LEGISLATIVE COUNCIL

Thursday 27 November 1980

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

QUESTIONS

WOOD CHIPS

The Hon. B. A. CHATTERTON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Premier, a question about wood chips.

Leave granted.

The Hon. B. A. CHATTERTON: Members opposite might consider this issue to be a seven-day wonder, or even a flash in Japan, but I can assure them that it is very serious indeed. The Ministerial statement made by the Acting Minister of Agriculture raises some very important questions which the Government must answer. First, the Acting Minister publicly admitted that there was indeed a Marubeni letter which attempted to discredit Punalur Paper Mills in the eyes of the South Australian Government. The Minister said that, following investigations with Marubeni officials in February, Mr. Dalmia was given "the benefit of the doubt". In that case we must assume that the Government and the Minister were convinced that the Marubeni letter was a forgery.

Such a belief is not inconsistent with the fact that on 5 March the Minister of Forests signed an agreement for a $50 000 000 pulp plant with Punalur, indicating that, as a responsible Government, it believed Punalur Paper Mills to be a reputable firm. However, if this was so and the Minister of Forests was convinced that the Marubeni letter was a forgery—or at least sufficiently persuaded that it was—then the proper action for the Government to take was to put the matter in the hands of the Japanese Police. After all, there is evidence to suggest that the Government was not slow to undertake a police investigation into Punalur's Managing Director.

Today I again ask the Premier (in the light of the admissions contained in the Acting Minister of Agriculture's statement) whether this investigation into the Marubeni letter was undertaken. If it was, what was the result of police investigations of the authors of the Marubeni letter? What has emerged so far is that this Government, through its Minister of Forests, is willing to investigate the victim in this matter, but not the perpetrator. Secondly, the Acting Minister of Agriculture tabled a minute which stated, in part:

> He is authorised to float with Dalmia the idea of cancelling all arrangements so far and seeking offers from selected interested parties including the Japanese, A.P.M. and Dalmia.

What an outrageous suggestion. The Minister was suggesting that Punalur Paper Mills should voluntarily surrender the contract it had obtained from the South Australian Government 12 months earlier when the Japanese and A.P.M. showed a stunning lack of interest in the pulpwood resource.

The Minister of Forests seriously proposed while this contract was in force that the Punalur Paper Mills should meekly step aside and allow its main competitors the opportunity to outbid it for the purchase of this resource conservatively valued at $80 000 000. I find it hard to believe that even an inexperienced Minister conducted business in this way. The recommendation contained in the tabled minute indicates that the Minister was attempting to cancel the agreement in February 1980—something he did not achieve until August 1980. I understand that there is evidence available of this intent on the part of the Minister and also evidence of some of the means he used to achieve this end.

I ask the Premier whether the proposal to cancel the arrangement with Punalur Paper Mills as set out in the tabled minute dated 28 February 1980 was approved by the Premier and Cabinet, or whether it was the individual initiative of the Minister of Forests (Mr. Chapman). I also ask the Premier whether there has been an investigation of the authors of the Marubeni letter and, if not, why not? If so, will he report the findings of that police investigation to Parliament?

The Hon. K. T. GRIFFIN: This matter will have to be referred to the Premier, and I undertake to do that.

I.M.V.S.

The Hon. R. J. RITSON: Has the Minister of Community Welfare a reply to a question I asked on 5 November about the Institute of Medical and Veterinary Science?

The Hon. J. C. BURDETT: I am advised by my colleague the Minister of Health that Dr. Coulter has never held any post-graduate degrees.

PERSONAL EXPLANATION: HORSNELL GULLY FIRE

The Hon. J. R. CORNWALL: I seek leave to make a personal explanation.

Leave granted.

The Hon. J. R. CORNWALL: Yesterday, in another place, the Deputy Premier was trenchantly critical of public comments that I made concerning the Horsnell Gully bushfire. In what was quite a vicious personal attack, he claimed that everyone of the allegations that I made following the fire were without foundation. I will not repeat all or indeed any of his remarks, but they are all available for perusal in *Hansard*. I wish to explain my role in the aftermath of the Horsnell Gully fire and the hard evidence on which I raised several matters of serious public concern.

First, I want to reiterate that at no time was I critical in any way whatsoever of the role of the many volunteer firefighters who eventually controlled that fire and prevented any loss of life or personal property. As usual, they did a magnificent job in very difficult circumstances. What did concern me were the continuous reports of errors of judgment, confusion in the chain of command, lack of communication, and the decision taken by the C.F.S., with the full support of the Minister of Agriculture, to begin a premature backburn from Coach Road.

Initially, I was very reticent about raising these matters publicly. Many people came forward with information concerning the matters. However, since they were of a very serious nature, I was initially reluctant to use them. It was not until Sunday 20 April, one week after the fire, that I believed the weight of evidence was such that I had a public duty to raise them. I will not refer to the many private conversations that I had with people who were present at the fire or who had information from people in the chain of command. Much of that would be hearsay evidence and it would be quite unreasonable for me to use it in this place.

However, I have in my possession two documents that

are clear evidence of the facts that I raise. They put a very different perspective on the matter. The first document is a minute to the permanent head of the Department for the Environment and is headed "Facts associated with the fire at Ashton and Horsnell Gully Conservation Park on Sunday 13 April 1980." The minute is from Dr. Brian Morley, then Acting Director of the National Parks and Wildlife Division, and it is dated 13 April 1980, the day of the fire. Among other things, in the report the Acting Director states:

> As far as I am aware the Country Fire Service helicopter Rescue 1 appeared in the area about this time. I understand that personnel on the helicopter included the Director, Country Fire Service, and the Minister of Agriculture, Mr. Chapman. From what we know it appears that a decision was made by personnel in the helicopter to burn-back from Coach Road. The road is some distance south-west of where the fire was burning at the time.
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> When Mr. Fitzgerald heard of this decision he consulted with Ranger-in-Charge, Cleland, Mr. Peter Martinsen, who has an intimate knowledge of the area. They both agreed it would be quite possible to hold the fire on a north-southerly track which is east of the Horsnell Gully Conservation Park. I wish to point out at this time the weather conditions were calm with a light wind, and these conditions were not likely to change. Mr. Fitzgerald asked the Country Fire Service Brigade to start at the top of Coach Road so that he could be in a position to direct them into the fire. At this stage the fire had not crossed the track which Mr. Fitzgerald would have wished to use as a break from which to burn-back. At this time it showed no tendency to jump the track. It should be noted that national parks units working on the track held the fire on the northern end with no difficulty. It was on the basis of this information that Mr. Fitzgerald came to the conclusion that the track would have been adequate to hold the fire. His conclusion was unilaterally backed by all national parks officers at the fire and also senior personnel working from the national parks control room.
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> The control room, having received Mr. Fitzgerald's opinion, decided that it should organise a link with Country Fire Service control room and Mr. Fitzgerald be taken up in the helicopter with the Director, Country Fire Service, and the Minister of Agriculture. However, great difficulty was experienced in relocating Country Fire Service units on the north-south track and, indeed, they eventually pulled out and left the national parks units on the northern end of that track without required assistance . . .
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> It should be noted that both national parks personnel in the field and personnel in the control room in the head office were aware of the problems being created by Country Fire Service units blocking Coach Road which made it difficult and tended to slow down the process of getting on with the job. In discussion with officers at the Country Fire Service headquarters during this evening it is apparent that they are also aware of the problem and concerned at the lack of co-ordination and team work being carried out by units under their control.

I also have a document that was written on the evening of the fire. It has a mark on it "7 p.m. April 13th, 1980" and it is from Mr. J. L. Fitzgerald, Fire and Emergency Operations Officer with the National Parks and Wildlife Division. Amongst other things, the document states:

> The helicopter flew overhead and picked up Jim Pollew. I got a message when he came down on the ground that there was nothing to do but to burn out from Coach Road. I spoke to Peter Martinsen, who knows this park as well as anyone does. I suggested it would be possible at that point to burn out from a track where a previous fire had occurred some two years ago, and the understorey was light. This was agreed to. I attempted to get a number of C.F.S. brigades to congregate at the top of Coach Road. I attempted to get them into the fire, but I was unsuccessful. The communications on Channel 2 (C.F.S. frequency) were totally blocked. It was impossible to direct vehicles from the helicopter to do what was required. Our vehicles had gone into the bottom north end of track and were starting their control back-burn to stop the fire. At that time the fire was in fact stopping on the track of its own volition. It was not jumping the track. Therefore I consider that, had we had the assistance to get them to burn in from the track, we may have held it at that point, bearing in mind that the track was in fact holding the fire itself without any assistance when I made that decision. I informed the Minister of Agriculture and the Director of C.F.S. who were in the helicopter that, in any case, if we couldn't hold it there, we did have additional units ready to hold it down on Coach Road and light from there.

I seek leave to table those two documents.

Leave granted.

The Hon. K. T. Griffin: All that went to the Coroner.

The Hon. J. R. CORNWALL: I am aware that it did. However, I was the victim of a quite hostile attack in the other place on the basis of the Coroner's report and that is why I am making the explanation. It is obvious from those reports which I have just tabled and which were compiled when the events were fresh in the minds of the writers that they are an accurate, if slightly garbled, report of the events of the afternoon. When they are compared with the transcript of evidence given at the Coroner's inquiry, it is obvious that there was collusion between witnesses to give an amended version. Indeed, in a private conversation with me a short time ago, John Fitzgerald (the fire officer in the National Parks and Wildlife Service) implied that his job was at risk because of the adverse publicity that the Government received after the fire. It is not difficult to draw the obvious conclusions. It is clear that there has been a cover-up and collusion between witnesses, particularly the Director of the Country Fire Services.

Members interjecting:

The PRESIDENT: Order! The honourable member is trying to go beyond making a personal explanation. I would remind him that there is a limit to how far he can go.

The Hon. J. R. CORNWALL: I take your point, Mr. President, but I have been the victim of an attack in another place.

The Hon. K. T. Griffin: Now you're trying to blame Public Service officers.

The Hon. J. R. CORNWALL: I am simply stating, by way of personal explanation in my own defence, that there has been collusion between witnesses, particularly between Lloyd Johns and fire officer John Fitzgerald. The coronial inquiry provided the opportunity for witnesses to give detailed and accurate evidence with full protection. It appears that this was not done. I withdraw nothing, and I certainly offer no apologies to the Ministers concerned. In the light of subsequent events, their behaviour has been quite dishonourable.

ROLE OF MINISTERS

The Hon. N. K. FOSTER: I seek leave to make a brief explanation prior to asking the Attorney-General a question about the functions and roles of Ministers.

Leave granted.

The Hon. N. K. FOSTER: It appears that serious thought ought to be given to the functions and roles of Ministers in the situation to which the Hon. Dr. Cornwall has just been addressing himself. It has proved to my mind that the presence of a Minister in a command vehicle (in

this case a helicopter), in a situation where a dangerous and disastrous fire is raging can interrupt the chain of command.

It would seem to me to be quite wrong for the Health Minister to be present in the operating theatre after each and every disaster, as a result of which people had to be taken to hospital. It would seem to me quite wrong for the Attorney-General to attend in court at the sentencing of every person convicted of an offence. It would seem quite wrong for the Minister of Local Government to be present every time there was a mayoral election in the Adelaide City Council. One could go on and on and refer to other Ministers. However, suffice to say that the presence of a Minister is extremely dangerous in these situations. On this occasion, I understand that the Minister gave advice to people who came within his portfolio and were employed in a department under his control. Those individuals would have found it extremely embarrassing, to say the least, if they were not going to accept his advice. That was a dangerous precedent to set.

I do not say for a moment that Ministers ought not attend at the scene of a fire if they wish to gain first-hand experience of what is happening, but they should certainly not be there in a command vehicle. The next thing we would be doing is fighting a war with politicians ahead of the generals. All sorts of difficulties have resulted from that happening, as history testifies. I am quite sure that schoolteachers would be alarmed if the Minister of Education were to walk into their classrooms and interfere in what they were doing. There was obviously interference by the Minister, Mr. Chapman, on the occasion of this fire.

The Hon. R. J. Ritson: Was there?

The Hon. N. K. FOSTER: Yes, there was.

The Hon. L. H. Davis: Have you read the Coroner's report?

The Hon. N. K. FOSTER: I have had something to do in this place with a matter that was followed by a coronial inquiry in regard to Ash Wednesday. Do you think that everything that was said there—

The PRESIDENT: Order! The Hon. Mr. Foster will address himself to the Chair.

The Hon. N. K. FOSTER: You are quite right, Mr. President. I should not answer the interjections of the juvenile delinquent opposite. First, will the Attorney-General request the Premier to issue a directive that Ministers do not impose themselves upon a chain of authority within departments when, as a result of an emergency, operations are in progress? Secondly, does the Premier realise that the physical presence of a Minister in a communications and observation vehicle can inhibit the freedom of decision and judgment of those in command? Thirdly, is it not a fact that Ministerial presence and intervention in these circumstances act against the interests of public safety?

The Hon. K. T. GRIFFIN: No, I will not ask the Premier to issue a directive. The function and role of Ministers is to accept responsibility. That responsibility includes being familiar with all functions which occur under the Minister's authority—responsibility within departments and out in the field. So far as my own area of responsibility is concerned, the honourable member should know that informations are laid in the name of the Attorney-General, and the Attorney-General accepts responsibility for such things as entering a *nolle prosequi* and for a variety of other areas of involvement in the course of criminal prosecutions. Does the honourable member suggest that I should not become involved in that area? If he does, that is an irresponsible suggestion. What is wrong with the Minister of Agriculture or the Minister of Water Resources (or any other Minister) going along, whether in a command vehicle or some other vehicle, to view the activities of that Minister's officers and to investigate the area for which he is responsible? There is nothing wrong with that at all.

If the wrong decision was made by officers, it would be the Minister's fault, even though the Minister did not make that decision. In this case, the Coroner has specifically said that the Minister of Agriculture did not give any direction, and the Coroner did not criticise the Minister of Agriculture for being in the helicopter at the time of the fire. The suggestion of the Hon. Dr. Cornwall, to which the Hon. Mr. Foster briefly alluded, that witnesses—public servants—acted in collusion to perjure themselves before a coronial inquiry is quite disgraceful. I challenge Dr. Cornwall and—

The Hon. N. K. FOSTER: I rise on a point of order, Mr. President. I never implied—and the Attorney-General knows that he is telling lies—that any public officer did that. Read my question again! I give it to the Attorney-General as I walk across the Chamber now. Answer what I have given you, and do not be so disgraceful.

The PRESIDENT: Order! The Hon. Mr. Foster has gone beyond the bounds of decorum, and I warn him that I will not tolerate that behaviour any further. I warn the Hon. Mr. Foster.

The Hon. N. K. Foster: He's got it wrong, Mr. President. If he tells lies like that, I don't care what happens.

The Hon. K. T. GRIFFIN: I ask the honourable member to withdraw the allegation that I lied.

The Hon. N. K. Foster: I never said you lied. Wash your ears out. I said I never expected to sit here and listen to lies. I never alleged you were telling lies. I won't tolerate your presence.

The PRESIDENT: Order! The Attorney-General.

The Hon. K. T. GRIFFIN: I said that the Hon. Mr. Foster had alluded to the statement made by the Hon. Mr. Cornwall, and the statement that was made by the Hon. Mr. Cornwall was quite a disgraceful one. What he said was that Public Service officers had had an opportunity to think about the evidence they would give before the coronial inquiry and, in fact, acted in collusion in presenting their evidence to the coronial inquiry and perjured themselves.

I challenge the Hon. Mr. Cornwall (and Mr. Foster, if he associates himself with those comments) to make those statements outside the Chamber, because action will be taken by those officers to put him in his place. There is no evidence of perjury, and there is no evidence of collusion . All that the Hon. Mr. Cornwall is seeking to do is to get himself of the hook, having made a fuss at the time of the fire and then having found that he was proven wrong.

HORSNELL GULLY FIRE

The Hon. R. J. RITSON: I seek leave to make a brief explanation before asking the Attorney-General a question about the Horsnell Gully fire.

Leave granted.

The Hon. R. J. RITSON: I recall in a daily newspaper some publicity about the proceedings of the inquest several weeks ago. Unfortunately, I am unable to quote the date or the page, but I believe it was in the *Advertiser*. This newspaper report referred to evidence to the effect that as yet an unnamed third party had been seeking—

The Hon. J. R. CORNWALL: On a point of order, Mr. President. That statement is quite inaccurate. The actual

wording was that some as yet unknown third party was involved.

The PRESIDENT: The Hon. Dr. Ritson.

The Hon. J. R. Cornwall interjecting:

The Hon. R. J. RITSON: Something has come out of the woodwork. Will the Attorney-General check upon the accuracy of any such statements made in the newspaper and advise whether any evidence has come out as to the identity of that then unknown third party?

The Hon. K. T. GRIFFIN: I will certainly check the report of the Coroner. I do not have all the details at my fingertips. I can remember the reference to that particular statement, but certainly I will have that matter checked. The Coroner's inquiry resulted in quite clearly an appropriate finding which he made on all the evidence that was presented to him. The fact that the Hon. Mr. Cornwall is now endeavouring to get himself off the hook indicates the degree of impropriety that he exerted at the time in making those statements.

PERSONAL EXPLANATION: WOOD CHIPS

The Hon. B. A. CHATTERTON: I seek leave to make a personal explanation.

Leave granted.

The Hon. B. A. CHATTERTON: Earlier today the Acting Minister of Agriculture (Mr. Dean Brown) made a statement in another place that made a number of personal attacks upon me. I want to refute absolutely the accusations that were made against me regarding documents that I used in evidence in this Council that the Minister of Agriculture (Mr. Chapman) had misled this Parliament. I can say with complete truth that I have never known the combination of the Minister's safe, and I have never in fact been in the Minister of Agriculture's office since 17 September 1979.

Members interjecting:

The PRESIDENT: Order! I intend that there will be order. The Hon. Mr. Chatterton has leave to make a personal explanation.

The Hon. B. A. CHATTERTON: The clear implication of the attack on me and of the personal abuse that the Minister has introduced into this attack is that it is the tactic of the Government to disguise the fact that the Minister of Agriculture clearly misled the Parliament. The Government obviously has very little regard for the truth in this matter unless it is found out.

GOVERNMENT ACTION

The Hon. R. J. RITSON: I seek leave to make a brief explanation before asking the Attorney-General a question about the appropriateness of Government action in investigating certain irregularities.

Leave granted.

The Hon. R. J. RITSON: On the Punalur matter, the Hon. Mr. Chatterton has explained at great length why the appropriate course for Government, when faced with such dilemmas, is not to indulge in private executive action but to have recourse to police investigations. Does the Attorney-General believe, therefore, that a police investigation into the leak of this document is the most appropriate course of Government action?

The Hon. K. T. GRIFFIN: That certainly may be an appropriate course of action. I understand that there are already some inquiries current with respect to how the document escaped from the department.

SEX DISCRIMINATION

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

Leave granted.

The Hon. ANNE LEVY: I have had handed to me a pamphlet distributed by the A.M.P. Society which is printed in Sydney but nevertheless is distributed to anyone interested in employment with that company in South Australia, and probably in other States of Australia as well. Under the heading "In addition" the pamphlet states:

> Home purchase: assistance on generous terms made available to married males and single male and female officers after suitable qualifying periods.

The pamphlet is not dated, but it is currently being distributed in South Australia to anyone inquiring about employment with the A.M.P. Society. I hope that the Minister agrees that the section I have just quoted from the pamphlet is in clear contravention of the South Australian Sex Discrimination Act, which prohibits discrimination on the grounds of sex or marital status in any aspects or conditions of employment: superannuation is the only exception countenanced in the Act. In my opinion, that is a clear breach of the Sex Discrimination Act whereby there is discrimination on the grounds of sex and marital status in the conditions of employment offered by this company. It may be that other companies are likewise discriminating in the conditions of employment that they offer, but I do not have any evidence of that.

Will the Minister take up this matter with the Commissioner for Equal Opportunity and, through her, with the Sex Discrimination Board to prevent the A.M.P. Society from applying such discriminatory procedures to its employees in South Australia? As far as I am aware, such a condition is likewise illegal under the New South Wales Sex Discrimination Act. Therefore, the pamphlet, which is printed in Sydney, would be just as much in contravention of the law in that State as it appears to be in this State.

The Hon. J. C. BURDETT: I think the honourable member has misconceived the thrust of the Sex Discrimination Act. The South Australian Sex Discrimination Act does not provide penalties for breaches. Penalties are imposed only when orders have been made and where there is a subsequent breach of that order. The pattern of the Act is that a person who considers himself or herself to be aggrieved by discrimination applies to the Commissioner for Equal Opportunity and lays a complaint. The Commissioner for Equal Opportunity is not empowered to act unless a complaint is made.

If a complaint is made to the Commissioner she investigates the matter and assumes a conciliatory role. This is where I suggest that the pattern of the Sex Discrimination Act is probably very much better than the Race Discrimination Act, which provides penalties for breaches. If penalties are imposed, there is no hope of getting the parties together.

I believe the pattern of the Sex Discrimination Act, which was introduced by the previous Government, is a good one. A person who considers himself or herself to be aggrieved can make a complaint, and the Commissioner then seeks to conciliate between the parties. In such cases, I might add, the success rate is very high. Therefore, in this case, the proper course would be that anyone who considered himself or herself to be discriminated against by the pamphlet should complain to the Commissioner for Equal Opportunity, who would certainly take up the matter. As I have said, the Commissioner for Equal

Opportunity is not empowered to act unless a complaint is made to her. Nevertheless, I will certainly refer the pamphlet to the Commissioner and bring down a reply from her if the Commissioner feels that a reply should be made.

The Hon. ANNE LEVY: I desire to ask a supplementary question. I appreciate the remarks made by the Minister in relation to the function of the Commissioner for Equal Opportunity. However, as I recall the Sex Discrimination Act, and I do not have it before me, I understand that the Sex Discrimination Board can initiate action and inquiries of its own volition without waiting for a reference from the Commissioner for Equal Opportunity. It seems to me that this is a clearcut case where the board could take the initiative without waiting for a specific reference from the Commissioner for Equal Opportunity.

The Hon. J. C. BURDETT: The administration of the Sex Discrimination Act is committed to the Premier, who has delegated his powers to me only in relation to the Commissioner for Equal Opportunity. The Premier has delegated his powers in relation to the Sex Discrimination Board to the Attorney-General. Therefore, in relation to the Sex Discrimination Board, the honourable member's question is out of my jurisdiction.

The Hon. ANNE LEVY: I desire to ask a further supplementary question. I ask the Attorney-General whether he will consider the matter that I inadvertently raised with the Minister of Community Welfare in my previous supplementary question.

The Hon. K. T. GRIFFIN: Yes, I will consider the matter.

KANGAROO ISLAND SETTLERS

The Hon. B. A. CHATTERTON: I seek leave to make an explanation before asking the Minister of Local Government, representing the Minister of Lands, a question about Kangaroo Island war service settlers' debts.

Leave granted.

The Hon. B. A. CHATTERTON: Some weeks ago I raised this matter in an attempt to find out what, in fact, was the status of the debts of settlers on Kangaroo Island whose leases had been cancelled. The matter arose when one of the settlers took the South Australian Government to court and was awarded damages; his debts were deducted from the damages that he was awarded by that court. In a reply that I received from the Minister, he indicated that the critical matter was whether the settlers left their properties voluntarily.

I have looked into the background of this matter and I would like to read several articles from the *Advertiser* relating to this matter when it was currently being undertaken by the Government. On 25 January 1977 an article in the *Advertiser* stated:

> The Minister of Lands, Mr. Casey, said yesterday that 28 settlers judged to be in the most serious financial difficulties would be given until 21 March to reduce their indebtedness to a satisfactory level. If this was not done they would have two options. They could stay on their homes with the use of five hectares of land and find a job on the island, or they could resettle in Adelaide, and the South Australian Government would guarantee them accommodation through the Housing Trust.
>
> In either case, the farmers would receive a rehabilitation grant of up to $5 000 from the Commonwealth and their debts would be written off.

It says nothing about voluntary cancellation or anything else. It just says that their debts would be written off. An item in the *Advertiser* of 7 July 1977, headed "Kangaroo Island eviction stands", states:

> Notices terminating the seven soldier settlers leases were sent out yesterday. Mr. Casey said, "The settlers whose leases were being terminated will be entitled to keep their houses and about five hectares. Their accumulated debts of $470 000 will be written off."

Again, on 1 August 1977 there was this quotation in the *Advertiser:*

> The eviction notices waive the farmers' debts.

Again, on 5 August 1977:

> The notices waive the farmers' debts.

Finally, on 10 May 1977, in an article by Bernard Boucher, it was stated that, under Government proposals, the settlers' debts would be wiped off. I think that that is a clear indication that on numerous occasions the soldier settlers on the island have been told that, when their leases were cancelled, their debts would be wiped off. There was never any indication that there was some secret class of voluntary agreement to the cancellation. I ask the Minister whether there was some secret condition that was never revealed to the settlers or to the press that required some voluntary agreement to the cancellation before the settlers were entitled to have their debts wiped off.

The Hon. C. M. HILL: I will refer the question to my colleague and bring back a reply.

I.M.V.S.

The Hon. J. R. CORNWALL: Has the Minister of Community Welfare a reply to my question of 30 October regarding the Institute of Medical and Veterinary Science?

The Hon. J. C. BURDETT: I am advised by my colleague the Minister of Health that in recent weeks the Institute of Medical and Veterinary Science has been subjected to sustained criticism by the Opposition in Parliament, principally for events alleged to have occurred while the Labor Party was in Government. Whilst the Minister believes the council and staff of the institute have provided satisfactory responses to those criticisms, it is apparent that a full inquiry is the only way to clear the air.

P.E.T. BOTTLES

The Hon. J. R. CORNWALL: Has the Minister of Community Welfare a reply to my question of 30 October regarding P.E.T. bottles?

The Hon. J. C. BURDETT: I am advised by my colleague the Minister of Environment that polyethelene terephthalate (P.E.T.) contains the elements carbon, oxygen and hydrogen. It is polyester, a long chain polymer, the product of a reaction between ethelene glycol and terephthalic acid. These two chemicals polymerise with the eliminatin of water to form the glycol ester of terephthalic acid.

The gases generated by the burning of P.E.T. are essentially carbon dioxide and water vapour. Incineration of polyesters produces no strongly acid combustion products.

The Department of Chemical Engineering, New York State University, carried out a study to demonstrate the adaptability of P.E.T. to incineration in commercial incineration. It was found that no residue remained in the incinerator. The polyester burned readily under furnace conditions and apparently had a slight beneficial effect in hastening refuse burnout.

In tests carried out by the U.S. Food and Drug Administration the combustion of polyester in a furnace at

700°C through which air was passed at a flow rate of 500 ml/min. yielded carbon dioxide, carbon monoxide, and hydrocarbons without residue. Improper incineration, for example, high temperature burning (above 2 400°F) may lead to formation of pollution causing emissions such as nitrogen oxides. In a toxicity index of combustion products, P.E.T. is significantly lower than wool.

It is concluded that household incineration is an effective and safe way to reduce volume and weight of waste P.E.T. bottles, yielding the by-products carbon dioxide and water. These by-products are the same materials formed in the combustion of wood.

It is difficult to answer the question of P.E.T.'s degree of flammability in precise terms. P.E.T. will ignite after a few seconds contact with a naked flame, in a fashion similar to the combustion of (say) kindling.

I would point out to the honourable member that, whilst his questions are directed to the combustion of P.E.T., the container in question is in fact made of two parts, a P.E.T. cylinder and a high density polyethelene cup.

The base cup polyethelene is a hydrogen carbon polymer manufactured from Bass Strait natural gas. It has no other constituents, other than carbon black which is added to make the compound ultra violet resistant. It will ignite upon contact with a naked flame and burn in a fashion similar to wax. Its melting point is around 120°C. Its combustion in normal circumstances will yield carbon dioxide and water vapour. At extreme temperatures and in an enclosed space, its combustion may yield carbon monoxide.

For the information of honourable members, it is pointed out that the Department for the Environment officers are relying on information supplied by the United States Food and Drug Administration, and manufacturers of polyethelene products. There is no reason to assume that the combustion of polyethelene in the United States will yield different by-products in Australia.

ATMOSPHERIC LEAD

The Hon. J. R. CORNWALL: I ask the Minister of Community Welfare whether he has a reply to my question of 6 November regarding atmospheric lead.

The Hon. J. C. BURDETT: I am advised by my colleague the Minister of Environment that the lead-in-air figures quoted by the honourable member were those obtained from a very limited survey and published by the Australian Environment Council in a Report of the Vehicle Emission and Noise Standards Advisory Committee (V.E.N.S.A.C.).

At a recent meeting held between the Ministers of Transport, Health, Energy and Environment and representatives of industry, it was recognised that insufficient lead-in-air monitoring data, appertaining to Adelaide, was available to make a meaningful decision on emission strategies.

As the honourable member is no doubt aware, the lead-in-air goal of 1·5 mg/m^3 three month average was proposed by the National Health and Medical Research Council (N.H.M.R.C.) in 1979, and was exceeded at three air monitoring sites in metropolitan Adelaide. However, until the full extent of the problems is known, it would have been premature to undertake any major action against the use of lead in petrol.

The question of air quality levels and the most appropriate course of action is complex, for actions taken to reduce air pollution must have an impact on manufacturing and energy and the economy of this State.

In February 1981 the Committee on Motor Vehicle Emissions (C.O.M.V.E.), which is a Committee of the Australian Transport Advisory Committee (A.T.A.C.), will report on the long term emission strategy for motor vehicles. The report will look in depth at the implications of various emission control options including the removal and part removal of lead from petrol and more stringent emission controls.

I am therefore pleased to inform the honourable member that this week Cabinet has approved the spending of an additional $10 000 by the Air Quality Control Unit of the Department for the Environment to expand the lead-in-air survey.

This new data which will be collected from March onwards, plus the report from C.O.M.V.E. and the advice from the Minister of Health and officers of the Department for the Environment, should then allow a decision to be made on the strategy that should be adopted for South Australia on lead-in-air emissions.

WOOD CHIPS

The Hon. C. J. SUMNER: I seek leave to make a brief explanation prior to directing a question to the Leader of the Government on the subject of Punalur Paper Mills.

Leave granted.

The Hon. C. J. SUMNER: It is now quite clear from the statement given by the Acting Minister of Agriculture (Hon. Dean Brown) in the House of Assembly that the Government is trying to raise a smokescreen about this matter by ordering a police investigation. The smokescreen is designed to try to sidetrack the Parliament and people of South Australia from the real issue in this matter, which was that the Minister of Agriculture misled, or lied to, Parliament about the connection between the South Australian Government and Marubeni Corporation.

In a Ministerial statement last week, the Minister of Agriculture denied any connection. The document that the Hon. Mr. Chatterton has referred to in this Council clearly has pointed to a connection between the South Australian Government and Marubeni. As I have said, the Minister of Agriculture denied such connection. It is quite clear from that that Mr. Chapman misled the Parliament.

The Government is now taking umbrage because, as a result of documents which Mr. Chatterton had, he has exposed to the Parliament the fact that Mr. Chapman misled Parliament. The attitude of the Government on this matter has been characterised by complete hypocrisy. During the period that this Government was in Opposition, it received confidential documents from time to time from Government sources. The present Premier particularly received this sort of information when the Labor Government was in office. Liberal members used that confidential information time and time again to try to discredit the Labor Government. Now, when documents become available to a Labor member that indicate quite clearly that the Minister of Agriculture lied and misled the Parliament over an issue, Liberal members start to squeal. The fact is that this Government cannot take it. The clear implication of the Government's attitude to this is illustrated by the fact that it has have tried to set up a smokescreen by ordering a police investigation. It believes that a Minister can lie to Parliament provided he is not caught or, alternatively, that a Minister can lie to Parliament if it is about a matter which is on his private files and which he thinks will not become public. The clear implication in what the Government is saying is that the Minister can lie to Parliament about an issue if it is a matter that is within his own private knowledge or on his

own private file.

The Hon. K. T. GRIFFIN: I rise on a point of order, Mr. President. The honourable member has had a great deal of latitude. However, under Standing Order 193 I believe that he is making an injurious reflection upon a member of this Parlaiment. There is no specific charge on a substantive motion after notice. I would submit that he is quite out of order in making these sorts of allegations.

The PRESIDENT: I uphold the point of order.

The Hon. C. J. SUMNER: If the Opposition cannot in this Parliament make an allegation that a Minister has misled the Parliament, it is only further evidence that this Government, on this and other issues—

The PRESIDENT: Order!

The Hon. C. J. SUMNER: — is not prepared to allow the Opposition—

The PRESIDENT: Order! If the Hon. Mr. Sumner does not come to order when I ask for order I will have no option but to name him. The point of order that I upheld deals with Standing Orders. The Leader is stepping away from an explanation and is making remarks which are not suitable to the occasion, nor do they explain any part of the question. The Hon. Mr. Sumner.

The Hon. C. J. SUMNER: Does the Attorney-General believe that Ministers of the Crown can mislead the Parliament if they believe that they will not be found out? Does he believe that Ministers can mislead Parliament on matters contained in their private files because they do not believe that the matters will become public? That is clearly the implication of the Government's stance on this matter.

The Hon. K. T. GRIFFIN: What sort of dirt can we throw next? That is the order of the day. The Opposition makes wild allegations, as the Hon. Dr. Cornwall did about the Horsnell Gully fire and as did the Hon. Mr. Chatterton. However, when it is turned back on them they cannot take it. They get away by trying to use smear tactics which will not wash. The Minister of Agriculture did not mislead the Parliament, and—

Members interjecting:

The PRESIDENT: Order! A question has been asked, and honourable members will now hear the answer.

The Hon. K. T. GRIFFIN: —no other Minister has misled the Parliament. I challenge any member of the Opposition who has evidence of misleading statements being made by Ministers to produce the evidence and to do it outside the House.

PRICES ACT AMENDMENT BILL (No. 4)

The Hon. J. C. BURDETT (Minister of Consumer Affairs) obtained leave and introduced a Bill for an Act to amend the Prices Act, 1948-1980. Read a first time.

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

That this Bill be now read a second time.

The purpose of this Bill is to afford adequate protection to grapegrowers against the practice of some winemakers who withhold payments for previous vintages while paying out on more recent ones. Section 22a of the Act empowers the Minister of Consumer Affairs to fix and declare the minimum price at which grapes may be sold or supplied to winemakers (including brandy distillers). That section also implies into every contract for the sale or supply of grapes such terms or conditions as are determined by the Minister relating to the time within which the consideration shall be paid and to payments to be made in default of payment within the time specified.

The Minister's powers under section 22a have been delegated to the Prices Commissioner who on 14 December 1979 specified several terms and conditions that are to be included in contracts for the sale or supply of grapes to wineries, in regard to payments for those grapes. The effect of these terms and conditions is that every such contract requires the winemaker to pay for grapes supplied by grapegrowers no later than 30 September in the year of delivery. Any late payments by winemakers attract substantial rates of interest.

The Bill will not adversely affect the majority of winemakers, who pay for grapes supplied by grapegrowers on or before 30 September in the year of delivery. The major provision of the Bill prohibits a winemaker or distiller of brandy from accepting delivery of any grapes from grapegrowers unless all amounts that have previously fallen due for payment to grapegrowers have been paid in full. In effect, this requires all grapegrowers to be paid for grapes supplied in one vintage before the next vintage begins. Provision is made for the Minister to exempt a winemaker from this prohibition. This Bill does not apply to co-operative wineries.

The Government believes that this provision is straightforward and will promote early settlement of debts by winemakers. Close attention has been paid to ensure that loopholes do not exist in the Bill, and that the interests of all parties have been properly protected, particularly those parties who have already entered into long-term contracts. The Bill is to apply in relation to any grapes delivered on or after the commencement of the Act whether the contract was entered into before or after that commencement. This will ensure that grapegrowers are paid in full for all payments that have previously fallen due in accordance with the Prices Commissioner's terms, before any further deliveries can be accepted pursuant to the contract. This will benefit grapegrowers who have already entered into such contracts. Grapegrowers will be further protected in that a winemaker will be unable to avoid the prohibition by entering into long-term contracts, as payment must be made by the date specified in the Prices Commissioner's terms for each year of delivery.

In order to prevent winemakers, who are prohibited under this Bill from accepting grapes, victimising growers by not releasing them from their obligation so supply grapes even though the winemaker cannot take delivery of them, the Bill provides that in such cases the grower may elect to avoid his obligation to supply grapes under the contract. Therefore, if the winemaker is prohibited from accepting delivery of the grapes, the grower may elect to take his grapes to another winemaker, and he will not be disadvantaged if he wishes to do so. The other important aspect of the Bill is that although it does not alter the law relating to bankruptcy or insolvency, the practical effect will be that if a winery goes into liquidation, growers will be owed payment for only one vintage, not several as in the recent Vindana situation. Also, by including provisions concerning related purchasers, a re-occurrence of the Vindana situation should be avoided, as a winemaker will not be able to pay preferred growers for supplies of grapes in one vintage while ignoring payments to suppliers in previous vintages.

The Government has a genuine concern for grapegrowers who suffer as a result of the failure of wineries, and this Bill attempts to afford greater protection to growers in such circumstances. While the Bill does not prevent growers from supplying grapes to a winemaker if they have not been paid for grapes supplied previously, it gives them the option of refusing to do so, and it is hoped that it will foster better business practices among the minority of winemakers who will be affected by the Bill. The Government stresses that this Bill merely reinforces the obligations that winemakers have as a result of terms and

conditions as to payment for grapes imposed by the Prices Commissioner. As such it does not constitute further regulation of the industry. The majority of winemakers abide by the terms set by the Prices Commissioner and will not be affected by the Bill, but there are some winemakers who are slow or reluctant payers and other who accept further supplies of grapes with little or no intention of making payment, and it is these winemakers at whom this Bill is directed.

In genuine cases of a winery that is in financial difficulties and cannot pay growers, but which has a reasonable prospect of trading out of its difficulties, the Minister may allow the winery to accept grapes without settling existing debts to growers. Such an exemption could also be made where special reasons exist to allow further acceptance of grapes before full payment is made, for example when a grower has agreed to plant a specially selected grape variety at the request of a winery. Any exemption may be subject to such conditions as the Minister determines, and the conditions or exemption may be varied or revoked. Consultations have taken place with representatives of the Wine and Brandy Producers Association and the Wine and Grape Growers Council of South Australia. The winemakers agree that the Bill will not adversely affect the industry as a whole because most winemakers pay by the date specified in the Commissioner's terms to avoid interest charges. The grapegrowers support the Bill as it will remove their fears of victimisation.

I add that the initiative in trying to protect grapegrowers who were not paid in circumstances such as those I have related was taken by the Hon. Mr. Chatterton when he introduced his Bill to amend the Prices Act. Officers of the Department of Public and Consumer Affairs and those of the Department of Corporate Affairs with whom we consulted advised me that the scheme proposed by the Hon. Mr. Chatterton's Bill would not be effective in providing the protection which he hoped to provide. I recognise, of course, that the Hon. Mr. Chatterton did not have the support of those departments behind him and was, therefore, unable to have their advice. I commend him for his initiative, because it was his action that brought the matter before the Parliament. I have consulted the Hon. Mr. Chatterton on several occasions on this matter and officers of my department have spoken to him. I thank him for his co-operation in allowing his Bill to be adjourned on a number of occasions while consultations were held on the Government Bill and while the Government Bill was prepared and settled. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 amends section 22a of the principal Act which empowers the Minister to fix a minimum price for grapes supplied directly or indirectly to any winemaker or distiller of brandy and to fix a period within which payment for the grapes must be made by the winemaker or distiller of brandy. The clause amends this section by inserting a new subsection (7) which provides that it shall be an offence for a winemaker or distiller of brandy to accept delivery of grapes either under a contract subject to a price fixing order or from a related purchaser who acquired the grapes under any such contract unless all amounts that have previously fallen due for payment by the winemaker or distiller or any related purchaser under such contracts have been paid in full. Proposed new subsection (8) provides that where a winemaker or distiller of brandy is so prohibited from accepting delivery of any grapes, the contract for the supply of the grapes shall be voidable at the option of the other party to the contract.

The clause inserts further new subsections empowering the Minister to grant exemptions from compliance with proposed new subsection (7) subject to such conditions as the Minister may impose and to revoke any exemption or vary or revoke a condition of an exemption. Breach or failure to comply with a condition of an exemption is to attract the same penalty as breach of the offence in respect of which the exemption applies. Proposed new subsection 13) provides that a person is to be treated as being a related purchaser in relation to a winemaker or distiller of brandy if he purchases grapes as agent for the winemaker or distiller, if he purchases grapes for the purpose of selling or supplying them to the winemaker or distiller, if he purchases them for processing by the winemaker or distiller or if that person and the winemaker or distiller are related bodies corporate. Bodies corporate are to be treated as being related for the purpose of these provisions if they are related for the purposes of the Companies Act or if the same person has a relevant interest in not less than 20 per centum of the voting shares in each body corporate.

A "revelant interest" is defined as having the meaning assigned to that experession by the Companies Take-overs Act, 1980. Proposed new subsection (12) provides that the proposed new offence is to apply to grapes delivered after the commencement of the measure whether or not the contract under which they are delivered or under which they were obtained by a related purchaser for delivery to the winemaker or distiller was made before or after that commencement. This offence is not to apply, however, where any failure to make a payment in respect of grapes previously supplied has been caused by the insolvency of the winemaker or distiller or the related purchaser, as the case may be.

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

PRICES ACT AMENDMENT BILL (No. 5)

The Hon. J. C. BURDETT (Minister of Consumer Affairs) obtained leave and introduced a Bill for an Act to amend the Prices Act, 1948-1980. Read a first time.

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

That this Bill be now read a second time.

Section 21 of the Prices Act empowers the Minister to fix maximum prices in relation to the sale of commodities declared to be subject to the Prices Act. This section was enacted in 1948 and there have, of course, been substantial changes in trading practices since the date of its enactment. It is now often necessary for the order to focus on a particular part or aspect of the market. Some doubts have been expressed as to whether section 21, in its present form, has the necessary flexibility to allow this to be done. The purpose of the present Bill is to make it clear that an order of limited application is possible under the Prices Act.

Clause 1 is formal. Clause 2 repeals section 21 and substitutes a new section. Under subsection (1) the Minister is empowered to fix maximum prices in relation to the sale of declared goods. Subsection (2) provides that differential maxima may be fixed, and declares that the order may apply to sales generally or to specified classes of sales, and may apply throughout the State, or in specified parts of the State.

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

ART GALLERY ACT AMENDMENT BILL (No. 2)

The Hon. C. M. HILL (Minister of Arts) obtained leave and introduced a Bill for an Act to amend the Art Gallery Act, 1939-1980. Read a first time.

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

That this Bill be now read a second time.

On 20 September 1979, a new Department for the Arts was established in accordance with the Government's election promises. It is, of course, appropriate for the Art Gallery to be incorporated within the administrative structures of this new department. The elimination of the small Art Gallery Department would accord with the principles within the Corbett Report and would make possible the grouping of the bodies concerned with the arts into a single administrative and Ministerial structure. Thus efficient arrangements such as apply in other States (for example, Victoria) where all arts organisations are within the one Ministry for the Arts, could be implemented in this State. The purpose of the present Bill is, therefore, to abolish the Art Gallery Department. Clause 1 is formal. Clause 2 repeals section 15 of the principal Act under which the Art Gallery Department is established.

The Hon. ANNE LEVY secured the adjournment of the debate.

SHOP TRADING HOURS ACT AMENDMENT BILL

Second reading.

The Hon. J. C. BURDETT (Minister of Consumer Affairs): I move:

That this Bill be now read a second time.

The issue of shop trading hours has been the subject of considerable debate in this Council over the years. In particular, attempts have been made in recent times to ensure that the prescribed times, while responding specifically to consumer demand, are also compatible with employer and employee interests in the retail trade.

The extension of shopping hours in 1977 has generally been well supported by all sectors of the retail industry and the community. Although the original extension was proposed by the now Opposition, the final Act strongly reflected the views of the present Government. However, it has now become increasingly apparent that some shopkeepers are seeking to further extend trading hours well beyond the original intention of the Act. Indeed, in many instances, the actual legal provisions of the Act are being adhered to, although in practice the intention of the Act has been blatantly circumvented.

I would point out that the reason that there is so much dissention within the community regarding shop trading hours is that when certain loopholes became apparent in the Act, and they were used by some traders to circumvent the clear intention of the Act, the Government of the day, the now Opposition, failed to take action—it ignored the problem, and it ignored the consequences that have now become apparent.

In the light of these current practices, the Government is anxious to ensure that full and meaningful effect is given to the intention of the Act, both by tightening up certain loopholes which have become apparent in its wording, and also be specifying certain additional trading times for particular shops in recognition of consumer demand.

In order to obtain maximum understanding and consultation on the matter, the Government has held lengthy discussions during the last few months with interested organisations and people in the retail field. To this end, opportunity has been given for all points of view to be presented to the Government, in respect of both the principles behind the Bill and the detailed provisions of the Bill itself. There has been consultation with representatives of numerous organisations, including the Retail Traders Association of South Australia Incorporated, the Shop Distributive and Allied Employees' Association, the South Australian Mixed Businesses Association Inc., the South Australian Automobile Chamber of Commerce Inc., the United Trades and Labor Council of South Australia, and the Holden Dealers Group of Adelaide. In addition, nearly 1 000 submissions and letters from concerned individuals and retailers have been received and considered.

It is pleasing to see that the Government's intentions have received a high degree of consensus. The amendments contained in the Bill reflect the Government's view that small business should not have placed upon it the burdens of restrictive legislation, such as that which controls the hours which they may trade. Equally, the Government does not support large corporations parading as small business by artificial means, and thus obtaining a competitive advantage due to their greater purchasing power, advertising budgets, etc. In addition, the amendments are designed to meet the obvious demand by consumers for certain goods on weekends, such as food, hardware and building materials.

In particular, the Bill provides for any shop (other than a shop specifically mentioned in the Act as having different trading hours) to be exempt if:

1. the floor area of the shop does not exceed 200 square metres;
2. not more than three persons are physically present in the shop at any one time to carry on the business of the shop;
3. the shop is not adjoining another shop leased or operated by the same or an associated person, selling substantially related goods; and
4. any store room adjoining or adjacent to the shop does not have a floor area greater than 50 per cent of the shop.

This will mean that, with some specific exceptions, only small businesses will be able to open after 6 p.m. on week days (or 9 p.m. on the appropriate late night trading day) and between 12.30 p.m. on Saturdays and 12 midnight on Sundays. In addition, this amendment will close the existing loopholes by which quite large businesses have been gaining exempt shop status by artificial subdivision of shops, or by having three or fewer employees on the premises at any one time. There are several areas where there is an obvious demand for trading beyond the normal trading hours. One such area is foodstuffs. Shops selling foodstuffs will be able to trade after normal hours, providing that the floor area of the shop is not greater than 200 square metres, and the floor area of any storeroom adjoining or adjacent to the shop does not exceed 50 per cent of the shop. There will continue to be no restriction on the number of persons who can be in the shop at any one time for the purpose of carrying on the business of the shop.

Where the floor area of food shops is greater than 200 square metres, but not greater than 400 square metres, in addition to the requirement that the storeroom must not exceed 50 per cent of the area of the shop, it will also be a requirement that the shop must not have more than three persons physically present at any one time for the purpose of carrying on the business of the shop.

The Bill contains special provisions relating to the sale

of petrol from food stores and food from petrol stations. Food will not be able to be sold from a shop in the metropolitan area which is predominantly a service station, unless the area from which food is sold is less than 200 square metres, or the food is for consumption on the premises or is prepared in the shop for consumption off the premises. This will ensure that there will be no restriction on road-houses. In addition, petrol and oil will not be able to be sold from a foodstuff shop in the metropolitan area which is larger than 200 square metres.

Another of the areas where there has been an obvious expression of demand by consumers for weekend trading, and where retailers have responded to that demand, is hardware and building materials. In recognition of this, the Government has decided that shops the business of which is solely the sale of hardware and/or building materials, and which are not otherwise exempt, will be able to trade until 6 p.m. on weekdays (or 9 p.m. on the appropriate late night trading day) and 4 p.m. on Saturdays; and, in addition, such shops will be allowed to trade between 10 a.m. and 4 p.m. on Sundays, except Easter Sunday, and on Public holidays, except Good Friday, Christmas Day, and Anzac Day.

Before hardware and building materials stores, which have a floor area greater than 200 square metres, can trade on weekends a special permit will be required. The permit will be renewable annually, but no fee will be payable. If, at any time, it is found that a registered hardware and/or building materials store is trading outside permitted hours, or is selling goods other than those properly classified as hardware and building materials, the registration may be cancelled immediately. There will be no size or staffing restrictions on hardware and building materials stores with a floor area of greater than 200 square metres.

The items which hardware and/or building materials stores can sell will be defined by way of regulations under the Act. It is anticipated that the regulations, which will be derived from the Australian Standard Industrial Classification published by the Australian Bureau of Statistics, will include timber, builders hardware, certain garden supplies, locksmith services and swimming pool supplies.

One area which has caused the Government concern is the potential for shops, which trade beyond normal hours as exempt shops because of the type of products which they sell, to sell a large proportion of non-exempt goods.

To ensure that exempt shops which trade outside normal hours are observing the spirit of the Act, the Bill provides that such shops will be required to derive at least 80 per cent of their retail sales from the sale of the goods specified in section 4 of the Act. This amendment will prevent any radical change of the existing position.

At present exempt shops may in the one advertisement advertise that they are open after normal trading hours, as well as promote goods which, if the store was solely or predominantly selling these goods, they would be unable to sell after normal trading hours. This will not be permitted in future. Another area of major concern and controversy is the issue of trading hours for shops selling motor vehicles, caravans or boats.

Since the passing of the existing Act in 1977, extreme difficulties have been encountered in attempts to police the legal trading hours of such stores. For example, difficulty has been experienced in attempting to prove that a sale has taken place outside normal trading hours. Since the Act came into operation, only two prosecutions for actually selling motor vehicles after hours have been upheld in the courts. This has largely rendered the Act ineffective, a fact which is reflected in the growing number of car yards trading on Saturday afternoons and Sundays in blatant breach of the Act.

The Government has held lengthy discussions with the major industry organisations representing the motor vehicle industry, the South Australian Automobile Chamber of Commerce, which represents over 450 dealers. In a recent survey of the membership, 92 per cent of the members who responded indicated total support for the amendments incorporated in the Bill. The Government has also received representation from the Professional Car Dealers' Association of South Australia, which has indicated its total support. It has presented the Government with letters from 157 dealers who have indicated support for the amendment. I would point out that many of those dealers who have indicated their support are currently trading illegally on weekends, not because they or their staff want to, but because the few dealers who are willing to break the law could achieve an unfair trading advantage if they had no competition.

In the light of the overwhelming consensus of motor vehicle dealers that weekend trading should not be permitted, the Government has decided that the sale of motor vehicles, caravans and boats will not be permitted on Saturday afternoons or Sundays. However, the Government believes that there is both consumer and dealer support for some rearrangement of trading hours for motor vehicles, caravans and boats. Accordingly, in respect of the closing times for shops selling motor vehicles or boats, the Bill provides for the repeal of the current provision which enables car dealers to open to 9 p.m. on weekdays during daylight saving and 12.30 p.m. on Saturdays. It is replaced by a provision which will enable such shops to trade on both the Thursday and Friday late shopping nights throughout the year and until 1 p.m. on Saturdays. As I have said the Government has been informed that these proposals have been "very well received by the industry", by both dealer principals and employed sales staff. I believe that they will be equally acceptable to consumers.

With respect to the past difficulties of proving that an offence under the Act has been committed, the Bill proposes new provisions which will correct this situation. One further problem is that at present it is not an offence to advertise that a shop will be open for trade at a certain time or on a certain day, even though it is illegal for that shop to open during those times. The Bill provides that any person, not being a proprietor or publisher of a newspaper or magazine or the holder of a licence under the Broadcasting and Television Act, who publishes or causes to publish an advertisement that a shop will be open during any period when the shop is required to be closed will be guilty of an offence.

Several other machinery and drafting amendments to the Act are included in the Bill. First, in respect of the requirements for the closure of the car yards and other exposed areas of a similar kind, the Bill tightens up the requirements which must be met before shops are deemed to be closed and fastened. Secondly, the Bill enables the Governor by proclamation to change the late trading night in any proclaimed shopping district or any part thereof. This will, for example, allow Gawler, which is part of the metropolitan shopping district, to have a different late trading night from the rest of the outer metropolitan area.

Thirdly, the existing Act only allows for the alteration of closing times for shops. This effectively prevents a proclamation being issued to close all shops on a certain day, or to allow a particular shop or class of shops to open on a day when normally such shops cannot open at all. Circumstances have arisen in the past which have indicated that more flexibility is needed. The amendments in the Bill will achieve this. Similarly, provision has been made for the Minister to declare any shop to be an exempt

shop, subject to such conditions as the Minister sees fit. Again, particular cases in the past have indicated that such a power would provide flexibility in the application of the Act.

Finally, the penalty provisions of the Act are strengthened so that there is an effective deterrent to breaches of the Act. First, the existing three-tier penalty structure of $250 maximum for a first offence, $500 maximum for a second offence and $1 000 maximum for a third or subsequent offence will be replaced with a single maximum penalty of $10 000. Secondly, where a court imposes a penalty for an offence in respect of a shop not being closed at a time when it should be, the court may fix, by way of additional penalty, an amount determined or estimated by the court as being the amount by which the convicted defendant benefited from trading illegally.

The amendments which I present to this Council today have been drawn up after extensive consultations with interested parties and consideration of nearly 1 000 submissions and letters from individual retailers, employees within the retail industry, and the general buying public. It would never be possible to completely satisfy all the views held by members of our community in respect of shop trading hours. At one extreme there are those who want trading only on weekdays until 5.30 p.m. and on Saturdays until 11.30 a.m. with absolutely no trading whatsoever, regardless of size or product-type of the store outside of those hours. At the other extreme, there are those who want the total repeal of all laws restricting trading hours. In between, there is a *pot-pourri of* views which no Government has ever or could ever hope to satisfy in one single piece of legislation.

The amendments which the Government has decided upon represent the best consensus possible. They are generally supported by all parties; by the majority of retailers, employees in the retail industry and consumers. That is not to say that there is total agreement. Several of the parties with which the Government has conferred would have preferred additional or alternative proposals to be incorporated. I commend the Bill to the Council as a rational and reasonable approach to the vexed question of shop trading hours, and as being in the best interests of South Australians as a whole.

The Government desires that this Bill be passed before the Council rises for the Christmas recess. However, it is not the intention of the Government that the Act will be proclaimed until early in the new year. Accordingly, the existing Act will remain in force during the pre-Christmas period. I seek leave to have inserted in *Hansard* the detailed explanation of clauses without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 makes a number of amendments to the definition section of the principal Act. The definition of "building" ensures that part of a building is included where there is reference to a building in the substantive provisions of the Bill. A consequential alteration is made to the definition of "closing time". The concept of the "declared shop" is no longer necessary, and the definition is struck out. Paragraph *(a)* of the definition of "exempt shop" is tightened so that it cannot apply to a shop with a floor area that exceeds 200 square metres. The requirement that no more than three people serve in the shop remains. Paragraph *(d)* of the definition is replaced with a new definition of "exempt shop" selling foodstuffs. Under the new definition the shop must have a floor area not exceeding 200 square metres or a floor area not exceeding 400 square metres and be a shop in which not more than three people serve. In either case it must not have a storeroom that exceeds one-half of the area of the shop.

Paragraph *(e)* is replaced with a new paragraph that provides that a shop in relation to which a certificate of exemption is in force under section 5 is an exempt shop. Paragraph *(k)* amends paragraph *(i)* of the definition of "exempt shop" so that in future a shop selling spare parts or accessories for motor vehicles may become an exempt shop under the definition. Paragraph *(l)* inserts two new definitions. The "floor area" of a shop will include the floor area of an adjacent shop which sells substantially the same goods and which is owned by the same person or by another person if the shops are run as substantially one business. It is proposed that "hardware and building materials" will be defined by regulations. Paragraph *(m)* includes in the definition of "the metropolitan area" the suburbs of O'Halloran Hill and Flagstaff Hill. Paragraph *(h)* adds subsection (2) to section 4 of the principal Act. The effect of this subsection is that a shopkeeper claiming exemption by reason of paragraphs *(b)*, *(d)* and *(f)* of the definition of "exempt shop" must show that 80 per cent of his turnover in any seven-day period consists of exempt lines of goods.

Clause 4 repeals section 5 of the principal Act which is now obsolete and replaces it with a new section that empowers the Minister to grant a certificate of exemption in relation to a shop. Clause 5 makes a minor amendment to section 6 of the principal Act. Clause 6 corrects a cross reference in section 11 of the principal Act.

Clause 7 amends section 13 of the principal Act. Paragraph *(a)* amends the closing times for shops generally and for shops selling motor vehicles and boats. Paragraph *(c)* repeals subsection (5). The substance of the subsection is replaced by new subsection (9). New subsections (6) and (8) allow late night closing for suburban shops to be changed to Friday night in a shopping district or part of a shopping district. New subsections (9) and (10) replace subsection (5) of section 13. New subsections (12), (13) and (14) will allow the Governor, by proclamation, to require shops to close at times specified in the proclamation.

Clause 8 enacts new section 13a. This section will allow a hardware shop that it not an exempt shop to trade on Saturdays, Sundays and other public holidays if a permit is obtained. Clause 9 amends section 14 of the principal Act. Paragraphs *(a)* and *(b)* make consequential changes to subsections (3) and (5). New subsection (6) replaces penalty provisions of subsections (2), (4) and (6) with a single maximum penalty for each offence of $10 000 . New subsections (7) and (7a) are required to enable effective prosecutions to be brought against shopkeepers who disobey the provisions of the Act. Subsection (7b) provides a defence to a shopkeeper who is not at fault where an offence is technically committed under subsection (7). Subsection (8) makes a similar amendment to the penalty provisions of the existing subsection (8). New subsection (8a) enables a court, when assessing the penalty for an offence against the Act, to take into account the benefit to the defendant from illegal trading on the day on whch the offence occurred.

Clause 10 enacts new section 14a which makes it an offence to advertise that a shop will be open illegally or that goods that are not exempted by the Act will be sold out of normal trading hours. Clause 11 inserts new sections 15a and 15b. Section 15a prohibits the sale of motor spirit and lubricants from the same shop as or from a shop adjacent to a shop that sells foodstuffs. The section does not apply where food is sold for consumption on the

premises nor to a shop that is outside the metropolitan area nor to a shop the floor area of which does not exceed 200 square metres. Section 15b is the reverse of section 15a. It prohibits the sale of foodstuffs from a petrol outlet if the foodstuffs store is more than 200 square metres and is in the metropolitan area.

Clauses 12 and 13 make consequential amendments to sections 16 and 17 of the principal Act. Clause 14 amends section 18 of the principal Act. New subsection (2) is designed to facilitate proof of the locality of a shop concerned in a prosecution under the Act. Clause 15 replaces section 19 of the principal Act. The substantive change made is to provide a specific power to prescribe, by regulation, the manner in which a shop must be closed and fastened against admission of the public. Clause 16 makes a consequential amendment to the Secondhand Dealers Act, 1919-1971.

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

SOUTH-EASTERN DRAINAGE ACT AMENDMENT BILL (No. 2)

In Committee.
(Continued from 26 November. Page 2229.)

Clause 5 passed.

Clause 6—"Authority may cause certain work to be carried out and the cost recovered from the landholder."

The Hon. C. M. HILL: As I understand that the Hon. Mr. DeGaris is in the course of circulating an amendment to this clause, I ask that progress be reported at this stage.

Progress reported; Committee to sit again.

WORKMEN'S COMPENSATION (SPECIAL PROVISIONS) ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 26 November. Page 2227.)

The Hon. FRANK BLEVINS: The Opposition supports this Bill. The comments that we want to make on it were made in the other place by our spokesman in this area, and I see no point in going over them. However, I should like to ask the Minister handling the Bill to explain one matter when he replies to the second reading debate. The first part of the second paragraph of the Minister's second reading explanation, to me, does not make sense in the form in which the explanation was given to the Council. It states:

> The Act was amended in 1978 to exclude from its ambit full-time professional sportsmen or those receiving an annual income in excess of the prescribed amount (which was subsequently set by regulation at $10 000 per annum) from participation as a contestant in sporting or athletic activities.

I assume that that is incorrect, and that the idea of the legislation was not to exclude sportsmen from participation as contestants in sporting or athletic activities. I feel that, for the benefit of anyone who follows these matters in *Hansard,* it would be better to clear up these points. In anticipation of a reply from the Minister, the Opposition indicates its support for the measure.

The Hon. J. C. BURDETT (Minister of Community Welfare): I thank the honourable member for his contribution. He has quite correctly picked up a mistake in the second reading explanation. There was no suggestion of trying to prevent those sportsmen from participating in sporting events, and they were simply to be excluded from the ambit of the Act.

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

LICENSING ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 20 November. Page 2082.)

The Hon. G. L. BRUCE: I support the Bill but with certain reservations. The Opposition is very concerned about clause 8 but, to get it in its proper context, I feel that we should go through the Bill clause by clause and state our views. Clauses 1 and 2 are formal and there is no point to be raised with those. Clause 3 seeks to amend section 16 of the principal Act so that a full publican's licence can be granted in respect of Leigh Creek and Leigh Creek South. The Opposition sees no difficulty in this. It is a machinery provision as regards the operation of the legislation, so we are in agreement with that.

Clause 4 removes a passage from section 20 of the principal Act, and this passage has confined the granting of limited publicans' licences to premises constructed for the accommodation of travellers. The explanation states that this prevents the conversion of premises built for other purposes and is an unwarranted restriction. We will seek clarification on what this means. The Government is seeking to delete the words "specifically constructed and", and if that is done the provision will read:

> A limited publican's licence shall be granted only in respect of premises used or intended for use primarily for the accommodation of travellers.

The Opposition wonders what the Government has in mind. The provision could apply to a guesthouse, but it could extend further. There are roadhouses with accommodation alongside, not necessarily motel-type accommodation but separate individual units at the back. We see them as we go North. Does the provision involve clubs? Some private clubs have residential accommodation. Does the Government envisage covering that, and what is the thrust of the provision? We are not opposed to it but we would like clarification of what it means.

Clause 5 amends section 67 (11). Subsection (11) limits the value of the liquor that may be sold under a club permit, and the explanation states that the new figure of $50 000 is now more realistic. The Opposition sees no problem with that. We agree that inflation has overtaken the Licensing Act in relation to these figures, and we have no argument with the increase from $25 000 to $50 000.

Clause 6 repeals section 69 of the principal Act. This section has been redundant since the repeal of section 68 in 1976, and we see no problem with that. It is a machinery amendment and something that needs to be done to tidy up the legislation. Clause 7 makes a consequential change to section 74 of the principal Act that will allow the court to declare a licence granted after premises have been declared to be an historic inn to be forfeited if a condition specified in a proclamation under section 192 has been breached. This relates to clause 9, but we have no strong reaction to it. It does what has to be done if clause 9 is passed in the form that the Government seeks.

Clause 8 is, to us, the controversial clause. It may look innocuous and the intent of the Government in what it is doing could seem to be fair but, if the matter is looked at in depth, it raises a whole host of problems. The second reading explanation states:

> Clause 8 amends section 141 of the principal Act. Paragraph (a) makes a consequential amendment. Paragraph

(b) increases the penalty provisions to more realistic levels. Paragraph (c) inserts three new subsections in section 141. New subsection (2) allows the court to grant an exemption from the operation of the section in specified circumstances. The subsection also allows the court to approve an agreement or arrangement that does not offend against the section. In this way the parties to an agreement or arrangement can ascertain in advance whether their proposals will be subject to the section.

I refer now to another part of the second reading explanation, which states:

The trust wants to be able to make arrangements for an independent contractor to operate the kitchen facilities of the new canteen at Leigh Creek South, under which that contractor would share in the profits of the canteen's operations.

I stress the word "profits". The explanation continues:

The Act at present prohibits a licensee (in this case, the trust) from permitting an unlicensed person to share in such profits, or to have other interests in licensed premises.

I now come to the part where we find the sting in the tail of this measure. The Opposition has no hard or strong objection to what the Government is seeking to do with the trust, realising that special circumstances surround Leigh Creek. However, the explanation continues:

. . . instances have arisen in the past of licensees who wish to enter into similar arrangements, and of persons who want to obtain a licence only on the basis of such arrangements, but who do not know for certain whether those arrangements are prohibited under the Act. In the case of persons wishing to apply for a licence, the only way to determine the matter is to apply to the court for a licence on the basis of the proposed arrangements (which can be a costly and time-consuming process) and to await the court's decision.

The Bill proposes that persons, whether licensed, applying for a licence, considering applying for a licence, or parties to an agreement or arrangement with a licensed person or person applying for a licence may apply to the court for a ruling on whether those arrangements, whether existing or proposed, are or would be prohibited under the Act and, if so, the court is given a discretion by the Bill to approve them. If an arrangement is prohibited under the Act, the court must either take the drastic step of declaring the licensee's licence void or impose a relatively small fine of between $10 and $200. The Bill increases the amount that the court may impose as a fine to no less than $200 and no more than $500, so that a substantial fine may be imposed if a breach is not serious enough to merit declaring the licence void.

The Opposition has no objection to increasing the fine. In fact, it should be increased, but we object strongly to the change sought by the Bill. It opens the door to subcontracting in licensed premises, namely, hotels and clubs. We take strong exception to that. Over a number of years the Liquor Trades Union has been concerned about this matter. For instance, I will quote, first, a letter dated 14 December 1979 written to a Mr. O. McAleer, who is an organiser for the Federated Liquor and Allied Industries Employees' Union of Australia. Mr. McAleer had met and discussed the matter with the previous Attorney-General, the Hon. Mr. Sumner, in regard to a hotel in the city which had subcontracted out the kitchen. He was quite concerned, as they were not employing union members and possibly did not comply with the hotel award. The reply given by the former Attorney-General was as follows:

Dear Owen, While I was Attorney-General, you raised an inquiry with me on the interpretation of section 141 of the Licensing Act. I have finally received a report from the department on this issue, and enclose a copy of a letter from Mr. John Burdett, the Minister of Consumer Affairs. I would be happy to discuss this matter further with you after you have given consideration to the contents of the letter, and suggest you contact me about it.

I now refer to the letter from the Hon. Mr. Burdett, Minister of Consumer Affairs, addressed to the Hon. Mr. Sumner, as follows:

Dear Mr. Sumner, On 30 July 1979 you asked the Deputy Director-General, Department of Public and Consumer Affairs, to obtain a report on the interpretation of section 141 of the Licensing Act. This arose from an inquiry by Mr. O McAleer of the Liquor Trades Union, who was concerned that some licensed premises were subcontracting their catering and use of their kitchens to outside organisations which did not employ union members.

The main purpose of section 141 is to prevent profit-sharing or participation in the operation of a licence by an unlicensed person. Any subcontracting arrangement would need to be scrutinised to determine whether it gives an unlicensed person an interest in the premises or profits, provides for the remuneration of an unlicensed person on a basis related to profits or liquor sold, or enables a licensee to abdicate his duties and functions in favour of a person not duly authorised under the Act.

A legal opinion has been obtained which suggests the type of arrangement referred to by Mr. McAleer may well be in conflict with the provisions of section 141. A more definitive opinion cannot be given without a full examination of the facts of each particular case. There are, however, a number of instances where arrangements for the supply of food or services or labour in licensed premises have not been considered to be in breach of the Act.

It goes without saying that that was already taking place in a number of premises without the Licensing Court being aware of it. If it became aware of a breach of the Act, the small monetary fine referred to (between $10 and $200) could be imposed or the licence taken away. There were any amount of these instances occurring and not being reported. It was leading to trouble with subcontractors, involving arguments about wages and conditions of employees in hotels. If this Bill were passed, it would mean that a hotelier could subcontract his kitchen out. I previously stressed the word "profits". The canteens at Leigh Creek were looking for a contractor to operate them and share in the profits of their operations. The hotel licensee could suggest that he was doing the same thing and contract his kitchen out to share in the profits. However, one can bet that he would not be contracting it out if it was profitable. He would only do that if it was not profitable and was a white elephant.

The Hon. J. A. Carnie: Not necessarily.

The Hon. G. L. BRUCE: No, but most probably. If it was a going concern he would not be looking to let it out.

The Hon. J. A. Carnie: He could spend more time on other aspects and not worry about it.

The Hon. G. L. BRUCE: If it is losing money, he may not want to keep it. However, if it is profitable he would retain it and would not want to turn it over to someone else to make a profit easily. I cannot see in the second reading explanation or the Bill itself any indication that this position will be confined to contracting out the kitchen. It could be extended to the bedrooms—accommodation units—or even the bars.

I would be interested to hear from the Minister whether there is any specific provision that excludes sections other than the kitchen being subcontracted out. A hotel or club could have a number of employees in the kitchen. They could have been there for five or six years. If the licensee was not doing too well and had a considerable commitment in the way of sick leave, long service leave, holiday pay, and so on, he could elect to subcontract the

kitchen out. If he does so, the subcontractor has the right to terminate the employment of all employees concerned. There is no obligation on him to employ them. If he does employ them, he is disadvantaged immediately. If they had been there for five or six years, there could be a doubt as to whether they would qualify for long service leave. I understand that this matter has not been tested, but the doubt would be there and would need to be challenged and the matter tidied up. If there was a considerable long service leave commitment, I do not think a subcontractor would take on the employees willingly.

Sick leave accumulates at 10 days a year and, if a permanent employee has not had much sick leave, he could have accumulated 20 or 30 days which would immediately be lost even if the subcontractor employed that employee, because there is nothing to say that he should continue an employee's sick leave. There is also a possibility that holidays will not be paid, or that an employee could be deprived of his holidays but would get the monetary value of them. He would, however, still miss out on his holidays. For instance, an employee could have gone for 11 months without a holiday and then a subcontractor moves in, takes over, pays him for his holidays but says, "Right, you work with me now, but until you do another 12 months you will not get a holiday", so the employee would have 23 months between holidays. In a situation like that, the unions are agreed, as are other people, that the money is not the key to the matter and that employees are looking for leisure time and a break from constant work pressure. What we have here is a situation which is an advantage to clubs, hotels or licensed premises. They can take advantage of subcontracting out, but another section, the employees, could be disadvantaged. The situation could even arise, because of hundreds of hotels that employ only three or four people in the back of the house, as they call it (the kitchen hands and girls who clean the units and prepare the meals and then knock off), where, under this Bill, that work is contracted out to a husband and wife and their family. With unemployment being as it is a husband and a wife with a couple of children aged 17 or 18 who do not have a job may take on that type of subcontract in an attempt to gain the family a living.

As I understand the hotels legislation, those people would not be covered by the award, and the family I have just mentioned would not be covered by the award. Also, the children in that circumstance could be deprived of award conditions for their labours. Of course, the subcontractor himself would not be guaranteed a reasonable return in that situation if he was forced into taking that subcontract. There are all manner of subcontracts floating around which I believe are highly suspect. An example of that is where a hotel says to a subcontractor, "You take over the whole thing lock, stock and barrel and it will cost you X dollars a week, but do not bother us with anything." There are a whole lot of variations of subcontracts.

Can the subcontractor subcontract out again? How does the Licensing Court keep control in this day and age when jobs are short and people will sacrifice conditions to get a job? This system leaves itself wide open to abuse. What about the situation of apprentices? We currently have the Regency Park school, which is geared to train apprentices to improve the services for tourist facilities at hotels so that facilities and food are good. The situation could arise where a subcontractor moves into the kitchen. If that happens apprentices have no guarantee of continuity of service. Once you have the subcontract situation people come and go fairly rapidly. They already do that in hotels, but it would happen even more frequently under the subcontract system. The mere fact that many restaurants are going through the hoop is an indication of how competitive the food industry is.

Clubs and hotels can overcome slack periods because, if they are slack in the kitchen, the sales from other activities in the hotel offset that slackness. However, if they subcontract out the kitchen work there is no way that a bad week in the kitchen can be offset, and it must be carried by the person who takes on the kitchen. Those people are in that job to make a living, but I believe they would be sweated labour in that situation. I do not think the subcontract system in this situation is to the benefit of the South Australian community as a whole. Where does subcontracting stop? How can we police that a subcontractor pays proper wages and provides proper conditions? A subcontractor can have friends and relatives working for him in an attempt to do a job on the cheap so that he can make a bigger dollar for himself. Or he might not necessarily be making a bigger dollar but just trying to make ends meet; because he is not going to be sharing in any of the profits, he has to try to make a living for himself. The only reason he would have that subcontract is that the situation is dicey and was not profitable in the first place.

I understand that the union involved in this situation has indicated to the Australian Hotels Association its strong opposition to this clause of the Bill. That association was not aware of this problem in the Bill. The association saw it as being all right, but since it has been made aware of this matter by the union it is looking into it. I do not know how that association feels about this matter, however. The unions have indicated to hotels that they are concerned and that they feel that stability in the industry will be lost if this Bill is implemented. Most of the unions associated with the hotel industry have worked their way around the award and through the award—there has been little confrontation. The union sees this proposal as a direct confrontation if it is implemented in the hotels, because the situation in the hotels at the moment is that the union goes around, finds the subcontractors and tries to ascertain whether what they are doing is legal. More often than not the wages and conditions of the Hotels Award are not being observed by subcontractors—they do not seem to be aware of that award.

Subcontractors are not covered in the Hotels Award and are not envisaged as part of it. The licensee of licensed premises must accept responsibility for those premises, but who accepts responsibility for the kitchen run by a subcontractor if the health authorities find something wrong—is it the licensee or the subcontractor? Who accepts responsibility if the dining room is subcontracted out and a person under 18 years of age is served with liquor—is it the licensee or the subcontractor? The whole thrust of section 141 of the Act is to make the licensee responsible for the hotel, but this Bill will divide that responsibility. One could take the example to the extreme where there are three sections of a hotel—the bar, the kitchen and the house or units—all subcontracted out, with the licensee sitting at home being the *de facto* licensee and, if there is any problem with any of those subcontractors, he replaces them. Or, if he has a manager, that manager is the licensee and if there is any problem it is cleared up by him. I do not know whether this Bill will allow that to happen, but I think that it opens Pandora's box, and once it is introduced it is hard to know where matters will stop. If the door is opened a little, these people will go ahead and subcontract (which I suggest they are doing now without the consent of the court or the Licensing Act). The only time the court would become aware of that is when there is a problem drawn to its attention. I commend the Minister for bringing forward a

Bill that increases the fine to between $200 and $500. I believe that that should be in the Act already to cover the current situation.

Where does one go in regard to a change in the standards? If one complains to the manager, what does he do if a subcontractor is involved? The manager would have no control over the food. If he has such control there is probably a provision that the subcontractor would go. Subcontractors would come and go without any real commitment to the hotel, the club or the people using that facility. Where does the responsibility stop if the door is open to sharing profits?

I do not believe it will be sharing profits, but it will be sharing heartaches and heart burn. The main thrust of the Bill is through clause 8 which amends section 141. It makes the licensee responsible for all parts of the hotel. If that is to be the case, how can someone be wholly responsible for a hotel if certain functions are not to be performed by him under the Licensing Act? I could develop this argument further, but I think I have put the main thrust of the Opposition's argument with it.

We see subcontracting as an evil in this situation. It seems to be a return to sweated labour. Possibly in the short-term, because of the breaches of the award and non-payment of the wages to those subcontractors, it could be a cheaper system. If subcontractors were employed, say, a husband and wife team with one cooking and one working as a house maid/kitchen maid in a smaller hotel, or as a waitress, they could be paid less than they would get under award conditions for the same work, and there is nothing to provide that they get award conditions.

Immediately that situation comes into force, that is, putting out cheaper meals, the pressure will be on the hotel down the road that is doing the right thing and employing workers under award conditions to try and cut its services or match what is happening up the road that has resulted from the use of contract labour. Work can even be contracted to one person. There is no provision in the Bill to prevent that or to ensure that it will apply only to big establishments involving dozens of people, so a contract could be let to one person.

Indeed, it is a backward step, and I do not believe it has been well thought out by the Government. Certainly, I can understand the Government's concern about Leigh Creek, and perhaps that situation has circumstances of its own, but for that situation to be spread without consultation with the union is not good enough. The first that the union knew of this matter (in which it is vitally involved) was on Monday. The union has not been approached by the Licensing Court or whoever advises the Minister, although I understand that the Australia Hotels Association was aware that the Bill was imminent. Evidently the association was approached and some discussions took place. I am not sure, but I believe that it knew what was floating around.

However, the union and its members were not informed. They have a vital interest in the well-being of the South Australian tourist industry and the people of South Australia who celebrate many occasions such as weddings and birthdays in many places which they service, including hotels and clubs throughout South Australia. Those workers now face a direct threat to their livelihood. I will be interested to hear the Minister's reaction, and how he feels about this situation.

The Opposition intends to move an amendment to this clause so that it will not affect those hotels and clubs. As I have indicated, we are not uptight about the Leigh Creek situation, which is another matter and which should be dealt with as a separate measure. *Carte blanche* should not be given for people to move in and ruin—and I say this advisedly—what is a good relationship between workers and management in hotels and clubs throughout South Australia. I have dealt as much as I can with this matter at this stage, but in Committee I intend to say much more and express my concern strongly. The Minister can take it that the Opposition is violently opposed to clause 8. We support other provisions.

Clause 9 repeals section 192 and inserts new subsection (2) which deals with certain conditions, and these conditions may be varied or revoked under subsection (3). The declaration or exemption may also be revoked under subsection (3). Subsection (4) provides:

> Before making a declaration under this section the Governor shall refer the matter to the court for enquiry and report and any interested person shall be entitled to be heard at the enquiry.

Subsection (5) ensures that the declarations are made with respect to premises that are currently or have previously been licensed. Subsection (6) is the traditional provision that brings premises under the new provision. In his explanation the Minister states:

> The Government believes that it should be a requirement instead of an option that the court inquire into an application that premises be declared a historic inn, before a declaration is made. The Government also believes that it should have power to vary conditions under which a declaration or exemption is made and to revoke the declaration or exemption if there is a breach of a condition. To make piecemeal amendments to the existing section is unsatisfactory and accordingly the Bill replaces it with a new section. The new section is designed to ensure that only in proper cases are premises declared historic inns, and to ensure that historic inns do not enjoy trading advantages over their competitors.

The Oppostion fully supports the Government in what it is saying about historic inns, but it is concerned and wants more clarification about the phrase "and to ensure that historic inns do not enjoy trading advantages over their competitors". What does that mean? I know what it should mean. It should mean that the Government, through the Act, will see that the Licensing Court does not issue licences to those premises or withdraw licences from those premises where gimmicks or discounting or the like are involved, so that an ordinary hotel in an area cannot compete in its service to the area.

In regard to hours, it is not difficult to foresee what could happen in historic inns. A situation could arise where an historic inn gets under way and guarantees to do the right thing and then turns to offer beer at prices of the old days. There should be some measure of control to ensure that they could not have the advantage of saying that beer would be available at 1930 prices, say, one hour a day for five days a week or on Saturdays.

It could jeopardise and upset what is presently a viable industry. Members have seen the result of petrol discounting and what happens in regard to beer discounting in bottles in hotels. I am concerned that if a tight rein is not kept on this sort of activity, the same situation involving discounting could apply in historic inns on a gimmick basis. I do not think the Government has grasped the nettle in regard to what is happening in hotels with topless and see-through barmaids and waitresses—

The Hon. R. J. Ritson: How can one see through waitresses?

The Hon. G. L. BRUCE: I refer to the see-through material. I cannot understand how the honourable member's Government can tolerate such a situation, which is discriminatory against women. One could have a situation in a historic inn with wenches of yesteryear being

publicised wearing the clothes of yesteryear or with no gear on at all.

Of course, that is already happening. I think it is scandalous that ordinary working people in South Australia should wait on tables or work behind bars topless or in see-through gear. I cannot understand why the Government has not done something about that situation because it is blatant discrimination of one section of the work force in one particular industry. It is not good enough for John Martins or Myers to do it, but the Government permits it in hotels.

The Hon. R. J. Ritson: Are you opposed to the Prostitution Bill?

The Hon. G. L. BRUCE: Not necessarily, but that is another issue. If the Government passed a law allowing all shop assistants to go topless, I would support it. If one could shop at John Martins and be served by a topless girl, that would be O.K. However, if the Government does not allow it in the retail trading area, why does it allow it in a public place such as a hotel? That situation could place an unfair advantage with historic inns; it does no-one in the industry any good and can only be a blight on the working class of South Australia who must prostitute themselves to hold a job and serve an industry that asks them to do that type of work.

Will the Minister explain what is meant by the term "trading advantages"? What accommodation is envisaged for travellers in relation to clause 4? What is the situation in relation to clause 8, which is a blatant attempt to introduce contract labour into hotels, clubs and licensed premises?

The Hon. C. J. SUMNER (Leader of the Opposition): I support the second reading of this Bill and, in general terms, endorse the remarks made by my colleague the Hon. Mr. Bruce, who has covered most of the matters that concern the Opposition. However, there are one or two matters that I wish to raise. First, section 192, which deals with proclaiming some premises as historic inns, was inserted in the Licensing Act in 1967. The Bill does not do away with the notion that there may be some historic inns which can be proclaimed as such and which would then be subject to certain exemptions.

The Hon. J. C. Burdett: It clears up an anomaly.

The Hon. C. J. SUMNER: The Hon. Mr. Burdett has once again prematurely interjected, but he is correct: it does clear up an anomaly. The anomaly was that the previous legislation did not apply to historic inns that had been licensed prior to, I think, 1932. The Bill certainly clarifies that matter. The other change made by the Bill is that it ensures that before the Governor can make a proclamation that premises should be declared a historic inn, he must refer the matter to the court for assessment. Under the present Act it is optional whether the Governor refers the matter to a court before making the declaration.

If the Governor is compelled to refer the matter to a court, does that thereby require the Governor to accept the court's recommendation? Or, can the Governor still proceed as he wishes without taking any notice of the court's recommendation? I believe a Government would be unwise to do that. Does the Government still have the overriding power? Even if the Governor must now refer the issue to a court, can the Government ignore the decision of that court? In other words, is the court the final arbiter in the matter, or does that power still remain with the Government? I believe that the clause is drafted in such a way that the court makes recommendations and the Government can decide whether or not to accept them. The Government would still have power to override the court's recommendations. Is that the Minister's intention and, if so, does he see any merit in providing a court with the final decision? I do not have a firm opinion on that matter because, under the present Act, it is a matter for the Government.

The other substantial change to section 192 deals with persons who may be represented before a court when an application relating to an historic inn is referred to it. The present Act specifically provides that preservation societies, including the National Trust of South Australia, the Royal Australian Historical Society, the South Australian Chapter of the Royal Australian Society of Architects, and any other body specified by the Minister in a notice published in the *Gazette* all have rights of appearance before the court. Those specific preservation societies have been removed from the Bill and replaced with a clause stating that any interested person may appear before the court. Why has it been necessary to remove these specific societies which have a specific interest in applications of this kind before a court? Can the Minister assure the Council that "interested persons" includes those societies and others of similar kind who could therefore continue to have their right to make representations to the court on an application relating to an historic inn?

Further, will the Minister provide the Council with information about the provisions under which the Governor may exempt an historic inn; that is, the provisions of the Licensing Act which may not apply to an historic inn? One would expect that that does not relate to normal trading conditions or normal trading hours. Therefore, will the Minister provide the Council with an indication of the provisions under which an historic inn can be exempt? I imagine that it relates to accommodation and facilities generally.

I think there ought to be clarification about the Government's having this exempting power, which is quite broad, as to the sorts of guidelines that the Government would use in declaring these exemptions. The other matter to which I wish to refer is section 141, which the Hon. Mr. Bruce has dealt with in considerable detail and which provides for the exclusion of unlicensed persons from interests in profits, and the like, of licensed premises. That section prohibits a number of things.

It prohibits a person holding a licence from having any unlicensed person as a partner, and from permitting, directly or indirectly, an unlicensed person from participating in profits of the business of the licensed premises. It prohibits an unlicensed person from directly or indirectly agreeing with the licensed person to have any interest whatever in the premises or the profits thereof. There are certain other matters, including the fact that a person holding a licence cannot permit any person, who is not otherwise authorised under the Act, from managing, superintending or conducting the business of the said premises.

I believe that the rationale behind the section when it was inserted was to ensure that responsibility for licensed premises honed in on the person who actually held the licence, or the persons, if they were in partnership. The reason was that the privilege of having a licence is such and carries such responsibilities that, if there is a breach of the law, the licensee or the licensees who have been approved by the court should have the responsibility of ensuring that the conditions of the licence are carried out.

I think that section 141 was designed to ensure that principle; in other words, that there would not be, by profit sharing or by delegation of responsibility, a dispersion of the people responsible for the conduct of the licensed premises. If that is the philosophy, one must ask why that situation, which is doubtless in the Act, as

everything else is, as a result of the Royal Commission into licensing laws in South Australia in 1966 under the Chairmanship of Mr. Sangster, Q.C., as he was then, is now being changed.

I believe that the Government needs to provide a much greater explanation of how it is altering section 141 in the manner described in the second reading explanation and amplified in considerable detail by the Hon. Mr. Bruce. The Government has not been frank about this matter. I do not believe that the second reading explanation provides a true explanation of the changes that the Government wishes to make.

There is no doubt that the exemptions that the Government is now allowing the court to permit, such as from the prohibition on profit-sharing and on other people managing or controlling the business, render almost nugatory the prohibitions themselves, because under the new section 141 the court can authorise an agreement or arrangement prohibited by section 141 (l) if that is necessary for the tourist industry of the State, if it relates to the supply by an unlicensed person of meals to persons on licensed premises, or if it is in the public interest. That provides scope for a very broad category of arrangements to be exempted, and therefore renders ineffective, to a considerable extent, the prohibitions now in section 141 (1).

If we accept the principles in section 141 (1) of responsibility for licensed premises, this Bill detracts from them. There may be reasons, but, if there are, the Minister has not given them adequately to the Council. All that an applicant has to say is that an arrangement to contravene section 141 would be in the public interest, would be necessary for the tourist industry, or would enable the supply of meals by an unlicensed person, and that arrangement can be sanctioned by the court, defeating the principal rationale of section 141 (1). I do not believe that the second reading explanation provides sufficient information on that matter, and the Government has not been frank.

There is another matter on which the Government ought to come clean. It should say whether this provision has anything to do with the proposals to establish an international hotel in Victoria Square. Is it designed to ensure that the arrangements entered into by the various parties to that agreement can be put into effect by certain exemptions? I ask the Minister to give the Council that information. It is not mentioned in the second reading explanation but I understand that certain undertakings have been given to the parties to the Victoria Square agreement that amendments to the Licensing Act will be made. I would like to know whether these are the amendments. If they are, I think the Government deserves to be censured for not being completely frank about the matter.

If the Minister can assure us that this has nothing to do with any agreements reached with the Victoria Square hotel promoters, I will fully retract what I have said. However, if it is the case, will the Minister say what amendments to the Act are necessary to ensure that arrangements and agreements with the parties can be put into effect to get a licence that fits in with the arrangements? What are the principal arrangements between the parties that would lead to amendment of the Act? Did the Government undertake to amend the Act to facilitate the hotel? If so, and if these amendments relate to the hotel and to section 141, why was this not mentioned in the second reading explanation?

As I understand it, there was an undertaking or discussion with the Government by the promoters of the international hotel which meant that the Government agreed to introduce amendments to the Licensing Act giving the Licensing Court power to provide for exemption from certain conditions. That is precisely what the new section 141 does. I would like the Minister to come clean to the Council and advise whether these are the intentions referred to by the Government in any agreement with the international hotel consortium. If these are not the amendments contemplated, what are they and when will they be introduced, given that the construction of the Victoria Square hotel has now commenced? I support the second reading of the Bill but, depending on the answers coming from the Minister on the matters I have raised, I may move amendments in Committee.

The Hon. J. C. BURDETT (Minister of Community Welfare): I thank members for their contributions. I believe that the Hon. Mr. Bruce may have prepared his contribution with the interest at heart of members of the Federated Liquor and Allied Industries Union of Australia, of which he was formerly Secretary. I thank him for his moderate and constructive contribution. In regard to clause 4, I can completely reassure him that the kind of club position that he was talking about is not contemplated. It is as simple as this: as the Act now stands a limited publican's licence (the kind of licence normally granted to motels) can be granted only where the premises were specifically constructed for that purpose. That is quite reasonable. However, it is not reasonable in the case of premises which were not initially constructed for that purpose but which may have been altered so that they do comply with the Act and provide adequate accommodation. There is no reason why such premises should not receive a licence. There have been examples in regard to all the amendments. The Victoria Square hotel is certainly one of the examples.

In regard to clause 4, for example, there is a certain historic house which was not constructed for the purpose mentioned in section 20 of the principal Act but which has been purchased to be converted into a motel. I believe that it will be a very stately motel and quite suitable for that purpose when converted. It will be subject to the provisions of the Licensing Act. I am sure that the Hon. Mr. Bruce will agree that there does not seem to be any good reason, if premises were not initially constructed for the purpose but are altered so as to be suitable for that purpose, why a licence should not be granted. There is no suggestion of entering into any sort of activity referred to by Mr. Bruce.

In regard to clause 8 of the Bill, Mr. Bruce was specifically concerned with paragraph *(d)* (2) *(e)* (ii) regarding the supply by an unlicensed person of meals to persons on licenced premises. This certainly would enable the food part of a hotel business to be contracted out. That is what Mr. Bruce was talking about. I understand his concern and am prepared to accommodate his concern. However, I do not agree with him, because we are a free enterprise Government. If the food part of licensed premises was contracted out it would not mean the loss of jobs: someone still has to do the work.

The Hon. G. L. Bruce: At a cheap rate.

The Hon. J. C. BURDETT: It would not be at a cheap rate. Just as much work has to be done, whether it is done by a contractor or by persons who are members of the union. The Hon. Mr. Bruce is trying to be rather over-protective of members of his former union. He used the example of a man and wife taking up the contract and doing all the work. I cannot see anything wrong with that.

The Hon. G. L. Bruce: You would if you saw the wages they got.

The Hon. J. C. BURDETT: They would not get

wages—it would be a small business, and this Government supports small businesses. I can see the cold hand of the union behind what Mr. Bruce says.

The Hon. C. M. Hill: Icy cold.

The Hon. J. C. BURDETT: Yes, icy cold. Nonetheless, I am prepared to accommodate the Hon. Mr. Bruce, as I can see his concern. If this Bill passes the second reading stage, as I trust it will, it is proposed to place on file amendments to delete from clause 8 paragraph *(d)* (2) *(e)* (ii), which relates to the supply by an unlicensed person of meals to persons on licensed premises. We will also cover the position in clause 3. The Hon. Mr. Bruce acknowledged that that has been covered by amendment to section 16 of the Act. The honourable member is quite at liberty to place on file amendments if he wishes.

If the Bill passes the second reading stage we will go into Committee, report progress before we get to clause 8, and make it an Order of the Day for the next day of sitting, which will be Tuesday next. I will ensure that Mr. Bruce has a copy of the amendments before that time and will give him access to an officer of my department to discuss the matter before next week. On Tuesday we can deal with the matter in any way that we please.

In regard to the Hon. Mr. Bruce's remarks on clause 9, relating to historic inns, certainly he will have noticed that the licence can be granted on conditions. I assure him that there is no intention to allow any kind of gimmick selling and no intention to allow Sunday trading, which may apply at present, in regard to historic inns. It is quite likely in many circumstances (and I have discussed this with my officers) that there would not be a bottle store at all provided in historic inns. The principal purpose of historic inns is to enable such inns to be opened up to give the public access and to enable them to enjoy food and liquor and proper entertainment in those places. We would not be contemplating or considering conditions that would allow any kind of gimmick. Probably we will not be looking at bottle stores at all.

In regard to the Hon. Mr. Sumner's remarks on historic inns, he must remember that at present there is no need to refer the matter to the court at all. We are proposing to change that to make it more stringent and to provide that there shall, in all cases, be a referral to the court.

The Hon. Mr. Sumner, as I would expect, has correctly interpreted the Bill and the Government's intention in connection with historic inns, namely, that the court would prepare a report and make a recommendation, but the final power will rest with the Government, and I suggest that that is perfectly proper. Any interested person will be able to apply and, therefore, the specific societies at present mentioned in the Act would certainly be able to apply under that heading. With regard to exemptions, it was accommodation and things of that kind, and possibly some requirements with regard to the building itself, that we had in mind. Under section 141 at present, prohibition is complete and absolute. If any of the things set out at present in that section apply, there is no way at all, however harmless some of the breaches of the prohibition may be, that a licence can be issued.

The Hon. C. J. Sumner: Like what?

The Hon. J. C. BURDETT: One only has to read the section to see that many of the things encompassed could be quite harmless. I do not believe that the Government has been anything less than frank in not mentioning the Victoria Square hotel.

The Hon. C. J. Sumner: That is what this is for. Is this the undertaking the Government gave to the consortium?

The PRESIDENT: Order! The Minister does not have to answer the honourable member's interjection.

The Hon. J. C. BURDETT: Section 141 applies right across the board, and the amendment applies right across the board and not merely to the Victoria Square hotel.

The Hon. C. J. Sumner: Did you give a commitment to the Victoria Square hotel people that you would introduce these amendments?

The Hon. J. C. BURDETT: I am trying to answer the honourable member's questions which he asked during the second reading debate, but he has gone beyond that now. He has got beyond the time when he can properly ask questions. I am replying to the questions he asked previously. New section 141 certainly could have application with regard to the Victoria Square hotel. Certainly, the Government did have that in mind, because there is an arrangement envisaged by that hotel which could be in breach of that section.

The Hon. J. R. Cornwall: Why didn't you mention that in your second reading speech?

The Hon. Frank Blevins: What about Leigh Creek?

The Hon. J. C. BURDETT: Leigh Creek is specifically mentioned in the Bill—the Victoria Square hotel is not.

The Hon. C. J. Sumner: It should have been.

The Hon. J. C. BURDETT: It is still not mentioned in the Bill.

The Hon. Frank Blevins: Neither is Leigh Creek.

The Hon. J. C. BURDETT: It is, and that is the mistake the honourable member makes. Surely we are obliged to mention only things that are in the Bill. With regard to new section 141, the position is perfectly clear. It has been traditional through most of the Licensing Act that most matters can be put to the court and the court has a discretion—that is the whole pattern. The licensing system built up in Australia and the United Kingdom is unique in the court setting. It is not like other courts. The Act in some ways is not like other Acts. A lawyer could read the Licensing Act and, if he had had no experience, he would not know which way he was facing before the Licensing Court, because it is very much a matter of precedents built up, and so on. The general pattern of the Licensing Act is that matters be left to the discretion of the court. Section 141, in its present form, contains absolute prohibitions. It seems to me to be quite wrong that you have something that there is no way of changing unless you come before Parliament. To leave the matter to the discretion of the court in the individual case, which will apply to the Victoria Square hotel as to any other licensed premises or proposed licensees who may apply, is perfectly proper. Therefore, I commend the Bill to the Council. As I said, if the Bill passes the second reading—

The Hon. C. J. Sumner: Why didn't you mention it in the second reading explanation?

The Hon. J. C. BURDETT: Because it is not mentioned in the Bill. I told the Leader that previously.

The PRESIDENT: Order!

The Hon. J. C. BURDETT: Mr. President, as I said before, if the Bill passes the second reading stage, I propose to take it into Committee and to clause 7, report progress and make it an Order of the Day for Tuesday next. In the meantime, I undertake to show to the Hon. Mr. Bruce the amendments I propose and to have him briefed by an officer of my department.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Limited publican's licence."

The Hon. G. L. BRUCE: I thank the Minister for his explanation. However, does this Bill open up the possibility that guest houses and various substandard types of accommodation will come under the Act? I envisage something like the accommodation at Victor Harbor, one

can holiday in one of the numerous guesthouses that accommodate two or three families but do not have a licence. Will this not open the door for such premises to obtain a licence?

The Hon. J. C. BURDETT: No, because all of the conditions of the Licensing Act will have to be met. An application will have to be made to the court and all the conditions of the Act met. The only purpose of this clause was to remove what appeared to me, when it was brought to my notice, to be the present ridiculous provision that those licences can only be granted for premises specifically constructed for that purpose. At present if a premise is constructed for some other purpose but has been adequately converted for use as a motel, which applies for a limited licence, having complied with all the requirements of the Licensing Act, it will not be granted, but there seems to me to be no reason why a licence should not be granted. Conditions will not be changed. This is not an opening of the door, and is not intended as such. It is intended for one purpose only: that, if premises meet all the requirements of the inspector but were not specifically constructed for that purpose, a licence may still be granted by the court.

The Hon. G. L. BRUCE: Subsection (2) of section 20 provides:

> A limited publican's licence shall be granted only in respect of premises specifically constructed and used, or intended for use, primarily for the accommodation of travellers.

Surely clause 4 must open the door wider in that respect. I appreciate that premises have to comply with the Licensing Act, but surely if an old house can be converted to a motel it can also apply to a guest house, where two or three people may be staying, and that opens the door to all sorts of things. I cannot understand how it can be said that they will not come under this provision. If they are prepared to make changes, why would that not apply?

The Hon. J. C. BURDETT: Of course they will not come under it, because they will have to comply with all of the requirements. As the Act stands, the problem was that there was a specific prohibition. It is rather like the position in regard to section 141—there was a specific prohibition. If the premises had not been specifically built for that purpose, there was no way that a licence could be granted. It is the same in section 141. If any of the matters set out are not complied with or are breached, then there is no way at present that a licence can be granted. In regard to clauses 8 and 4 the court does have a means of granting a licence. There is certainly no intention whatever of letting substandard premises be licensed but simply to take away the unreasonable prohibition that, if the premises have not originally been built for that purpose but have been adequately renovated and adapted for that purpose, then it is reasonable in those circumstances that a licence should be granted if all the other requirements are met.

Clause passed.

Clauses 5 to 7 passed.

Progress reported; Committee to sit again.

EVIDENCE ACT AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendments:

> No. 1. Page 1—after clause 4 insert new clause as follows:
> 4a. Section 18 of the principal Act is amended—Evidence by accused persons and their spouses.
> *(a)* by striking out from subparagraph *(b)* of paragraph VI the passage 'or the nature of conduct of the defence is such as to involve imputations on the character of the prosecutor or the witnesses for the prosecution';
> *(b)* by inserting after subparagraph *(b)* of paragraph VI the following subparagraph:
> *(ba)* he forfeits the protection of this paragraph by virtue of subsection (3);;
> *(c)* by striking out from paragraph VIII the passage 'or any right of the person charged to make a statement without being sworn';
> and
> *(d)* by inserting after its present contents as amended by this section (now to be designated as subsection (1)) the following subsection:
> (2) A person charged with an offence is not entitled, at his trial for that offence, to make an unsworn statement of fact in his defence.
> (3) A defendant forfeits the protection of subsection (1) VI if—
> *(a)* the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or a witness for the prosecution;
> and
> *(b)* the imputations do not arise from evidence of the conduct of the prosecutor or witness—
> (i) in the activities or circumstances giving rise to the charge;
> (ii) in the activities, circumstances or proceedings giving rise to the trial;
> or
> (iii) during the trial.
> (4) This section, as in force immediately before the commencement of the Evidence Act Amendment Act, 1980, applies to a trial that commenced before the commencement of that amending Act.
> (5) This section, as amended by the Evidence Act Amendment Act, 1980, applies to a trial that commenced after the commencement of that amending Act whether the charge was laid before or after the commencement of that amending Act.
>
> No. 2. Page 2, line 42 (clause 7)—Leave out 'special magistrate' and insert 'judge of the Supreme Court'.
>
> No. 3. Page 3, lines 1 and 2 (clause 7)—Leave out 'special magistrate' and insert 'judge'.
>
> No. 4. Page 3, lines 6 and 7 (clause 7)—Leave out paragraph (d).
>
> No. 5. Page 3, line 9 (clause 7)—Leave out 'subsection' and insert 'subsections'.
>
> No. 6. Page 3, after line 9 (clause 7)—insert subsections as follows: (2a) Where an order is made under this section authorising the inspection of banking records relating to the financial dealing of a person, and that person was not summoned to appear in the proceedings in which the order was made, the judge shall cause written notice of the order to be given to that person with two years after the date of the order, or such lesser period as may be determined by the judge.
> (2b) The Attorney-General shall, before the 31st day of March in each year, cause to be published in the *Gazette* a notice setting out the number of applications made under subsection (1a) during the preceding calendar year.

Amendment No. 1:

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

> That the House of Asembly's amendment No. 1 be agreed to.

This amendment essentially inserts in the Bill the Government's policy that the unsworn statement should be abolished. We have debated this at some length when the Bill was before us at an earlier stage. A number of points were made then by the Government and amongst them was the fact that the abolition of the unsworn statement is a matter of Government policy. It was

discussed widely at the last election and, notwithstanding the appointment of a Select Committee in this Council (a Select Committee which is now not going to report until 4 March next year at the earliest), the Government is of the view that steps should be taken to abolish the unsworn statement. Certainly, we will have an opportunity to see how it works in practice. I believe it will work as it is intended to work, and that is fairly, with adequate safeguards for an accused person.

I have undertaken already, when the Bill was before us previously, that if there is any unforeseen difficulty with its implementation, and I do not believe that there will be, I will certainly undertake to give this matter urgent consideration. On the advice of what the Government has received in the light of the consideration that has been given to the Government's proposal since the Bill was last before us, it is my view that there will not be any unforeseen difficulties, and the abolition of the unsworn statement at this stage will implement the Government's policy, which is long overdue. Safeguards have been written into the amendments proposed by another place which I did move in this Chamber when the Bill was first before us. They ensure that an accused person will not be at risk in having his or her previous convictions identified to the jury in circumstances where an accusation is made by the accused that statements were obtained by the police under duress or that such a statement was not made but was in fact alleged by the police to have been made. If a statement is given in evidence but the accused alleges that he or she did not make that statement, then again that does not put the accused person's previous convictions at issue. Those areas were the major concerns of the Mitchell Committee and have been incorporated in amendments from another place. I believe this is an important step that we must take, and that is why I believe that this Committee ought to agree to the amendment.

The Hon. C. J. SUMNER: I ask the Committee to oppose this motion that the amendments relating to unsworn statements should be placed back in the Bill. The Government has been completely unreasonable about this. It should have realised that it was defeated in this Chamber, and that a Select Committee was set up so that proper consideration could be given to this issue.

Instead of that, the Government has decided to be childish. The Government has decided to pick up its bat and ball and go home, because it refused to participate in the Select Committee on unsworn statements. It is now attempting to ensure that unsworn statements are abolished without proper consideration, despite the fact that the Select Committee is still taking evidence. The Council should firmly maintain its previous position on this and ensure that no change is made to the practice of giving an unsworn statement until the Select Committee has reported.

The Select Committee has heard evidence from a number of interested parties. I point out that there is considerable interest in the Select Committee. Apart from being childish in its attitude toward this Select Committee and this amendment, the Government is being churlish in the extreme, because the Select Committee requested that the Government make available a research assistant to enable the committee to more quickly deal with its business; that request was refused. However, the Government carries on in this Chamber about a delay in this matter. The Select Committee made a perfectly reasonable request which would have assisted the committee quite considerably in its deliberations, but that request was quite unreasonably refused by the Government. Any delay referred to by the Government can be blamed fairly and squarely on the Government because it has refused to provide the committee with assistance.

This whole matter smacks of a Government that cannot tolerate any amendments to its legislation or any proper investigation of issues. I ask the Chamber to reaffirm its position that at this stage the unsworn statement should not be abolished and that the Select Committee should be able to continue its investigations.

The Hon. K. T. GRIFFIN: There is nothing childish or churlish about the Government's actions as far as the community is concerned. The Government has been convinced not only by its consideration of this matter but by the considerable response from the community indicating that reform is long overdue. The fact that this matter has come back before the Council is a reflection on that attitude. In relation to the Government's attitude towards the Select Committee, I acknowledge that a request was made for a research assistant. However, no research assistant can be made available on a long-term basis for this type of project, but the Leader received an indication that when the committee has reached some conclusions an officer of the Crown Prosecutor's Department will be made available to give advice on the proposals.

The Committee divided on the motion:

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

Noes (11)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, K. L. Milne, C. J. Sumner (teller), and Barbara Wiese.

Majority of 1 for the Noes.

Motion thus negatived.

Amendment No. 2:

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

That the House of Assembly's amendment No. 2 be agreed to.

This amendment provides that in relation to bankers' records an application for access to such records of an individual prior to a complaint being issued should be made to a judge of the Supreme Court and not to a special magistrate. As I understand it, the House of Assembly's concern was that the person who made the order granting access to those records on an *ex parte* application should be a person of the status and experience of a judge of the Supreme Court. I am certainly prepared to accept that that is an appropriate position that should be supported.

The Hon. C. J. SUMNER: Mr. Chairman, I seek your guidance on how this matter should be handled.

The CHAIRMAN: We are dealing with amendment No. 2.

The Hon. C. J. SUMNER: The two amendments are inter-related. Amendment No. 6 relates to the procedure that should be followed to ensure that there is inspection of records under clause 7. The amendment that we are dealing with now merely changes from a special magistrate to a judge of the Supreme Court the judicial authority before which an application for inspection of bankers' records should be heard, and we have no objection to that.

Motion carried.

Amendment No. 3:

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

That the House of Assembly's amendment No. 3 be agreed to.

The basis for supporting the amendment is the same as the basis of our support for amendment No. 2.

Motion carried.

Amendment No. 4:

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

That the House of Assembly's amendment No. 4 be agreed to.

The reason for support is identical to the reason for supporting amendments Nos. 2 and 3.

Motion carried.

Amendment No. 5:

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

That the House of Assembly's amendment No. 5 be agreed to.

This really is consequential upon amendment No. 6 but, as I intend to support some aspects of amendment No. 6, it would be appropriate to support amendment No. 5.

Motion carried.

Amendment No. 6:

The CHAIRMAN: On amendment No. 6, there are two proposed amendments on file concerning proposed subsection (2a). The Hon. Mr. Sumner desires to leave out part of that proposed subsection with a view to inserting a new subsection (2a). The Attorney-General desires to leave out some words and insert others. To enable both to be considered—and I ask members to listen to this, because it is complicated—I will first put the question: that all words in proposed subsection (2a) from "where" in line 1 to "was made" in line 4 stand part of the amendment. If they stand part, the Hon. Mr. Sumner's amendment will not be proceeded with and the Attorney-General will have the opportunity of moving his amendment. If the words are struck out, the Attorney-General will not proceed with his amendment.

The Hon. K. T. GRIFFIN: I have an amendment that seeks to remove from a judge of the Supreme Court the personal responsibility for causing written notice of any order made under this section to be given to a person in relation to whose books the order has been made. The view that has been taken by this Parliament consistently over the past few years has been that the onus for any action resulting from an order of the court should not be placed upon the judicial officer himself or herself but on one of the parties before the court.

My amendment takes up that principle by providing that, where a judge makes an order for inspection of the banking records of a particular person, the court may order that the person who made the application shall give the written notice of the order. So, it is the party before the court and not the judicial officer who must physically give the notice. Related to that is a proposed new subsection that provides that the person who is required to give notice of the order shall, within one month after giving that notice, file an affidavit of service of the notice in the court so that there is a means by which a check can be made as to whether or not that person complied with the order of the judge of the Supreme Court. The package that I propose puts in order the amendment that comes from the House of Assembly.

The Hon. C. J. SUMNER: I will refer with some completeness to the history of this clause, which has given rise to the amendment moved by the House of Assembly. New subsection (1a) of section 49, proposed for the Evidence Act and on which there is at this point no disagreement between the two Houses, provides:

> Where a judge of the Supreme Court is satisfied on the application of a member of the police force that it would be in the interests of the administration of justice to permit the applicant to inspect and take copies of banking records, the judge may order that the applicant be at liberty to inspect and take copies of those banking records.

That was the provision that the Government wanted to insert into the Evidence Act to give the police greater power to inspect banking records. When it came before the Council the first time as part of the Government's Bill, no great attention was paid to that section, which was probably a pity. If the Council had not been so preoccupied with the question of unsworn statements, it might have given more attention to this provision, because it provides for a new power for the police to inspect banking records and, as the provision is at the moment, it does not provide that the police, the court or anyone need give any notice to the person whose banking records are being inspected.

In the flurry of activity surrounding the issue of unsworn statements, this matter was left aside, and insufficient attention was given to it; it passed this Council and went to the House of Assembly, where the Liberal member for Mallee, Mr. Lewis, believed that there should be some provision whereby a person whose banking records were being inspected pursuant to an order of a judge should be given notice within a reasonable time that this order had been made. He suggested that it should be within 30 days. He moved an amendment in the same terms as the amendment that I intend to move.

The Hon. K. T. Griffin: He didn't move it; he put it on file.

The Hon. C. J. SUMNER: The Attorney-General is quite correct. He did not move it but he indicated privately that he intended to move it and circulated copies of his amendment to members of the House of Assembly. That amendment, in effect, was that, where an order had been made for the inspection of banking records and where the person whose banking records were being inspected had not been summonsed to appear before the judge, then the judge should, within 30 days of his making the order, cause written notice of that order for inspection of records to be given to that person.

Also, Mr. Lewis's amendment provided that the Commissioner of Police in each month should publish in the *Government Gazette* a notice setting out the number of applications for inspection of records that had been made during the preceding month and the names of the judges to whom the applications had been made as well as the number of applications granted by each judge. The amendment that I intend to move to the Attorney-General's proposition is to put into the Bill the safeguard which was originally proposed by the member for Mallee, Mr. Lewis. When this proposal was suggested, the Labor members thought that it was perfectly reasonable on the undoubted principle that, if a person is going to have a judicial order made against him, he ought to have some notice of it. If he is going to have his banking records inspected, it is reasonable that he should be given notice of the fact that those banking records are to be inspected. The requirement was not too stringent. It was a requirement to be carried out within 30 days.

So, the Opposition believes that Mr. Lewis's amendment was perfectly reasonable and accordingly supported it in the Lower House. We intend to move an amendment to give effect to it in this Chamber. I am a little surprised that the Government is opposing Mr. Lewis's amendment. I do not believe that it would be exaggerating to say that Mr. Lewis was sat on by the Liberal Party in another place and possibly sat on by the Attorney-General, who is the Minister handling the Bill. I believe that that is the case because the amendment that he eventually moved in the House of Assembly is the amendment which now appears in the schedule of amendments that we are being asked to agree to. The provision is that written notice of any order shall be given within two years of the date of the order. So, Mr. Lewis was apparently browbeaten into agreeing.

The Hon. R. J. Ritson: Not as much as Caucus browbeats you fellows.

The Hon. C. J. SUMNER: I thought that somebody

might say that. However, we are honest about the procedures that we adopt in our Party as to how we arrive at decisions. We accept that decisions that are taken within Caucus and we accept that we abide by them.

Honourable members opposite are much more hypocritical about it. They say, of course, that honourable members have a free vote on the issue, but, when a member in another place moves an amendment which is unacceptable to the Government, he gets firmly sat on. They then con him into moving an amendment which means that notice can be given not within 30 days, as he originally intended, but within two years. Even the Hon. Mr. Burdett would have to agree that the Minister conned Mr. Lewis on that one.

How it is a protection of one's civil liberties to receive notice of an order that one's banking records will be inspected two years after the order is made, I do not know. However, that is apparently the agreement that Mr. Lewis was conned into accepting by the Attorney-General. He extended from 30 days to two years the period in which notice of the order should be given. There is no doubt that he was conned, but that is the amendment suggested to our Bill by the House of Assembly. We believe that the two years is a joke, as does the Hon. Mr. Burdett.

The Hon. J. C. Burdett: I never said that.

The Hon. C. J. SUMNER: The Minister was laughing quite loudly. We feel that we should return to the 30 days that Mr. Lewis originally agreed to. I should say that the member for Mitcham in another place, who has some concern for civil liberties, supported, as did the Labor Party, Mr. Lewis's original proposal.

The Hon. R. J. Ritson: Did he support the two years as well?

The Hon. C. J. SUMNER: I do not think so. He said:

> I think it is far more important, if we are trying to do this, if we are to widen the group of judicial officers who can make orders under this section, that there should be a safeguard in the Act so that those who are affected by it or whose books and records are affected should have some notification.
>
> I do not propose to canvass any amendments, but I appreciate the interest which the member for Mallee is showing in the matter, and I think it would be wise to insert a provision so that there must be notification to a person who is not a party to the proceedings that his books are to be or have been looked at. If an amendment such as that is moved in due course, I shall certainly give it very favourable consideration.

The member for Mitcham, the Leader of the Australian Democrats in this Parliament, was clear in his support for Mr. Lewis's proposition. I hope that members of this place who have expressed concern on civil liberties matters recently will be prepared to accept our amendment. I refer to members such as the Hon. Mr. Burdett and the Hon. Mr. DeGaris who, from time to time, have expressed interest in such issues. That is the reason for our moving this amendment. We believe in principle that there should be some notification within a reasonable time to a person who records are being inspected—not the laughable two years the Attorney managed to con the member for Mallee into accepting. Mr. Millhouse has received representations from the Council for Civil Liberties. Its letter to that honourable member is as follows:

> Dear Robin, I refer to our telephone conversation of 25 November 1980, with respect to the Bill to amend the Evidence Act, in particular that part of the Bill relating to banking records. The Council for Civil Liberties is particularly concerned by the proposed amendment to section 49 of the Act. As we understand it, if this amendment is passed, any police officer may make application to a judge of the Supreme Court, the application being *ex parte*, for an order that he be at liberty to inspect and take copies of banking records of any person, whether that person is a party to any legal proceedings or not.
>
> One may surmise that the purpose of this proposed amendment is to enable the police to investigate the banking records of friends, acquaintances or business acquaintances of any person charged with any offence, to determine whether such friends, acquaintances or business acquaintances are implicated in any dealings with that charged person. There may, of course, be further motives for the proposed amendment, but that motive is quite clear. It is the view of the Council for Civil Liberties that the proposed amendment amounts to a gross invasion of privacy. We find it hard to find any justification for this clear infringement of a citizen's civil liberties.
>
> There is minimal safeguard to the usage of the proposed power. Certainly application needs to be made to a Supreme Court judge, but the application is *ex parte*, and there is no obligation whatsoever for the person whose banking records it is proposed to investigate, to be given any right of appearance. In fact, he need know nothing of the application or any order made pursuant to the application except within two years of the making of the order. It is our view that such investigations should never be launched against people when there is not good cause to believe that they may be implicated in some criminal act. In our view, it is not sufficient cause to say that such a person is on friendly terms or on business terms with a charged person.
>
> There is proposed some sanction to the divulging of any such information obtained. However, it is not difficult to envisage circumstances where information obtained in this fashion could become widespread, to the detriment or at least embarrassment of the person whose records have been so investigated. We urge you to consider the proposed legislation in the light of these remarks, and we urge you to do all in your power to avoid this Bill becoming law.

At the same time, a copy of that letter was sent to me, so the Council for Civil Liberties is concerned about the whole proposal for the inspection of banking records that was introduced into the original Bill. The Parliament has progressed too far down the legislative road to reconsider that issue, although there is no doubt that the Council for Civil Liberties submission raises some very important points.

However, the safeguards against abuse of this provision are, as they point out, in the fact that an application must be made before a judge of the Supreme Court. That judge must be satisfied that the inspection of the records is in the interest of the administration of justice, so the judge would not make the order until the police at least had some *prima facie* case or evidence that an inspection of the records was necessary. In other words, it is not *carte blanche* or an order that the police can obtain in any circumstances. It must be in the interests of the administration of justice, and a judge of the Supreme Court must be satisfied of that. Accordingly, I think that there are some safeguards and that the worst fears of the Council for Civil Liberties ought to be unfounded. One would hope that, if there was any evidence that this provision was being abused, the Government would take some action to ensure that that was curtailed. However, there is no evidence that that will occur at present. As I said, there are some safeguards.

In any event, perhaps if the matter had been raised when the Bill was originally before the Council more detailed consideration could have been given to it. However, we are now too far down the legislative road to return to a further consideration of the clause and, as I have said, there are safeguards that ought to ensure that the power is not abused by any party. However, even though the Council is still prepared to accept that this

power to inspect banking records should be included in the Evidence Act, I believe that we should take some steps to ensure that the person whose privacy is being invaded and whose records are being inspected should get some notice within a reasonable period of the order to inspect.

In some circumstances the judge may order that the person concerned be brought before the court. One would hope that, if there was time, that procedure would be adopted. If it could not be adopted because of time limits, and an *ex parte* application was dealt with, the person whose records were being inspected ought to be given the right to know about it within a certain time. Two years is obviously absurd. Indeed, 30 days is long enough. At least it is a period within which practically the person could be served with the order of which notice was given.

In due course, if the Committee votes with the Opposition on the procedural matter, I will move an amendment to the Attorney's motion. In essence, my amendment will ensure that notice is given within 30 days, rather than two years, to a person who is subject to an order for the inspection of banking records.

The Hon. K. L. MILNE: I am inclined to support the Opposition for almost the sole reason that I would like to see this matter discussed in the calm atmosphere of a conference. I am looking at it from an accountant's point of view and as one who has had to make investigations of books. This is not easily done. Honourable members must realise that inspecting bank records takes a considerable time, and that some investigations take longer than others. I believe that 30 days would normally be too short a period in which an inspection could be undertaken to get proper evidence, much of which would probably be better obtained before the person concerned was notified.

Because of that time that it takes to make an investigation, I think that 30 days is too short a period and that two years is far too long. An inspection will often lead to accomplices or other people who should be investigated. Perhaps the solution is that notice should perhaps be for six months, with the court having power to grant a further three months at a time, or the like. The matter needs more discussion and must be looked at from an accountant's point of view as well as from the legal point of view.

Progress reported; Committee to sit again.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)

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

KENSINGTON GARDENS RESERVE BILL

Returned from the House of Assembly without amendment.

ABORIGINAL LANDS: HUNDRED OF KATARAPKO

The House of Assembly transmitted the following resolution in which it requested the concurrence of the Legislative Council:

> That this House resolves to recommend to His Excellency the Governor that, pursuant to section 16 (1) of the Aboriginal Lands Trust Act, 1966-1975, sections 83 and 84, Weigall Division, Cobdogla Irrigation Area, hundred of Katarapko, be vested in the Aboriginal Lands Trust.

STATE DISASTER BILL

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

PRICES ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 24 September. Page 1060.)

The Hon. B. A. CHATTERTON (by leave): I move:

That the Bill be withdrawn.

Motion carried.

ADJOURNMENT

At 6.5 p.m. the Council adjourned until Tuesday 2 December at 2.15 p.m.