfare): I thank honourable members for their contributions to this debate, particularly the useful contribution of the Hon. Mr. DeGaris. I do not necessarily disagree that in the long term, when it can be thought out, the present system should be scraped and replaced by something else, but this Bill results from the failure of Palmdale, and we have to deal with it on that basis.

In regard to the question of the employer being required to carry 20 per cent, I understand that the Opposition accepts that in regard to the future, but says that in regard to Palmdale there should be 100 per cent reimbursement by the Government or by the fund of employers as well as employees. There are really three positions: the position of the Government, the position of the Opposition, and the position of the Hon. Mr. DeGaris, who seeks 100 per cent reimbursement in all cases. I want to make clear, for the reasons given earlier by the Hon. Mr. Laidlaw, that we believe that the employer ought to accept part of the Bill in the case of the collapse of an insurance company. This is for the reason I raised by way of interjection as well as the reason given by Mr. Laidlaw.

The reason was that there should be an incentive for the employer to choose an insurance company which was likely to be effective and to stand up, but it goes further than that. One can look at the Act and accept it as it is, but I understand that the Hon. Mr. DeGaris does not accept the Act as it is and says it is a shambles and should have been changed ages ago. I do not necessarily disagree with that but, working on the basis that we have to work on with this Bill, which relates to the failure of Palmdale and other companies which may fail in the future, we do have to accept the Act as it is. The Act places the onus and the liability on the employer and not the insurance company.

The insurance company simply indemnifies the employer and, of course, it is not only in cases of workers compensation: it could be the case in regard to fire insurance and all sorts of things. If an insurance company fails, the insured suffers. That always happens and insurance companies have failed and do fail, in regard to not only workers compensation but other matters as well. What the Government is prepared to do here against the background of the existing Act, which does place the liability not on insurance companies but on the employers, is to say that in that case it will accept—through the fund—80 per cent of the liability.

That seems to me to be in this emergency situation a reasonable thing to say. The employee will be indemnified, and the Opposition accepts that that is just and reasonable in future cases, but it does say that it should not apply in regard to Palmdale. I thank honourable members for their contributions, and individual amendments can be dealt with in Committee.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

Returned from the House of Assembly without amendment.

DOMICILE BILL

Returned from the House of Assembly without amendment.

ADOPTION OF CHILDREN ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

WANBI TO YINKANIE RAILWAY (DISCONTINUANCE) BILL

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

HOLIDAYS ACT AMENDMENT BILL

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

Consideration in Committee.

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

That the Council do not insist on its amendments.

I do not wish to take up the time of the Council, because the hour is late, but I remind honourable members that the two points that were made in the Council which caused the majority of members to support these amendments were, first, that the Bill reduced the status of Proclamation Day as it had been historically known and celebrated and, secondly, the fear was expressed that, from the industrial relations point of view, workers would suffer as a result of

the Bill. Arguments were put by members on behalf of the Government at that stage refuting and rebutting those two claims. It simply was shallow argument to suggest that the Government had any intention at all of downgrading Proclamation Day on the one hand and, on the other hand, it was evident that the 460 000 wage earners in this State were not going to suffer if this change took place. However, despite these submissions, the Council saw fit to carry the amendments.

Now the matter has been to the other place, which has supported the Government's view that the Bill should remain in its original form in the interests of the workers of this State. I ask honourable members opposite to have a further think on this question, and to reconsider their position in the light of the circumstances and all that was said in this Council previously. I would hope that a more moderate point of view might be accepted by members opposite, particularly the Hon. Mr. Milne, who I recall voted, in all sincerity, of course, with the Opposition. Now the matter has been tested and tried in the other place, it is quite obvious that the Government wishes its Bill to remain in its original form, so I ask all members opposite not to insist on those amendments which were carried earlier this evening.

The Hon. FRANK BLEVINS: The Opposition has considered very carefully the Hon. Mr. Hill's speech for the length of time it deserves, and I must tell him that we are of the same opinion that we were earlier when members on this side, including the Hon. Mr. Milne, spoke to the second reading debate. The Hon. Mr. Hill said that he had rebutted everything that the Opposition said. That, of course, was nonsense; he has done nothing of the sort. The Hon. Mr. Hill cannot deny that what the Government is attempting to do is remove Proclamation Day as a public holiday; it really is as simple as that. That is what the Government is trying to do; it should face up to that, admit it and not carry on with the nonsense we have heard over the past few days. Members opposite do not mind keeping Adelaide Cup Day as a holiday; that is obviously more important to members opposite than Proclamation Day.

The Hon. C. M. Hill: You want to keep Adelaide Cup Day, too.

The Hon. FRANK BLEVINS: I want to keep them both. You, Sir, think more of a horse race than you do of the traditions of this State.

The Hon. C. M. Hill: The Adelaide Cup has nothing to do with this amendment.

The Hon. FRANK BLEVINS: I think that shows the Government's priorities, and that is something about which it should be ashamed. The Hon. Mr. Hill says that the workers of this State will benefit from this move. The organisation that represents the workers of this State is the United Trades and Labor Council, which states that it does not want this change in the holiday, so how did the Hon. Mr. Hill ascertain the wishes of the people he claims to be speaking for? Of course, he does not speak for them. There has been no reason advanced by the Hon. Mr. Hill as to why the Council should change its mind and alter a decision made approximately an hour ago, so I urge the Council to reject the motion moved by the Hon. Mr. Hill.

The Committee divided on the motion:

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

Noes (10)—The Hons. Frank Blevins (teller), B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, K. L. Milne, C. J. Sumner, and Barbara Wiese.

Pair—Aye—The Hon. D. H. Laidlaw. No—The Hon. G. L. Bruce.

Motion thus negatived.

Later:

The House of Assembly requested a conference at which it would be represented by five managers on the Legislative Council's amendments, to which it had disagreed.

WORKERS COMPENSATION (INSURANCE) BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 2019.)

Clauses 2 to 4 passed.

Clause 5—"Claim against the fund."

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

Page 3, after line 43 insert paragraph as follows:

(c) in respect of costs—

(i) that were reasonably incurred in attempting to recover moneys from an insurance company in respect of liabilities arising under a policy workers compensation insurance, or from an employer in respect of workers compensation liabilities; and

(ii) that are, by reason of the insolvency of the insurance company or the employer, not recoverable from the insurance company or employer.

As was mentioned by the Leader of the Opposition in his second reading speech, this amendment was moved by the Leader of the Opposition in another place. The amendment was defeated in another place, but the Minister of Industrial Affairs gave an undertaking that, if the relevant parties (the Insurance Council, S.G.I.C., and employer bodies) agreed to it, the Government would move the amendment in this Chamber. The parties have agreed to the amendment, which permits the recovery from the Statutory Reserve Fund of costs incurred in seeking compensation from an insolvent employer.

Amendment carried.

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

Page 4, before line 1 insert subclause as follows:

(1a) Where a liability referred to in subsection (1) is a liability in respect of weekly payments, the liability shall be regarded as being unsatisfied when any one of the weekly payments is not paid in full on the day on which it falls due, and a claim based upon that liability may then be made under this section in respect of weekly payments whether, at the date of the claim, they have fallen due or are to be made in the future.

This is another amendment moved by the Leader of the Opposition in another place, and it has been treated in a similar manner to the first amendment. The effect of the amendment is to clarify the time at which claims for weekly payments may be regarded as being unsatisfied, thus enabling such a claim to be made on the fund. The parties consulted have agreed to the amendment subject to a minor drafting alteration to clarify that future weekly payments must be in respect of an eligible liability as defined in the Act.

Amendment carried.

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

Page 4, after line 3 insert subclause as follows:

(2a) A claim under this section must be made within six months after the claimant becomes aware of the circumstances on which his claim is based unless he became aware of those circumstances before the commencement of this Act, in which case the claim must be made within six months after the commencement of this Act.

The purpose of this amendment, suggested by the State Government Insurance Commission, is to limit the period within which a claim may be made against the fund to six months from the date on which the claimant becomes aware that the liability is unsatisfied. To take into account the Palmdale situation, the clause provides that all known unsatisfied claims at the time the Act comes into operation which relate to that company must be made within six months of that date. These time limitations are in line with similar provisions under the Workers Compensation Act.

Amendment carried.

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

Page 4, after line 25 insert subclause as follows:

(7a) Upon an appeal under this section—

(a) the Court shall, subject to any relevant rules of Court, be constituted of a single Judge; and

(b) the Court shall have power to review all aspects of the determination of the Commission.

This new clause makes it clear that an appeal under the Act may be heard by a single judge and the appeal court so constituted will be able to review all relevant evidence.

Amendment carried.

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

Page 4, lines 26 to 28—Leave out subclause (8) and insert subclause as follows:

(8) Subject to the limitations (if any) prescribed by regulation, the Treasurer shall pay out of the fund—

(a) in relation to a claim that arises by reason of the insolvency of an insurance company—80 per centum of the amount of the claim in-so-far as it has been allowed under this section;

(b) in relation to a claim that arises by reason of the insolvency of an employer—100 per centum of the amount of the claim in-so-far as it has been allowed under this section.

An amendment was moved in another place to provide for the fund to meet the whole of any claim rather than 80 per cent of such claim as proposed by the Government. Although the Opposition amendment was subject to the undertaking outlined above, subsequent investigation has confirmed the Government's view that the general principle of the fund meeting 80 per cent of the amounts of claims should be maintained. However, it has been decided that an injured worker is to ultimately receive full compensation in all cases.

This effectively means that, where the employer is insolvent and the employee cannot recover from him the 20 per cent of his claim that is not met, it will be met from the fund. It was stated during the second reading debate that the Opposition agrees with this principle in relation to future claims. However, in the Palmdale case, employers ought to be recompensed for the full 100 per cent of their claims.

The Hon. Mr. DeGaris also discussed this matter in his second reading speech. He proposed that the whole principle of the Workers Compensation Act was wrong and ought to be rethought. As I said, I do not neccesarily disgree with the honourable member. However, this is emergency legislation that has been introduced to overcome the hardship of the Palmdale failure. I suggest that, in the case of this Bill, we must accept the basic principle of the Act, namely, that it is the employer, and not the insurance company, who is liable.

There is, of course, the provision that employers are obliged to insure. Therefore, the Government considers that it is not unreasonable in the case of Palmdale but also in future that, when an insurance company fails, employers should be prepared to accept 20 per cent of the liability.

The main principle of the Act is to cover employees, and that is being accepted. They will get 100 per cent cover. It is unfortunately the experience that, if an insurance company fails in any field (be it in relation to motor vehicle, house or any other type of insurance), generally speaking the person indemnified suffers. In this case, a substantial relief is offered. If in a workers compensation case the insurance company fails, the indemnified person, namely, the employer, recovers all but 20 per cent. It seems to me, therefore, that the Government's proposition is reasonable.

The Hon. C. J. SUMNER: The Opposition has no objection to this amendment as far as it goes. In fact, it was a compromise suggested by the Leader of the Opposition in another place. However, the Opposition does not believe that it goes far enough and, if I understand his position, the Hon. Mr. DeGaris is of that view also.

Despite the Opposition amendment that was moved in another place, we are prepared to go along with this compromise position. However, we believe that, in the case of employers affected by Palmdale, the payment from the fund ought to be 100 per cent. In future, employers will be placed on notice that, if they do not take care regarding the companies with which they place their workers compensation insurance, they may incur some liability, up to 20 per cent, in the event of an insurance company's going into liquidation.

However, there is no reason why those firms (and there are a number of them) that insured with Palmdale through reputable brokers would have expected Palmdale to collapse and cause these problems. It is obvious that many employers have tried to do the right thing and have paid out their employees at some financial difficulty, because of their obligations under the Act. Until now, those employers have not had any recompense from Palmdale, and now they will be entitled to only 80 per cent recompense from the fund. We believe that in this case there is justification for making the fund liable for a 100 per cent payment to employers placed in this position in the past, and particularly in relation to the collapse of Palmdale.

Accordingly, I ask the Committee to support the amendment that I will move to the Minister's amendment. In other words, the Opposition goes along with the Minister's amendment but believes that this exception ought to be made for employers who were caught by the Palmdale collapse.

The Hon. R. C. DeGARIS: I made my view perfectly clear during the second reading debate. I have listened to the arguments advanced by the Government, namely, that it is the employer's responsibility to insure and to cater for any injury to any worker, whether or not is it the employer's fault.

I make the point again that South Australia is the only State in Australia in this position of not indemnifying the employer to 100 per cent of the just claim for an injured worker. That is a sad position for our employers to be in, particularly when, by the payment of 80 per cent, we may well be affecting the small employers who have done nothing wrong in this situation.

I know of cases in relation to the Palmdale collapse where the employer, with the 80 per cent being paid, will have to find $40 000 to $50 000 out of his own pocket. One can imagine what would happen to a small employer, even a person who is not even in business, when there may be a large claim and a common law claim. That person could have to make a large payment. I have no doubt that there will be at least one bankruptcy case in South Australia because of this legislation.

For that reason, I ask the Government to re-examine

this matter and to see whether it can do what the other State's are doing in relation to Palmdale. Other States have provided a general amendment to the Act, covering the matter with a fund. Every time that there has been an insurance company collapse in New South Wales, that State's Government has taken action to cover fully the employer who has been caught. To my knowledge, this is the fourth one that has occurred in New South Wales and, whatever Government has been in office, every time legislation has been introduced there to cover the matter completely. In other States, the Workers Compensation Act covers the position completely. For that reason, I ask the Government to reconsider its position on this matter. I know that neither my position nor that of any other honourable member on this matter is strong.

This is a financial Bill. If the Government is firm, it means that both the employer and employee could be adversely affected. No matter what amendment is carried by this Committee, moved either by the Opposition or me, there is no way—

The Hon. C. J. Sumner: Is it a money Bill?

The Hon. R. C. DeGARIS: That is not the point. It is a money Bill—

The Hon. C. J. Sumner: I do not know that it is a money Bill.

The Hon. R. C. DeGARIS: It does not matter whether or not it is. The point I am making is that in this situation this Chamber is not in a strong position to insist upon any changes to this legislation, because the Government can say that the Bill will fail if the amendment is insisted upon. Therefore, the Committee is in that position in putting its case to the Government and asking the Government to examine that position. I feel strongly on this issue, that we should not be the only State in Australia that is not meeting 100 per cent of the claims of injured workmen on their employers.

The Hon. K. L. Milne: The Government is doing that—it is only in regard to the employers.

The Hon. R. C. DeGARIS: That is what I mean, but in other States the employer is totally indemnified.

The Hon. K. L. Milne: I do not think that that is what you said.

The Hon. R. C. DeGARIS: That is what I intended to say. My point is that in other States the indemnity is for 100 per cent for both employer and employee. We are making sure that the employee gets his 100 per cent but that the employer only gets 80 per cent of the money that is to be paid. I appeal to the Government to re-examine this question. Only a small change is required. It would only be temporary, because I am certain that, when the matter is thoroughly examined, there will be a total change in the approach to workers compensation in this State, and this situation will not arise again. I believe that it is a one-off situation.

If the Government does take up the suggestions made by the tripartite committee and the suggestions that I have made to the Committee, then it will be a one-off situation. I would not like to see employers being left to carry 20 per cent of the burden in this State when no other employers in Australia are doing likewise.

The Hon. K. L. MILNE: I commend the Government for introducing this Bill. It must not have been pleasant for it to accept the amendments from the Opposition in another place which have also improved the Bill. The insurance industry is in great difficulty at present. There are too many irresponsible insurance companies and insurance brokers. Coupled with that there is a premium war going on to such an extent that in many cases the premiums charged for workers compensation and other matters are actually below the actuarial cost of the risk being underwritten. Obviously, this situation cannot continue forever, yet the Federal Insurance Commissioner in Canberra and the Federal Government appear to be unable or unwilling to control it.

The 80 per cent limit on reimbursement of employers is one means of seeking to prevent this continuous price war and to prevent employers from deliberately insuring with fly-by-night companies simply to save premiums when they must know that the cheaper companies are going to fail eventually, and they also know, depending on what happens in this Committee, that they can insure with any company offering the lowest premium and will be reimbursed by the taxpayer. There will be an effect on other insurance companies from whom the fly-by-night companies took business through a false premium level. They will be reimbursed in full, so why should they not do it? Then, one will be backing up the fly-by-night companies. I believe that the Government's attempt to overcome this problem is the only way, because it is not controlled in Canberra. Of course, one has another group interested—

The Hon. C. J. Sumner: Do you believe that the Federal Government has been slack in its attitude to the licensing of companies?

The Hon. K. L. MILNE: Not only in regard to licensing but also in regard to performance. Especially in regard to workers compensation and compulsory third party bodily injury, the claims are not known for certain, and one has to make estimates. Some firms make deliberately low estimates of claims to ensure a profit to satisfy the Insurance Commission in Canberra. That is a difficult aspect to overcome, but the answer is that they have not prevented failure.

The people who are enjoying this 100 per cent reimbursment to employers are the irresponsible insurance brokers, because the brokers can shop around and get the lowest premium, knowing that their clients will be reimbursed in full. If there is an 80 per cent limit they have to be at least a little more careful because they realise that, if their client gets caught, because they have recommended the client to a company that eventually goes insolvent, their client will have to pay his 20 per cent and they will lose him.

Even if the other States do not have this provision, I believe that they should have it. It is courageous of this Government to attempt to control an important industry in this way. The whole success of the insurance industry is its solidarity, so that when one pays one's premium one knows that one is insuring and not gambling. If the insurance industry gets into worse trouble, the difficulties will reverberate throughout the whole economic system of this country.

I believe this restriction is wise. Let us consider trying to run an insurance organisation at a profit, as I did for some years, and experiencing the fickle nature of insurers, to most of whom the minimum premium seems to be more important than what they are buying. They are trying to buy security at a premium which is below the actuarial level, and one cannot do both. Irrespective of the poor security that they are getting, they will do it continually and take business from the good companies and put it with the bad companies.

This provision is an attempt to stop that, and I see no difference between employers in the Palmdale case who are really the luckiest of the lot and employers who may suffer in the future. I support the Government.

The Hon. J. C. BURDETT: The Hon. Mr. Milne has given cogent support for the Government's stance in regard to this amendment but, as the Hon. Mr. DeGaris has asked the Government to re-examine the matter, it is

appropriate for that to be done. I ask that the progress be reported.

Progress reported; Committee to sit again.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 6 November. Page 1846.)

The Hon. C. W. CREEDON: The Opposition is aware of the difficulty in which the Government finds itself in this matter and, as usual, is being as co-operative as possible in trying to facilitate the passage of this legislation. If we have a bad or ineffective law, a law that does not work in the way intended when it is introduced, it is obvious that we must amend it. When the principal Act was amended in 1978 it was the intention to deal with the whole of the parking system by way of regulation. As most members are aware, councils enacted their own by-laws relating to parking, and the result was a hotch-potch of by-laws with a motorist never knowing from one council area to the next whether he was doing what was right and whether he was within the law or breaking the law.

It was expected that the 1978 amendments would achieve uniformity in parking laws throughout council areas. The minister told us in his second reading explanation that regulations were made in May 1979 and disallowed on 4 June of this year. Stop-gap regulations were made on 5 June, and we are told that a new set of regulations has been drafted which cannot become operative until this present list of amendments has been passed by Parliament. The Minister tells us that this matter is urgent, and I can well imagine that. It is a bit like the Minister dragging the cart and hoping the horse will catch up with him—for a matter that is urgent, he has taken quite a time, nearly six months in fact, to correct errors that should have taken only a short time to correct. As I said earlier, it is the Opposition's intention to expedite this matter, and we see nothing in these amendments that will be detrimental to the intention of 1978.

I must say that amendments to the Local Government Act are becoming somewhat of a saga and very similar to switching on a television set or the radio, for every day the radio has its successive talk-back programmes and television has its multi-replays and continuing series, and now, virtually every time we enter this Chamber, we find that we are confronted with a new batch of amendments to the Local Government Act, all of which are said to be urgently required and all of which we are expected to deal with expeditiously. Like amendments of the past, they often do not do what we expect of them. The Government promised that it would give the State a new, revamped and invigorated Local Government Act. One way of dealing with this matter is by introducing regularly occurring amendments, but I am sure that we would all rather see the Act dealt with as a whole. As a matter of fact, when amendments come before us it becomes a major task to search through the principal Act and its amendments. I can well imagine that local government has to employ special officers just to keep the Act up to date.

Clause 7 contains a new definition of "public place". We were worried about this provision, but officers of the department have indicated that the intention of the clause is to remove from local government control the areas described as private pedestrian walkways and to transfer them to the Private Parking Areas Act. Another matter which initially caused some concern was whether or not clause 8 might be taking away some privilege that the individual normally enjoys. When a privilege is taken away, I think of one person who has shown courage in fighting injustice, and I refer to Mr. Gordon Howie, who I believe has approached the Minister about traffic matters. Indeed, I believe that the Minister promised to keep him informed on this subject, but to date there has been no indication that the Minister has done so.

Mr. Howie is an interested member of our community who pays much attention to matters pertaining to traffic and parking regulations. I have no doubt that he may be a source of annoyance to some councils and to the Road Traffic Board, but he has a duty to himself and his fellow citizens. If he is able to point to faults in legislation, he should make his points known and understood. He is an expert in the field of local government, including traffic matters, and his advice should be heeded, even sought, when changes are being considered. The Minister should not wait until after the event and have it proved to him that faulty legislation has been enacted.

Mr. Howie's skill in these matters have been responsible for many people escaping charges and penalties that could have been applied unjustly. I hope that the Minister, his department, and councils for that matter, will always listen to and pay heed to what Mr. Howie has to say. There are, no doubt, other people in other fields of endeavour, whether as a hobby or on a professional basis, who take their freedom seriously. As members of this place, we are duty bound to listen and take account of any sensible advice offered. I support the Bill.

The Hon. C. M. HILL (Minister of Local Government): I thank the honourable member for his review of this measure. I will comment briefly on the points he made. He indicated that it has taken a long time for this Bill to come before the Parliament. That is certainly true, but I can assure him that it has been a complex matter and that my officers, and all other people who have been involved in the preparation of the measure, have been working extremely hard, and it has just been impossible because of these complexities, to get the Bill here before this time. It is true that different local government amending Bills come before Parliament in each session. This is unavoidable.

With regard to the preparetion of the rewritten Local Government Act, that is well on the way, and officers are making extremely good progress in that matter. Turning to clause 8, to which the honourable member referred, I point out that it is considered desirable that private citizens should not be able to prosecute each other for parking offences and that the prosecution of offences should be, in the opinion of the Government, restricted to certain authorised persons, police officers and authorised employees of councils.

Referring to Mr. Howie and his keen interest in traffic matters, I commend him for the manner in which he acts as a watchdog within the South Australian community. I point out to the Hon. Mr. Creedon that Mr. Howie will have every opportunity to attend meetings of the Subordinate Legislation Committee when the regulations that will follow the passing of this Bill are gazetted and go before that Committee for consideration. Again, I thank honourable members opposite for their support of this measure.

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

ADJOURNMENT

At 12.18 a.m. the Council adjourned until Thursday 20 November at 2.15 p.m.