LEGISLATIVE COUNCIL

Wednesday 3 December 1980

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

EVIDENCE ACT AMENDMENT BILL

The Hon. K. T. GRIFFIN: I have to report that the managers for the two Houses conferred together but that no agreement was reached.

PAPERS TABLED

The following papers were laid on the table:

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

Pursuant to Statute—

Supply and Tender board—Report, 1979-80.

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

Pursuant to Statute—

Prisons Act, 1936-1976—Regulations—Variation.

DISTINGUISHED VISITOR

The PRESIDENT: I notice in the gallery the Hon. A. R. Johnson, M.L.C., President of the Legislative Council of New South Wales, and I extend to him a very cordial welcome on behalf of all honourable members. I ask the honourable Attorney-General and the honourable Leader of the Opposition to escort Mr. Johnson to a seat on the floor of the Council to the right of the Chair.

The Hon. A. R. Johnson was escorted by the Hon. K. T. Griffin and the Hon. C. J. Sumner to a seat on the floor of the Council.

PERSONAL EXPLANATION: MARUBENI CORPORATION

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

Leave granted.

The Hon. B. A. CHATTERTON: Over the past few weeks I have been asking questions about the connection between the South Australian Government and the Marubeni Corporation of Japan. This afternoon I found on my desk a diary with the name "Marubeni Corporation, Japan" on it. It is obviously a gift from that corporation. If it is an inducement by the Marubeni Corporation to stop me from asking further questions, it is totally and utterly unsuccessful.

QUESTIONS

SITTINGS AND BUSINESS

The Hon. M. B. DAWKINS: Can the Attorney-General indicate when Parliament is likely to resume after the Christmas adjournment, and can he give some indication of the length of the autumn sitting?

The Hon. K. T. GRIFFIN: I am pleased to be able to inform the Council that the date for resumption in the new year is 10 February 1981. It is not yet certain how long the balance of the session will continue but it will be at least four to five weeks.

ELIZABETH REGIONAL CENTRE

The Hon. J. R. CORNWALL: I seek leave to make a brief explanation before asking the Minister of Housing a question about the Elizabeth Regional Centre.

Leave granted.

The Hon. J. R. CORNWALL: An advertisement appeared in today's *Advertiser* and in at least two interstate daily newspapers asking for interested firms to register their interest in purchasing a long-term lease over the majority of the Elizabeth Town Centre. This is the town centre on which about $4 000 000 has been spent in recent years on improvements in paving, external lighting and other matters and upon which the latest published report of the Housing Trust suggests that more is to be spent.

The town centre is one of the key community gathering places for Elizabeth, which recently celebrated its 25th anniversary. I understand that the centre is conducted along lines that meet many community needs in the area, especially in its arrangements of hours of operation as well as providing a viable commercial service. When word came to the Opposition yesterday that something might be happening to disturb the Housing Trust's continued operations of the centre, a question was asked of the Premier in another place. He was asked whether the Government had decided to sell the centre. He replied simply, "Not to my knowledge."

Observers in the other place noted that the Premier appeared to be surprised by the question, unless of course he is a better actor and dissimulator than he is given credit for. Those who had some advance notice that a firm of letting agents were intending to advertise the availability of the centre for long-term lease or sale (and I must say that there is really very little essential difference between these two) were puzzled (to say the least) at the Premier's apparent ignorance of a decision to sell off such a public asset, especially when so much had recently been spent on improving it. It is surely incredible that such a move could be made by a statutory authority without the knowledge of Cabinet.

Is it conceivable that the Housing Trust could, of itself, without reference to the Government of the day, decide to sell off or lease for a long term the town centre of Adelaide's satellite city—a venture begun by a Liberal Government? The sell-off fits the philosophy of the Government more than that of the Housing Trust. Therefore, does the Minister of Housing make unilateral decisions in these matters, does he consult with Cabinet or the Premier, or was he too taken by surprise by the advertisements that appeared today?

The Hon. C. M. HILL: Matters of major significance affecting the Housing Trust are taken to Cabinet. This matter was referred to me by the Housing Trust.

I approve the Housing Trust's decision, which at that point had been made upon the matter. Perhaps I should explain that the South Australian Housing Trust has been investigating for some time the need to redevelop and modernise the Elizabeth Town Centre. The trust has sought advice from professional consultants in this regard. On that advice, the trust has decided to seek tenders for a long-term lease over the majority of the Elizabeth Regional Centre for the purpose of upgrading and redeveloping the present facilities to meet modern requirements and extending as appropriate to provide additional facilities for the future. The trust has decided to

take this major step in order that the necessary funds to upgrade and develop the regional shopping centre could be raised without diverting funds away from its major task of providing much needed rental housing. I hope that the honourable member who asked this question is as interested in providing this urgently needed rental housing for people on low incomes in this State as he is in the question of the Elizabeth shopping centre.

This initiative by the trust will make it possible for private sector financial resources to be made available for the upgrading of the present Elizabeth centre. As the purpose of the centre is commercial, the Government believes that this approach is an excellent one. In seeking tenders for the long-term lease, the trust is carrying out negotiations with the existing tenants in order that their rights and needs will be preserved. Meanwhile, discussions are being held with the existing freeholders, including a large department store, to determine the best method of arranging for the majority of the site to be involved in the overall scheme. The arrangements being sought by the trust in relation to the Elizabeth Regional Centre are substantially the same as those in effect at Noarlunga. If successful, granting of a long-term lease would mean capital inflow to the trust, as well as an annual income. The return envisaged would then be available to meet the heavy demands for rental accommodation for families and individuals in need.

The Hon. J. R. CORNWALL: I wish to ask a supplementary question. Did the Premier know of the decision to call for a long-term ground lease at Elizabeth? At what time would he have known? Has the Minister or any other member of Cabinet held any discussions with Myers concerning the proposed development at Salisbury or the possibility of leasing the Elizabeth Town Centre?

The Hon. C. M. HILL: The Premier did not know, to the best of my knowledge, of the proposal by the trust to seek development at Elizabeth in this way. I do not know of the exact discussions that might have involved Myers in regard to Salisbury. Most certainly, that is not a supplementary question on this matter at all; it is an entirely different issue.

VEHICLE REGISTRATION

The Hon. C. W. CREEDON: I seek leave to make a brief explanation before directing a question to the Attorney-General relating to the payment of registration and insurance to the Motor Registration Division.

Leave granted.

The Hon. C. W. CREEDON: On or about 14 November an acquaintance of mine purchased a new car, payment for which included $409 for duties, registration etc. On Friday last, 30 November, the purchaser of the car was informed in writing by the Motor Registration Division that the cheque from the dealer paying for the registration and duties had been dishonoured and that, unless another $409 was paid by today, legal action would be commenced immediately. I have been informed that the company that sold the vehicle, known as John Frieth Motors or Fair Deal Motors, of Gawler (I do not know by which name it is more popularly known), was placed in the hands of the Official Receiver on 18 November. I believe that the action of the dealer was dishonourable because he must have known on 14 November that he was in financial trouble. The department's action is no less reprehensible, involving such harsh action being taken so long after a cheque was received and the required registration and insurance were issued. The department, once having accepted a cheque and having issued the registration certificate, should, like every other business enterprise, honour its dealings and make claims against the Official Receiver. I indicate that this was a fortnight after the registration had been paid. Probably, the only way to solve this problem is to separate the payments made to the dealer. I know that the department suggests that that is the way it should be done, but people have always paid one cheque and trusted the dealer, who is often a salesman or a friend of the buyer in suburban or country areas; he is well known to the people with whom he is dealing, and it is hard to change this practice.

Will the Government insist that, once having accepted a cheque and having issued registration, the department is bound in the same way as are other business enterprises? Secondly, will the Government enact legislation to force dealers or require car purchasers to separate payments for cars so that money paid for registration, stamp duty and insurance is used specifically for that purpose?

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

SELECT COMMITTEE ON URANIUM RESOURCES

The Hon. M. B. DAWKINS: I seek leave to make a short statement before asking the Minister of Community Welfare a question about the Select Committee on Uranium Resources.

Leave granted.

The Hon. M. B. DAWKINS: The Select Committee to which I refer was appointed over 12 months ago on 7 November 1979 and, as I believe it is entitled to do, it has adjourned from place to place and has taken evidence in various parts of the Commonwealth of Australia. Can the Minister ascertain the costs to this State so far of the inquiries of this committee, and will he say whether he is of the opinion that the committee is ever likely to bring down a report?

The Hon. J. R. CORNWALL: I rise on a point of order. I think that question is completely out of order under Standing Orders.

The Hon. K. T. Griffin: Under which Standing Order?

The Hon. J. R. CORNWALL: Under the Standing Order which provides that one cannot refer to or debate matters that are before a Select Committee of this Council.

The PRESIDENT: Order! I understand your point of order. As the Hon. Mr. Dawkins has made no reference to the proceedings of the Select Committee, the point of order is not upheld.

The Hon. N. K. FOSTER: I rise on a further point of order, Mr. President. I am concerned about the manner in which this question has been raised in this Council. Should information be divulged in this Council regarding the areas of the Commonwealth that the committee has visited and the costs involved? It would be easy for anyone in this Council to work out what the committee has been involved in and, therefore, to breach the Standing Order—

The PRESIDENT: Order! That is not a point of order. None of those matters was raised. I will judge the position as it relates to Standing Orders as the Minister proceeds with his reply.

The Hon. J. C. BURDETT: One part of the question was whether I considered whether the committee would reach any conclusion. The committee is still hearing evidence, and it would be quite inappropriate for me to comment on whether the committee can reach a conclusion. In regard to the cost, I will take advice from the Secretary and consider whether I think it is proper that

the cost should be disclosed to Parliament at this time. If I am advised that it would be proper, I will advise the honourable member.

The Hon. N. K. FOSTER: I desire to ask a supplementary question. Will the Minister of Community Welfare be guided by the submissions made to the committee and the discussions and decisions of that committee as to whether he will report to Parliament or wait until such time for the committee to report?

The Hon. J. C. BURDETT: I have said that I will take advice on the matter, and that I will do.

PROFESSIONAL LIABILITY INSURANCE

The Hon. FRANK BLEVINS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Premier, a question about professional liability insurance.

Leave granted.

The Hon. FRANK BLEVINS: I have been approached by many nurses, particularly those who are professionally isolated (for example, agency nurses), who are worried about the risk of suits against them for negligence. Even those apparently covered by their employer (vicarious liability) are aware of the risk of action against them on the basis of claimed expertise. My understanding is that nurses want access to liability insurance and cannot get it. I believe this denies nurses a service and patients a right. After all, what is the point of an aggrieved patient trying to recover damages for negligence if the nurse is penniless? I believe that insurance companies approached by individual nurses are loath to discuss the matter, although one, I understand, is apparently investigating the possibility of insuring another semi-professional group (teachers), and I am referring to S.G.I.C. I think it would be a significant advance for both patients' and nurses' rights if S.G.I.C. could be persuaded to enter this field. First, is the Minister aware of the desire among many nurses for access to personal indemnity schemes against professional negligence suits? Secondly, does the Minister realise that the absence of such insurance effectively pre-empts patients from exercising their right to redress in cases of professional negligence? Thirdly, will the Minister ask the State Government Insurance Commission to liaise with nursing organisations so that nurses can be provided with indemnity against suits in professional matters?

The Hon. K. T. GRIFFIN: I will refer those questions to the Premier for his consideration and bring down a reply.

CLUB LONDON

The Hon. C. J. SUMNER: I seek leave to make a brief explanation before asking the Attorney-General a question about Club London.

Leave granted.

The Hon. C. J. SUMNER: Recently there has been a certain amount of controversy about the *bona fides* of an organisation known as Club London, which I understand is attempting to establish some kind of club premises in Adelaide. I understand that certain complaints were made about the activities of this type of organisation and that as a result of that an investigation was ordered by the police, through the Fraud Squad, into the *bona fides* of this organisation.

I further believe that a Crown law opinion was obtained following the investigation by the Fraud Squad, but I do not know the result of that investigation. It is clear that Club London is still advertising for patrons: advertisements appeared in the *News* last Thursday and Friday announcing the opening of Club London and suggesting that the club was booked out for the Friday and Saturday night dinner dance. I do not know whether the club opened last Friday or Saturday, but I do know that some doubt has been expressed about the *bona fides* of this club and that the police have carried out an investigation. Will the Attorney-General say whether an investigation was carried out into the *bona fides* of this organisation and, if so, what was the result?

The Hon. K. T. GRIFFIN: I do not have that information readily available, but I will refer the matter to the appropriate officers and bring back a reply.

MENTAL HEALTH PATIENTS

The Hon. ANNE LEVY: I seek leave to make a brief statement before asking the Minister of Community Welfare, representing the Minister of Health, a question about the rights of mental health patients.

Leave granted.

The Hon. ANNE LEVY: Section 16 of the new Mental Health Act, which was proclaimed last year, states that any persons admitted to a mental health institution either voluntarily or involuntarily are to be given a statement regarding their legal rights. I previously asked in what languages this statement was written, and I received the reply that copies of the statement are currently available in English, Italian, Greek, Serbo-Croat, and Vietnamese to cater for people who are familiar with those five languages. Various people have complained that, when being admitted to a mental hospital, they have not been given this form stating their legal rights, and their relatives state that they also have not received any such form.

I realise that, when some people are admitted to such an institution, they may be temporarily not quite capable of realising whether or not they have received such a document, but I understood that in such cases every attempt was made to provide the form to their relatives so that it could be passed on to the patient at a later stage. I repeat that there have been several reports of patients and their relatives claiming that no such form was provided. Will the Minister consider devising some method whereby we can be sure that the form or statement is presented to every patient admitted to such hospitals? I would suggest that consideration be given to such methods as having the patient or a relative sign for the form or, if that is not possible at the time, some other person signing for the form on the patient or the relative's behalf. If a record is kept of such signatures, it would act as conclusive proof that the law had been complied with and that the statement had been provided to every person admitted.

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

ROAD SAFETY CENTRE

The Hon. G. L. BRUCE: Has the Attorney-General an answer to a question I asked on 29 October regarding the Road Safety Centre?

The Hon. K. T. GRIFFIN: The Minister of Transport advises that the maintenance of the grounds of the Oaklands Park Road Safety Centre had been carried out by the Corporation of the City of Marion since the centre's opening in 1972. However, in line with the present Government's policy, tenders were invited for the work with a contract subsequently being let. The present position is that tenders have again been called for this

work and the Marion council has been invited to tender. It is expected that the matter will be finalised shortly.

URANIUM MINING

The Hon. J. E. DUNFORD: I seek leave to make a short statement prior to asking the Attorney-General, representing the Minister of Mines and Energy, a question about uranium mining.

Leave granted.

The Hon. J. E. DUNFORD: Last weekend, watching a segment of the Channel 2 programme *Four Corners*, although I learnt nothing new from the programme about this matter, I became even more concerned about the people who are required to mine uranium. I would not ask a person to do something that I would not be prepared to do, and, as an ex-miner, I have pointed out in the Council several times the dangers of radon gas. In this segment of *Four Corners*, miners (men 50 years of age, around my age, who had families) were shown to be dying of cancer, and there was no doubt in the minds of doctors that the cancer was a result of uranium contamination through working in mines.

The programme further depicted children sliding down a uranium tailings dump, as they slide down the sand dunes at Port Noarlunga, and the dump was referred to as a lethal playground. Even the houses in which the miners and their families lived were contaminated by uranium. The segment was filmed in New Mexico, Mexico and Minneapolis between 1977 and 1979. Bearing in mind that uranium mining has been going on for over 50 years in America, I believe that the American people were given assurances by the Government that there would be protection for the miners, that there would be safeguards at the dumps, and that the public need have no fear or concern in this regard.

The same assurances have been given by Mr. Goldsworthy. When he came back from overseas recently, he stated that he was satisfied that waste from nuclear reactors could be harnessed under the Swedish system of storing it in marble and burying it deep in the ground. Only one day after that statement was made, it was refuted by a well known Tasmanian scientist, who had spent several months in Sweden studying the same process as Mr. Goldsworthy studied. As a result of the *Four Corners* programme, I have spoken about it to many people, and many others have contacted me to ask what I will do about the situation. I have made quite clear that I would put a question to Mr. Goldsworthy to find out what he will do about it. Will the Attorney-General ask the Minister of Mines and Energy whether he will view last weekend's segment of *Four Corners* and, after doing so, will he answer the following questions:

1. How will the dangers to the population from the tailings dumps be dealt with?

2. How will the extraction of radon gas from the mines into the atmosphere be dealt with?

3. What assurances can the Minister give the South Australian public that what is happening in America, New Mexico and Mexico will not occur in South Australia?

4. If there was a release of some quantity of radon gas into the atmosphere above Roxby Downs, what would be the resultant effect on the population of South Australia?

5. What action will the Minister take to stop the children playing in uranium tailing dumps as shown on the *Four Corners* programme and referred to as a lethal playground?

The Hon. K. T. GRIFFIN: I will refer that question to the Minister of Mines and Energy and bring back a reply.

OVERLAND EXPRESS

The Hon. M. B. DAWKINS: Has the Attorney-General an answer to my question of 26 October on the Overland express?

The Hon. K. T. GRIFFIN: The problems of the Overland are of considerable concern to the South Australian Government. Numerous conferences have been held by the Australian National Railways Commission with the Victorian Railways Board in an endeavour to improve the performance of this train and, in fact, all trains operated between South Australia and Victoria.

Whilst progress has been made with the upgrading of facilities on the South Australian side of the border, little has been achieved in Victoria. Main constraints to "on time" running in Victoria are the poor condition of the track resulting in the imposition of numerous speed restrictions, lack of sufficient long crossing sidings to enable the passing of the longer trains now operating, and the shortage of locomotive power. However, the Victorian Railways are instituting a seven-year programme to upgrade the line between Melbourne and Serviceton. This programme will include relaying of the track and construction of a number of longer crossing loops.

My colleague the Minister of Transport (Hon. Michael Wilson) has taken up the matter of the late running of the Overland with the Australian National Railways Commission and the Victorian Railways Board with a view to improving its reliability and "on time" performance as an inter-capital city service.

NUCLEAR ATTACK

The Hon. BARBARA WIESE: I seek leave to make a brief explanation prior to asking the Attorney-General a question on a nuclear attack.

Leave granted.

The Hon. BARBARA WIESE: Some weeks ago I raised the question of the possibility of a nuclear attack on the U.S. military base at Nurrungar, which is located within the Woomera restricted area, some 500 kilometres north-west of Adelaide. I asked the Attorney-General what would be the effects of fallout from a nuclear strike on this base and I asked what would be the probability of wind speed and direction being such that fallout could reach Adelaide in the event of such a nuclear attack. The Attorney-General's reply did not cover any of the points I raised in my question, and it indicated to me that the Government does not take this matter at all seriously. The reaction of members opposite, when I began my question, confirms that viewpoint. So, I wish to present a few facts to the Government in an endeavour to convince it that this matter is a very serious one and that a State Government with any regard for the people that it purports to represent should be seriously thinking about the role it would play following a nuclear attack on Nurrungar.

Nurrungar, like Pine Gap, fulfils vital functions in the new United States nuclear war fighting doctrine. Three U.S. intelligence organisations—the National Reconnaissance Office, the Central Intelligence Agency, and the National Security Agency—are known to be centrally involved in its operations. Amongst its many functions, Nurrungar plays a crucial role in the U.S. defence support programme, which gives the U.S. early warning of Soviet missile attack. Details of all the programmes with which Nurrungar is involved are outlined in Dr. Des Ball's new book *A Suitable Piece of Real Estate—American Installations in Australia*, which has received considerable publicity recently. Dr. Ball's book demonstrates beyond

all possible doubt that the U.S. bases in Australia are logical targets in the event of a so-called limited nuclear war with the Soviet Union. Most strategic experts now believe that the possibility of such a war is more likely today than it was five years ago.

Therefore, will the Attorney-General say whether the Government has considered the possibility of a nuclear strike on Nurrungar? Does the Government agree that in the event of such a nuclear strike it would be required to play a role, at least in the initial stages, in any emergency operations which would follow such a strike? Will the Government take action immediately to ensure that an appropriate emergency plan of action is devised, perhaps in conjunction with the Defence Department or other appropriate bodies, to ensure maximum safety and security for the people of South Australia?

The Hon. K. T. GRIFFIN: I will refer those questions to the appropriate Minister.

MURRAY RIVER SYSTEM

The Hon. N. K. FOSTER: I seek leave to make a brief exaplanation before asking the Minister of Local Government, representing the Minister of Water Resources, a question on the Murray River system.

Leave granted.

The Hon. N. K. FOSTER: I have raised this question for some 20 odd years. I will not resile from what I said earlier about the fact that the Murray River is very important to the State. The Attorney-General dealt with me badly in connection with a question I asked about attempting to co-operate with the Premier and with the Governments of New South Wales, Victoria and possibly the Australian Capital Territory in widening the River Murray Waters Commission, with the purpose of turning westwards a number of rivers in the Great Dividing Range inland from Port McQuarie. The aim would be to achieve a flushing effect not only on salinity but also on pesticides and other pollutants evident in the Murray River system. It is something that should not be regarded as being unachievable. Had that been the attitude that was allowed to prevail in respect of the Snowy Mountains Authority, we would never have seen Sydney and Melbourne being relieved of peak load power problems. South Australia was not considered to be able to benefit in any way. One can consider transmission problems associated with that work in the mountainous country north of the scheme to Sydney and south to Melbourne. It would have been more difficult than going across the plains to Renmark. The Premier of the day did not see that argument. It would seem that the people of South Australia have now been lulled into some feeling of false security because of the possible commencement of the Dartmouth scheme. Will the Minister initiate a conference between his opposite numbers in the Federal, New South Wales and Victorian Governments in respect to a proposal which would have for its purpose vastly increased volumes of water in the Darling River to ensure a cleaner flow of non-pulluted water into South Australia, with considerable spin-off benefits to New South Wales and possibly Victoria?

Secondly, would he consider the matter as being one of extreme urgency, because the existing River Murray Waters Commission is such that its powers are not sufficiently wide to embrace such a scheme? Also, I am prepared to discuss with the Minister a scheme that has had the scrutiny of university engineers over the past 20 years.

The Hon. C. M. HILL: I am quite happy to refer the honourable member's request to the Minister of Water Resources in another place. Whilst I commend the Hon. Mr. Foster for his interest in this subject and for the manner in which he has displayed that interest from time to time in this Council, I think it is only fair to point out that the Minister also has an extremely deep interest in this whole matter. The Minister lives in the Riverland, as did his forebears. He knows the communities which are established along the Murray River in South Australia exceedingly well and he is extremely concerned with the problems of the Murray River—pollution, the need for adequate flow from the other States, and the seriousness of the situation for the whole South Australian community if South Australia does not obtain a fair deal with regard to this matter. Therefore, I know that the Minister will be interested in the questions that the Hon. Mr. Foster has posed today. I will bring back a reply tomorrow, if I can get it in time for tomorrow's sitting.

DEPARTMENTAL CARS

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

Leave granted.

The Hon. B. A. CHATTERTON: Over the last few weeks I have been in contact with a number of Woods and Forests Department officers. They have expressed to me confusion and disquiet over the Government's policy as to which officers are allowed to take departmental cars home and drive them to and from work. They seem to be confused as to what the policy guidelines are which are used to determine who will be allowed to use those cars. They also seem to be fairly confused as to the implementation of the guidelines, if they exist. Will the Minister say what are the guidelines that are used to determine which officers are permitted to use Government cars to drive to and from work, and who implements those guidelines? Also, are there any exceptions to the guidelines and, if so, how many?

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

KANGAROO ISLAND LAND

The Hon. J. R. CORNWALL: I seek leave to make a brief statement before asking a question of the Minister of Community Welfare, representing the Minister of Education, about the ecological survey of unallotted Crown land on Kangaroo Island.

Leave granted.

The Hon. J. R. CORNWALL: In response to the wide-ranging public controversy that has been going on concerning unallotted Crown lands on Kangaroo Island, and particularly their alienation in connection with farming, the Government recently did a cover-up job and announced that the Department for the Environment, the Lands Department and the Agriculture Department would each be allocating officers to be involved in surveying the area using their particular expertise. The survey proposed by the Department for the Environment, I understand, is being referred to widely within that department as a political survey. It is being referred to as a political survey for the simple reason that the people who have the expertise to do it, the senior officers in the department, are not involved.

The technology and techniques available, for example, within the Ecological Survey Unit are simply not being involved in the survey. It would seem, in the circumstances, that it is, as I said at the time it was announced, going to be a sham. When will the survey be conducted; what survey methods and techniques will be used; how many officers from the department will be involved; what are their names, qualifications and classifications; what will be the duration of the survey; and perhaps most importantly, why is the very considerable expertise of the Ecological Survey Unit not being used?

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

DEPARTMENTAL TELEPHONE DIRECTORY

The Hon. ANNE LEVY: I seek leave to make a brief explanation before directing a question to the Minister of Community Welfare, representing the Minister of Public Works, about the departmental telephone directory.

Leave granted.

The Hon. ANNE LEVY: On my desk upstairs I have a departmental telephone directory which gives the P.A.B.X. numbers for many South Australian Government departments in Victoria Square which can be contacted through that system from Parliament House. That directory is very out of date. I do not know when it was printed but, on checking it recently, I saw that it lists the Premier as the Hon. D. A. Dunstan, the Women's Adviser as Deborah McCulloch, the Minister of Health as the Hon. D. H. Banfield, the Executive Assistant to the Premier as Bruce Guerin, and so on. Nowhere is there a number for Mr. Ross Story. Three of four months ago all House of Assembly members received an updated directory which was sent to their electorate offices. Will the Minister say why Legislative Council members were not issued with the updated directory at the same time as House of Assembly members, and can we have an updated copy as soon as possible?

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

HOSPICES

The Hon. L. H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Community Welfare, representing the Minister of Health, a question about the hospice movement.

Leave granted.

The Hon. L. H. DAVIS: In the debate in this Council a little while ago about natural death, reference was made to the hospice movement. That movement has a philosophy of care for the terminally ill where care has replaced curing as a prime objective. The first modern hospice was opened in Britain in 1967 at St. Christopher's in London by a religious foundation. There are now over 40 smaller hospices in Britain. The hospice movement has gathered momentum and there are now many in America. Hospice care is intended to assist the terminally ill to maintain a personally acceptable quality of life until death. It offers not only medical treatment but comfort of mind and spirit for the dying patient and family. The family is included in the unit of care. The hospice movement teaches a new attitude towards dying and death. Most hospices are small with 25 to 50 beds in a building with facilities and decor more like a home than a hospital. They are used extensively for training doctors, nurses, medical students, clergy and social workers in the care of the dying. Hospices were initially created, as I mentioned, by private support; for example, in Britain by religious and medical foundations and service groups such as Rotary. In Australia there is a hospice attached to Sacred Heart Hospital in Sydney and a form of hospice in the Mary Potter Nursing Home in Calvary Hospital in Adelaide, although it could not be called a true hospice because the true hospice cares only for the terminally ill.

Generally speaking, the length of time a patient spends at a hospice may be as short as two or three weeks. Can the Minister advise whether the Health Commission has evaluated the merit of the hospice movement and whether the Government would encourage religious or medical foundations or service groups to establish a hospice or hospices in a manner which would complement the existing health facilities?

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

KANGAROO ISLAND LAND

The Hon. B. A. CHATTERTON: Has the Minister of Community Welfare a reply to the question I asked about Kangaroo Island land on 5 November?

The Hon. J. C. BURDETT: After an exhaustive examination of Department of Agriculture records and documents, my officers have been able to identify only one soil survey conducted on Kangaroo Island which has relevance to the area of unallotted Crown land under discussion.

This survey of 52 000 acres of Crown lands in the hundred of Ritchie and part hundreds of McDonald and Duncan was carried out in 1952 by the Lands Development Executive (McHugh and Wright) for the Department of Lands. The results of that particular survey may have had different interpretations placed on them by different organisations. The survey is not the property of the Minister of Agriculture. If the honourable member knows of another survey my officers will be happy to see if they can obtain a copy.

As announced in a Ministerial statement on 14 November by the Minister of Environment, the Government is establishing an inter-departmental working party to advise the Government on the costs and benefits of clearing approximately 15 000 hectares of unallotted Crown land on Kangaroo Island. The Department of Agriculture will be providing inputs into that investigation with special reference to economics to the individual landowner and the community at large and will be commenting on the allegations of a potential salinity problem which is not currently evident in the surrounding developed region. I cannot say whether the Government will make the results of these studies available to the Parliament.

TEACHERS ON CONTRACT

The Hon. BARBARA WIESE: Has the Minister of Local Government a reply to the question I asked concerning teachers on contract with the Department of Further Education?

The Hon. C. M. HILL: Currently there are 74 officers engaged on limited tenure of whom 27 are to cover the temporary absence of permanent officers absent from duty. These appointments will lapse on the return to duty

of the permanent staff concerned. The remaining 47 officers have been appointed on a temporary basis for periods up to three years. Following the annual budget review of programmes and student demand, there has been some reduction and redeployment of resources and, as a result, 14 temporary officers have been advised that their appointment would not be extended. Three officers have been offered extensions. The remaining 30 officers contracts are not due for renewal at this time.

REPLIES TO QUESTIONS

The Hon. ANNE LEVY: I seek leave to make a brief statement before asking the Attorney-General, as Leader of the Council, a question about answers to questions.

Leave granted.

The Hon. ANNE LEVY: There seems to be some delay in getting answers to questions which members on this side of the Council have asked. I have done a count and found that I have 11 questions that have been unanswered. Admittedly some are fairly recent questions but there is one outstanding from the Minister of Health asked over seven weeks ago on 22 October; another one asked of the Minister of Environment on 30 October, which is six weeks ago; one asked of the Minister of Education on 5 November; one asked of the Premier on 6 November, which is five weeks ago; and two questions asked in the Budget Estimates debate on 30 October, which is over six weeks ago.

The Council may cease its sittings tomorrow, and it would seem to me to be most unlikely that I could get answers to all 11 question by tomorrow. Even if the sittings are extended to next week it would be unlikely that all the questions asked by members of this side would be answered by then. Can any questions that remain unanswered before the Christmas break be answered by post during January and the answers be printed in *Hansard* without being read out when the Council resumes on 10 February?

The Hon. K. T. GRIFFIN: I can give no undertaking about what the practice will be when we resume on 10 February, but I can say that we will follow the usual practice that has been followed in the past, that is, when there is a long break between periods of sitting, Ministers will ordinarily communicate the replies to members by letter. Those answers to questions will, of course, be available when we resume.

LEAD-FREE PETROL

The Hon. J. R. CORNWALL: I move:

That in the opinion of this Council the Government should immediately begin to plan for the introduction of lead-free petrol, particularly in view of the fact that technology is now available to do this without fuel penalties. The Council urges the Government to support the stand taken by the New South Wales Government at future meetings of the Australian Transport Advisory Council and the Australian Environment Council.

Some weeks ago I raised the question of atmospheric lead levels in Adelaide. At the time, I pointed out that readings taken in West Terrace and in Port Adelaide over the last two years, particularly in winter and spring, had consistently been more than double the maximum allowed by the National Health and Medical Research Council. They were almost as high as readings taken in the central city area of Sydney.

The Minister of Environment's only response was to announce the Government's intention to acquire more air sampling equipment at a cost of $10 000. I suggest his response was a sick and tragic joke.

Other sources who, like the Minister, seem to think that our children's future is not at risk or alternatively who do not care, claim that exhaust emissions are not the major source of blood lead in children. They claim that most lead which is subsequently found in blood levels comes from the food chain.

I want to put that to rest immediately. There is overwhelming evidence to support a direct correlation between atmospheric lead from exhaust emissions, blood-lead levels in children, and harmful effects on their central nervous systems. There is an immense amount of literature available. Let me summarise some of it by courtesy of the Natural Resources Defence Council of the United States.

At present, motor vehicles represent the major source of atmospheric lead, contributing approximately 90 per cent of airborne lead emissions. As much as 95 per cent of this exhaust lead has been estimated to be associated with particles of less than one micron. In other words, it is very readily inhaled.

Studies from the United States, particularly in New England and New York City, show that ambient lead from car exhausts is a substantial contributor to the high blood lead levels being found in many children. In addition to being inhaled, small particles of lead may coagulate into larger particles to fall out as dust. Lead in dustfall is a further health problem in urban areas, especially affecting children who play near city streets and roadways.

It has been estimated that in the United States between 250 000 and 600 000 children, one to six years old, have blood levels over 40 μGM/100 ml. The United States E.P.A. has recognised that adverse effects of lead have been observed at blood levels of 15 μGM/100 ml and lower. Inhaled lead is absorbed into the body to a greater degree than lead which is ingested. Lead particles deposited in the lungs are absorbed into the blood at about three times the rate of that from food. Furthermore, children retain more lead through inhalation than adults. Acute effects of lead as a cumulative poison affecting the central nervous system are well known. However, the subtle chronic, long-term effects of lead are likely to go unrecognised. These include diminished intelligence, nervousness, impairment of co-ordination and mechanical dexterity, and general fatigue. There is growing evidence that long-term chronic lead exposure may cause brain damage, behavioural problems and neurological impairment in children exposed both before birth and during early childhood.

In 1979, the results of a 2½-year study by Garnys, Freeman and Smythe entitled *Lead Burden of Sydney Schoolchildren* were published by the University of N.S.W. The study found that up to 22 per cent of children tested had blood lead levels in excess of the level of concern (30 μGM per 100 ml). There has been some major criticism of this report, principally by the oil industry. One major criticism was that the blood samples were obtained by the capillary or pipette method. That is pure conjecture and has been rejected by Professor Smythe on several grounds, including check samples which were taken by venipuncture, in other words, taking blood direct from the veins. The second is that the results were not reproduced in a smaller study in Melbourne using blood obtained direct from veins. That is hardly surprising since atmospheric lead levels in Melbourne have been shown to be very substantially lower than in Adelaide or Sydney.

There is another extremely important reason for moving to lead-free petrol. The technology now exists for reducing other exhaust emissions using catalytic converters or after-burners. Put simply, this involves adjusting the engine to run as economically as possible without regard to manifold emissions. The emissions are then reduced dramatically by "after burning" in a catalytic converter. Catalytic converters seem most certainly to be the mechanism that will be used in the future. The important additional point to remember when considering the use of catalysts is that they can only be used with lead-free petrol, because lead destroys the catalysts. The Minister of Environment, in reply to questions which I asked recently, said:

> 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.

That is an interesting, though rather ill-informed, statement. The major vehicle manufacturers in this State are strongly in favour of catalytic technology. If the Minister had done his homework he would know that on this occasion he can simultaneously be on the side of General Motors and the angels. The Americans, the Japanese and most European manufacturers have long since developed and are using lead-free technology. We are not being asked to buy something experimental. Automobiles using catalytic converters and lead-free petrol have been in use in the United States since 1974.

It is admitted that there is a small fuel penalty at the refinery. This is of the order of 2 to 5 per cent. Against that, General Motors claim a fuel saving in the vehicle of 12 per cent, Toyota 20 per cent, and other Japanese makers up to 30 per cent. The real reason why the oil industry opposes the introduction of lead-free petrol is not because of the relatively small penalty at the refinery, but because they will have to spend more money to change their refineries to this use. With the enormous profits which they are currently making it is well within their capacity to spend that money. What the oil industry counterproposes is the use of lead trap filters. These would be fitted at a cost of more than $200 by every motorist. In other words, the oil industry is saying that the motorist would pick up the bill for an oil industry flush with profits.

Furthermore, unlike catalytic converter technology, lead trap filters are unproven. No independent tests have been carried out on them and no country in the world is using them! In a recent report the Commonwealth Department for Science and the Environment concluded that lead trap filters could not stop the growth of lead emissions to the atmosphere in the long term, let alone reduce them. The New South Wales Government has decided that 92 octane lead-free petrol is to be available for sale at all retail petrol outlets in that state from 1 July 1984. New South Wales argues convincingly that the introduction of lead-free petrol will provide a cost effective, fuel efficient and positive means of reducing air pollution generally. At the same time it will immediately remove lead emissions from new cars and from older models able to run on 92 octane petrol, or less.

Lead-free petrol was introduced not only throughout the United States, but also Canada and Japan six years ago. It will be mandatory for cars sold in New South Wales which are manufactured after 1 January 1985 to be designed for lead-free petrol of 92 octane or less. Of course, that will not cause the havoc that some people might put forward in argument against its use, because 97 octane leaded petrol will continue to be available for use in old cars that need higher than 92 octane petrol. In other words, the system used at service stations in California at the moment, where one petrol pump contains lead-free petrol and the other contains leaded petrol, will be adopted. The scare tactic of saying that suddenly one will only be able to purchase relatively low octane lead-free petrol and that old vehicles will no longer be able to obtain the correct fuel simply does not stand up. However, as more and more cars designed for 92 octane lead-free petrol come into service, the older 97 octane cars will progressively diminish and lead emissions will eventually be eliminated.

Of course, that is important, and that is why I am raising this matter today. The fact is that the lead time to move to unleaded petrol is quite substantial. New South Wales has decided that it will move to lead-free petrol in 1985. All new vehicles from that time, plus those vehicles already on the road capable of using 92 octane petrol or less, will be using it from that day. Of course, there will still be a very large number of registered vehicles on the roads which will have to run on 97 octane leaded petrol. It will be at least five years before we begin to see a substantial reduction in the atmospheric levels.

This matter is urgent because, even if we make the move now and the South Australian Government supports New South Wales at the next ATAC meeting in February, we will still not see a substantial decrease for some years even if a decision is taken now as a matter of some urgency. In fact, we will not see a really substantial decrease for at least a decade. I am urging this Government to join with New South Wales to urge the other States to join with them in a joint approach to the Commonwealth. The South Australian Government must say to the Commonwealth Government, "We want to go to 92 octane lead-free petrol by 1985. We are supporting New South Wales and, indeed, we will ensure, as a Government, that from 1985 (as in New South Wales) only those new vehicles which have the technology to use unleaded petrol will be registered in this State." This is a terribly important matter, and I implore the Government to treat it with the urgency it deserves.

Another point that should be mentioned is that as the maintenance costs for all cars using lead-free petrol will be reduced and the fuel consumption of new cars with catalytic converters will also be reduced, the balance of costs will be significantly in favour of motorists.

I reiterate that the unfortunate experience in 1976, involving Australian Design Rule 27a resulting in the present technology of motor vehicles, has brought the question of reducing exhaust emissions into some disrepute. There is no doubt that the technology that is currently used on those vehicles with leaded petrol (and I do not refer to catalytic converters but the way in which we chose to go in 1976) was the wrong way, involving substantial fuel penalties. I want members to be clear that what I am talking about is the technology of lead-free petrol using catalytic burners or after-burners.

It has been proved conclusively after years of testing in the United States and Japan that there is a net fuel saving, with an immediate reduction of lead emissions, because no lead will be emitted from new vehicles from the date of adoption of this method, and at the same time there is a significant reduction in other exhaust emissions. The Minister of Environment also stated in his answer to my questions on atmospheric lead (and this is very germane to what I have just been saying):

> In February 1981 the Committee on Motor Vehicle Emissions, which is a committee of the Australian Transport Advisory Committee, 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.

That is a typical politician's answer, and does the Minister no credit at all. The Opposition already knew what the Minister told us, and indeed that is precisely the reason for my moving this motion. In a report to ATAC earlier this year, the committee stated:

> COMVE recommends that ATAC approve the urgent detailed development during 1980 by the Committee on Motor Vehicle Emissions of a long-term vehicle emissions strategy based on the 0·93 gm/km hydrocarbon standard to be achieved with unleaded petrol.

COMVE estimated that this would involve a net reduction in energy consumption of 4 400 000 barrels of crude oil per annum. In other words, if hydrocarbon emissions are to be reduced without fuel penalties (indeed, with significant net fuel savings), then catalyst technology is the only cost-effective way of achieving that. Once catalytic converters are introduced, lead-free petrol must be used, for the reasons I outlined earlier. The lead destroys the catalyst, and once they are introduced lead-free petrol must be used. The problem will then be solved automatically, albeit over a period.

The COMVE recommendations support the Opposition's motion on economic as well as environmental grounds. This solution is inevitable. The important thing is that all Governments, State and Federal, follow the New South Wales programme. It is better for the industry, it is better for the environment, and most importantly it is essential for our children. There is a vast weight of evidence that we can and must get the lead out. There is irrefutable evidence that we must make a date no later than 1985 if we are to achieve a significant reduction in lead and other toxic exhaust emmissions by the end of the 1980's.

I have only touched on some of the more compelling evidence today: there is a vast amount of evidence and literature available on this subject, but if I were to attempt to introduce all of it in this debate I would have to speak for days, and I am sure that members would not be too happy about that.

I conclude by summarising the main points. Atmospheric lead levels in Adelaide are such that urgent action is needed to reduce them. It is grossly irresponsible to respond to measured lead levels more than twice the maximum permitted by the N.H.M.R.C. by ordering more air-sampling equipment. We have a duty to get lead out of petrol but far more importantly to get it out of children. There is conclusive evidence of a direct correlation between atmospheric and blood-lead levels. It will take some years for the industry to prepare for lead-free petrol, as I explained earlier. For that reason, decisions must be taken which give a clear direction to the motor vehicle industry now.

The technology exists for the introduction of lead-free petrol without net fuel penalties. Furthermore, if recommendations are adopted now, we can not only remove lead but reduce general noxious exhaust emission to levels which will be half those originally recommended for the third stage of Australian Design Rule 27a. That third stage has yet to be implemented. So it is important that ATAC take a decision and that this Government support the proposal that lead-free petrol and vehicles using lead-free petrol be used exclusively, and to provide that only new vehicles that use lead-free petrol shall be registered in Australia from 1985, as is provided in New South Wales.

Technology using lead-free petrol has been used and refined in the U.S.A. and Japan for six years. Motor vehicle manufacturers in South Australia, whether controlled by Tokyo or Detroit, favour catalytic converter technology. There is a unique opportunity for the Government to be simultaneously on the side of General Motors and the angels. I commend the motion to all members.

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

BREAD PRICES

The Hon. J. A. CARNIE: I move:

> That the regulations made on 22 July 1980 under the Industries Development Act, 1941-1978, in respect of bread pricing, 1980, and laid on the table of this Council on 31 July 1980 be disallowed.

The Hon. J. A. CARNIE: In moving this motion, I indicate that it is necessary to consider why these regulations were presented on 22 July. Earlier this year, I think on two occasions, bread discounting commenced mainly in some of the larger supermarket chains, as a result of which industrial action was taken by the breadcarters. Meetings were held involving the Minister of Industrial Affairs, the Minister of Consumer Affairs, representatives of the Bread Manufacturers Association, the Breadcarters Union, the bakeries trade union and representatives from four of the major supermarket chains.

The Government's attention was drawn to the fact that the Trade Practices Commission was making inquiries about the meetings under the Federal Trade Practices Act. I would like to place on record that that is a disgraceful state of affairs—that a Federal organisation such as the commission can either try to prevent meetings or take action after they have been held, because surely it is much better, in the event of an industrial dispute, if the representatives of the organisations and bodies concerned can get together and try to resolve the matter without coming into conflict with any Trade Practices Act. It was feared at the time (but whether or not it would have occurred is another matter) that action might have been taken by the Trade Practices Commission. So, as a result of that, regulations which are the subject of this motion were gazetted. The relevant part of this matter is regulation 3, which reads:

> The following particular acts or things are hereby specifically authorised and approved:
>
> (1) Any arrangement, agreement or understanding involving any of the following parties, namely:
>
> The Minister of Industrial Affairs for the State of South Australia;
>
> The Minister of Consumer Affairs for the State of South Australia;
>
> The Bread Manufacturers Association of South Australia Inc.; and
>
> Such retail stores throughout the metropolitan area of Adelaide that sell, have or expose for sale bread by retail;

In effect, it was a retrospective regulation in that the meetings had already taken place with the bodies that I have just mentioned. When these regulations came before the Subordinate Legislation Committee, because of the difficulties that have persisted earlier this year, the committee believed that evidence should be called from interested parties. So, representatives were called from the Breadcarters Union, the Baking Trade Union and the Bread Manufacturers Association, as well as from the Department of Industry and Employment. As a result of the evidence given, there began to be some doubt as to whether these regulations were necessary. As I have just said, they covered any arrangement, agreement, or

understanding. One thread went right through the evidence and that was that there was no agreement or arrangement. I will quote the representative of the Bread Manufacturers Association, when asked, "Did your association agree to that?", as follows:

> No, my association did not agree to it and I expressed that very clearly and concisely at the last meeting we had in Parliament House.

Much the same thing, in different wording, was stated by representatives of the Breadcarters Union and the Baking Trades Union. A witness from the Department of Industry and Employment also agreed that not all parties at that meeting or those meetings entered into any arrangement or agreement. A similar question was asked of the Breadcarters Union, and it was stated that that body had never agreed to anything proposed by the Minister. Further on, a question was asked, "Could it be said to be an understanding?" which, as I have said, was allowed for in the regulations. The reply was:

> They all understood what the Government intended to do. This was all done to settle a particular dispute some months ago. The regulation will have the force of law, until disallowed. Frankly, I do not think that we could care less whether the regulation is disallowed or not: it has achieved its purpose.

That purpose was to prevent any action taken by the Trade Practices Commission. Another instance which came out in the evidence dealt with bread discounting itself, because the regulations go on to say:

> . . . in which provision is made that the amount by which the price of bread may be discounted from the existing retail price on any particular day shall not exceed 5c per loaf.

Evidence was given that that regulation is not being adhered to and that bread was, in fact, being discounted by up to 20c a loaf. At the time the witness gave evidence, it was still being discounted by between 11c and 14c a loaf in various areas of Adelaide. That raised a question in the committee's mind as to whether these regulations had any real force at all. Nowhere do they provide any penalty for failing to abide by the regulations. That was also brought out in evidence. I refer to evidence given by a representative of the Bread Manufacturers Association who was asked:

> But you believe that some of the manufacturers hold the view that the regulation is unenforceable. Do you believe that that is the view within the industry? . . . Yes.
>
> **The Hon. L. H. DAVIS:** Is it unenforceable? . . . There were two breaches about two days after the regulation was introduced, and the Government took no action. The comment was made that it was not in a position to take action because an agreement was involved, and I think you will find that that may be quoted.
>
> **The CHAIRMAN:** There is no penalty if these regulations are broken; is that your belief? . . . There is no penalty stated in the regulations. I do not know whether there is anything in any other section of the Act. No penalties are stated in the regulations and I am sure that the Minister, and I stand corrected on this, made the comment to me in his office that there was nothing that the Government could do because it was only an agreement.
>
> **The Hon. L. H. DAVIS:** Your understanding is that it is a gentleman's agreement and that there will not be any administrative or legislative action taken if people hold, within that arrangement of restraining, discounting to no more than five cents of the maximum retail price? . . . That was the understanding of the parties? That was the understanding.

The committee was then faced with the position that regulations were gazetted mainly to prevent possible action being taken by the Trade Practices Commission. There was also an attempt to retain discounting within acceptable limits, namely, 5c. In evidence given to the committee it was stated that neither of these aspects of the regulations was necessary or effective. Because of that, the committee deliberated after all the evidence had been taken and, in view of the opinion expressed by the officer from the Department of Industry and Employment that they could not care less whether the regulations were disallowed or not, and in view of the fact that there are no penalties and that the regulations are virtually unenforceable, the committee decided unanimously to proceed with the motion for disallowance, and I move accordingly.

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

PLANNING AND DEVELOPMENT ACT AMENDMENT BILL (No. 5)

Adjourned debate on second reading.

(Continued from 26 November. Page 2225.)

The Hon. J. C. BURDETT (Minister of Community Welfare): I oppose this Bill, and the reasons have been thoroughly canvassed. This amending Bill is substantially the same as the amendments that the Hon. Dr. Cornwall placed on file to the Government's Planning and Development Act Amendment Bill (No. 4), which passed in this Council yesterday. In the event, he did not move the amendments. The purpose of the Bill is to extend what was, in effect, a freeze or moratorium imposed by a Government measure earlier this year. As I said yesterday, and I do not propose to dwell on this for long because it has been thoroughly canvassed, it certainly was proved, when the Government legislation was before Parliament earlier this year in the previous session, that there was much fear on the part of retailers, small shopkeepers and businessmen about the proliferation of shopping centres and other retail developments. The Government acceded to their requests and imposed a freeze, believing that a temporary freeze was the right action to take.

As I said yesterday, members will recall that there was at the time an enormous amount of lobbying of members of Parliament by small businessmen, retailers, and so on. I think that all members would recall the number of letters and other contacts which were made with them at the time. Those people earnestly requested the Government to impose a freeze, which it did. Of course, something constructive had to be done, and the Government acted in the policy area in the meantime, preparing and displaying for public view and comment the Supplementary Development Plan. It is encouraging local government to implement its own development plans, and it is as a consequence of those, and as a further measure, that regulations will, of course, be effective and have the force of law. The Government also hopes that quite early, probably in February, its comprehensive amendments to the Planning and Development Act will be made.

It is interesting to note that, whereas when this legislation was before the Council earlier this year there was heavy lobbying indeed and a great deal of fear on the part of retailers, that has not happened this time. It was made quite clear in the Government Bill which was passed yesterday what the Government proposes to do in the matter. It was quite clear, of course, that the freeze legislation was about to expire at, I think, the end of December. There has been no lobbying and no fear. There have been very few contacts made and what has happened,

on the contrary, I think is very encouraging: that is, that retailers, small businessmen and other interested people have made comments and submissions on the Supplementary Development Plan. They have, therefore, accepted what the Government has done to put up a Supplementary Development Plan, and they have addressed themselves to that. It seems to me, therefore, that there is no need for any further freeze, and I oppose the Bill.

The Hon. J. R. CORNWALL: The Opposition's reason for introducing this simple Bill is that we wanted literally to give the Government a chance to get its Act together. As I said in the debate yesterday on another Bill relating to the Planning and Development Act (and I do not want to be tediously repetitive about this), the Government promised us that we would have a new, shiny bright, Planning and Development Act before the end of 1980. That was a firm undertaking given at the time when the conference of managers of the two Houses was trying in March to resolve the deadlock in this matter. We were given that clear undertaking, which has not been met. We were promised as recently as one month ago that the Government would be introducing its new Planning and Development Act before the Christmas adjournment and that it would lie on the table to be the subject of study by all interested groups over the Christmas period. That simply has not happened.

Worse than that, the Minister has just referred to the "comprehensive amendments" which are going to be introduced to the Planning and Development Act. It now seems that not only are we not able to see what the Government intends, but we are not going to get our new Planning and Development Act—we are simply going to get a patched up version of the old Act. Everyone knows, whether they be town planners, lawyers involved in practice in this field, local government officials, local councillors, or anybody at all involved in the planning field, that the present Act is deficient. It is widely conceded that it is simply not good enough to patch it up. The Minister has said that we were going to see comprehensive amendments—he has admitted that we are not going to see a new Act. For that reason, I think it is terribly important that we extend the partial moratorium under section 39d to 30 June. It was only ever a partial moratorium; it was not, as the Opposition wanted at the time of the debate, a full stay of development until 31 December 1980. It would not be anything like a full stay of development until 30 June, but at least it would give the Government a further six months to get the show back on the road and, as I say, literally to get its Act together. We are offering this, really, in a spirit of compromise, one might almost say with a bipartisan approach, certainly in a spirit of goodwill as the Christmas season comes upon us. We would like to see a bipartisan approach to this matter.

The olive branch can only be extended in a certain way, and the bipartisan approach can only go so far, because I now have to turn again to this draft Supplementary Development Plan for Metropolitan Centres, which the Government is touting about as the panacea for the difficulties that have been evidenced in the retail planning and development field. The simple fact is that the draft plan is in tatters already. It is in tatters before we have seen the final plan. That has happened for the very simple reason that I outlined yesterday. In the draft plan there is quite specific reference to a hierarchy of centres. There is quite specific and extensive reference to regional shopping centres at Stirling, Noarlunga, Marion, Modbury and Elizabeth, but the plan, strangely enough, makes no mention whatsoever of the proposed extensions at the West Lakes shopping centre. Those extensions, I believe, will be considerable, and, if one does not regard the West Lakes shopping centre as a regional centre now, one would certainly have to do so when the proposed extensions have gone up.

Nor does it make any reference to a regional shopping centre at Salisbury. Quite clearly, since the rezoning application before the Salisbury council has been approved, there is now a real possibility (although the matter will be contested hotly in the court, I understand) that if the Myer proposal proceeds there is going to be a further regional shopping centre at Salisbury, so the matter gets worse and worse. There is no solution to the gross over-provision of shopping centres, and that position remains under the draft Supplementary Development Plan. We are going to have a situation where the proliferation of shopping centres continues.

We will be the only State in Australia that has not made any reasonable and sincere effort to control that proliferation. Queensland and Western Australia already have legislation which requires all of the sorts of things that we were seeking when we debated this Bill seven or eight months ago. They already have the parameters, which include matters of economic impact, as well as environment, energy and all the other impacts we were talking about. Those States have collected data and have an extensive data base on which they can formulate their retail planning proposals. They have some co-ordination centrally. They have at least the structure to co-ordinate things centrally so as to not abdicate their responsibility and leave all the decisions to regions or, as in the Government's present plan, to individual councils.

Surely we should have been moving in that direction. Victoria and New South Wales—this is made clear in the discussion, in the preamble to the Supplementary Development Plan—have moved rapidly in the past 12 to 18 months towards a situation where they, too, have far better control over the proliferation of shopping centres, far better control over the problems that they saw emerging as matters of great urgency than this Government has. This is the only State Government in Australia that refuses to face up to the realities of the problems confronting us. It would seem that senior members of the Government do not care. Today there was a clear statement from the Minister of Housing that the Premier was not consulted and did not know about the proposal for a long-term ground lease to be let to private enterprise at Elizabeth.

I find that quite an incredible situation. I do not want to take up the time of the Council by going on at great length, as I could do, in this matter. I do know that the Local Government Association is far from satisfied, and I could quote at length to prove that. I know that it is certainly dismayed that the new Planning and Development Act or the comprehensive amendments referred to by the Minister have not been introduced. I do know that there is dismay in the community. I do know, despite what the Minister says, that the practice of rack-renting and skimming and small business bankruptcies are still big problems in the community. It seems to me that the Government refuses absolutely to tackle them.

As I said earlier, I do not want to hold up the Council unduly on private member's business, but before I resume my seat I would refer once more to the extraordinary events this week with regard to Salisbury and Elizabeth. As I understand it, the Minister of Housing admitted today that, as far as he knew, the Premier was not consulted and did not know about the proposal for a long-term ground lease to be given to private enterprise at Elizabeth; an extraordinary situation indeed. We also

have the Myer fiasco at Salisbury to which I referred in the debate last night. Those matters are not resolved. It would seem in this particular circumstance, as in most others with this Government, that one has to go for one of two theories: either one has to look at the possibility that the Government has been incredibly inept and bungled the whole situation or one has to look at the more sinister side and believe that there may have been some sort of connivance with Myers or other people in the whole matter of Salisbury and Elizabeth.

It seems to me, from the way that the Government bumbles along, that when one is faced with the choice of inept bungling, on the one hand, or just being plain crook on the other hand, one is safe nearly all the time in going for the bungling theory, because this is progressively becoming an extremely accident-prone Government that has not yet got its act together literally or metaphorically in regard to planning, particularly retail planning. The Government needs another six months and, for that reason, I have introduced a Bill to extend the operation of clause 39d to 30 June 1981, and I urge members to support it.

The Council divided on the second reading:

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

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

Pair—Aye—The Hon. C. W. Creedon. No—The Hon. M. B. Cameron.

Majority of 1 for the Noes.

Second reading thus negatived.

RACING ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

It is designed to give effect to certain of the recommendations contained in the report of the Committee of Inquiry into Racing. The committee recommends that the operating surplus of the Totalizator Agency Board be shared equally between the Government and the racing codes, that the distribution of the surplus be made quarterly instead of annually, and that the Government's percentage deduction from the turnover of the board be removed.

These amendments are proposed as a matter of some urgency in order to enable the three racing codes to determine their levels of funding for the current financial year and to plan accordingly. The committee has reported that the financial position of the three codes is critical and that their viability is dependent upon significant increases in stake moneys. The committee points out that the level of stake moneys in South Australia is depressed in comparison with that of other States and argues that the industry requires additional funds immediately, in the order of about $2 000 000. The committee also points out that static income from the Totalizator Agency Board in times of rising costs has prevented clubs from increasing stake moneys with a consequent drop in the quality of racing offered to the public.

As a solution, the committee has urged that the Government should treat the Totalizator Agency Board as a joint venture between the Government and the racing codes in which both share equally the net operating surplus. It also believes that there is considerable scope for increasing the board's turnover which, together with economies in operating and administrative expenses, would increase the surplus available for distribution.

In a full year, on current turnover levels, the Totalizator Agency Board distribution proposed by the Bill would provide $3 770 000 to the codes, compared with $2 460 000 under the existing arrangements. It is proposed that these new financial arrangements would have effect from the first day of January 1981. In addition, it is proposed that the distribution of the board's surplus under the existing arrangements in respect of the first half of the current financial year will be paid in advance in the manner authorised by the provisions of the principal Act. The Bill also amends section 70 of the principal Act which deals with the return to the Treasurer from on-course totalizator operations. The new scales proposed by the Bill will mean a net gain to the clubs of about $250 000 and a corresponding reduction in revenue for the Government.

The Bill increases the amount that the Totalizator Agency Board may retain for the purpose of capital expenditure from ·5 per cent to 1 per cent of turnover. The committee considered that the Totalizator Agency Board had been disadvantaged by the lack of funds for capital purposes, including the provision of computer betting facilities throughout metropolitan agencies, the establishment of adequate branch premises, and the need to complete early computerisation of country agencies. Because of the lack of capital, the Totalizator Agency Board has been forced to borrow funds to meet capital costs, thus incurring substantial liabilities in relation to interest and repayment of capital. The amendments should ensure that in future the Totalizator Agency Board will be adequately provided with capital funds.

No change has been made in the unit of betting since the Totalizator Agency Board started operations in 1967. As early as 1975, the Totalizator Agency Board drew attention to the fact that income received from a one-unit ticket did not cover processing costs. In other forms of gambling, the unit of investment has been increased considerably to keep pace with rising costs. The committee recommended that the minimum investment and value of a betting unit should be reviewed from time to time in accordance with changes in money values. The Bill gives effect to this recommendation. It provides for the value of a unit and the minimum bet in relation to off-course betting to be determined by the Totalizator Agency Board and the value of a unit and the minimum bet in relation to on-course betting to be determined by the appropriate controlling authority with the approval of the Minister.

The Bill increases by 0·3 per cent the revenue tax on bookmakers and provides for a corresponding increase in the amount returned to the clubs. At the same time, the Bill removes the duty currently payable on betting tickets. This reflects the committee's recommendation that revenue from bookmakers should be levied by only one means.

The experience of recent years has seen a diminishing use of flat facilities by racegoers. In 1971 flat bookmakers had 28 per cent of total bets and held 12 per cent of turnover. By 1980 those proportions had dropped to 19 per cent and 10 per cent respectively. The committee considered that the expense of maintaining totalizator betting facilities in the flat enclosures was not justified. An obligation to provide the flat enclosures with the new computerised totalizator facilities would only add a further financial burden which is not warranted in view of the fall of attendances in those enclosures. The Bill, therefore, in

accordance with the committee's recommendations, repeals section 66 of the Racing Act, thus removing the obligation of the South Australian Jockey Club to provide totalizator facilities in flat enclosures.

The committee found that illegal betting was substantially diminishing revenue of the Totalizator Agency Board and legitimate bookmakers. It therefore recommended that the provisions of the principal Act be amended to increase the penalties for illegal bookmaking and illegal betting. The Bill gives effect to these recommendations. A subsidiary amendment includes a bookmaker's agent within the definition of a bookmaker. This amendment will obviate a problem of prosecution that was revealed in the case *Fingleton v. Lowen* (1979) 20 S.A.S.R. 312. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the amendments are to come into operation on 1 January 1981. Clause 3 amends the definition section of the principal Act. A "bookmaker" is defined as including a bookmaker's agent. "Unit" is defined to allow for the fixing of the amount of a unit of totalizator betting by the board.

Clause 4 amends section 56 of the principal Act. The amendments increase from 0·5 per cent to 1 per cent the amount of revenue that may be retained by the Board on account of capital expenses. Subsection (2) is amended to provide that one-half of the funds remaining at the end of each quarter, after the board has made the payments referred to in subsection (1), is to be paid to the Treasurer for credit of the Hospitals Fund and the remainder is to be divided amongst the controlling authorities of the three racing codes. Clause 5 repeals section 66 to remove the obligation of the South Australian Jockey Club to provide totalizator betting facilities on the flat.

Clause 6 substitutes a new section 69 dealing with the application of the percentage deducted from totalizator bets made with the Totalizator Agency Board. The proposed new section continues the present provision for payment to the Racecourses Development Board of one per centum of the amount of bets made with the Board on doubles and multiples, but does not include the present requirement for payment to the Treasurer of 5·25 per centum of the amount of all totalizator bets made with the board. The amount presently payable to the Treasurer would under the proposed new section become part of the funds of the Board to be applied in accordance with section 56.

Clause 7 provides the new scale of payments to the Treasurer in respect of on-course totalizator betting. Clause 8 enables the Board and controlling authorities to fix the amount of totalizator betting units and the minimum number of units to constitute a bet. Clause 9 amends section 100. The amendment is consequential upon the new definition of "bookmaker" which is now to include a bookmaker's agent.

Clause 10 increases by 0·3 per cent the revenue tax payable by bookmakers. Clause 11 removes the duty on betting tickets. Clause 12 is a consequential amendment. Clause 13 substantially increases the penalties for illegal bookmaking and illegal betting. Clauses 14, 15 and 16 make consequential amendments.

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

LOTTERY AND GAMING ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

This Bill proposes amendments to the principal Act, the Lottery and Gaming Act, 1936-1978, that are of a disparate nature. The Bill proposes amendments to provide for regulations which will prescribe conditions to enable the conduct of free lotteries or competitions for the purposes of promoting trade, and for penalties in the event of a breach of the prescribed conditions.

Under the old Trading Stamp Act of 1924, South Australians were prevented from participating in promotion and free lotteries run by business and industry in which "bonus" gifts and prizes are offered. Such suppression is a cost to South Australian consumers as they are deprived of the potential benefits of products for which they are paying. National companies do not charge a lower price for their products in this State simply because gift offers are banned here. Local business and industry has also suffered by not being able to take part in this type of promotion and by wasting time and money on checking their marketing promotions with Government departments.

This Government has therefore decided to amend the Trading Stamp Act during this Parliamentary session to allow such harmless promotions while continuing to ban trading stamp promotions where stamps are offered with products that could be "traded in" to a third party for cash or gifts. However, in order to protect the rights of participants it is necessary to amend the Lottery and Gaming Act to provide for regulations which will prescribe conditions and penalties to enable the proper conduct of free lotteries or competitions (involving an element of chance and/or skill) in this State by local or national promotions.

Free lotteries and competitions for the promotion of trade are becoming increasingly popular. It has been estimated that these lotteries offer prize payouts of approximately $1 500 000 per annum. The present, difficult economic climate and acute trade competition is flooding the market with many free lotteries, and in the absence of any controlling legislation, there is no means of checking the *bona fides* of promoters, controlling the number of competitions being presented to the public or checking that these prizes as advertised are indeed given.

The extent of the present free lotteries/competitions is also causing concern to the Lotteries Commission and to many charitable organisations endeavouring to raise funds through licensed lotteries. While it is acknowledged that free lotteries are an important and acceptable feature of competition in trade, it is also agreed by most parties concerned that some form of control needs to be introduced regarding the conduct of these lotteries and competitions, not only to eliminate spurious schemes but also to protect the participating public.

In keeping with the Government's policy to cut red tape for industry and develop a climate of fair trade to benefit both business and the consumer it has been decided to allow trade-promotion lotteries on specified terms and conditions. Part IIA of the Lottery and Gaming Act, 1936-1978, enables the making of regulations for the licensing and exempting of lotteries. Regulations will be drafted which will exempt trade-promotion lotteries which comply with specified conditions. The Bill proposes the insertion in the principle Act of a new section designed to enable regulations to be made declaring certain machines to be instruments of unlawful gaming. This proposal has arisen

primarily as a result of the introduction into this State of machines known as "In-line Bingo" machines.

These machines are electronic game machines activated by the insertion of a coin or token. Their operation involves minimal skill and provides little in the way of entertainment apart from an opportunity afforded by the automatic action of the machine to play one or more further games on the machine without the insertion of any further coin or token. However, the feature of this type of machine which distinguishes it from ordinary pinball and other amusement machines is that up to 300 free games may be won by the successful operation of the machine. Given the limited entertainment provided by the operation of the machines and the very large number of free games which may be won, it would appear that the machines were designed to be an alternative to ordinary poker machines but without the self-incriminating features of an automatic pay-out of money or tokens. Instead, they may be used for gaming purposes by establishing a system of paying cash credits for the free games won on them. Instances of this practice occurring in the State have already come to the attention of the Government.

Although the establishment of a system of cash credits in relation to the operation of these machines would constitute unlawful gaming under the principal Act in its present form, the Government considers that it would be desirable for the considerable enforcement difficulties to be obviated by declaring the machines themselves to be instruments of unlawful gaming and the playing of the machines to be unlawful gaming whether or not any person derives any money or thing as a result.

Although it was the introduction of the "in-line bingo" machine that primarily gave rise to this proposal, any other type of machine that is either specifically designed for gaming purposes or lends itself to that use may also be declared under this proposed provision. Again, this would have the effect of making it an offence to play the machine in any way, thereby obviating the need to prove that any person was deriving any money or thing as a result. It is the Government's intention to declare in-line bingo machines and poker machines to be instruments of unlawful gaming. Finally, the Bill substantially increases various penalties in the principal Act relating to betting and gaming offences and makes several other amendments relating to illegal betting that have been recommended by the Committee of Inquiry into Racing. I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 amends section 4 of the principal Act. The clause inserts a definition of "bookmaker" which includes bookmakers' agents. It also inserts a new definition of "betting" and a definition of "trade-promotion lottery". Clause 4 amends section 9 of the principal Act. Section 9 specifies lotteries that are not proscribed by the Act, and by paragraph *(d)* includes all lotteries where no entrance fee is payable. As I have already stated, the Government believes that all trade-promotion lotteries should be regulated, whether "free" or not. Clause 4 therefore amends section 9 *(d)* of the principal Act so that trade-promotion lotteries will be excluded from the lotteries exempted by that paragraph.

Clause 5 replaces paragraph *(j)* of section 14b of the principal Act. This paragraph provides the power to make regulations in relation to exempt lotteries. The new paragraph will enable conditions to be imposed by regulation and provision as to the conduct, advertising and promotion of exempt lotteries to be made. Clause 6 provides for the enactment of a new section 59a empowering the Governor to declare by regulation that certain machines, articles or things are instruments of unlawful gaming. Subclause (2) of the proposed new section is designed to make it clear that a machine, article or thing may be declared notwithstanding that, as is the case with the "in-line bingo" machine, it does not appear to be specifically designed for gaming. Subclause (3) of the proposed new section provides that the playing of or with any machine, article or thing so declared shall constitute the playing of an unlawful game, whether or not any person derives any money or thing as a result.

The remaining clauses of the Bill (other than clauses 10 and 23) substantially increase the penalties provided for betting and other gaming offences. Clause 10 amends section 71 so that, in addition to the Commissioner of Police, the Deputy Commissioner and any Assistant Commissioner of Police may issue a search warrant under the section. Clause 23 inserts a new section 98 which is an evidentiary provision relating to bookmakers' licences and licence conditions and authorities to conduct totalizator betting under the Racing Act, 1976-1978.

The Hon. J. E. DUNFORD secured the adjournment of the debate.

EDUCATION ACT AMENDMENT BILL

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

COMMUNITY WELFARE ACT AMENDMENT BILL

The Hon. J. C. BURDETT (Minister of Community Welfare) obtained leave and introduced a Bill for an Act to amend the Community Welfare Act, 1972-1979. Read a first time.

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

That this Bill be now read a second time.

The principal object of this Bill is to re-enact in an up-dated form those parts of the Community Welfare Act that deal with the provision of welfare services, an area that has been reviewed critically over the past few years. In 1977, in line with developments at that time, public consultation was sought in the first stage of the review of the Community Welfare Act. Submissions were received from the public, interested organisations, and staff of the department. Six meetings were held, each involving up to 40 individuals, dealing with various issues which the Act might cover.

The results of these meetings formed the basis for consideration by a Community Welfare Act Review Committee appointed in 1978 and chaired by Professor Ray Brown of the School of Social Administration at Flinders University. The task of this committee was to consider the many suggestions put forward during the consultation, together with the committee members' own knowledge of the latest community welfare principles and practice, and to recommend changes to the Act. The committee completed its task and reported to the then Government in 1978.

Following the change in Government and in line with our election promise, I appointed a Community Welfare Advisory Committee under Professor Leon Mann of the School of Psychology at Flinders University to inquire into the delivery of community welfare services. The terms of reference were designed to ascertain the views of clients of the department, which was seen as a significant area not

covered in the previous consultations. Initial findings were presented in May 1980, and formed the basis for a meeting of members of the Brown Committee, Mann Committee and senior officers from my department. The proposals from that meeting are embodied in the Bill now before honourable members.

The Mann Committee inquiry, which was unique in Australia and possibly in the world, reflected the developing relationship between the department as a service provider and the people receiving those services. The patronising view taken of clients had been replaced by one of recognising that each client has the ability and the right to seek help and be a respected partner who is able to influence policy and organisational change. It is important that legislation should reflect the department as being in partnership with consumers of services and non-government organisations, particularly those operating in local areas or with particular groups of people in special need. A high level of consumer satisfaction with the department's services, varying from 75·6 per cent to 87·3 per cent in the inquiry studies, reflects that the approach the department has adopted is sound. It is therefore important to incorporate as succinctly as possible in legislation the practices that the department currently carries out, together with those which should be introduced or amended to achieve an even more effective and efficient service.

This Bill therefore takes into account the changing nature of community welfare services, including client involvement in the determination of those services and the increasing importance of self-help groups and non-government organisations. The Bill specifically outlines the objectives of the Minister and the department in relation to priority areas such as families and people who may be in specific need, groups such as single parents, migrants, aged persons, handicapped persons and the unemployed, and individuals living in isolated areas. It also provides for people affected by decisions of the department to appeal against those decisions.

The statement of the objectives of the Minister and the department in the existing Act has been widely commended. It is continued and extended in the present Bill. The Government's community welfare policies will be focused on the family, by providing or facilitating the provision of services designed to strengthen the family as the single most important social unit. Particular attention will be given to programmes aimed at reducing the incidence of disruption of family relationships, or where this occurs, minimising the effects.

Community welfare services must be directed also to people with specific needs. These services may be provided directly by the department, through non-government organisations which are either self-supporting or receive Government grants, or by mutual aid groups. Emphasis will be given to providing assistance to individuals in their own communities thus avoiding the need for costly and often inappropriate institutions and centralised services. Over the past eight years, the department has progressively and successfully decentralised its services.

This has facilitated close co-operation with community groups and individuals, the more immediate identification of needs and the more efficient provision of assistance. Staff working at the local level are able to assist communities to take greater responsibility for their own well-being, and assist in the care and development of people who had previously been institutionalised. This process will be further developed in the interests of providing more effective services.

A number of deficiencies still, however, exist in the delivery of the department's services. One of these is the difficulty of access to services for some people. While many members of the public appear well informed about departmental and other welfare services and where to go to obtain assistance, there are sections of the community, usually those who have the greater need, who still experience considerable difficulty in getting help. These include factory workers, aged persons, people in rural areas, and migrants with a non-English-speaking background. The Bill allows for services to be made available, where appropriate, through schools, places of employment, medical practices or any other place where people might find greater ease of contact. Factory workers, for example, because of their work arrangements and difficulties in gaining access to a telephone during working hours, are often deprived of welfare services.

Through the establishment of localised facilities the department has been better able to achieve satisfactory co-ordination of welfare services, and where there are gaps, assist local groups in meeting their own needs. Increasingly, clients have been involved in this process, not only in dealing with their own difficulties but in assisting in the prevention of problems arising for others. This Bill seeks to further consolidate the partnership of clients with the department through their involvement in consumer forums and programme advisory panels. This will enable the department to be more acutely aware of the needs of individuals, and will enable clients to influence the manner in which services are provided. The report of the Mann Committee contained a large number of recommendations designed to extend and improve the services of the department, and to provide the right of appeal against administrative decisions. Several major recommendations requiring legislative changes are dealt with in this Bill. Other recommendations will need careful study over a period of time, and any desirable amendments will be made in the future. However, it appears that most of the recommendations can be dealt with administratively. Major changes dealt with in this Bill include:

1. The establishment of Appeal Boards. In the same way as it is important that clients be able to participate in the development of services, it is important that they should have the opportunity to appeal against departmental decisions which affect themselves. The Bill makes provision for the Minister to establish Appeal Boards to deal with appeals lodged by persons affected by decisions made by the department.

2. Establishment of a Children's Interests Bureau. This bureau would support the welfare, interests and rights of children. It would ensure that issues relating to the well-being of children are studied carefully and the results of the studies distributed and understood. This is consistent with the Government's policy of supporting families and ensuring that Government decisions and proposals do not adversely affect family life.

3. The delegation of guardianship rights. The Mann Committee founds that a small number of children under the guardianship of the Minister remained in foster care on a long term basis and required very little support from the department. The Bill provides for the Minister to delegate to foster parents, in this type of situation, guardianship responsibilities.

4. Holding of consumer forums. It is proposed that consumer forums be held periodically in each locality served by a departmental office. The forum would give clients of the department and others the opportunity to discuss the way the services are being provided, any areas of unmet needs and to make recommendations for changes.

5. Appointment of programme advisory panels. The Bill provides for the Director-General to appoint programme advisory panels to advise him on matters relating to the services provided by the department. These panels and the consumer forums will further consolidate efforts to achieve a partnership between clients and the department.

6. Licensing of foster care agencies and family day-care agencies. It is proposed that these agencies should be subject to a licensing system similar to that provided for baby-sitting agencies in 1976. The Government is concerned to ensure a high quality standard of care for children who are separated from their parents, whether only for a few hours during the day, or whether on a longer term basis in a foster situation. It is therefore desirable that the agencies responsible for "matching-up" parents and children with care providers should come under the scrutiny of my department. It will also give the agencies greater status as far as their potential customers are concerned, who often look for some tangible evidence of reliability.

The Bill also contains various amendments to the maintenance provisions of the Act, most of which arise out of the fact that the Commonwealth Family Law Act now covers the field as far as the maintenance obligations between husbands and wives are concerned. It is proposed that the maintenance provisions in the Community Welfare Act will only deal with the question of the maintenance of children (apart from enforcement of any existing husband/wife orders). Finally, the Bill repeals those provisions dealing with Aboriginal Reserves that are now redundant in view of the transfer of all such reserves either to the Aboriginal Lands Trust pursuant to the Aboriginal Lands Trust Act, or to the Pitjantjatjara people pursuant to another measure now before Parliament.

I propose to allow this Bill to lie on the table until Tuesday 17 February 1981. I hope that during that period honourable members in this place and in the other place will acquaint themselves with the Bill. I hope also that individuals, groups, and organisations concerned with welfare will take the opportunity to make comments to me or my department on the Bill. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the commencement of the Act on a day to be proclaimed. Clause 3 amends the arrangement of the Act. Clause 4 effects various amendments to the definitions. Sundry definitions are amended so that the expression "guardians" is used consistently throughout in relation to children ("guardians" is defined as including the parents of a child). It is made clear that children's homes relate to the care of children on a residential basis, whereas child care centres and family day-care agencies relate to the care of children on a non-residential basis. The definition of "near relative" is modified so that it applies only in relation to children (this is of significance to the maintenance provisions of the Act). "Step-parent" is defined as meaning a step-parent who, while married to the child's parent, at any time accepted the child as part of his household. Clause 5 inserts a transitional provision continuing the operation of licences, approvals, etc., given under the provisions repealed by the Community Welfare Act Amendment Act, 1980, being provisions that are substituted by provisions substantially the same.

Clause 6 repeals Parts II, III and IV of the principal Act and substitutes three new Parts. Division I of new Part II provides for various administrative matters. New section 7 continues the Minister as a corporation sole with the usual powers. New section 8 gives the Minister and the Director-General the power to delegate their various powers and duties under the Act. New section 9 requires the Director-General to give an annual report to the Minister on the work of the department. Division II sets out an amplified and up-dated set of objectives for the Minister and the department. The two main objectives set out in new section 10 are the promotion of the welfare not only of the community, but of individuals, families and groups within the community, and the promotion of the welfare of the family. A comprehensive list of the means by which these objectives are to be pursued is provided. Emphasis again is placed on family services, and services to persons with special needs. The Minister and the department are directed to preserve the dignity and self-respect of the clients of the department, and not to discriminate against any person, except where so-called "positive discrimination" is required to help a person overcome his problems.

Division III deals with the setting up of various advisory bodies. New sections 11, 12 13, 14 and 15 re-enact in substantially the same form the provisions dealing with the establishment of advisory committees. Division IV deals with community aides and again, new sections 16 to 20 are substantially the same as the present provisions. It is provided that the initial appointment of a community aid will be for a year, as a period of probation, and thereafter his appointment will be for two-year terms. Division V provides for Community Welfare consumer forums. New section 21 directs the Minister to cause forums to be held from time to time in each locality served by the district offices of the department. A forum provides the clients of the department and voluntary organisations with an opportunity to feed back to the department their views on the delivery of services by the department.

New Part III deals with the way in which community welfare services are to be provided. New section 22 directs the Minister to endeavour to provide the department's services at the local level. New section 23 continues the Community Welfare Grants Fund, and provides for the establishment of a residential care and support grants fund. The moneys in the latter fund will go towards assisting persons who run licensed children's homes, and towards preventative or rehabilitative programmes for children in such homes, or at risk of being placed in such homes. New section 24 provides that the Minister is empowered to contract out the provisions of any service.

New Part IV deals with all the various services relating to the welfare of children. Division I sets out the principles to be observed by persons dealing with children under the provisions of Part IV. Obviously, the interests of the child are the paramount consideration. Again, emphasis is placed on the importance of the child's relationship with his family, while at the same time giving recognition to the rights, needs and wishes of the child himself. New section 26 provides for the establishment of the Children's Interests Bureau, the main functions of which will be to conduct inquiries into matters affecting the welfare of children, and to increase the awareness not only of the public but also in the department and other areas of the Government, of the rights of children, and of matters that affect their welfare. Division II provides for the care of children in certain circumstances.

The new sections contained in Subdivision I relating to the placing of children who are in need of care under the guardianship of the Minister are substantially the same as the provisions currently existing. More emphasis is placed

on consultation with or notification of parents in the case of applications made by children. The period of temporary guardianship under new section 28 is reduced from three months to four weeks, as the Department considers that any longer period of guardianship ought to be dealt with either under section 27, or under Part III of the Children's Protection and Young Offenders Act. In new section 32 it is provided that the Director-General may place an uncontrollable child in a detention centre for a period of up to a week, if the child is likely to cause serious injury to himself or others, or to property. Experience has shown that such a child can sometimes best be handled if he or she is placed in a secure area and given the individual attention so necessary in such cases. The parents of the child must of course be notified of such action.

Subdivison 2 provides for all the various facilities and projects established by the department itself, such as training centres, children's homes, etc. New section 36 (4) provides for the very successful Intensive Neighbourhood Care programme now being run by the department. This programme caters for the placing of certain young offenders or children in need of care in approved families. Subdivision 3 deals with foster care and licensing of foster care agencies. Once again new clauses 40 to 47 are substantially the same as the existing provisions. One important change is the provision in new section 41 that a person may not, for fee or reward, be a foster parent to any child unless he is an approved foster parent. The current provision only applies in relation to children under the age of fifteen years. However, it has become increasingly apparent that children are just as much at risk, maybe even more so, at the vulnerable ages of fifteen, sixteen and seventeen, and that control over the fostering of such children is quite essential to their welfare.

New section 48 provides for the licensing of foster care agencies. Licences will be granted automatically to all agencies existing at the commencement of this Act. Subdivision 4 provides for the licensing of children's homes. New section 51 provides that no more than three children (the current provision relates to the care of five or more children) may be cared for, for fee or reward, away from their guardians and relatives on a residential basis, unless a licence to do so is held. New sections 52 to 55 are substantially the same as the current provisions. New section 56 provides for the handling of complaints by children in homes, or by their guardians.

Subdivision 5 provides for the licensing of child care centres. New sections 57 to 61 again do not substantially differ from the existing provisions. Subdivision 6 provides for the licensing of baby-sitting agencies, again with no substantial change. Subdivision 7 deals with approved family day-care and the licensing of family day-care agencies. New section 65 makes it clear that family day-care is care for children on a non-residential basis. New section 67 obliges an approved family day-care provider to keep a register similar to that kept by children's homes and child care centres. New section 68 gives the Director-General a similar power of entry and inspection in relation to family day-care premises as he has with children's homes and child care centres.

New sections 70, 71 and 72 provide for the licensing of family day-care agencies. The department believes that there are no such agencies in existence at the moment, but that there is a strong likelihood that agencies of this nature will develop in the foreseeable future. Subdivision 8 contains various miscellaneous provisions. New section 73 provides a necessary definition. New section 74 provides for the granting of financial and other assistance to foster parents, intensive neighbourhood care families and other similar persons. New section 75 provides for the apprehension of children who run away from training centres, or any other place of detention. New section 76 prohibits a person from inducing a child to run away from a training centre, or from harbouring such a child. New section 77 prohibits a person from loitering in the grounds of any departmental home (this includes a training centre) and from communicating with a child in detention or a child under the Minister's guardianship when forbidden to do so by the Director-General.

New section 78 gives the Director-General power to enter places for the purpose of ascertaining whether a child is being cared for in accordance with this Part, where he has a reasonable suspicion that the Act is being contravened. New section 79 prohibits persons who do not hold a licence or an approval under this Part from advertising that they are prepared to look after children for fee or reward. New section 80 is a new provision providing that the Minister may hand over a greater degree of control to foster parents who have for more than three years cared for a child who is under the Minister's guardianship. A child of or over fifteen years of age may refuse to consent to such action. The guardians of the foster child must be notified of the foster parents' application, and may make submissions thereon. Notwithstanding the delegation of his guardianship powers under this section, the Minister may still exercise those powers himself, should an emergency situation arise.

New section 81 provides for the establishment of review panels. New section 82 gives the Director-General a power of entry for the purposes of ascertaining whether a child is in need of care. New section 83 prohibits the selling or giving of cigarettes, etc, to children under the age of sixteen years—this section is identical to the existing provision. New section 84 empowers the Director-General to hold moneys on behalf of children in an account held at Treasury. New section 85 is a new provision empowering the Director-General to give consent to the medical or dental treatment of children in detention or under his control pursuant to an order of the Children's Court. The Director-General may only exercise this power when the guardians of the child cannot be found or the treatment is so urgently required that it would be prejudicial to the child's health to delay while the consent of a guardian is obtained.

I should point out that old section 75 of the Act as it now stands has not been included in the new provisions. This section prohibited any person other than a parent from caring for a child under the age of fifteen years for more than six months unless that person was authorised by the Director-General. This provision has never been enforced due to the difficulties of detecting such an offence, and also because the department is satisfied simply to control the fostering of children, which of course is the care of children for fee or reward. Division III re-enacts the provisions dealing with the protection of children from physical or mental maltreatment. The provisions are substantially the same as the existing ones, with one or two changes. The composition of regional panels is increased to include a nominee of the Director-General of Education. The functions of a regional panel set out in new section 88 make it clear that the panel is a recommending and facilitating body only, and that it cannot order, but can only recommend and encourage persons to undergo appropriate treatment.

New section 89 provides for the establishment of local panels, to assist regional panels. It is provided in new section 90 that the main functions of a local panel are to provide direct support to persons who are maltreating their children, and to be a support and back-up group to persons who are involved in treating a person who has

maltreated a child. New section 91 increases the categories of persons who are obliged to report a suspected case of maltreatment. Psychologists, chemists, kindergarten teachers and social workers in hospitals, etc., are added to the list. New section 93 is a new provision empowering an officer of the department or a member of the police force to take a child to a hospital or doctor where he believes the child has been maltreated. This power may be exercised where the guardians of the child cannot be found, where they refuse or fail to have the child medically examined, or where it would prejudice the child's health to delay while the consent of the guardians is obtained. Similarly, the medical practitioner concerned may admit the child to hospital or treat him, without the consent of the guardians, or contrary to the wishes of the guardians. New section 94 re-enacts an existing provision.

Clause 7 repeals Part V of the Act dealing with Aboriginal Reserves. Clause 8 amends the headings to Part VI of the Act. Clause 9 repeals the provisions dealing with the maintenance of destitute persons. These provisions are very rarely used, and mostly have only been used in relation to getting financial support for aged migrants whose families refuse to support them after bringing them out to Australia. Such migrants are the responsibility of the Commonwealth Government which has jurisdiction over the maintenance guarantees given before such aged migrants are permitted entry to Australia. The provisions to be repealed are therefore virtually redundant. New section 98 therefore only deals with the maintenance of children by their near relatives. Parents are primarily liable, and step-parents are liable in the event of the death, disappearance or financial incapacity of the parents. No distinction is made as between the mother and the father of the child—both are equally liable, as in the Family Law Act. All sections dealing with the maintenance of husbands and wives are repealed.

Clause 10 provides that maintenance payments need not necessarily be paid through the Director-General; it may be more convenient for payment to be made directly into a bank account, for example. Clause 11 effects a consequential amendment overlooked in the 1975 amending Act. Clause 12 amends the provision dealing with blood tests for the purposes of ascertaining the paternity of a child born outside marriage. This section has never been brought into operation, although it was enacted in 1975, as there are practical difficulties in finding medical practitioners who can take blood samples. It is provided that the mother can request blood tests. It is provided that analysts can not only carry out the tests but also take the blood samples. The child must be at least six months old, as apparently blood tests taken before that age may be inconclusive. If the defendant in an affiliation case refuses, or fails without reasonable excuse, to undergo a blood test directed by the court, the court is free to draw whatever inferences from that fact it thinks fit in the circumstances.

Clause 13 is a consequential amendment. Clause 14 repeals those provisions of the Act that provide for the contribution by one parent to another towards the funeral expenses of a child who dies. These provisions have never been used, and in any event, the department has a fund from which financial assistance is given to persons who cannot afford to pay funeral expenses. The provisions are therefore virtually obsolete.

Clause 15 repeals Division II of Part VI, which provided for the summary protection of women, a matter now to be handled under the Family Law Act. Clause 16 is a consequential amendment. Clause 17 repeals the provisions of the Act that provided for the making of maintenance orders on an *ex parte* application. The department does not use this provision and can see no practical merit in retaining it. Clause 18 is a consequential amendment. Clause 19 provides that a maintenance order ceases upon a child under the age of eighteen marrying.

Clause 20 re-enacts the provision dealing with the maintenance of a child after he has turned eighteen. It is made clear that such an order can be continued, or made, for the purposes of the child undertaking (before he turns twenty-one) or completing a course of training or education aimed at gaining him employment, or for the purposes of a child who is unable to earn a living because of physical or mental incapacity occurring before he turns eighteen. Clauses 21 and 22 repeal two sections now redundant following the repeal of Division II of Part VI.

Clause 23 provides a further case where a court dealing with an affiliation case may accept the uncorroborated evidence of the woman. The court may exercise this discretion where the defendant refuses, or fails without reasonable excuse, to undergo a blood test directed by the court. This amendment is consequential upon the earlier amendment permitting the mother to request blood tests. Clause 24 clarifies the ways in which a direction to attend court for examination of his means, etc., may be served upon a defendant in maintenance proceedings. Clause 25 seeks to ensure that moneys held on deposit in a bank, finance company, building society, etc., are moneys that are attachable for the purposes of enforcing payment of maintenance orders. It is proposed that financial assistance granted by the Department to persons in need will not be recoverable hence the deletion of paragraph *(c)*.

Clause 26 re-enacts the provision dealing with the power of the court to require security from the defendant to ensure compliance with the maintenance order. It is made clear that the court can require either a bond or other security. The period for which a defendant can be committed to prison for refusing or failing to enter into such a bond or give such security is reduced from six months to three. A provision is added requiring the court to satisfy itself as to the defendant's financial capacity before it exercises any of its powers under this section.

Clause 27 amends the section of the Act that provides for the imprisonment of defendants who are in default with their maintenance payments. These amendments are mainly to bring this section into line with the comparable provision in the Family Law Act. The maximum period of imprisonment is reduced from twelve months to six. Again the court is required to satisfy itself as to the financial means of such a defendant before exercising any of its powers under this section. Thus a defendant will, for example, have a chance to be heard before a suspended sentence of imprisonment is invoked as a result of his default.

Clause 28 is a consequential amendment. Clause 29 redefines "net earnings" and allows more flexibility in the types of deduction to be allowed for the purposes of calculating the net earnings of a defendant in maintenance proceedings. The definition as it now stands only refers to deductions of income tax contributions and other certain deductions referred to in the Income Tax Act. In the future, the deductions will be set out in detail in the regulations. Clause 30 substitutes a reference to the Family Law Act for an out-of-date reference to the Matrimonial Causes Act. Clause 31 provides that persons exercising powers in good faith under the Act are immune from civil liability.

Clause 32 makes it clear that this section dealing with the Minister's immunity from liability for acts of children in detention applies in relation to all "children" in

detention, whether under or over the age of eighteen years. Clause 33 effects an amendment that is consequential upon the decision not to recover grants of financial assistance.

Clause 34 provides, in new section 250a, that where the Director-General decides to lend moneys to a person in need, he must satisfy himself that the borrower will be able to repay the loan within a reasonable amount of time. A written loan agreement must be entered into so that all parties will be quite clear as to their obligations. The Mann Report recommended that loans should still be made in certain circumstances, and that in all other cases of financial emergencies, straight out non-recoverable grants should be made. New section 250b provides a right of appeal to the Minister for any person aggrieved by a departmental decision made in relation to him. The Minister will establish appeal boards for the purpose of investigating appeals, and although these boards will hear the appeals and make recommendations to the Minister, the Minister will have the right to make the final decision on any appeal. Clause 35 effects consequential amendments to the regulation-making power. Clause 36 increases the maximum penalty for offences against the Act from $200 to $500.

The Hon. BARBARA WIESE secured the adjournment of the debate.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.
(Continued from 2 December. Page 2383.)

The Hon. FRANK BLEVINS: The Opposition is happy to support this short Bill. As the Minister said in his second reading explanation, it means that a car approaching a T-junction will have to give way to all vehicles, irrespective of which way they are travelling on the road that forms the top of the T. I have never understood, after being in South Australia for 15 years, why this has not been the case. It has taken a long time for Governments to get around to making this sensible alteration to the Road Traffic Act. It has the effect of reducing the give-way-to-the-right rule to its proper role in controlling traffic, which is a very minor one. The give-way-to-the-right rule had only one value, and that was simply to work out who was in the wrong in the innumerable accidents that the rule caused. In some perverted way it had some value. This Government quite obviously, in its short period in office, has taken a deep interest in the question of road safety. It has made significant moves in this area, and the Opposition is happy to congratulate the Government on the speedy and efficient way in which it has moved in this area.

After being so nice, perhaps I may be permitted a small leniency while dealing with the Road Traffic Act. I read a couple of weeks ago that the single most effective thing that any Government can do to improve the accident rate is to insist that vehicles on dual carriageways stick to the left-hand lane rather than just being requested to do so by some nice signs. In fact, the law should, as it does in most other civilised countries, compel them to do so. I have had a total lack of success in the past 5½ years in persuading Ministers to alter the Road Traffic Act to do this—a total lack of success with Mr. Virgo and now Mr. Wilson—and I ask the Minister to take into consideration my serious plea, because this is one of the road traffic laws that bug me and I am sure bug everybody else. I cannot understand why that simple alteration cannot be made. The Opposition is happy to support this Bill. It is a sensible measure, and long overdue.

The Hon. K. T. GRIFFIN (Attorney-General): I thank the Opposition for its indication of support for the Bill and for the commendation which has been offered so graciously by the Hon. Mr. Blevins. I am sure that, in the light of that, the Minister of Transport will give careful consideration to his plea on that other matter which has caused him such concern.

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

TRADING STAMP BILL

In Committee.
(Continued from 2 December. Page 2411.)

Clauses 1 to 3 passed.
Clause 4—"Interpretation."

The Hon. C. J. SUMNER: The amendment standing in my name which deals with clause 4 also deals with clause 5. The effect of my amendment would be to allow some trading stamp promotions but not trading stamp promotions which rely for their redemption or effect upon the purchase of goods from the company providing the voucher. In other words, as indicated in the second reading explanation, we believe that these promotions ought to be restricted and controlled to some extent, given that the Council has apparently agreed that the Trading Stamps Act, 1934, ought to be repealed, thereby allowing all promotions by way of trading stamps, gifts and bonuses except third party trading stamps. If the Bill were to pass in its present form that would be the effect of it.

My amendment will restrict operation of these promotions and gifts and bonuses still further. It will restrict the promotions to offers by the promoter to provide some service or goods, often called "for free" but not for free, but not on the condition that, in doing that, the consumer has to purchase other goods from the trader. If, for instance, the trader wishes to encourage people to come to his shop, restaurant or whatever, he may issue vouchers, advertisements really, saying "Come to my shop [or restaurant] and there you will obtain a free packet of lollies"—or a free cup of coffee, whatever it is that is being promoted. However, there ought not to be in this offer a condition that in order to get the benefit or bonus the consumer has to get his goods from the trader. So, this amendment would allow the more innocous of the promotions, but it would prohibit those promotions which are dependent upon the purchase of goods by the consumer; that is, it would prohibit the sort of promotion which says, "If you buy $80 worth of goods then you get three bottles of free champagne." In other words, the three bottles of champagne are offered as a bonus or inducement to the person to purchase the goods. In other words, the bonus is conditional upon the purchase of other goods. As I said in the second reading debate, someone ultimately must pay for all this promotion, whether it be straight advertising or advertising by this sort of promotion offer of a cash rebate or bonuses of some kind. In the end, it is not the company that pays, it is the consumer. I do not wish to canvass all matters covered in the second reading speech again.

We believe that there ought to be a number of restrictions of this sort of activity. We agree about the restriction on third party trading stamps. I hope to place a further restriction on promotions—on bonuses offered on

condition that other goods are bought. However, this amendment, with respect to trading stamps only, would permit the sort of promotion that I talked about, namely, the use of pamphlets or vouchers, or something of that kind, by which the trader can invite the consumer into the shop to try some of the wares, whether it be the purchase of goods or the provision of services in restaurants or the like. That is the effect of my first amendment. The following amendments are consequential so that, if the first amendment fails, there is little point in proceeding with the others. However, so that the complete amendment will be available I would like to move my amendments as a block so that there is a record of what is being moved.

The Hon. J. C. BURDETT: I do not object to that.

The CHAIRMAN: The Leader will move his amendments to clause 4 first.

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

Page 1—

After line 6—Insert definition as follows:

"exempt trading stamp" means a trading stamp that is made available gratuitously to members of the public irrespective of whether they purchase goods or services to which the trading stamp relates:

Lines 13 to 15—Leave out definition of "third party trading stamp".

Page 2—

After line 4—Insert definition as follows:

"trading stamp to which this Act applies" means any trading stamp except an exempt trading stamp.

Lines 5 to 11—Leave out subclause (2).

So that the Committee may see all the amendments in context, I set out my amendments to clause 5 as follows:

Page 2—

Lines 12 and 13—Leave out "third party trading stamp" and insert "trading stamp to which this Act applies".

Line 16—Leave out "third party trading stamp" and insert "trading stamp to which this Act applies".

Line 20—Leave out "third party trading stamps" and insert "trading stamps to which this section applies".

Line 25—Leave out "third party trading stamps" and insert "trading stamps to which this section applies".

The Hon. J. C. BURDETT: I oppose the amendments. They are far more restrictive and defeat the purpose of the Bill. The amendment would prohibit many quite harmless promotions. The purpose of the amendments appears to be to permit all trading stamp schemes where the stamp, voucher, coupon, etc., is given to persons irrespective of whether they purchase goods or services, but to prohibit all other schemes under which a stamp is supplied only in connection with, or for the purpose of promoting, the sale of goods or services.

My first question is whether the amendments do satisfactorily achieve this purpose. First, the definition of "exempt trading stamp" attempts to define a "class" of stamp and so is expressed in general terms rather than in terms of a particular transaction. That is, the fact that a particular stamp was given to a person who did purchase goods or services does not remove it from the "exempt" category if the general nature of the scheme brings it within the exemption. There would thus be difficulties of proof with this definition. Suppose evidence was available that a stamp was given to 97 persons who did purchase goods or services, but the trader was able to establish that three persons were given stamps without making such a purchase. Does this mean that the stamp is "made available gratuitously to members of the public irrespective of whether they purchase goods and services . . ." and is therefore exempt? I am most concerned with the consequences of the amendments.

The deletion of the concept of "third party trading stamp" and the insertion of the concept of "exempt trading stamp" result in a far wider range of seemingly innocuous promotions being prohibited, and that is what I said in the second reading reply, it is what I said when I first spoke in opposition to this amendment, and it is what I say now. Many quite innocuous promotions would be prohibited by this amendment.

Third party trading schemes (as defined in the Bill) would still be prohibited, as they are only given to purchasers and would therefore not be exempt. However, the following schemes would be permitted by the Bill but prohibited by the amendments:

1. A stamp or voucher given only to purchasers of camera films and entitling the recipient to present the voucher for a free film, or a free enlarged photograph, or some other benefit to be supplied by the vendor or manufacturer of the film. What is wrong with that? Where is the moral, social or other harm in that? Where is the harm to consumers?

2. Promotions such as the "Hungry Jack's Birthday Club" under which coupons may be redeemed for "a free treat at Hungry Jack's" (assuming the coupons are only available to persons who have purchased goods from Hungry Jack's). That would be prohibited by the amendment, and I cannot see anything wrong with that.

3. Label redemption offers (under which a label or wrapper may be returned to the vendor or manufacturer for a cash rebate or other benefit) and all other promotional schemes and competitions that require a label wrapper or some other proof of purchase to be supplied.

4. Special offers of "two for the price of one", under which a person who purchases an item receives a voucher entitling him to another identical item on presentation of the voucher to the vendor or manufacturer.

5. All coupons printed in newspapers and magazines which entitle the recipient to a benefit on presentation of the coupons, where that benefit is only available to coupon holders.

6. Schemes under which the hiring of a motor vehicle entitles the hirer to vouchers for free admission to various tourist attractions etc.

7. Finally, "Dine-out" schemes under which a book of vouchers is purchased which entitle the holder to a free meal at a restaurant provided another meal of equal or greater value is purchased. (These are trading stamps because they are issued "for the purpose of promoting the sale of . . . services," but they are not third party trading stamps because they are redeemable by the vendors of those services. They would be prohibited by the amendments because they are not supplied gratuitously and because it is necessary to purchase the "services to which the trading stamp relates" (that is, a meal) to qualify for the free meal).

Dine-out schemes, which have been in operation for some time, are prohibited by the present Act, which has not been policed or enforced, and that is one of the reasons why I think the Act should be amended because, generally speaking, it is a bad law that is not enforced, and it is one that is not enforced because the public generally do not think it ought to be enforced. I have certainly seen the operation of the dine-out schemes, as have other members, and I can see nothing wrong with them. I have listed seven promotions that are prohibited under the present Act which would be permissible under the Bill and which would be prohibited by the amendment. I can see

no reason why they should be prohibited. I suggest that the amendments should not be accepted, as they are inconsistent with the purposes of the Bill. The purpose of the Bill is to prohibit only third party stamp schemes and to permit other schemes under which vendors and manufacturers provide benefits by way of stamps, vouchers and coupons, etc. The Bill does not seek to draw the distinction between benefits that are generally available and benefits that are restricted to the purchasers of goods to which the stamp relates.

As I said yesterday, in New South Wales and Victoria there are no archaic prohibitions of this type. There was a similar prohibition in Queensland, but it was repealed some time ago, and the system is being monitored. My department will also maintain a monitoring role in relation to the operation of this Bill to see whether it will have any adverse effect and, if it does, my department will take the necessary action. There is a 1905 Act in Tasmania which was forgotten and no-one has ever looked at. In Western Australia there is an Act similar to the South Australian Act, but considerable pressure has been placed on the Government to amend it in similar fashion to the South Australian amendments.

As the Leader would know, for some time there has been concern about the curious and archaic nature of the present Act. When the previous Government was in office, an investigation was undertaken into the Trading Stamp Act, but I do not believe that the committee appointed reported before my Party took office. While I appreciate that the honourable member's amendment would not prohibit all forms of trading stamps, I believe it would prohibit many which are quite innocuous. I can see no harm in promotions where there is a condition that a person will benefit by making a purchase.

The Hon. N. K. FOSTER: There is no such thing as a purchaser receiving a benefit in promotions such as this which involve trading stamps and so-called prizes. A phrase quoted by a man whom I do not hold in very great esteem springs to mind, and I am referring to Malcolm Fraser, who said, "There is no such thing as a free dinner."

The Hon. J. C. Burdett: Your Leader said that yesterday.

The Hon. N. K. FOSTER: Well, Mr. Fraser said it, actually.

The Hon. D. H. Laidlaw: Do you hang on Mr. Fraser's every word?

The Hon. N. K. FOSTER: No, and I point out that I know him equally as well as if not better than the Hon. Mr. Laidlaw does, and I have seen his good and his bad sides. I am not concerned about what the Legislature does in Tasmania. Tasmanian voters did not elect the Hon. Mr. Burdett or myself to this Chamber, and that applies to every other State referred to by the Hon. Mr. Burdett. If the Hon. Mr. Burdett is going to say in support of this Bill that South Australia—

The Hon. J. C. Burdett: I said that one must look at what one's neighbours are doing.

The Hon. N. K. FOSTER: I am not concerned about what my neighbours do; that is their affair. That is one of the things that this Government boasted it was elected on; smaller government, not big government. If the Hon. Mr. Burdett is concerned about what his neighbours are doing in relation to legislation, he should look at the Murray River situation and the question I raised this afternoon. There should be complementary legislation at both State and Federal level. The petty Bills and amendments that this Government is introducing in this Council are a darned disgrace. What will this Bill do for the average purchaser?

The Hon. Mr. Burdett referred to Hungry Jack's. They are ripping off the public every day. The lack of food value in the items sold by Hungry Jack's is almost criminal, but at least it is better than McDonald's. If the Hon. Mr. Burdett wishes to introduce complementary legislation, I suggest that at the next Ministerial conference he attends he should refer to the Federal Minister the practice at Hungry Jack's of employing females of tender years, which prohibits them from receiving a proper award wage.

A further disadvantage in this Bill is that land sharks would be able to advertise the sale of a block of land, stating perhaps that they would throw in a free orchard as an incentive to buy. There is no way in the world that consumers will not have to pay for the so-called free benefits they will receive. It is a load of nonsense to say that because a promotion is being run by Target stores interstate, for instance, every time consumers walk into a Target store at Fulham, Newton, or Edwardstown they are disadvantaged because South Australia cannot participate in that scheme. If the Hon. Mr. Burdett's department is so concerned, it should ensure that articles sold in Target stores do not receive a price loading to support interstate promotions. Is the Minister suggesting that it is good advertising to state that one will receive a free gift if one purchases a certain item? The Minister knows darned well that he is wrong. He has been pressured by people who helped his Party get into Government. Those people are now demanding that the Government delivers.

The Hon. J. C. Burdett: That is not true.

The Hon. N. K. FOSTER: They are demanding that the Government delivers. The Hon. Mr. Burdett is as weak as the Hon. Mr. Hill was with his Local Government Act Amendment Bill last week. The Hon. Mr. Burdett should look at the operation of Associated Co-operative Wholesalers on Findon Road, which services large and small stores throughout Australia. That organisation employs about 600 people but it does not use any gimmicks for trade-offs in supermarkets. The smallest delicatessen can order through that co-operative as can Target and other large shopping chains. Associated Co-operative Wholesalers does not want this type of gimmicky rubbish in this State. I support the amendments. The Minister should not go into the gallery and make remarks about what I am saying.

The CHAIRMAN: Order! The honourable member will not refer to the gallery.

The Hon. N. K. FOSTER: That is correct, Mr. Chairman. I should not refer to it. However, it does not behove the Minister to leave the Chamber and converse as he is now doing. If the Minister is so intent on protecting the rights of individuals (consumers, as he calls them), let him pay strict and proper attention to those areas that will be of benefit to the consumer. Let the Minister be more positive in relation to the Bi-Lo group, which is doing what it likes with its prices.

The Hon. R. C. DeGaris: Aren't they connected with Associated Co-operative Wholesalers?

The Hon. N. K. FOSTER: Yes, I believe so. I was referring to the international affairs of Bi-Lo. I oppose this Bill, so that consumers will be able to buy goods freely without gimmicky inducement. Further, consumers should be able to buy, if they wish, that awful newspaper the Adelaide *Advertiser* without having to look at all the fill-outs contained in it which are never read but are stacked outside the front gate for local charities. The Minister should support the amendments based on the comments he made this afternoon.

The Hon. C. J. SUMNER: We put the option that the Minister should reconsider the Bill, because there was insufficient evidence in regard to the cost that South

Australian consumers were paying through promotions that were not allowed in South Australia but were permitted elsewhere and because, therefore, South Australians were paying increased costs without receiving the benefits of the promotional scheme, such as gifts or bonuses. The extent of the interstate cost subsidy should be properly investigated. We also believed that, if prohibitions on prices were ignored, the price increase should be investigated more thoroughly. I do not believe that the Government has investigated that aspect thoroughly: there is certainly no evidence that it has. We believed that the Bill should be put off at least until the next session to enable those investigations to be carried out.

However, as members know, the Council did not agree to that proposition, so in answer to the Minister's question, "What harm can be done by the Bill in its present form?" I can only repeat that the harm lies in the fact that the consumer in some way or other pays for the promotion. If the Minister had carried out the suggested investigations that a detailed Bill would have entailed, there might have been more concrete evidence, but the question remains, "Who will pay for the increased promotions?" There is no doubt that more schemes of this kind will be devised not only by interstate companies but also by South Australian companies to entice people to buy certain products. Therefore, because of the increase in this sort of activity, it is likely that there will be an increase in price to the South Australian consumer.

The Minister did not wish to carry out that investigation, and we must therefore reconsider the amendments. If the Minister had given some evidence to show that costs would not increase and to show how the South Australian consumer would not pay more as a result of development and expansion of promotional schemes, we might have been able to consider the matter in a different light, but we cannot do that and we must rely on the basic principle that, in some way or other, the consumer pays for advertising and other costs of these promotional schemes. The harm is in the consumer not knowing precisely what price he is paying for a particular product because of the additional incentives offered on goods that he may not want. I know the Minister disagrees with me, but harm also lies with the small businessman. There is no evidence of the effect that this Bill will have on prices and, therefore, the Bill should be restricted, as provided in my amendment.

The Minister listed a number of promotions that he said would be prohibited by the amendment, and trading stamps were mentioned. I have not studied the list in detail (no doubt the Minister's departmental advisers have done that) but, as I understand it, the Hungry Jack's scheme would not be prohibited by my amendment, because it does not involve a coupon for a meal being given on the condition that other meals are purchased. In other words, it is a straight-out gratuitous coupon with which members of the public may turn up at Hungry Jack's and receive a meal. It was envisaged that that sort of scheme would be permitted by the amendment, and I do not believe that it would be prohibited.

The Hon. B. A. Chatterton: The Pancake Kitchen is another example.

The Hon. C. J. SUMNER: That is right, and that scheme would not be prohibited by my amendment.

The Hon. C. M. Hill: The Hungry Jack's scheme would.

The Hon. C. J. SUMNER: The Hungry Jack's scheme would not be prohibited, as I understand the situation.

The Hon. J. C. Burdett: The Hungry Jack's scheme involves a birthday club. There may be other promotions, but the birthday club would be prohibited.

The Hon. C. J. SUMNER: Hungry Jack's may run other schemes, but it provides a coupon that allows a person to have a meal on a monthly basis.

The Hon. J. C. Burdett: I referred to the birthday scheme.

The Hon. C. J. SUMNER: All right, but I referred to other schemes. Those schemes would not be affected by this amendment. I would be prepared to concede that the present Shop Trading Hours Act is spurious and archaic and may need reviewing or redrafting to bring it into line with modern circumstances, but that does not affect the basic principle of whether there should be an extension of the sort of promotion that will be permitted. Whether the Act needs amending is one thing, but the principle of prohibition is another thing. An investigation was instigated under the Labor Government but, as the Minister stated, no report was adopted. However, I understand that there is a report on this matter which recommends an amendment along the lines of my amendment.

The departmental report recommended that there should be a prohibition on promotions that depend on the purchase of goods or services, and the Minister might like to provide the Committee with information in this regard. It seems as though the Government has rejected that report. I understand that other matters were covered in the report, such as restrictions on advertising of promotions where something is offered free. Certainly, nothing of that kind is provided in the Bill. I believe that the amendment is more in line with what the Consumer Affairs Department believes.

The Hon. J. C. Burdett: Do you?

The Hon. C. J. SUMNER: Yes. The Minister has ignored his departmental advice and is going beyond what is recommended. In any event, we believe that, given that the Council has accepted that this Bill should be read a second time and, therefore, that promotions by way of trading stamps or other similar schemes should be permitted, there should nevertheless be some restrictions. This amendment limits those promotions to gifts, bonuses or extra goods which are offered but which are not dependent on other goods or services, and it would ensure that a number of schemes that are running at the moment are legitimised, at the same time preventing open slather in this area, which would ultimately cost the consumer money.

The Hon. J. C. BURDETT: The suggestion that the Bill should be taken back and thought about again is really ridiculous, because the previous Government had been investigating the matter and this Government has been looking at it for 12 months. It has been thoroughly investigated.

The Hon. C. J. Sumner: Where is the result of your investigations?

The Hon. J. C. BURDETT: In this Bill. The Leader has asked for evidence about an increase in prices which this Bill would cause. I do not believe that this Bill would increase prices, because advertising promotions are carried out by one means or another. Advertising on television is an extremely expensive way of advertising and this way is cheaper and more effective. It would not be possible to provide, on a hypothetical basis, any evidence as to increased prices. There is no suggestion that in New South Wales, Victoria and Queensland, where there are no restrictions, that the price is any greater than in South Australia.

Members interjecting:

The Hon. J. C. BURDETT: Our costs are not any cheaper and are not likely to be made any more expensive by this Bill because there is no suggestion that in

Queensland, New South Wales or Victoria a lack of the kind of archaic prohibition that we have here has jacked up the price. That evidence is just not there, and the Leader knows that it is not there. New South Wales has tried it, and they had freedom from restriction. There is no suggestion that prices to the consumer will be substantially higher or any higher across the board than it is here.

The Hon. J. E. Dunford: What if they go up—will you pull the Bill out?

The Hon. J. C. BURDETT: I have promised that the situation would be monitored as it was in Queensland. In Queensland it was monitored for two years. I am informed by the Queensland Minister and his department that no adverse effect has been found. I propose to do the same thing and monitor the situation here to see whether any undesirable practices do emerge.

The Hon. J. R. Cornwall: Whom are you paying off with this Bill?

The Hon. J. C. BURDETT: The answer to that question is "No-one". No pressure was put on us by anyone, and I say that most emphatically.

Members interjecting:

The CHAIRMAN: Order!

The Hon. J. C. BURDETT: The reason that this Bill evolved was the investigation instituted by the previous Government; it was in the office when I got there and was carried on from there. There is no suggestion—and I resent and categorically deny any suggestion—that there is any kind of pay-off; that is completely and utterly untrue. Finally, I make the point in regard to small businesses. I said yesterday and repeat today that this is the kind of legislation that is suitable for small businesses, and I gave examples yesterday.

The Committee divided on the amendments:

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

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

Pair—Aye—The Hon. C. W. Creedon. No—The Hon. M. B. Cameron.

Majority of 1 for the Noes.

Amendments thus negatived; clause passed.

Clause 5—"Offences."

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

Page 2—

Lines 12 and 13—Leave out "third party trading stamp" and insert "trading stamp to which this Act applies".

Line 16—Leave out "third Party trading stamp" and insert "trading stamp to which this Act applies".

Line 20—Leave out "third party trading stamps" and insert "trading stamps to which this section applies".

Line 25—Leave out "third party trading stamps" and insert "trading stamps to which this section applies".

These amendments are consequential but I move them for the sake of completeness. I indicate that the arguments I put on clause 4 apply in this case but obviously when the amendments are put I will not be calling for a division on it.

Amendments negatived; clause passed.

New clause 5a—"Gifts and cash refunds not to be offered."

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

Page 2, after clause 5—Insert new clause as follows:

5a. A person shall not, in promoting the sale of goods or services, offer to make any gift or cash refund to a purchaser upon or in relation to the purchase of the goods or services.

Penalty: Five hundred dollars.

The discussion we had on clause 4 related specifically to trading stamps. The clause I now wish to insert deals with all promotions of goods or services and would restrict such promotions to situations where there is not the offer of any goods or services made conditional on the purchaser purchasing other goods or services. In other words, the argument for the insertion of this clause is in the same terms as the argument under clause 4, where we were dealing specifically with trading stamps. Further to what I said under clause 4, I ask the Minister, in view of the fact that an investigation was carried out within the department, and presumably he received its recommendations about what should happen with respect to this Bill, whether or not the departmental recommendation was the same as the Bill he has introduced, or was there a recommendation that promotions dependent upon the purchase of goods or services should not be proceeded with? Was there any recommendation restricting advertising and the nature of advertising of these sorts of schemes, that is, which indicated that the consumer was getting something for nothing, or that there was some free gift around? I would like the Minister to respond to that proposition. If an investigation was carried out, and if the Minister and the Government feel that they are on secure ground in this matter, why was not the report made available to the Parliament so that we could consider the matter? It seems to be another case where the Government is putting up legislation, having made up its mind about it, obviously on the basis of some report and submissions that have been made within the department, but not making that available to the Parliament. I would have thought that if the Minister was so convinced of his own case and the rights of his case then he would be perfectly happy to make available to the Parliament any reports or documents he has received from his department. If we have them, we may well be persuaded by the arguments in them. Of course, the Minister has not provided that information to us.

The Hon. J. E. Dunford: That's open government.

The Hon. C. J. SUMNER: It is not open government. The Government is not interested in making these things available to the Parliament. I would have thought it was just plain common sense, as well as being good government, for the Minister to make reports of this nature available. Certainly, I am not suggesting that all reports ought to be made available, but one of this kind, I would have thought, would have assisted the Parliament in its considerations of this issue. The argument is exactly the same under this amendment, except that it applies to all promotions, not just to trading stamps. I would like the Minister to advise us what the advice was that he received on this matter and whether or not what we are trying to do was in fact the preferred view of his department.

The Hon. J. C. BURDETT: The Leader would know perfectly well, I think, that the original, which was called for during his administration, was a report by an officer and was, generally speaking, on the philosophical basis of the Act. It would be silly to provide that to Parliament. It was the initiating stage of the discussion which ensued within the department after the initial report was presented by one officer. It was a research project; that is what it amounted to. There was further discussion within the department by officers and between officers and myself. Eventually, this consensus was arrived at. That, of course, as the Leader well knows (although I do not think he is listening at the moment), or he should well know, is a usual and proper procedure and there is not any kind of

final report.

The Hon. C. J. Sumner: Why don't you make it available? If it is a research paper, it would be useful to have.

The Hon. J. C. BURDETT: The Leader knows that departmental matters of this kind are not usually tabled in Parliament, and certainly were not tabled in Parliament by the previous Government, which was very remiss about that kind of thing. This matter was entirely within the department. There were further discussions afterwards and the final talking around resulted in this Bill. I oppose the amendment.

The Hon. C. J. Sumner: It was a research paper, so surely the Minister can make it available.

The Hon. J. C. BURDETT: The Leader has said that this is basically the same as his previous amendment so there is no need to say much more about it, except that it even goes beyond trading stamps. It is even more rigorous and prevents all promotions in the circumstances set out in the amendment, whether there is a trading stamp involved or not. Yesterday I mentioned a case that occurred earlier this year of Ford and GMH when they were at the end of their run of a particular model. They advertised that if anyone purchased the outgoing model they would receive, I think, a cheque for $200. That would clearly be prohibited by this amendment, and as I said yesterday, I cannot see anything wrong with that. It is a perfectly proper method of promotion and there was a perfectly good reason for it. The consumer knew exactly what he was getting himself into. I cannot see any reason why this and similar promotions should be prohibited, and I oppose the amendment.

The Hon. C. J. SUMNER: I should have thought that the Minister would be more forthcoming about the research paper that was apparently prepared in his department. He has refused to say what the recommendations of that research paper were. I have reason to believe that that research paper indicated that the sort of amendment I am putting up now—

The Hon. J. C. Burdett: You haven't got another Government submission, not another stolen document?

The Hon. C. J. SUMNER: No more stolen documents. We do not get stolen documents.

The Hon. J. R. Cornwall: We get lots of leaks, which is a signal of a Government going bad.

The CHAIRMAN: Order!

The Hon. C. J. SUMNER: There are ways and means of ascertaining what the Government is doing when it will not come clean with the Parliament. The Government ought to explain frankly what is going on. I must say, on the question of secret documents, that this Government is starting to exhibit an extraordinary paranoia about this matter—

The Hon. J. C. Burdett: Back to the amendment.

The Hon. C. J. SUMNER: —considering the use it made of leaked documents in its years in opposition; it used to live on them.

The CHAIRMAN: Order! I hope that the Hon. Mr. Sumner will not continue to develop that line.

The Hon. C. J. SUMNER: I did not introduce the matter of stolen documents, it was the Minister. I received a very forceful interjection from the Minister. He was downright rude about it. I feel a bit hurt, Mr. Chairman.

The CHAIRMAN: The honourable Minister will no doubt apologise. I would like the Leader to now deal with his amendment.

The Hon. C. J. SUMNER: I had reason to suspect that the recommendations to the Minister about how this legislation ought to be amended, were, in fact, in line with what I moved today. He will not come clean and tell the Committee whether that is the case. He has apparently had a research report done, which I am sure will be useful to all members if they can have it even just as some background information. It would not necessarily bind us to take a particular position, just as it would not bind the Minister to take a particular position and, indeed, has not bound the Minister to take a particular position, because he seems to have over-ruled his departmental advisers.

The Hon. J. C. Burdett: I have not.

The Hon. C. J. SUMNER: I ask the Minister again why he is reluctant to make this research paper available and whether or not his Bill today accords with that paper. If it does not, in what way does it differ, and for what reason does it differ from the suggestions of the research paper? They are legitimate questions. The Minister said that the Labor Government was remiss in not providing this sort of information. Now we have a new Government and a new Opposition (to some extent) and so perhaps we can start off afresh. If the Government were not so paranoic about reports that the Opposition occasionally gets access to, perhaps it would adopt a more reasonable approach to making these things available, which I am sure would only enhance the public debate on these matters and ensure that the business of legislating would be more effective than it is. I direct the question to the Minister and hope he will reply.

The Committee divided on the new clause:

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

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

Pair—Aye—The Hon. C. W. Creedon. No—The Hon. M. B. Cameron.

Majority of 1 for the Noes.

New clause thus negatived.

Remaining clauses (6 and 7) and title passed.

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

That this Bill be now read a third time.

The Hon. C. J. SUMNER (Leader of the Opposition): The Opposition is not happy with the Bill in its present form. However, the Minister has given an undertaking that, once the Bill is passed by Parliament and is put into effect, thereby permitting a number of these promotional schemes, he will monitor the situation to ensure that no undesirable practices develop. I welcome that assurance. For our part, we will also keep the Bill under review and, if any undesirable practices emerge, we will obviously have to give further consideration to them. This Council, another place and the Government, will be aware that it behoves all of us to keep an eye on what happens in this area. Certainly, that is what we will be doing, particularly to see whether any undesirable practices develop or whether or not the passage of the Bill has any harmful effects on the community. All of us would then be in a position to reconsider our attitude to the legislation after it has been in operation for some time.

Bill read a third time and passed.

EDUCATION ACT AMENDMENT BILL (No. 2)

Second reading.

The Hon. C. M. HILL (Minister of Local Government): I move:

That this Bill be now read a second time.

Its principal purpose is to make provision for the registration of non-government schools. South Australia, unlike the other States of the Commonwealth, does not have a system for the registration or approval, by Government, of non-government schools. The previous Government introduced amendments to the Education Act in 1979, which empowered the Minister of Education to approve these schools. However, before that legislation could have effect, there was a need for certain regulations to be framed. Up to the time of the change of Government in September 1979, regulations had not been prepared.

Shortly after the present Government took office, the Minister of Education received representations from non-government schools indicating that they did not consider the amendments made to the Education Act to be in their best interests which, they felt, would be more satisfactorily served by the establishment of a statutory board which would register non-government schools. The Government has agreed to this approach, which forms the main substance of these amendments.

The proposed Non-Government Schools Registration Board will consist of five members, two of whom will be drawn from the non-government school sector. Of those two, one will be nominated by the South Australian Commission for Catholic Schools, and one by the South Australian Independent Schools Board Incorporated.

Under the proposed amendments, it will be an offence to operate an unregistered non-government school after a date which will be fixed by proclamation. On making proper application to the board, non-government schools will be registered if the board is satisfied that the nature and content of the instruction offered at the school are satisfactory and the school provides adequate protection for the safety, health and welfare of its students. The board may grant registration subject to conditions relating to these matters, and registration may, after due inquiry, be cancelled if a school contravenes any such conditions. A distinct advantage for non-government schools or intending non-government schools under the proposed legislation is that a right of appeal to a local court of full jurisdiction is provided against any decision of the board. There are no specific rights of appeal in the existing legislation.

In addition to its main function, the Bill modifies an obsolete reference to the Director of Catholic Education in section 55 of the principal Act, and expands section 58, which grants certain immunities to members of the Teachers Registration Board, by providing that liabilities which, but for the operation of the section, would attach to those members, shall attach to the Crown. The Government is of the view that a modification of this nature is desirable to ensure that persons who might be unfairly prejudiced by the actions of board members are not left without redress. I seek leave to insert the detailed explanation of the clauses in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1, 2 and 3 are formal. Clause 4 amends section 5 of the principal Act, which defines certain expressions employed in it, by removing the definition of "approved non-government school" and inserting a definition of "registered non-government school". In addition, the definition of "governing authority" is modified to include the governing authority of a proposed as well as an existing non-government school. Clause 5 substitutes reference to the South Australian Commission for Catholic Schools for the existing reference to the Director of Catholic Education in section 55 of the principal Act.

Clause 6 amends section 58 of the principal Act which, *inter alia*, provides that no personal liability attaches to a member of the Teachers Registration Board in the *bona fide* exercise and discharge of his statutory powers and functions. A new subsection numbered (3) provides that any liability which would arise but for the operation of the section shall attach to the Crown. This clause also amends subsection (2), by deleting reference to "purported" exercise and discharge of powers and functions. The Government feels that the word "purported" is imprecise and may give the section a wider impact than is desirable. Clause 7 effects a minor amendment to section 63 of the principal Act, which is consequential on the central provisions of the Bill.

Clause 8 repeals Part V of the principal Act, which deals with non-government schools and enacts a new Part consisting of 16 sections, numbered 72 to 72o, inclusive. Proposed section 72 establishes the Non-Government Schools Registration Board, which consists of five members appointed for terms of up to three years, one of whom is to be appointed Chairman. Of the other four, two shall be appointed on the nomination of the Minister (one of these must be an officer of the Education Department), one on the nomination of the South Australian Commission for Catholic Schools and one on the nomination of the South Australian Independent Schools Board Incorporated.

Proposed section 72a prescribes the term of office of Board members, and makes provision for the appointment of temporary members for periods not exceeding six months, and deputies for members. It also provides for the removal of members from the board and the filling of vacancies. Proposed section 72b sets out the procedures to be adopted at board meetings and proposed section 72c provides that proceedings of the board shall not be invalid on account of any vacancy or defective appointment in its membership, and that no liability shall attach to board members in the *bona fide* exercise of their powers or discharge of their duties under the Act. Instead, any liability that might arise in this context, will attach to the Crown. Proposed section 72d empowers the Governor to determine allowances and expenses payable to board members and proposed section 72e creates the office of Registrar to the board.

Proposed section 72f makes it an offence to operate an unregistered non-government school after a date which will be fixed by proclamation. The penalty is $500. Proposed section 72g provides that where proper application for registration is made by a non-government school or proposed non-government school and the board is satisfied that the nature and content of the instruction offered or to be offered at the school are satisfactory and that the school provides adequate protection for the safety, health and welfare of its students, the board shall grant registration. The board may do this subject to conditions relating to the criteria for registration. Proposed section 72h requires the board to maintain a register of registered non-government schools. Proposed section 72ha provides that registration of non-government schools shall remain in force for periods of five years and may be renewed from time to time.

Proposed sections 72i to 72k, inclusive, deal with cancellation of registration. The board may effect this if a school becomes defunct, or if, after carrying out due inquiry, the board is satisfied that a school has contravened a condition upon which registration was granted. Section 72j sets out the powers of the board when conducting an inquiry under section 72i, and section 72k requires the board to give a school 21 days notice of any

inquiry in relation to that school. The governing authority of the school is entitled to be heard at these inquiries, and may be represented by counsel.

Proposed section 72l provides non-government schools with a right of appeal to a local court of full jurisdiction against any decision of the board made in the exercise of its powers and functions. Proposed section 72m requires the head teacher of a registered non-government school to keep records relating to the attendance of students, and furnish returns to the Minister as required. Proposed section 72n empowers the Minister to provide advisory and health services to non-government schools if requested to do so by those schools, and proposed section 72o empowers the board to carry out inspections of non-government schools for purposes connected with registration. Clauses 9, 10 and 11 provide for minor amendments to sections 74, 82 and 107 of the principal Act, respectively, which are consequential on the central provisions of this Bill.

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

The Hon. ANNE LEVY: The Opposition supports this Bill. In so doing, I should comment that the Bill has been considerably improved by the amendments moved by the Opposition in another place and accepted there by the Government. Therefore, we are spared the problem of arguing those amendments in this place. As mentioned in the second reading explanation, the principal purpose of the Bill is to set up a board for registration of non-government schools. The Minister suggested that South Australia, unlike the other States of the Commonwealth, does not have a system for registration or approval of non-government schools. This is not quite correct.

As I understand it, there is no system for registering non-government schools in Queensland, and in Western Australia, where there is a system for registering non-government schools, the system merely consists of the schools applying to the Minister for registration and being granted registration by the Minister on the advice of the Education Department. There is no system of appeal on any decision the Minister may make. However, in New South Wales, Victoria, and Tasmania there are boards involved with registering non-government schools; it is the responsibility of those boards to see that non-government schools maintain adequate standards both in terms of health, safety and welfare of the pupils and also in terms of curricula in those schools. As I understand it, in Victoria the registration of non-government schools is done by a subcommittee of the Council for Public Education. The council itself consists of 21 members but the registration of non-government schools is conducted by a subcommittee of nine members. Of the nine members of that subcommittee, four come from non-government schools, four from the Education Department in that State, and the ninth member is a member nominated by the University of Melbourne.

In Tasmania, there is a board which registers both non-government schools and the teachers in those non-government schools. It is a board consisting of 10 individuals of whom three are principals of non-government schools, three are teachers in non-government schools and the remaining four individuals represent the Education Department and also the University of Tasmania. In addition, one member represents the pre-school area in that State, seeing that the responsibilities of the board are much broader than is proposed for the board in this State.

In New South Wales they have a fairly complicated system of registering non-government schools. There are three forms of registration for different purposes. Certification, as I understand it, is merely permission to exist, and is granted by the Minister on application from the school, with no board intervening to check on standards. In New South Wales, there is also registration for the purpose of granting the higher school certificate; this obviously would apply only to secondary non-government schools. For this purpose a board is set up under New South Wales legislation consisting of five individuals, two of whom come from non-government schools, two either from Government schools or from the Education Department, and a fifth member being a representative of the tertiary sector—I think at present from C.A.E.'s in that State.

There is also in New South Wales a system of registering non-government schools for the purpose of receiving bursary scholars. I imagine that this is not of great importance, seeing that the system of bursary scholars was set up in 1912. While it may have been important in those days, it is of much less importance these days. Again, there is a board for the purpose of registering non-government schools and once again the memers of that board are made up of representatives of non-government schools and also representatives of the Education Department and the tertiary sector.

The Bill before us is to set up a board for registering non-government schools in this State. I certainly welcome such a move, as the current situation (with non-government schools being able to be set up without any check on their standards or curricula) is undesirable. I do not wish to suggest in any way that any existing non-government schools do not meet adequate educational standards, but the State surely has a responsibility in the area of education of all children in this State and must ensure that in non-government schools there are adequate educational standards and facilities for the health, safety, and welfare of the pupils. I believe that that is an important point.

The State has a responsibility not only to the 80 per cent of children who attend Government schools but also to the 20 per cent who attend non-government schools. This is not a responsibility which the State can duck, however adequately they may have been catered for in the past. The legislation before us sets up a board consisting of five members whose job it would be to register non-government schools. If we look at the composition of this board we see that two of the five members are to be chosen by the non-government school sector, one by the South Australian Commission for Catholic Schools, and one by the South Australian Independent Schools Board. So, the two main categories of non-government schools will be represented on the board by nominees of their choice. The other three members are to be appointed by the Minister. While it is stated that one of the members must be from the Education Department of the State, the other two can be chosen as the Minister wishes.

I would certainly like to ask the Minister whether he has any information regarding the qualifications of the other two people who are to be chosen by the Minister to be members of this board. There is no qualification set down in the legislation, and I would be interested to know whether the Minister intends that one of the two should be a representative of the tertiary sector, from the Education Department of a university, from a college of advanced education, or perhaps from Tertiary Education of South Australia. I have quoted the composition of similar boards interstate, and have indicated that there is often a representative from the tertiary sector on such a board. This is my reason for inquiring whether it is contemplated that one of these five members should be from the tertiary

sector, be it a university or college of advanced education.

Looking further at the Bill, I note that the board will receive applications for registration of non-government schools in a form and manner to be determined by the board. The board is to decide whether the school is to be registered without any conditions being imposed on such registration or whether conditions will be imposed as part of the registration for non-government schools or, alternatively, that a school will not be registered at all, in which case it will not be permitted to function. As originally presented in the other place, the legislation made provision for cancellation of registration of a non-government school after due inquiry if the conditions imposed as part of the registration had not been met. However, there was no way in which a registration which had been granted unconditionally could be withdrawn should the school change markedly in its standards and facilities. One of the amendments accepted in the other place has changed the Bill, so that registration will now be for a five-year period only, and after that period of five years the non-government school will have to apply again for registration.

The effect of this Bill will be that if a school is granted registration unconditionally, but its standards and facilities deteriorate markedly, the board will be able to remove its registration after a five-year period. It may be that five years is too long and that consideration should be given to a shorter period before further applications for registration are considered. However, it seems to me that, while in theory this may be true, in practice the decline of a school's standards to such an extent that registration is withdrawn is unlikely to occur in a period of less than five years, so applications for registration at five-yearly intervals should cover the situation quite adequately. Of course, if a school is granted registration subject to certain conditions and these conditions are not fulfilled, the registration can be withdrawn or cancelled long before the period of five years, as one might expect.

The Hon. C. M. Hill: I am trying to listen to the specific question you have asked.

The Hon. ANNE LEVY: I asked earlier about the composition of the board where two of the five members are to be appointed not by the Minister but by the non-government school sector, and I wondered whether the Minister had any information regarding the other three members of the board, one of whom must be a member of the Education Department, but for the other two no qualifications are set down. In all other States which have similar boards at least one of the members of the board comes from the tertiary sector, be it a university or college of advanced education. Has the Minister any information as to whether it is intended that one of the five in South Australia should also come from the tertiary sector, as occurs in other States?

One way in which this legislation differs from that in other States is in the provision for appeals against decisions of the board. In other States, so far as I have been able to ascertain, if a school disagrees with any decision made by the board it can only do so by appealing to the Minister. The Minister may, of course, vary any decision made by the board, but in this Bill there is provision for appeal to a court rather than to the Minister and, while it might be regretted by some that this means an appeal out of the education arena and into a legal arena, it seems to be desirable that appeals should be other than to the Minister, seeing that the Minister appoints the majority of the board, because it could be regarded that an appeal to the Minister is an appeal from Caesar unto Caesar, which will be removing it to the court arena. There is an appeal right outside the educational arena. This may have its disadvantages, as the legal system is not as well versed in educational matters as one might expect an educational arena to be, and its criteria with regard to curricula and standards of education would not necessarily be those which educationists would regard as desirable and important. I think, on balance, the idea of an appeal to a court is a good one, although I hope that the courts will not get cluttered up with such appeals.

Another query I have with regard to the Bill on which the Minister may be able to provide some information is that there is no grandfather clause in the Bill. As I read the Bill, once it is proclaimed, all existing non-government schools will have to apply for registration and will have to satisfy the board with regard to the nature and content of the instruction offered and show that the school provides adequate protection for the safety, health and welfare of its students. Unless the board adopts the principle that virtually all existing non-government schools meet those criteria, there is likely to be a great back-log and a considerable space of time before the board can adequately consider all the applications before it; also it may be a considerable time before all schools in question can be registered.

As I say, there is no provision for a grandfather clause, but I imagine that good sense will prevail and the board will probably adopt the principle that all existing non-government schools will be granted recognition automatically, thus avoiding this log-jam and any problems that might arise if hundreds of schools were suddenly applying at the one time for registration. I do not think that is a trivial point, because I understand that three non-government schools opened their doors for the first time in January this year.

At present all non-government schools in South Australia receive grants from both the State and Federal Governments. These grants are not available to them in the first 12 months of their operation, but they are available in the second 12 months. These three new schools have applied through the South Australian Committee for Grants to Non-Government Schools and have been told by the committee that they will have to wait, because of the imminence of this legislation, and apply for registration before they can be considered for grants from the State Government.

I understand that all three schools have been given to understand that they will be given registration, but one effect of that is that they will have to wait for their grants until next August whereas, in general, non-government schools receive half their State Government grant in December and the other half in the following August. These three schools will have to apply for registration before they can be considered for grants from the State Government and, in consequence, they do not expect to receive any money this month and will have to wait to receive their entire grants next August.

While this will not diminish the total sum that they will receive, it will make things difficult for them in terms of cash flow for the next six months, and they may have to go heavily into debt over that period and pay interest on overdraft money that they would otherwise have received from the State Government. In view of this the question of how soon the legislation comes into operation is not trivial, and I think particularly of these three schools. Obviously, the question is bound up with the registration of all non-government schools in the absence of a grandfather clause in the Bill to permit all existing non-government schools to be automatically registered.

I am not suggesting that there should be a grandfather clause in the Bill. It seems to me that the provisions of the Bill are quite satisfactory in that regard and that a five-

year registration in the first instance can be granted by the board without a detailed investigation of the school, so avoiding any complications that could arise. I merely point this out to show that there is the possibility of difficulty that may or may not be overcome in the next few months.

One final point that was changed in the original Bill by an amendment in another place deals with the person who is authorised to carry out an inspection of any non-government school on behalf of the board. By way of amendment it was made clear that any person who was authorised by the board to carry out an inspection of non-government schools would be an authorised officer of the Education Department. This is an important point in view of my earlier comment about the responsibility of ensuring that all children in South Australia receive adequate standards of education.

An authorised officer from the Education Department will be familiar with the standards applying to the schools which educate about 80 per cent of children in this State and can therefore ensure that the standards in the non-government schools are comparable with those in the State schools. Because that examination will be done by an officer of the department, members can be sure that the State is not neglecting its responsibilities towards the standards of education in non-government schools.

I hasten to add that in making these remarks I in no way intend them to be interpreted as meaning that the current non-government schools are not providing adequate standards. I am talking in theoretical terms about schools that may be established in the future and about the responsibility that the State has towards the children being educated in those schools. I support the second reading.

The Hon. C. M. HILL (Minister of Local Government): I thank the Hon. Miss Levy for her contribution, and I thank the Opposition for supporting the Bill. As has just been said, the Bill was amended in another place earlier today. Those amendments were moved by the Opposition and were supported by the Minister of Education and the Government, so that this Bill comes to us in what may be called an agreed form. The honourable member has raised only two points that cause some comment on her contribution. The first deals with the composition of the board and the possibility of an assurance that one of its members might be someone from the tertiary level. I understand that the Minister wants some flexibility in regard to who his nominee shall be on the board and that therefore he is unable to commit himself on that point.

The Hon. Anne Levy: I was not pushing that.

The Hon. C. M. HILL: I realise that, but I want to give the assurance that the Minister will bear that point in mind when it comes to selecting the two people in question. The Minister is bound by the two that the honourable member mentioned, that is, the one from the South Australian Commission for Catholic Schools and the one from the South Australian Independent Schools Board Incorporated. Of course, one has to be an officer of the department. So, from a board of five members, the Minister has only two choices left. Nevertheless, the point that the Hon. Miss Levy made is sound, and I know that the Minister will bear it in mind.

The second point deals with her view that it may be prudent for a grandfather clause to be included in legislation such as this. I think we can be assured that the board, once it is formed, will give early consideration to the applications that involve some financial stress, as in the case of those schools recently established. If the board does that, the three newly-established schools to which the honourable member referred would be given some priority in regard to approval, registration and, therefore, funding.

I do not think it would be wise for a grandfather clause to encompass new schools of that kind because, as has just been said, the registration for the early period of the first five years in a school's history gives the board some flexibility to either reconsider or finally approve a school after its initial establishment years. It is probably wise for that check to appear in the legislation just in case one of these schools, or any other school that might commence in the future, is unable to measure up to the standards laid down by the board. As a result of that, if the board acts in a responsible manner—and there is no reason to think that it will not—I think the problem facing newly-established schools will not be as serious as it might otherwise be. In practice, the points raised by the honourable member, which she properly brought forward as matters of concern, will not prove to be so difficult once the Bill has been proclaimed and the board established.

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

PETROLEUM SHORTAGES BILL

Adjourned debate on second reading.

(Continued from 2 December. Page 2408.)

The Hon. C. J. SUMNER (Leader of the Opposition): The Opposition is prepared to support this Bill. There has been a clear need for permanent legislation to deal with petroleum shortages in this State for some considerable time. At the urging of my colleagues on this side I will certainly not speak at any great length on this matter tonight because, it would be true to say, this matter has been debated *ad nauseam* in this Parliament over the past eight years. In 1972-73 temporary measures were introduced and debated in Parliament. In 1974 a permanent measure similar to the Bill now before us was debated but not passed because of objections to certain aspects of it in the Legislative Council. In 1977 another debate took place on a temporary measure. In 1978 and 1979 the Labor Government once again attempted to introduce a permanent measure, but as a result of amendments moved by the Legislative Council no permanent measure was placed on the Statute Book. In March 1980 the Liberal Government introduced a temporary measure, and in November 1980, just a few weeks ago, the matter again came before Parliament eventually in the form of a temporary measure.

Over the past eight years this matter has been debated no less than eight times. I am sure that members would not want me to canvass all those arguments once again. Anyone who is interested in those arguments can consult *Hansard* and peruse at length the various propositions that have been put forward. The Opposition is in substantial agreement with this Bill. Since 1974, when the Labor Party was in Government, we tried to introduce permanent legislation in South Australia to ensure that the Government had the power to deal with an emergency situation resulting from a shortage of petroleum. The Opposition is concerned about one or two matters, and the first is clause 14 of the present Bill. That clause states in part:

> . . . no action to compel the Minister or a delegate of the Minister to take, or to restrain him from taking, any action in pursuance of this Act shall be entertained by any court.

In other words, that clause prevents injunctions from being taken against the Minister for any actions that he may be attempting to take under the Bill. It is absolutely extraordinary, in view of the Liberal Party's previous attitude to this matter, that this clause should appear in the

Bill. When a permanent measure was introduced in 1979 by the Labor Government, it is interesting to note just what the Liberal Party, including the present Attorney-General, had to say about it. The present Attorney-General seems to have done one of his famous back-flips, at which he has become very adept.

The Hon. K. T. Griffin: At least I land on my feet.

The Hon. C. J. SUMNER: Not always, and not this morning. The Attorney-General has said that he lands on his feet, but he certainly appears to be a figure of fun to many members of the community.

On 9 August 1979, in relation to the restriction on *mandamus,* the Attorney was dealing with virtually the same clause that prohibited any action being taken in the courts to restrain or compel the Minister in regard to taking or not taking action under the legislation. The Attorney said:

> I do not believe, even in times of crisis or emergency, that the Government or the Minister ought to be above the law. It is vital for our community that, whether in ordinary times or in times of crisis or emergency, the Government, in exercising its responsibilities, should not be placed in the position of a dictatorship but should always be subject to the ordinary process of the law. I will urge at the appropriate time that honourable members strenuously oppose that provision in clause 11.

That clause was the provision regarding *mandamus* and was virtually the same as the provision in the permanent Bill. When members opposite were in Opposition, the Government was said to be acting as a dictator, but now it is perfectly all right to include that provision. That is an example of the back-flip that the Attorney has taken. On 21 August, the Hon. Mr. Hill felt more strongly than the present Attorney-General about the clause. He said:

> I feel strongly about this issue. It surprises me that the Government claims that it is a democratic Government when it is putting a clause like this on the Statute Book . . . If this clause remains in the Bill, that citizen has no rights at all against that Minister in regard to taking out a writ of *mandamus* against the Minister. Putting the Minister above the law, as the Hon. Mr. Griffin said, is the most undemocratic process I have ever seen in legislation before this Parliament. I strongly oppose this clause.

In Government and sitting on the front bench, the Hon. Mr. Hill, like the Attorney-General, is supporting a Bill, when he said that in 1979, when it was a Labor Bill. I think Oscar Wilde said that consistency means the last refuge of the unimaginative, and that would be the only thing to which members opposite could resort on this Bill.

The Hon. R. C. DeGaris: He also said, "I only have my genius to declare."

The Hon. C. J. SUMNER: Yes. The Hon. Mr. Griffin, again opposing the *mandamus* clause, said:

> That, coupled with the fact that previously there was not any right to have a Minister's direction reviewed, puts him, as I indicated in the second reading debate, above the law. Although it may be for 30 days only, within that time quite momentous decisions can be taken by the Minister, which are not subject to judicial review.

I would like to know how the present Government justifies its complete about-turn. In March 1980 the Government included a similar provision in the Bill and, when I put this argument, members opposite squirmed a little but the Attorney was quick to say that that was temporary legislation and that the 1978 Bill was for permanent legislation. He said that that was why we could not have the prohibition on *mandamus* in permanent legislation. In 1979, the prohibition was said to be the worst thing that could be heard of, and in 1980 it was acceptable, because it was a temporary provision. In December 1980 it is perfectly consistent with the aims of the Bill and the principles of the Liberal Party. Members opposite will have to resort to some kind of mental gymnastics and perhaps to the appropriate quotation and be very imaginative in their inconsistency over this matter.

Another matter that I wish to mention relates to police powers and is dealt with in clause 16. I referred to this matter a couple of weeks ago. There are broad powers of police investigation, and I must confess to having some qualms about them. However, a provision indicates that a person is not obliged to answer questions put under the Bill if the answer would tend to incriminate him of an offence, so that provides some protection. The period of restriction or rationing can last for only 28 days before Parliament is called together, when it can deal with any abuses. I do not intend to move any amendments to that provision.

Clause 12 is another matter that gives concern. It deals with profiteering and provides that during a period of restriction the Minister may fix maximum prices. We believe that the Minister should be compelled to fix maximum prices during such a period to ensure that there is no profiteering that subsequently may be caught up with if the Government acts. It may be too late then: the horse may have bolted and, unless some form of price control is introduced immediately in an emergency, there is always opportunity for profiteering.

As I said last week, towards the end of the dispute that led to the shortage a few weeks ago, it appeared that some service stations were selling petrol at well above the pre-emergency prices and we were getting into a sort of profiteering situation. The Government ought to use its powers to fix prices during a period of emergency so that there can be no suggestion of profiteering.

There is no doubt that that was occurring towards the end of the last period of shortages only a couple of weeks ago. So, we will be moving amendments to clause 12. The other matter which will be contentious is clause 11. This deals with the directions that may be given by the Minister in relation to the extraction, production, supply, distribution, sale, purchase, use or consumption of petroleum. The range of people to whom those directions may be given is very broad. In fact, the range is broader now than it was in the Bill introduced a couple of weeks ago. We believe that there ought to be some restriction under clause 11 and, in particular, that restriction ought to be that there is no power in the Bill to direct labour; that is, no power of direction under a Bill relating to petroleum shortages to direct the end of an industrial dispute, strike or whatever.

I will deal with that amendment in more detail in the Committee stages. However, there is no doubt that honourable members will be well aware of the arguments on that provision, as they, too, have been canvassed in Parliament on previous occasions and, indeed, have been the major point of difference between the Parties on the occasions that this matter has come before the Parliament. I support the second reading and will be moving those two amendments, as indicated, in the Committee stage.

The Hon. K. T. GRIFFIN (Attorney-General): I appreciate the indication that the Leader of the Opposition has given that the Opposition will support this Bill. I understand from what he has had to say that there will be two amendments in particular which will be debated more extensively during the Committee stages of the Bill. I do not want to relate the long history of the emergency petroleum restriction legislation in this State. As I said in the second reading explanation, we are now at the point in Australia where all States and the

Commonwealth are moving towards permanent legislation to deal with energy shortages. This Bill relates specifically to petroleum, which has a fairly wide definition but is principally directed towards motor fuel, although it does encompass other forms of petroleum.

As I said in my second reading explanation, the Government does intend to review the legislation and its operation when the National Petroleum Advisory Committee has completed its deliberations and has made suggestions for uniform legislation throughout Australia. At the present time the Government takes the view that the Bill which is before us is an appropriate means by which restriction of motor fuel in particular can be dealt with without undue difficulty and without severe embarrassment to any individual. The Government will be able to ensure that essential services are maintained and yet also ensure that there are certain safeguards against the abuse of the powers contained in the legislation.

Let me deal with the various clauses to which the Leader of the Opposition has referred. The first is clause 11—that is, the power to give directions. The Minister may give directions by a notice and by instrument which is served on the object of the direction or by advertisement directed towards the object of the direction. It is correct, I suppose, if one takes the drafting to its logical conclusion, that it does encompass an industrial strike. Certainly, the Government is not going to act in any heavy-handed way and does not have this object in view in seeking to enact clause 11. Clause 11 is more particularly directed to the rationing situation.

As I indicated in November, when the interim legislation was before the Parliament, the power to give directions under clause 11 will relate to such things as the supply of petroleum from petrol stations: whether on one day persons whose number plates end in odd numbers will be able to obtain fuel, and on the next day persons with even numbers will be able to obtain fuel. It may be appropriate for the Minister to give directions that only a certain quantity of fuel may be purchased by any motorist. It may be that that quantity is by volume or by value. It may be that the hours of trading need to be reduced, and that also would be encompassed by this clause. It may be that the Minister may need to give directions to service stations as to the way in which they will deal with rationing.

A variety of things could be encompassed by clause 11 if one goes to the supply side of the production and supply chain. The Minister may decide to give notice to the refinery that maximum output of motor spirit should be assured during a period, rather than a variety of petroleum products. It may be that there needs to be an emphasis on the production of the distillate because of grave shortages there. These sorts of things are encompassed in clause 11. I point out that in other States of Australia, I think in almost all cases if not in all cases, there is power to give directions to persons related to the production, supply and consumption of petroleum products or motor fuel. To give specific illustrations, in New South Wales there is power under section 32 of the Energy Authority Act for the Energy Authority to act. That section provides:

> (ii) to direct a person who extracts, provides, transports or distributes the proclaimed form of energy to extract it for or provide transport or distribute it to a person specified in the regulation;

In New South Wales also there is power for the Minister to exercise similar powers under section 34 of the Energy Authority Act. In Victoria there is a similar power. Section 4 of the Fuel Emergency Act of 1977 provides:

> (1) During a period of emergency the Minister may in relation to the production supply distribution sale use or consumption of the fuel to which the period of emergency relates provide, operate, control, regulate and direct any service (whether by way of continuation or modification of, or substitution for, any service theretofore provided).

So, one can see that in New South Wales and Victoria power already exists for the Minister, or in New South Wales the Minister and the Energy Authority, to give the sorts of directions envisaged in clause 11 of this Bill.

The power is an important one and, if it were not to be included, it would seriously hamper the capacity of the Government and the Minister to regulate and deal with emergency shortages of petroleum. I turn now to clause 12. We will have an opportunity to debate this clause in greater detail during the Committee stages, but the Leader is suggesting that, rather than the Minister having a discretionary power to fix maximum prices, the Opposition wants to make it mandatory. I suggest that that is quite unreasonable. There may be occasions when there is no need to fix the maximum price of fuel during an emergency period. It seems rather heavy-handed for the Minister to be required to fix that price when there may be no need for that to be done. I turn now to clause 14 of the Bill, which states in part:

> Subject to this Act, no action to compel the Minister or a delegate of the Minister to take, or to restrain him from taking, any action in pursuance of this Act shall be entertained by any court.

The Opposition has not said that it is going to oppose this clause. In fact, I remind the Leader that it has been in previous legislation. If one casts one's mind back to previous legislation, there were a number of areas of complaint which the then Opposition made in the two or three years prior to coming to office about the previous Government's Bills. The previous Government's Bills, first, contained no right of appeal for any person from a decision of the Minister, particularly in relation to refusal to grant a permit. Secondly, in earlier Bills there was no limitation on the powers of the Minister, or the Government, to declare emergencies, and there was no obligation to ensure that, if it extended beyond a particular period, Parliament was recalled.

The Hon. C. J. Sumner: Yes, there was.

The Hon. K. T. GRIFFIN: In the earlier Bills there was not.

The Hon. C. J. Sumner: There was in the permanent measures of 1978 and 1979.

The Hon. K. T. GRIFFIN: In 1979 there was.

The Hon. C. J. Sumner: And in 1978.

The Hon. K. T. GRIFFIN: In the earlier measures there was not that limitation. The Government takes the view that there are a number of safeguards built into this Bill.

The Hon. C. J. Sumner interjecting:

The Hon. K. T. GRIFFIN: I was saying that there were not the sorts of safeguards in that Bill as there are in this Bill. For example, in this Bill, and as a result of the then Opposition's action last year and in 1978, there is now a power, or a right, for a person who is aggrieved by a decision of the Minister in relation to a refusal to grant a permit to appeal to a local court judge. In some areas, that may be an appeal to a special magistrate, but we have included a right of appeal from a decision of a special magistrate to a judge of the local court, so there is that provision which was not included in the previous Government's Bills. There is also specific provision that the emergency period may continue only for 28 days and then, if it is to be a continuing emergency situation, it may mean Parliament being recalled to resolve to extend the period of the emergency. In view of those additional provisions, we now believe that there are better safeguards in this Bill than there have been in previous permanent

Bills.

I turn now to the police powers in clause 16. I point out to the Leader that, although he says that he is concerned about it, it is a provision that was in the 1979 Bill and has been in other Bills, although in this Bill there is a modification that, rather than a person who is required to stop by a member of the Police Force being required to stop forthwith, the person requested to stop shall stop as soon as practicable. Of course, there is the safeguard here that a person is not obliged to answer a question put to him under the clause if the answer would tend to incriminate him of an offence, so there is that safeguard, which is appropriate for this sort of legislation. I thank the Leader for the attention he has been able to give to this Bill.

Bill read a second time.

In Committee.

Clause 1—"Short title."

The Hon. K. L. MILNE: The Attorney said that there is power to appeal against a decision of the Minister. In which clause is that?

The Hon. K. T. GRIFFIN: Clause 10.

Clause passed.

Clauses 2 to 10 passed.

Clause 11—"Directions in relation to petroleum."

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

Page 6—After line 23 insert subclause as follows:—

(9) Nothing in this section authorises the Minister to make an order to bring an industrial dispute to an end, or otherwise to interfere in an industrial dispute.

The Attorney-General, in justification of the need for this clause, has given a whole list of examples of where directions may have to be given. He indicated that directions may have to be given about the production of a particular type of product, to service station proprietors or to the public generally, about how they obtain their petrol (that is, odd number plates one day and even number plates the next). Throughout the debate tonight and two weeks ago, that has been the thrust of the Attorney's arguments.

When previous Bills have been considered, clause 11 has existed in a slightly less all-embracing form, but it referred to directions being given to any person in relation to the extraction, production, supply, distribution, sale, purchase, use or consumption of petroleum. We objected to the direction being extended to any person and moved that it should apply to bodies corporate, the argument being that it would be to the bodies corporate, the oil companies, that the direction should be given. On that previous occasion and again today the Attorney has argued that the power may need to be broader than that, and in clause 11 the Government has removed the requirement that directions be given to any person and has just said that the Minister may give directions. Presumably, that means to anyone, so I suppose it is of the same effect.

It is certainly a lot more restrictive, and it covers extraction, production, supply, distribution, sale, purchase, use or consumption of petroleum. Clause 11 is broader than it has been in previous Acts. The justification for this broad clause that the Government has put forward primarily relates to directions that it wishes to give, strictly related to the supply of petroleum and strictly related to the question of the period of restriction or the period of rationing.

Our concern was that the clause as it was originally drafted would enable the Government to act to break a strike or act to involve itself in an industrial dispute. We did not believe that that was a proper use of a power in a Bill dealing with petrol shortages. For that reason I have moved the amendment restricting the organisations and people to which the directions can be given.

As I said, the Minister has given some fairly cogent reasons why the clause should have its extended meaning and operation. The Opposition has now decided to tackle it in another way and is meeting the problem head on because, if what the Government says is true (that it only wants this power in the sort of situations that it has mentioned) the Government should not have any objection to the amendment, which provides that, under this clause, the Minister cannot make an order or bring an industrial dispute to an end or otherwise to interfere in an industrial dispute.

The industrial dispute may be going on and the Government may be able to give directions in relation to the period of restriction, the rationing of petrol and all other directions, but the question of the industrial dispute would not come within the ambit of this legislation and would be dealt with through normal channels for settlement of industrial disputes through the arbitration proceedings and through the people who are experienced in settling disputes. If the Government is genuine about the rationale behind this clause (that it is to be used in such situations as deciding who should get petrol on a particular day, directing petrol station proprietors to make available fuel that they may be holding back or similar directions), it is interesting to note that in none of the explanations and justifications of the clause in the previous Bill or today has the the Attorney mentioned the need for this power to exist to involve the Government in industrial disputes. I believe this amendment should be acceptable to the Government. It is reasonable and will allow an industrial dispute to be settled through the normal channels. It will allow the Government in a period of shortage to ration and do other things that it needs to do.

The Hon. K. T. GRIFFIN: One cannot have one law for everyone except members of unions and another law for them. This clause should have universal application and the matter that concerns me is that, if we move to accept the Leader's amendment, it will be perceived within Parliament and by the community at large that there is to be one law which governs the community during a period of restriction or rationing and another law for unionists or unions, and I do not think that is an appropriate matter to be enshrined in permanent legislation.

If one were to look technically at the amendment, one would see that it has a number of defects if one were to accept the principle involved, which I do not. The first is that it refers to the Minister making an order, and under clause 11 the Minister does not make an order: he gives directions.

The Hon. C. J. Sumner; That's a silly answer.

The Hon. K. T. GRIFFIN: I am looking at it in a technical context.

The Hon. C. J. Sumner: That's silly.

The Hon. K. T. GRIFFIN: It is not silly. The second area that needs to be considered is that the Leader's amendment says that nothing in the section authorises the Minister to make an order to bring an industrial dispute to an end or otherwise to interfere in an industrial dispute. We end up with petrol shortages in the community as a result of an industrial dispute and, if one were to apply this amendment strictly, it would mean that the Minister could not make any direction with respect to that petrol shortage that would have the effect of ensuring that essential services receive sufficient fuel supplies, because that would be regarded technically as interference in an industrial dispute.

Even the rationing of motor fuel may be covered by the provision, because the Minister would be seeking out suppliers during a petrol shortage that has arisen from an

industrial dispute. One could easily construe this amendment as preventing even that sort of action, which might be construed as interference in an industrial dispute. Apart from those technical reasons, I return to my first point, which I think is the most important point and which is really a matter of principle, that is, that there ought not to be one law for the community which is suffering as a result of petrol shortages and another for unionists.

The Hon. C. J. SUMNER: I am willing to make an offer to the Attorney-General that, if he is concerned about the technical drafting of the amendment, I am happy for the Parliamentary Counsel to be available to discuss the amendment to see whether we can come to some compromise. It is just not good enough for him to criticise the amendment on technical grounds and then say that he is not in favour of the principle, anyhow. If he is not in favour of the principle, let him say so.

The Hon. K. T. Griffin: I did.

The Hon. C. J. SUMNER: I know. Let him rest his case on that and not go into the technicalities. As the Attorney knows, the Committee stage is used to look at any technical problems in the legislation. If there are technical problems, we can get together with Parliamentary Counsel and sort them out. If the Attorney is not prepared to do that, he should not say in the future that this amendment is technically deficient. I do not believe that the amendment is technically deficient, but if he has any problems with it I ask him to report progress so that we can get together with Parliamentary Counsel and resolve those technical problems. However, that is not the reason why the Attorney will vote against this amendment—he simply does not approve of it in principle. That is all right if that is his point of view, but he should not escape responsibility when voting on this matter.

The Hon. K. T. Griffin: I am not trying to escape responsibility.

The Hon. C. J. SUMNER: Why then refer to technical defects? I believe that the amendment is satisfactory and that the principle should be supported by the Committee. The Attorney has implied that there is one law for unions and another law for the rest of the community. The State Disaster Bill will be considered shortly and clause 5 (4) of that Bill states:

> This Act does not authorise the taking of measures to bring a strike or lock-out to an end or to control civil disorders not being civil disorders resulting from, and occurring during the continuance of, a state of disaster.

The Hon. K. T. Griffin: That is a totally different context.

The Hon. C. J. SUMNER: It is an emergency situation. It is a disaster just as a petroleum shortage is an emergency situation where the Government must have emergency powers. Apparently the Government is quite sanguine about including a measure of that type in the State Disaster Bill, but will not include it in this Bill.

I do not believe that the Attorney has adequately justified his opposition to this amendment. Until now the examples that he has given about the use to which these directions will be put under clause 11 have not involved industrial disputes. His examples have involved directions to persons about where petrol is and where it should go. The Opposition has completely accepted the argument put forward by the Attorney; namely, that this power needs to be provided and needs to go further than bodies corporate. The Opposition has accepted that in an attempt to reach some agreement on this matter. As I have said, none of the examples provided by the Attorney related to industrial disputes; therefore, industrial disputes should be excluded from this Bill, and could then be settled in the proper way, as they are now, through arbitration procedures. I believe that the amendment is satisfactory, but if the Attorney does not agree we should get together and discuss the matter. I ask the Committee to support the amendment.

The Hon. K. T. GRIFFIN: The Leader's reference to the State Disaster Bill is really a red herring. This Bill deals with an emergency shortage of fuel, while the State Disaster Bill deals with natural disasters and not disruptions—

The Hon. C. J. Sumner: It is the same principle.

The Hon. K. T. GRIFFIN: No, it is a completely different context and a completely different principle. It is completely misleading to attempt to establish a similar principle between the two Bills. Certainly, any Government which sought to use clause 11 to give directions and interfere with an industrial dispute would be playing with fire. Notwithstanding that, the principle remains that, if there is a shortage of fuel, no-one should be immune from direction by the Minister, if it is a direction relating to the emergency shortage of fuel. To seek to exclude any particular person or class of persons from the ambit of clause 11 will make one law for the ordinary people and a different law with a different interpretation for other groups.

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. Anne Levy. No—The Hon. M. B. Cameron.

The CHAIRMAN: There are 9 Ayes and 9 Noes. So that the matter can be further considered, I give my casting vote for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 12—"Profiteering."

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

> Page 6, line 24—Leave out the word "may" and insert in lieu thereof the word "shall".

This clause relates to profiteering. The Opposition believes that, when a situation arises in which this Act will be invoked, the Minister ought to impose price control to ensure that there is no profiteering. As the clause stands, the Minister may do this. We believe that the recent emergency situation occurred very quickly, and, in fairness to everyone, the price ought to be controlled simultaneously with the invoking of the legislation and the declaration of the period of restriction of rationing. The amendment will make it obligatory on the Minister to impose price control on the Act being invoked in an emergency situation.

The Hon. K. T. GRIFFIN: I oppose the amendment. It is rather heavy handed to deal with an emergency situation in that way. It is better to have the Minister with a discretion whether or not to fix the maximum prices than to require him to fix them. I believe that an emergency needs to be dealt with by a Minister who has a variety of options open to him rather than that he be compelled to fix maximum prices.

The Hon. G. L. BRUCE: I support the amendment. I believe that it should be mandatory to fix maximum prices. The Attorney says that that would be heavy handed but I consider that that is the whole general thrust of the Bill. It is a Bill to stop exploitation and to move fuel around. Immediately word got around that there was a strike on, unscrupulous people would put up prices. Why should we

wait until something has happened?

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. Anne Levy. No—The Hon. M. B. Cameron.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clauses 13 to 15 passed.

Clause 16—"Powers of investigation."

The CHAIRMAN: There appears to be a clerical error on page 7, line 31. The provision reads "A person shall as soon as practicable" and the next word is "comply". It would read more correctly if the provision was that a person shall comply as soon as practicable, and it is intended to make that correction if the Committee so desires.

The Hon. K. T. GRIFFIN: I think this is different from the point you, Mr. Chairman, were making, but I stand to be corrected: the words "as soon as practicable" really should not relate to both paragraphs *(a)* and *(b)* but only to paragraph *(a)*. It should read:

(2) A person shall—

(a) as soon as practicable comply with a request to stop a vehicle under subsection (1); and

(b) truly answer to the best of his knowledge, information and belief . . .

I think that that correction ought to be made and I ask that that be done.

The CHAIRMAN: If it is the wish of the Committee, that correction will be made.

The Hon. G. L. BRUCE: I should like the Minister to explain how subclause (2) *(b)* ties in with subclause (3), which provides:

> A person is not obliged to answer a question put to him under this section if the answer to the question would tend to incriminate him of an offence.

How does one get around the $200 fine provided in subclause (2) *(b)*? Does one subclause counteract the other, or how do they work?

The Hon. K. T. GRIFFIN: It is my view that subclause (3) qualifies the operation of subclause (2) so that, if the answers to the questions tend to incriminate one of an offence, one does not commit an offence under subclause (2) and is thereby not liable to a penalty.

Clause as amended passed.

Remaining clauses (17 to 19) and title passed.

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

> That the Bill be recommitted for the purpose of reconsidering clause 11.

The Hon. C. J. SUMNER: I believe that this motion is being moved because the Minister of Community Welfare absented himself from the Committee when this provision was considered earlier. You, Mr. Chairman, were very quick in running through the rest of the clauses and I would like also to make a contribution to clause 14. Would the Attorney-General be prepared to recommit clause 14, not for any amendment, but to enable some discussion on it? The reason I did not speak on it was that I was trying to help the Attorney-General work out how we could get around Standing Orders in regard to the position of the Minister of Community Welfare.

Motion carried.

Bill recommitted.

Clause 11—"Directions in relation to petroleum"—reconsidered.

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

> Page 6, line 24—Leave out subclause (9).

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. Anne Levy. No—The Hon. M. B. Cameron.

Majority of 1 for the Ayes.

Amendment thus carried; clause as amended passed.

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

That this Bill be now read a third time.

The Hon. C. J. SUMNER (Leader of the Opposition): I did wish to direct some attention in the Committee stage to clause 14, but as I was trying to assist the Attorney-General over his problem with the Minister of Community Welfare, who has apparently absented himself from the Chamber without permission, and being engrossed in that exercise I overlooked dealing with that clause in detail.

The Hon. K. T. Griffin: I gave you the opportunity to recommit it if you wanted to.

The Hon. C. J. SUMNER: I am not complaining but I was trying to save time. This clause deals with the *mandamus* point, with which I dealt in my second reading speech. The Minister tried to justify the incredible contortions that he and the Hon. Mr. Hill have done on this matter since 1979. Indeed, now that the Hon. Mr. Hill is in the Chamber, perhaps he ought to be reminded of what he said about this clause, which appeared in the Bill introduced by the Labor Government in 1979, at which time the Minister, the Hon. Mr. Hill, said:

> If this clause remains in the Bill, that citizen has no rights at all against that Minister in regard to taking out a writ of *mandamus* against the Minister. Putting the Minister above the law, as the Hon. Mr. Griffin said, is the most undemocratic process I have ever seen in legislation before this Parliament. I strongly oppose this clause.

I have quoted what the Hon. Mr. Griffin said and he has tried to justify it, but not very satisfactorily. I would certainly like to hear what the Hon. Mr. Hill has to say about what he said on 21 August 1979 now that he is part of the Government promoting such a clause. The Attorney-General tried to justify the retention of this clause, despite his opposition in 1979, by saying that the Government had included an appeal provision. On this occasion that may be so, but in 1979 when the Bill was being considered the then Opposition, the now Government, wanted to take out the prohibition on *mandamus* and insert appeal provisions. It wanted to do both, and the then Opposition members were very vociferous about it. They have obviously done a bit of a back-flip over this issue, and I would think that they ought to be fairly embarrassed about it.

Certainly the Hon. Mr. Hill and the Attorney-General ought to be embarrassed. As the Attorney said, we supported the clause, but we always have. It seems that in 1979 members opposite thought it was the most horrendous assault on democracy that had ever taken place but that they are now quite sanguine about giving it their full and unqualified support.

The Hon. K. T. GRIFFIN (Attorney-General): I have already indicated during the second reading debate that there are differences between this Bill and the Bill which the previous Government sought to have enacted last year. One of those differences is that in the previous Government's Bill there was no right of appeal against any decision of the Minister. We, in Opposition, took the view that every step ought to be taken to amend the legislation then before us to ensure that there was no temptation at all for any Minister in the previous Government to abuse the power which is entrusted to him under this legislation. There are changes which have been made and I believe that, because of the way in which this will be administered, and because of the various safeguards which have been included, no member of the community will have cause to complain about the Act.

Bill read a third time and passed.

STATE DISASTER BILL

Adjourned debate on second reading.

(Continued from 2 December. Page 2384.)

The Hon. FRANK BLEVINS: The Opposition supports this Bill. The Minister gave the second reading explanation yesterday. It was a very full and comprehensive second reading, one of the best second reading explanations of a Bill I have heard from this Government. Its second reading explanations sometimes bear little or no relationship to what the Bill is about. The best example of that that we have seen is the recent amendment to the Licensing Act when the Bill was purported to be about some small canteen in Leigh Creek and turned out to be all about a deal done between the Government and a consortium building an international hotel in Victoria Square.

The Hon. C. J. Sumner: Who's responsible for that?

The Hon. FRANK BLEVINS: I am not sure. Anyway, this second reading explanation does not come into that category, and it is a full explanation. The Opposition gave a full response to this Bill in another place. The Leader of the Opposition in the House of Assembly went through the Bill clause by clause and gave it much attention. I do not think it is necessary for me to do the same here but, because the response to the second reading here is much shorter than in another place, it does not mean that the Opposition has not given the Bill full consideration.

Anyone who wants to see our full response to the Bill can do so in the debates of another place. It sems rather pointless that when we have already supported a measure in another place we ought to go through the entire process again in this Council. That would be ridiculous and only puffs up in a way those people who think that this place is more important than another place, and that whatever happens down there does not go outside those walls; that people here know nothing about it. Members know that that is a farce and a charade, and it is one that I am not willing to go through, particularly at this late hour.

This Bill is timely in a tragic way because, over the past couple of weeks, we have seen the consequences of a major disaster in Italy. Whilst we are only going from media reports, it is obvious that a disaster of that magnitude has not been handled in a manner that one would expect. I am not saying that the Italian Government has not done its best, but it certainly appears that if a disaster of that magnitude occurred in this State we would want to be better prepared for it. I believe that this Bill does just that.

We cannot predict when a disaster is going to occur in South Australia, but I think we can all be sure that at some time it will occur. We had an example last year of the bush fire in the hills. That was a disaster, and it was handled well. All honourable members would agree that it could have been handled better, and one can always improve. Adelaide is situated on a fault line in the earth's crust, which leaves it vulnerable to earthquakes. One hears news reports every couple of months of minor tremors somewhere in the State, but no-one takes any notice, although it is a warning to us.

Minor tremors can be very large, and a major disaster caused by an earthquake could occur easily without much warning or without any warning at all in Adelaide. We also had the example this afternoon, given by the Hon. Barbara Wiese, of Nurrungar being a target of nuclear attack. The Attorney can say, in response to the question from the honourable member a couple of weeks ago, that it is a Federal matter but, if the bomb drops on Nurrungar, the Government of this State can hardly palm off such a serious question in such an off-handed manner, and I do not think it does the Government any credit at all.

However, this Bill will be of enormous assistance if the unthinkable happened. The previous Government moved in 1975 to establish the State Disasters Committee to look at this whole area. We had gone through the trauma of the Darwin cyclone and other disasters that were then occurring around the world. That Government, with great foresight, decided that some kind of disaster legislation or plan was necessary in South Australia. I believe that this Bill basically comes from that initial action of the previous Labor Government in 1975.

The Bill, by its very nature, involves a serious loss of civil liberty for the people of this State when a disaster occurs. The Opposition accepts that and accepts its necessity. There is no way that that problem can be got around. If one examines clause 15 and the measures that the Government can introduce almost with the wave of a hand, one sees that they are quite Draconian, that they are broad and extreme measures indeed: they are measures that would not be tolerated in normal circumstances by any democratic Government.

It is necessary, when one is dealing with measures as wide as this and with such a serious violation of civil liberties as this, to have them limited as much as possible and to spell out in the Bill just what those limitations will be. I believe the Bill does that successfully. The dilemma that confronts Parliament about what safeguards should be included in a Bill that violates civil liberties to the extent that this Bill does was explained well by the Leader of the Opposition in another place on this debate, when he stated:

> How far should one go in this situation? Certainly, one could go too far in the sense of virtually making the State a dictatorship subject to the fiat or will of one individual or a group of individuals without any kind of control or regulation for a period of time. Certainly, one could go not far enough by not providing sufficient power for whoever is coping with the natural disaster to ensure that the measures they took were effective. It is that balance that we should try to achieve.

I think we have achieved that balance in this Bill. I do not believe there should be any community fear at all about these seemingly Draconian provisions and extremely wide powers. It would be only natural for someone giving the Bill a cursory examination to have fears that those powers could be wrongly used, but on close examination one can see that there are enough checks and balances in the Bill so that one realises that such fears are unjustified.

Before these wide powers in clause 15 are used, a

disaster has to be declared. The Opposition believes that the definition of "disaster" is a good one and that it will ensure that the measures in clause 15 and in the Bill as a whole will be used only in a true disaster. We do not believe that they will be used in a contrived situation in the manner that some States use emergency legislation. This is not emergency legislation in that sense: it is purely legislation for a disaster that occurs, and it is not to be used, and it is not intended to be used, in a contrived situation such as an industrial dispute or the like.

During debate in another place, several questions were raised by the Opposition in relation to matters causing the Opposition some concern. They were not major points, but they did require answers; for example, in relation to Ministerial responsibility, the length of time of the operation of the emergency powers, the emergency operations centre, and the practicability of just what was being proposed. The Premier provided some answers, but I do not believe they were necessarily very full answers. However, I do not see how they could be. This is a new measure and we have not yet had, and one hopes we never will have, a situation where the theory of the Bill will have to be put into practice.

It is very difficult for anyone to say precisely how a certain measure in this Bill will operate in practice. Although the Premier did not give full answers, he was certainly not being evasive, and I believe that the answers he gave were given to the best of his ability, seeing that there is no precedent to work from. I understand that the Government will be attempting to overcome that problem to some degree by staging what I will term "trial disasters" in much the same fashion as fire drills, only on a much larger scale. That is an excellent proposal because I believe that important reference points will arise in such trial disasters that will teach those persons primarily involved in this area how to avoid some of the problems that may occur in a real disaster situation. After a certain number of trial disasters have been staged I am sure that many more questions will be able to be answered, and the Opposition looks forward to co-operating with the Government and disaster organisations to iron out any problems that come to light during those trial runs.

The legislation appears to have been very well thought out, and it should command total community support. I say that it should and not that it will, because there is one issue in the Bill about which the Opposition has strong reservations. Those reservations relate to clause 5 (4), which attempts to make clear that the legislation is not intended to authorise measures to bring a strike or a lock-out to an end or to control civil disorders that do not arise out of a disaster. The Opposition agrees with that completely and commends the Government for inserting that provision in the Bill. A clause such as that, although not in those precise words, will make the Bill completely acceptable to the trade union movement.

I will not go into the full details of my opposition to clause 5 (4) until the Committee stage. I repeat that the Opposition is very pleased with the overall content of the Bill. The Opposition believes that, with very slight modifications, the Bill will receive total community support, as it should, and that is very necessary during a disaster to make the measures effective. The Opposition hopes that the Bill will never have to be used and that we never have a disaster warranting its use. However, it is very comforting to know that we have this legislation and that various organisations within the State will be prepared to assist the people of South Australia if such a disaster occurs. I support the Bill.

The Hon. K. T. GRIFFIN (Attorney-General): The Government appreciates the Opposition's response to this important piece of legislation. The Opposition has accepted that this is new legislation, and for that reason it is untried. The Government, too, expresses the hope that it will always be untried legislation and that no natural disaster will occur when the provisions of this Bill have to be invoked.

It should be understood that, in putting this Bill together, the Government was most sensitive to the question of civil liberties and placing some limitation on the powers of Governments or Ministers when exercising responsibility under this legislation. It is for that reason that the Government provided a 12-hour limit on a declaration of a state of disaster by a Minister. It is also for that reason that a four-day limit has been placed on a proclamation of a state of disaster by the Governor-in-Council. That period of 4½ days will be the period during which the powers will be invoked without the necessity of recalling Parliament.

After that initial period the Government believes that it should be able to convene Parliament to further consider the disaster and, if necessary, implement wider powers or to continue the declaration of the state of disaster. The Government has been particularly sensitive that wide powers should not be exercised merely upon the Minister's declaration or upon proclamation of a state of disaster by the Governor-in-Council without some limit placed on the period covered by the declaration or proclamation. The powers granted to a Minister under clause 15 are particularly wide powers and include the power to requisition property, give directions to individuals, remove or destroy any buildings, structure or vehicle, and to prohibit the movement of persons or vehicles. That is a very wide range of powers that must be exercised by someone during a state of disaster, and the Minister responsible for the Bill ordinarily should be that person.

It should be noted, that if any person suffers injury, loss or damage in consequence of the exercise of any of the powers vested in the Minister under clause 5 and has suffered injury, loss or damage that would not have arisen in any event in consequence of the disaster, then compensation can be claimed from the Crown. That, too, is an important provision in which the Government has sought to limit the potential for abuse of the powers and to limit the loss which individuals may suffer as a result of the exercise of those powers.

We are sensitive to the scope of the legislation and the need to place some restraints on the exercise of the powers granted. We have endeavoured as much as possible to spell out the powers that should be exercised during a state of disaster and to make them as clear as possible to anyone who may use the powers or be the subject of the exercise of them.

The only other matter I want to refer to is a perhaps contentious matter that the Hon. Mr. Blevins has raised. That is the reference to a strike or lock-out in clause 5. It ought to be recognised that clause 4 provides a definition of "disaster" that really relates to a natural disaster or accident. The definition is:

> "disaster" means any occurrence (including fire, flood, storm, tempest, earthquake, eruption and accident) that—
>
> *(a)* causes, or threatens to cause, loss or life or injury to persons or damage to property;
>
> and
>
> *(b)* is of such a nature or magnitude that extraordinary measures are required in order to protect life or property;

We have attempted to categorise a disaster to ensure that it is not something that extends beyond either an accident or a natural disaster, so I suppose that, if one were

construing the Bill precisely, there would be no need for clause 5 (4) but the Government wanted to ensure that this important piece of legislation was so construed, so we adopted the wording that the previous Government had included in its draft Bill. That is a draft Bill that we have amended substantially but they are the words that were in that Bill.

We did not believe that use of the words "strike or lock-out" would create any problem and we thought, because that power would have been accepted by the previous Government and would cover the sorts of things that we believed ought to be covered (and they are probably unnecessary anyway), that they were adequate for the purposes of the legislation. We see no cause to make the change to "an industrial dispute" as the Hon. Mr. Blevins has foreshadowed, because we believe that, if there is any need for clause 5 (4), the words "strike or lock-out" cover the exemptions to which we want to refer.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—"Application of this Act."

The Hon. FRANK BLEVINS: I move:

Page 2, lines 21 and 22—Leave out "a strike or lock-out" and insert "an industrial dispute".

The Attorney-General, in his response to the second reading debate, has said that the intention of the subclause, which he thought was probably unnecessary anyway, was to reassure the trade union movement and the community as a whole that the intention of the Bill was not to use it in an industrial dispute that had nothing to do with a natural disaster. He said that the intention of the Bill was to deal solely with natural disasters and was not to be used as legislation to be invoked during some tricky stage of an industrial dispute.

I appreciate that and I am pleased that the words are in, although they do nothing to the Bill. They are merely there to reassure. We have seen a provision such as that in other Bills recently where it does not really mean anything but can be reassuring. The difficulty that the Opposition has with the wording of the provision, if it is to be there, is that we feel that that wording, to a layman (and that is what it is for), should be perfectly clear and should carry out the Government's intention.

Our contention is that that is not the case. We do not believe that the words are adequate to cover what the Government obviously means—an industrial dispute. Industrial disputes are not restricted to strikes or lock-outs. There are areas around strikes and lock-outs that are legitimately considered to be industrial disputes. All the authorities (some have been quoted in the House of Assembly and it is not necessary to quote them again) define an industrial dispute as a great deal more than strikes and lock-outs. For example, there are such matters as picketing, go slows, working to rules, and overtime bans. Such things as these are part of industrial disputes.

If the Government's wording restricts the operation of this clause to strikes and lock-outs, by necessary implication the Government is saying that it does not mean go slows, working to rules, picketing, and measures of that nature that are frequently engaged in during an industrial dispute. The Government is saying that it covers strikes and lock-outs and that that is the finish: the rest of those things may be involved.

I know that the Government does not mean that but, because of the way in which it has worded the clause, that is the effect. It leaves all that other area of industrial dispute untouched. The Premier, in the House of Assembly, made perfectly clear that he does not want to touch any of that area at all. If that is the case, I suggest that the words "industrial dispute" will cover that area completely. Every authority that we have in this matter says that "industrial dispute" covers what I have outlined.

Although the provision is probably unnecessary for the operation of the Bill, if we are going to have it, let us have it in a proper manner. I said earlier in the debate that this measure had to have full community support when there has been a disaster of the nature envisaged by the Government and which this Bill is designed to take charge of and sort out. It is of the utmost importance that the entire community be involved, be behind the Bill, and be supporting it without any reservation whatsoever.

I agree that in times of disaster everybody rallies around. I am sure that that would happen irrespective of whether the words in this Bill are altered or not. But, I still think that before we get to the point of having a disaster, or having to deal with a disaster, the whole community should be 100 per cent behind the Bill. Clause 5 (4), in the way that it is worded, precludes the entire community giving the Bill its full support. It seems to be an awful pity, when there has been complete agreement around the Bill between the parties and everyone else, to have this small point still creating some dissension. It seems to be totally unnecessary, and I believe that the Premier in the House of Assembly, whilst he did not concede that that was the case, did express in his response to the second reading debate some possible reservations. He said:

> I accept the intent of the Opposition in trying to put forward a constructive amendment in this regard. The Leader is absolutely right. These terms are technically limiting. In fact, they are deliberately so. Equally, I would say, "industrial dispute" is far too wide. I have already given the Leader an assurance and I repeat it now. I am afraid that I cannot accept the amendment at this stage for reasons that I outlined before. However, if we can perhaps be given some further argument or guidance on technical and legal grounds, I am quite happy for the matter to be considered in another place.

It was quite obvious from what the Premier said in the House of Assembly that he could see that the Opposition was not going to be awkward about this and that it was attempting to be constructive. We agree completely with the intent of the Government in this subclause and our only argument is that the Government's intention is not reflected in the words of the subclause. The Premier said that he was happy for this question to be discussed again when it got to the Council. Hopefully, the Government has had another look at this question and has seen that the Opposition is attempting to be constructive and is attempting to remove any trace (however slight) of opposition to this Bill. I believe that the Hon. Mr. Laidlaw would agree that this body is the authority involved with this question. I quote Mr. McRae in another place as follows:

> First, the key authority would be Sykes, Strike Law in Australia, which, in chapter 3, deals exhaustively with the nature of strike action and, in summary, there must be involved in the notion of a strike a discontinuance of work in combination with other employees in order to gain some demand, usually related to employment from an employer. It is a very narrow concept.
>
> The elements are a combination of employees discontinuing their work in order to get a demand which is usually an industrial demand but which may go wider than that. It most certainly does not cover—

and this is the important part if one leads into strike action—

> other activities that are lawful activities on the part of unions, such as picketing, go-slow, work-to-rule, or other activities.

The Government wants to cover that position. It does not

want to be seen to have any effect on those activities. I submit that the definition of "strike" and the words in clause 5 (4) do not really cover the Government's intention.

The Hon. K. T. GRIFFIN: I have been persuaded by the dissertation of the Hon. Mr. Blevins that he does have a valid point with respect to the use of the word "strike" or "lock-out" and accordingly the Government is prepared to accept the amendment being proposed. As I have indicated, there is no intention that this Bill, when it becomes law, should be used to bring a strike or lock-out to an end or intervene in any industrial disputation. It is to deal with natural disasters or disaster arising from an accident. As I have already indicated, I doubt whether clause 5 (4) is necessary in any way because of the definition of "disaster" in clause 4. For that reason, because it really has no effect at all and because it will perhaps act to reassure members of unions that it is not going to be used for any purpose other than dealing with disasters or accidents, the Government is prepared to accept the amendment.

Amendment carried; clause as amended passed.

Clauses 6 and 7 passed.

Clause 8—"Functions of the Committee."

The Hon. BARBARA WIESE: I note from clause 8 that one of the functions of a State Disaster Committee would be to prepare a State disaster plan. I refer to the question I asked earlier today concerning the possibility of a nuclear strike on a base such as Nurrungar. I wonder whether the Attorney-General envisages that one of the roles of this committee would be to look at the possibility of a nuclear strike on such a base and to prepare an appropriate disaster plan, in view of the fact that most experts now say that the possibility of a limited nuclear strike is much more likely now than it was some five years ago, because of the change in attitudes of the United States strategists on this matter.

Can the Minister give me some indication as to whether he thinks that that would be part of the role of such a committee?

The Hon. K. T. GRIFFIN: It is initially intended that the State Disaster Committee will prepare a State Disaster Plan which can be used in the event of any disaster. It, of course, will have a different emphasis for fire than, say, for earthquake, and for, say, storm and tempest. It is probably possible that the sorts of difficulties to which the Hon. Barbara Wiese has referred would be covered by some aspect of that plan. I am afraid that I do not have that sort of detail available. I will undertake to make inquiries of the Premier and, although the Bill will pass, to let the honourable member have a reply to that particular question.

Clause passed.

Clauses 9 to 13 passed.

Clause 14—"Powers of Minister on declaration of a state of disaster."

The Hon. K. L. MILNE: This clause deals with money matters, as does clause 23, and states:

> (1) Upon a declaration of a state of disaster the Minister may authorise the expenditure of such sums of money as are approved by the Governor to relieve distress and assist in counter-disaster operations.

I have spoken on the question of national natural disasters, but this is a State disaster Bill, which I am glad to see and which I support. In the past, in cases of disaster the Government has made a donation from the Treasury, but it is never enough, and the difference is supposed to be made up by the public by way of charitable donations. If this Bill provides the whole of the assistance necessary in a disaster, it will take over from that dreadful business where there is always a gap and an argument about who put in the most money, that somebody had not put in enough money and that the Government had not put in enough money.

Will the Minister say how clause 14 relates to clause 23, and how much money will be available? Is there going to be money set aside so that there is money available and so that there will be no delay whatsoever at a time of disaster? Is it the intention of the Government that this Bill will overcome a problem when during each disaster the Government's contribution is never sufficient? That is the key—to have sufficient money available for a crisis so that there are not arguments for months on end, applications and heaven knows what, by which time people have suffered, as was the case in the Ash Wednesday fire. I hope that these financial matters have been considered and, if not, that they will be considered and reported on to the Council, because until the Bill overcomes that problem it will not overcome the major thrust of the Bill itself.

The Hon. K. T. GRIFFIN: Clause 23 provides authority for the funds, and clause 14 gives the Minister authority to spend them without being subjected to normal constraints, although the total amount of money must be approved by the Government. That is the normal process. I do not envisage that this will be a fund that will be a bottomless pit to rejuvenate all buildings on day one, but it will provide an adequate fund to relieve distress, hire bulldozers, provide accommodation, food, and all those things that are immediately necessary and for which no public appeal can be adequate enough. The longer term matters which need attention are not matters which are in the ordinary contemplation of this Bill. The Bill is directed towards dealing with the disaster when it occurs and towards the relief of distress and the restoring of community facilities in the short term. That is the important emphasis of the Bill. The matters to which the Hon. Mr. Milne referred are very much in the longer term and are really subsidiary to the immediate needs which result when a disaster occurs.

Clause passed.

Remaining clauses (15 to 24) and title passed.

Bill read a third time and passed.

METROPOLITAN MILK SUPPLY ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

Its purpose is to prevent possible disruption to the present system for the distribution of milk in the metropolitan area. This system is equal to any in the world. It makes available home delivered milk to every household in the metropolitan area on six days of the week at a price which is currently the second lowest in Australia.

Under the present Act, the Metropolitan Milk Board has no power to refuse an application under section 30A for a milk vendor's licence. The pricing structure for the distribution of milk is such that, if a licence is granted to a supermarket or shop, it would be beneficial for the retailer to purchase milk direct from the factory and not from the wholesale milk vendors as at present. Milk wholesalers are comprised principally of individual milk vendors whose business is mainly home deliveries but many of whom rely on supplying shops to survive. If major retail supermarket

groups acquire licences under the Act, the likely result is that some of the 420 home delivery vendors will be forced out of business. Milk is a basic food and essential for the health and well-being of sections of the community, notably children. In the Government's view it is most important that the present system of distribution be preserved, at least for the time being.

Accordingly, the Bill before the Council provides that the board, with the approval of the Minister, may refuse an application for a milk vendor's licence or to cancel an existing licence if, in the board's opinion, all or most of the milk distributed pursuant to the licence would finally be purchased by the public from a shop and that the granting or continuance of the licence would adversely affect the existing distribution system of milk in the metropolitan area.

The Metropolitan Milk Board will immediately commence a full investigation into the distribution and pricing structure of the industry. The result of this study will form the basis of any subsequent legislative action. In the interim it is essential that the *status quo* within the industry prevail. The financial burden which the intervention of the supermarket chains would impose on the existing shop vendors would severely disrupt the existing arrangements to the ultimate detriment of the consumer and employment within the industry.

At present, the Act does not differentiate between milk and cream in respect of the issue of a licence under section 30A. As the direct sale of cream by supermarkets will not result in the same difficulties as the sale of milk, the Bill provides for the board to be empowered to grant a licence for the sale of cream only. This is consistent with the longer shelf life of cream and its similarity to other dairy products now sold by supermarkets. 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 inserts new subsections (6), (7) and (8) in section 32 of the principal Act. New subsection (6) empowers the board to refuse a licence or cancel an existing licence if it is likely that the milk sold pursuant to the licence will be sold to the public at a shop and that this will adversely affect the distribution of milk in the metropolitan area. Subsection (7) empowers the board to grant a licence on condition that only cream is sold pursuant to it. New subsection (8) requires the board to act with the approval of the Minister.

The Hon. B. A. CHATTERTON: I support this Bill, which seeks to protect the existing system that we have of milk vending, a system that has served the State well. In his second reading explanation the Minister said that the system is equal to any in the world. I am not sure whether that is true or not, but I am sure that it is a good system. True, it is a grandiose statement, but I certainly think it is a good system and one that we need to protect.

It is a dilemma that faces us because, if one looks at the problem superficially one could ask why the selling of milk should not be free for anyone, whether a supermarket or a milk vendor, but that is not a good enough argument to disrupt the system. It is a superficial argument because what happens elsewhere is that, when milk has been vended through supermarkets, discounting has resulted, and again superficially it would appear to be an advantage to consumers, but the discounting has resulted in a complete disruption of the milk vending system.

That disruption has meant that it has been uneconomic for vendors to continue to deliver milk in the way that they have delivered it in the past. They have had to charge delivery fees, which has driven more people away from milk, and we get a chicken-and-egg situation: the establishment of a large market in supermarkets takes away some of the milk vending market, which increases costs to milk vendors who then increase charges and reduce their market even further and subsequently further increase their costs. We have a situation, if that is allowed to develop, where the people who have no alternative source of supply, the people reliant on milk vendors, are paying higher prices for their milk, and comparatively few people in the community who have ready access to transport facilities and who have the convenience to shop at supermarkets might get slightly cheaper milk.

In those circumstances it seems that the present system of vending is much the better alternative for a system that we should protect. There is another additional argument which has not been noted in the second reading explanation but which is one that I think will be important in the future, and that is that, if the sale of milk goes over to supermarkets so that nearly all the milk is being retailed through that outlet, I am sure we will see the disappearance of milk bottles and an increase in the use of milk cartons. That would be unfortunate from a conservation point of view, because the milk bottle is a most efficient container in terms of resource use, whilst the milk carton is a wasteful form of resource use.

The Hon. Anne Levy: Milk tastes better from a bottle.

The Hon. B. A. CHATTERTON: Yes. Supermarket retailers have always favoured non-returnable cartons. They do not want milk bottles or any other bottles to be returned. They have to accept them in some circumstances, but I am sure that they would not take them very often in the case of milk bottles if they could avoid it. It is good that the Government has introduced this legislation. I know that milk vendors are disturbed that supermarkets want to get into direct milk vending.

Representatives from the milk vendors have approached the Government and the Opposition on this matter, and I think the case they put forward is very strong indeed. This Bill will offer some protection, certainly in the short term, until the Metropolitan Milk Board has had an opportunity to conduct a full investigation into the industry. I am sure that that investigation will reveal that the system of milk distribution is the best method for the people of South Australia. That does not mean that there should be no opportunity for changes to the general system of milk vending. I support the Bill.

The Hon. N. K. FOSTER: I support the Bill for the same reasons advanced by the Hon. Mr. Chatterton and the Minister. However, I again draw the Council's attention to a matter that I raised on many occasions when the present Government was in its rightful place on the Opposition benches. The Minister introducing the Bill, and this particularly applies towards the end of a session, delivers his second reading speech and then seeks leave, which he receives, to insert the explanation of the clauses of the Bill in *Hansard* without reading it. That means that members such as I, when rising to speak to the Bill, are unaware of what is contained in the explanation, bearing in mind that the second reading speech and explanation of the clauses are only made available to one or two Opposition members.

The Hon. J. C. Burdett: That's usual.

The Hon. N. K. FOSTER: If the Hon. Mr. Burdett attempted to get away with that in any other Parliament in the Commonwealth he would find that he would have to withdraw his Bill until copies of the second reading

explanation had been supplied to all members of the Opposition.

The PRESIDENT: Order! That does not apply under our system.

The Hon. N. K. FOSTER: More's the pity.

The Hon. D. H. Laidlaw: Don't you believe in instant government?

The Hon. N. K. FOSTER: It is more like instant coffee. The proposals contained in this Bill should also be applied to the bread industry. Supermarkets should have the same limitations placed on them in relation to bread. Bread vendors should be zoned in the same way that milk vendors are zoned. One needs only to cast one's mind back to the post-war 1940's and the situation that applied in the industry at that time. I support the Bill, but I urge the Minister to prevail upon his Cabinet colleagues, if he has any left, to consider the matters that I have raised not only in support of this Bill but in relation to the bread industry.

The bread industry is in great turmoil as a result of previous Governments, particularly Liberal Governments, failing to grasp the nettle in relation to the operation of that industry, and I urge the Government to introduce similar legislation in that respect. The Government tries to look after the cockies and the thought crosses my mind that the dairy farmers are involved here, but the Government should provide breadcarters with the same sort of protection. Bert Shard, who ran this Chamber for some years, was employed in that industry.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Refusal of licences."

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

Page 2, lines 9 and 10—leave out subsection (8).

It appears that in the principal Act there is already a power of appeal, so there is no need to intrude into the Act the notion of the Minister being able to exercise any power. If a person is aggrieved he may appeal and, broadly speaking, it is contrary to the principal Act to leave that power with the Minister. That right of appeal should lie with the board. I point out that this problem was also discussed in another place. I am sure all members would be aware that this Bill was necessarily put together rather hastily. Upon reflection, and looking at the provisions of the Bill and the principal Act, it appears that nowhere in the principal Act is any similar concept of the approval of the Minister required. On the other hand, there is a right of appeal. Subsection (8) does not appear to be necessary, and for that reason I move my amendment.

The Hon. B. A. CHATTERTON: I am surprised that the Hon. Mr. Milne did not rise to speak to this amendment, because I believe it was his colleague in another place who moved it. I thought that the Hon. Mr. Milne would say that the Government is a slow learner in coming to this particular conclusion. I have no objection to the amendment, although the Minister might have some explaining to do to his colleague in another place when this Bill goes back to the House of Assembly.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

PRICES ACT AMENDMENT BILL (No. 4)

Returned from the House of Assembly without amendment.

PRICES ACT AMENDMENT BILL (No. 5)

Returned from the House of Assembly without amendment.

EXECUTORS COMPANY'S ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 December. Page 2376.)

The Hon. D. H. LAIDLAW: I support the second reading of the Bill but I do believe that the proposal to limit any one holding to 1·67 per cent of the class A and B shares issued, namely, 10 000 shares based on the present issued capital, seems somewhat harsh, and I will elaborate on this later.

It is the lot of this Liberal Government to have to close loopholes in legislation introduced by the previous Labor Administration. This is the second occasion within a few months that the Government has felt compelled to take such action in order to protect public companies which provide some public service. The first was the South Australian Gas Company's Act Amendment Act. Originally, the Labor Government rushed legislation through in undue haste without seeing clearly the pitfalls.

In 1978 an Executors Company's Amendment Act was passed restricting voting rights over the 600 000 class A and B shares to 1·67 per cent by any one shareholder. I said on that occasion that I had a pecuniary interest in the matter because I was, and still am, a director and shareholder in Bennett and Fisher Limited, which holds 100 000 of the 200 000 C class shares, and these are not subject to any voting restrictions.

Until 1978 the articles of the company stipulated that no member could hold more than 10 000 of the class A and B shares. This was ineffective because one person could arrange for several nominees to hold up to 10 000 shares each on his behalf. After the amending Act was passed in that year, and it dealt mainly with voting rights, the company changed its articles in an attempt to curb the use of associated holdings.

Under the 1978 Act, directors could require a shareholder to declare by statutory declaration whether he was working in association with other holders, but there was no sanction for failing to do so. The Minister pointed out that a person could circumvent the Act by purchasing shares and not registering the transfers and, when asked by directors to make a statutory declaration, refusing to do so.

A person could conform to the amended articles by registering only 10 000 shares in his own name, being the permitted limit of 1·67 per cent of existing class A and B shares. By continuing to buy more shares, he could continue to reduce the number of other holders. Hence a 1·67 per cent holding could in time become a salient voting factor at a general meeting. By claiming that such restrictions upon voting rights are undemocratic, he could well attract support from other shareholders if he sought to remove the incumbent directors as they came up for re-election year by year.

The Executors Company is one of four trustee companies operating in South Australia and is the only one whose shares are listed on the stock exchange. It has a very small issued capital of $400 000. Over the years it has made only modest profits administering estates but it has become, whilst acting as trustee, the registered holder, either jointly or singly, of large shareholdings in most South Australian based public companies and therefore has considerable voting power.

In recent years, the company has accepted deposit

moneys in increasing amounts and, because of its status as a body of trust, has gathered these funds at favourable interest rates. The company is therefore attractive to a predator because of its ability to exercise some control over other public companies and because of its cash flow from deposits. Hundreds of estates in this State are administered by the Executors Company, and it would be against the public interest for this company to fall into the hands of persons who may not be interested primarily in the continuing good administration of these estates.

To close this loophole, this Bill defines the meaning of shareholders acting in association, and I commend the Government for adopting identical wording to that used in the recent South Australian Gas Company's Act Amendment Act and similar wording to that used in the Company Take-overs Act. This is complex legislation and it is desirable to have uniformity for the ease of public understanding.

The Bill then defines relevant interests in shares or, in other words, in what circumstances a person is deemed to have control over a share. The wording in this clause is identical to the respective sections in the Sagasco and Company Take-overs Acts.

As I have said, no shareholder and no group of associated shareholders of the company is entitled to hold more than 1·67 per cent or such greater percentage of the class A and B shares as may be prescribed. The Government therefore has removed from the shareholders power to impose restrictions on shareholdings in the articles of association as at present. There is no mention in this Bill of voting rights but this is hardly necessary in order to achieve its objective, because holders are restricted to 1·67 per cent of class A and B shares.

The procedures for investigating suspected breaches of the Act are identical to those inserted in the South Australian Gas Company's Act. Directors can demand from any shareholder, or prospective holder prior to registration of his share transfer, a statutory declaration as to whether he is acting in association with others or has a relevant interest in other shares of the company.

In order to determine whether a person holds more that the permitted number of shares, the Supreme Court may summon him for examination upon application by the company or the Corporate Affairs Commission. I suggest that any person concealing the true facts may be confronted with a perjury charge.

Any person or group of associates holding more than the 1·67 per cent of the class A and B shares may be ordered by the Minister to dispose of such shares. If he fails to do so within a prescribed period, the suprlus shares will be forfeited to the Crown and sold by the Corporate Affairs Commission on his behalf. There may have been no sanctions in the 1978 Act but in this Bill the penalties are quite severe and should prove effective.

I am not concerned particularly about restrictions on voting, because only persons who seek control over the company or those who buy shares hoping to receive a take-over bid will be worried about voting rights, unless, of course, they adopt some philosophical attitude about the virtue of one share one value.

I do think, however, that limiting any one holding of class A and B shares to 1·67 per cent, or 10 000 shares as at present, is unduly restrictive. Since there is provision in the Bill to increase the percentage above 1·67 per cent, I hope that the Minister in the near future, after discussion with the directors, will exercise such discretion. Genuine long-term investors may wish to build up a holding above 10 000 shares, and I think that they should be encouraged to do so up to some higher limit.

The Western Australian Government introduced similar legislation last year to protect its two trustee companies. In the case of the Perpetual Trustee Company, a person, or association of persons, can hold up to 3·3 per cent of the issued capital, and in the case of Western Australian Trustee Executor and Agency Company, up to 5 per cent. In the recent South Australian Gas Company's Act, no person can hold more than 5 per cent of the issued capital unless a greater percentage is prescribed by the Minister.

I have already commended the Government for seeking uniformity with respect to the meaning of associations and relevant interests in the three local Acts to which I have referred. To further the goal of uniformity, if a person can hold up to 5 per cent of the issued capital of the South Australian Gas Company, why cannot he likewise hold up to 5 per cent of the shares in the Executor Company? Subject to this reservation, I support the second reading.

The Hon. R. C. DeGARIS: I rise also to support the Bill and to support in principle the remarks made by the Hon. Mr. Laidlaw. He mentioned that we are still closing loopholes in this piece of legislation. I would like to say that we have been closing loopholes in this type of legislation for almost 100 years.

The Hon. Frank Blevins: The House of Review fell down.

The Hon. R. C. DeGARIS: Is the honourable member taking that individually or severally as a criticism?

The Hon. Frank Blevins: If it is a criticism of the Government, it is also a criticism of the House of Review.

The Hon. R. C. DeGARIS: I would agree with that. Nevertheless, it is very difficult legislation for any legislator to get his mind around and to always do the right thing. I think the Hon. Mr. Blevins would agree that as a House of Review we do a reasonable job, but as human beings, we do make mistakes.

The Hon. D. H. Laidlaw: When a Government asks for Bills to be rushed through in an afternoon we don't get much time.

The Hon. R. C. DeGARIS: I would agree with that. If I am going to digress and refer to that, we will be here for a long time. I quote from Hansard of 1885 (95 years ago), relating to the Executors Company's Bill, as follows:

> The Hon. M. Salom, in moving the second reading of this Bill, said it was of a most useful character, and likely to meet the commendation of the public generally. Similar institutions to the one herein dealt with had been in existence in other countries for many years. In Holland 300 years ago the first trust and executors companies were initiated, and the great caution of the Dutch people had proved that they were justified in permitting such companies. At the present time there were 25 of these companies in the Cape of Good Hope, whilst in Victoria there were two, and in New Zealand three.

Later on in the second reading explanation he said:

> The company was represented by a large number of gentlemen of well-known standing. No act of the company could be done without the sanction of the board of directors. Then no shareholder could hold more than one share, and one share could not be held by more than one person.

If we go back 95 years we can see where this sort of thing started. Ever since that concept was enshrined in a private Act, we have been blocking up loopholes in legislation like this and trying to prevent the takeover of these companies by people who we think may not be the right people to have control of them, where these companies are set up for a particular purpose. The Hon. Mr. Laidlaw has suggested that they had a particular role to play in our community and should be protected. I generally agree with that principle. However, I do say that it is time we gave some thought to where we are finally going with this

type of legislation.

Every person in this Council must be somewhat concerned with the ramifications of this type of legislation. I am pleased that we have adopted in this Bill almost identical wording to that existing in the South Australian Gas Company Act which, I think once again, the Hon. Mr. Laidlaw said when that Bill went through, involves a particular type of company that deserves certain protection that should not be taken to apply to other companies in South Australia. The wording is identical to that in the Companies Takeover Bill. I think it is reasonable that we should achieve some sort of uniformity.

I do not intend to comment on the 1·67 per cent except to say that I agree with the Hon. Mr. Laidlaw on that point. There is only one matter on which I would like to comment further which shows the extent to which one can drift to if one is not careful in this legislation. I refer to the area of forced sales. I do not know whether I can put any answer to the Council on this matter, but any person who has any feelings in relation to a liberal democracy should be looking at clause 31, which provides, in part:

> (1) Where a shareholder, or a group of associated shareholders, holds more than the maximum permissible number of shares the Minister may, by notice in writing served upon that shareholder, or any member of the group, require him to sell or dispose of such number of his shares as may be specified in the notice to a person who neither is, nor intends to become, an associate of the shareholder to whom the notice is directed or of any other person specified in the notice.

When one considers that the maximum shareholding is 1·67 per cent and that there could be a large forced sale of shares, one must have some reservations in a clause of this type. I support the second reading but issue the warning to the Council that in legislation of this type we must be extremely careful that we do not go too far to scare or frighten the private sector in relation to its investment in South Australia, when such investment is wanted by everyone in the interests of progress in this State in the future.

The Hon. G. L. BRUCE secured the adjournment of the debate.

HOLIDAYS ACT AMENDMENT BILL (No. 2)

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

The Hon. C. M. HILL (Minister of Local Government): I move:

That this Bill be now read a second time.

It amends the Holidays Act to provide for a permanent date for the holding of the Queen's Birthday holiday. The Queen's Birthday holiday has traditionally been observed on the Monday following its observance in the United Kingdom on a Saturday in June. This practice had been adopted by all States except Western Australia so that the announcement in the United Kingdom and Australia in relation to honours conferred by Her Majesty on the occasion of her birthday would coincide. This resulted in the holiday being observed on some occasions on the second Monday and, in other years, on the third Monday in June. This uncertainty resulted in a number of organisations requesting that a fixed formula should be developed to facilitate long-term planning for sporting, recreational or similar events.

The matter was raised at the Premiers' Conference in 1979 and agreement was reached between the States (excluding Western Australia) that agreement should be sought to have the Queen's Birthday holiday observed on the second Monday in June of each year. Before these negotiations could be concluded, advice was received indicating that in 1981 Her Majesty's birthday would be celebrated in the United Kingdom on Saturday 13 June. A proclamation was therefore issued declaring that the holiday would be observed in South Australia on the following Monday, that is, 15 June 1981.

Some weeks later, further advice was received indicating that the request from the 1979 Premiers' Conference for this holiday to be celebrated on the second Monday in June each year had received Royal approval and, accordingly, in all States, excluding Western Australia, the holiday will be observed in 1981 on 8 June.

It was subsequently established that, whilst the Holidays Act provides that the Governor may, by proclamation declare a particular day as being the day on which the Queen's Birthday will be celebrated, there is no power to amend or substitute an earlier proclamation where that proclamation is subsequently deemed to be inappropriate. Accordingly, this Bill alters the date of the Queen's Birthday holiday for 1981 and future years to the second Monday in June and at the same time, provision is made for varying proclamations under section 5 of the principal Act to meet similar problems in future.

Clause 1 is formal. Clause 2 makes a consequential amendment to section 3. The provisions of that section will not now apply to the Queen's Birthday holiday. Clause 3 amends section 5 to empower the Governor to vary or revoke a proclamation made under that section. Clause 4 amends the second schedule by inserting a reference to the second Monday in June in Part I, and by deleting the reference to the Queen's Birthday holiday in Part III.

The Hon. FRANK BLEVINS: This Government seems to have an obsession with holidays. It constantly seeks to tamper with them, to shift them around, and it does not seem to be able to make up its mind about them, and these apparently innocent Bills that come into the Council can finish up causing much fuss and bother. Hopefully this Bill is not in that category.

All that is happening is that most of the State Governments, plus the Government of the United Kingdom, have finally got their act together regarding the Queen's Birthday holiday. I do not know how old that lady is but, as an English gentleman, even if I knew, I would not say. Suffice to say, I am delighted that at long last she has decided on what day she wishes to have her birthday celebrated. The position is that the Queen's Birthday holiday has been proclaimed as 15 June. That is the position at the moment. However, events have progressed since that date was proclaimed and now all States, except Western Australia, have agreed that it should be 8 June.

That presented the Government with a problem, because it had already proclaimed 15 June 1981, and had to shift it to 8 June. Apparently the Government had no power to do that. This Bill seeks to do two things. First, it seeks to move the Queen's Birthday holiday from 15 June 1981 to 8 June 1981 in concert with every State in Australia except Western Australia.

Secondly, it seeks to remove the necessity, if the good lady changes her mind about her birthday in the future or if any other holiday is proclaimed, for the Government to have to come back to Parliament with a Bill such as this to alter the proclamation. This Bill gives the Government the power to make that change by proclamation. It is a sensible measure and one that the Opposition finds no quarrel with. Therefore, we are happy to support the

Minister's Bill.

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

ABORIGINAL LANDS: HUNDRED OF KATARAPKO

Adjourned debate on motion of the Hon. C. M. Hill:

That this Council resolve 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.

(Continued from 2 December. Page 2412.)

The Hon. BARBARA WIESE: The Opposition supports this motion and, in doing so, we note that all parties with any interest in this matter, namely, the Gerard Reserve Council (which made the request for the land to be vested in the Aboriginal Lands Trust in the first place), the Department for Community Welfare and the trust itself, have agreed to the proposal. The Opposition, too, agrees that the vesting of this land in the trust fulfils the wishes of the Aboriginal people living in the area.

The return of this land to the Aboriginal people who owned it prior to European settlement in this State is a measure that is long overdue. The Opposition acknowledges that the vesting of this land in the Aboriginal Lands Trust will enable the Aboriginal people to expand their agricultural and horticultural activity, which is essential to their survival in this region. As I have said, the Opposition supports this motion, but there are several questions that I would like to raise with the Minister. I understand that the population of this settlement, which I believe is growing, was about 125 persons in October 1978. Will the Minister inform the Council of the present population of this settlement? Will the Minister also describe exactly what type of agricultural and horticultural activities are pursued in this settlement? Further, do the people of the Gerard Reserve grow only enough for their own needs, or do they have some surplus which they sell outside their community?

I understand that one of the advantages of vesting this land in the Aboriginal Lands Trust will be that many more young people in this community will be able to be trained in agricultural and horticultural activities and skills. Will the Minister inform the Council whether some type of formal training programme has been implemented at the settlement or whether these skills are passed on in an informal way? The Opposition's support for this motion is not dependent upon immediate replies to the questions that I have asked. If the Minister does not have that information available, will he supply answers at a later time? I support the motion.

The Hon. C. M. HILL (Minister of Local Government): I am pleased to hear the honourable member indicate that she and her Party support this measure. It is very pleasing when Bills, which obviously have as their object help for Aboriginal people, are supported by Parliament as a whole, and that seems to be the case in relation to this particular measure. The residential population of this settlement varies between 125 persons and about 145 persons. Several itinerant persons reside in the settlement who claim Gerard Reserve as their home, so it is rather difficult to provide an exact figure. Generally speaking, between 125 persons and 145 persons can be deemed to be permanent residents.

The land, which comprises an area of about 2 500 hectares, is mainly used to graze sheep. There are small areas of irrigated pastures where citrus trees are grown and viticulture is practised. Vegetables such as tomatoes are also grown and other vegetable crops are dependent on the season and the topography of the land. Vegetable cropping as a business operation is subject to the demands of the local cannery, so I cannot indicate with certainty the exact extent of crops produced for sale. The community of Gerard Reserve is making genuine endeavours to establish some kind of permanent demand with the cannery so that vegetable cropping as a business can be of greater assistance to the community.

In relation to the young people of Gerard Reserve, there is some informal in-service training available, with some Department of Further Education assistance. I understand that the Minister of Aboriginal Affairs is making every possible endeavour to encourage closer liaison between the Department of Further Education and the young people at Gerard. The Government is aware of the need to make special efforts to help the young people who live in this area, and I assure the honourable member that that particular activity will be pursued. I trust that my replies will satisfy the honourable member but, if she requires further information, I will be only too happy to consult with the Minister of Aboriginal Affairs and bring down more detail. Assuming the information that I have provided does satisfy the honourable member, I seek full support for the motion.

Motion carried.

PAY-ROLL TAX ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

This Bill makes provision for three matters in relation to pay-roll tax. First, it gives effect to the intention of the Government announced in the Budget to give further relief from taxation. The Bill proposes an increase in the exemption levels of 16·6 per cent following the increase of 9 per cent granted from 1 January 1980. As stated in the Budget papers it is proposed to increase the present exemption level of $72 000 to $84 000, tapering back to $37 800 at a pay-roll tax level of $153 300. This will be brought into operation with effect from 1 January 1981.

This reduction will mean that on any fixed pay-roll within the present tapering scales (which are the pay-rolls of small businesses) the pay-roll tax liability will be reduced either to zero or by $1 000 per annum. The maximum general exemption proposed is higher than that applying in New South Wales, Western Australia and Tasmania and below that in Queensland and Victoria. The minimum exemption proposed is equal to that applying in Victoria and higher than all other States.

It is estimated that the cost of this concession will be approximately $1 750 000 in a full year. Secondly, it alters the circumstances in which organisations such as religious bodies, public benevolent institutions, hospitals and schools may claim exemption from pay-roll tax. This alteration will not affect operations carried out in good faith. It is proposed in order to counter a tax avoidance scheme which has operated in the Eastern States. Under this scheme a public benevolent institution was used to employ persons and to hire those persons for a nominal fee to a trading company. The wages of the public benevolent institution were not subject to pay-roll tax.

The effect of the scheme was that the trading companies

substantially reduced their pay-roll and pay-roll tax. A small part of the pay-roll tax saving was incorporated in the hire fee paid for the services of the employees and at the end of the financial year was passed on to the charity. However, the bulk of the tax saving was retained for the benefit of the trading company. The amendments proposed limit the exemption to persons genuinely engaged in the work of the exempt body concerned. These amendments are similar to those made in New South Wales, Victoria and Queensland.

Thirdly, provision is made for child care centres which meet the requirements for Commonwealth Government subsidy under the Commonwealth Child Care Act to be exempt from pay-roll tax. About one half of these centres are already exempt from tax because they are part of an exempt organisation such as a religious or public benevolent institution and it is considered that an exemption should apply to all such centres. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal. Clauses 3, 5, 6 and 7 amend, respectively, sections 11a, 13a, 14 and 18k of the principal Act. These amendments all relate to monetary limits stipulated in the Act for the purposes of providing general exemption levels in relation to the payment of pay-roll tax. The modifications set out in the amendments give legislative effect to the Government's proposals to increase these levels.

Clause 4 amends section 12 of the principal Act, which provides for a special exemption from liability to pay-roll tax in the case of certain specified persons or institutions. Child care centres which are eligible organisations within the meaning of the Commonwealth Child Care Act of 1972 have been included in this group, and existing provisions of the section which relate to what might be termed charitable or quasi charitable organisations have been strengthened to ensure that only wages paid in relation to work carried out exclusively for the organisation and in connection with the *bona fide* functions of the organisation, attract the exemption.

Clause 8 inserts a new subsection (3) in section 37 of the principal Act, providing that any amount paid on an assessment subsequently quashed on appeal or objection shall be refunded by the Commissioner.

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

RACING ACT AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2485.)

The Hon. J. R. CORNWALL: This Bill writes into legislation some of the recommendations of the recent Committee of Inquiry into the Racing Industry in South Australia, and the Opposition supports the general thrust of the Bill. Certainly, there are some clauses that we find exceptional or on which we have some queries, and those matters will be taken up in the Committee stage. By and large, we support the general thrust of the inquiry and the general recommendations.

We presume that many of the other recommendations will be the subject of legislation later. It is obvious from the findings of the committee of inquiry that it acknowledges that the racing industry in South Australia is a very big industry. It also acknowledged (it could hardly do otherwise) that the industry is a very good money spinner for the Government. It is a multi-million dollar industry and employs 10 000 people on a full-time or part-time basis.

The Hon. R. C. DeGaris: Is that in the whole of the industry?

The Hon. J. R. CORNWALL: That is as I understand it. I cannot vouch for the figures but I think it would be a minimum, going right through the industry. The industry also generates a significant amount of money from interstate and overseas into the South Australian economy, particularly through the sale of thoroughbred horses. There is no doubt that in recent years it has been adversely affected by competition from lotteries in various forms. If one looks at the various charts and tables that are available with the report or that are available from other sources, it can be seen readily that lotteries in South Australia have had a dramatic effect on the amount of the gambling dollar that is available to the racing industry.

As I have said, it is a multi-million dollar industry and there is a suggestion at least in the report of the inquiry and in the recommendations that it may be that the industry generally is becoming too big for amateur administration. I must be careful here not to reflect on the Chair. Referring specifically to the South Australian Jockey Club, the report states:

> Ideally, the criteria for election to the committee should be some administrative or business ability and a willingness to give freely of time and effort in an honorary capacity. The committee wonders whether the number of S.A.J.C. members who satisfy those criteria, particularly the latter, will dwindle eventually to the point where the committee as the controlling body will no longer be able to effectively represent the code as a whole.

The report goes on to state:

> Perhaps the substantial demands upon the time and energy of S.A.J.C. committee members could be alleviated to some extent by an increased involvement of executive management in the committee's deliberations on matters of policy as well as administration. It hardly needs mention that the S.A.J.C. committee and the executive management must be attuned to the needs of what is now a multi-million dollar industry.

There has always been a clear understanding between successive Governments that the S.A.J.C. is the principal body and the controlling body of the galloping industry. However, the time may be rapidly approaching when it will not be good enough simply to have committee members of goodwill certainly but perhaps not necessarily with the time or the administrative skills to run this very big industry. It may be that in future a Government, whether this one or the next one, will have to consider the possibility of appointing a Racing Commission.

I raise that as a very serious matter, not in any spirit of pique or in a personal way. I would say that not only is the business of being a member of the board, which is really what the S.A.J.C. is all about, a very responsible position. It is also a position that no longer should be the prize of the pukka sahibs or putative pukka sahibs of Adelaide society.

The Hon. C. M. Hill: Do you know that you are talking about the President?

The Hon. J. R. CORNWALL: I said I was not reflecting on the Chair.

The Hon. C. M. Hill: Isn't he a pukka sahib?

The Hon. J. R. CORNWALL: No. Everyone knows that he is a very practical man and a man of considerable ability. He is on the committee of the S.A.J.C. as a country member. There are 11 members of the committee,

and eight are drawn by ballot from the membership, which in practice usually means from the metropolitan area. They are the people to whom I am referring.

The Hon. C. M. Hill: People like Mr. Reg Moriarty?

The Hon. J. R. CORNWALL: I do not want to be personal about these matters. I do not want to criticise Mr. Moriarty as being a pukka sahib or a putative pukka sahib. A Racing Commission may be more practical and may be desirable in the future. I do not say that in any personal way or with any political notions. I believe that a Racing Commission may be closer than many people think.

The Hon. R. C. DeGaris: What do you think a Racing Commission would achieve?

The Hon. J. R. CORNWALL: I think it would achieve a degree of professionalism which is absolutely essential to the running of a multi-million dollar industry. I am not saying it should be constituted with three or five members or with a Chairman with specific qualifications. I am not going into detail: I am floating the notion.

When we go into the Committee stage Mr. DeGaris will be able to raise all sorts of matters. I raise that quite seriously. The same sort of criticism is inherent in the committee's comments on the Trotting Control Board and the South Australian Trotting Club. Everybody knows that it is an open secret that there are difficulties within the South Australian Trotting Club that have plagued the club for a large number of years. The report acknowledges quite openly that trotting in this State is in a quite desperate situation. Certainly, one could make out a very good case for trotting to be run by a professional commission.

The whole of the South Australian trotting industry which, of course, had the leading position in Australia if we go back to the Wayville days 20 years ago, has deteriorated to a stage where it is really quite desperate. Stakes have been falling dramatically, as I am sure honourable members know. These stakes have not kept up, and that has had a dramatic effect. It has meant that the trotting industry here has been attracting quite small fields.

The move to Globe Derby Park has exacerbated the position in some ways in that, being a big track where every horse gets a chance regardless of its fortunes or otherwise at the start, a higher percentage of races have short-price favourites which do not represent value for the battling punter or even to the large punter. As a spectacle they are not crowd pleasers. We also have a position in this deteriorating situation which is not mentioned by the committee of inquiry and which I am a little disappointed that they did not address themselves to; that is, because of this deterioration it has become necessary for some people in the industry to do a little cheating from time to time in order to survive. It is an open secret. There is no doubt at all that at Globe Derby a percentage of horses from time to time are not allowed to run on their merits.

If it is going to cost, for example, $100 a week to keep a horse in training over a period of many weeks of the year, it is obvious that one is not going to be well compensated for having a horse running around Globe Derby. Often, the winning stake received would not buy the chaff for one year, let alone all the other things. I am pleased that the Government has taken account of the committee's recommendations in regard to trotting, as much can be done.

Again I say that a case may well be made out at some time in the near future, particularly if these initiatives do not prove to be as successful as we all hope them to be, for a trotting commission. I am floating this idea on the basis that we will all hope the recommended initiatives are going to work and we will see a revitalisation of galloping in this State and that trotting and greyhound racing will go from strength to strength. In the event that it does not in spite of this financial injection, I believe that it may be necessary for whatever Government is in power at a particular time to consider the possibility of professional administrations.

Turning specifically to the Bill, I will mention the clauses in passing at this stage. The Bill does several things. It amends the definition in the principal Act so that a bookmaker is defined as including a bookmaker's agent. I understand that that is to be read in conjunction with amendments to the Lottery and Gaming Act which will make it much easier for the illegal S.P. bookmakers operating around the State presently to be suitably dealt with.

The Opposition opposes clause 5 for reasons that I will raise during the Committee stage. Clause 6 is a very important clause and I indicate now the Opposition will be supporting it. It perhaps is the most important clause of the whole Bill. Under that clause the code will receive an estimated $1 500 000 per annum on current turnover levels. That is a significant injection of funds. The Opposition concedes that it is a very necessary injection of funds. We certainly support that wholeheartedly.

Clause 7 in practice means that the Government is relinquishing about $250 000 and the clubs will gain about $250 000. That is a significant initiative and we believe a necessary one. Clause 8 refers to fixing the amount of totalizator betting units. I would foreshadow that I want assurances in the Committee stage as to what the effect would be of the amendment moved by the Minister in another place. The Opposition realises that inevitably we will move towards a $1 unit but we are very keen to see that this does not happen at the moment in regard to multiple betting. The timing would be most inappropriate. Multiple betting is a popular form of betting, and people take out many units on various combinations. It would be inappropriate for us to be considering getting out of line with other States where the T.A.B. operates effectively.

Clauses 10 and 11 refer specifically to bookmakers' turnover tax, which will go directly to the codes. Clause 10 increases the amount by 0·3 per cent, and clause 11 removes the duty on betting tickets. The net effect of those two amendments is that approximately $400 000 per year will be taken in additional tax from the 130 bookmakers operating in South Australia. The Opposition finds that objectionable on several grounds. The figures given by the committee of inquiry indicate that the total net income of the 130 bookmakers operating in South Australia is $2 550 000. That was in the last financial year available for the inquiry. On my rough arithmetic that represents a net income to each bookmaker of $19 600. It also represents, on the turnover figures given by the committee from the Betting Control Board approximately 1·5 per cent net profit on total turnover. In an occupation as hazardous as bookmaking, I would submit that it is a very small net income indeed. I have been attracted at some stage to perhaps leaving politics and looking for a licence.

The Hon. K. T. Griffin: Just as much a gamble.

The Hon. J. R. CORNWALL: Yes, indeed. I can assure honourable members that, despite the vagaries that might befall a politician from time to time, having looked at those figures my yen to acquire a licence to go bookmaking has diminished considerably.

I realise that within this 130 bookmakers you have the full range: the small country bookmaker who operates only at Saturday meetings in the South-East or on the West Coast of the State with a small turnover and a relatively much smaller income than that of some of the large bookmakers who operate on the rails at metropolitan meetings in Adelaide. They not only have larger turnovers

because of their operation and situation but also field at a greater number of meetings. Obviously, within that range of people there are those who have a net loss, and in some cases a substantial net loss, for the year right through to people whose incomes may be as high as $70 000 or $80 000. As I have said, it is a high risk occupation and one on which there is a very small percentage return on turnover. It would seem in the circumstances this additional imposition is certainly not warranted.

Again, on the sort of figures I have taken out, the additional ·3 per cent, when taken into account with relinquishing of the duty on betting tickets, would mean about an additional $400 000. I realise that this would be very good, particularly for the country clubs, which do not at this time participate to the degree that they would like in T.A.B. turnover or distribution. I realise that it would make a very significant contribution to them, but if we go back to our averages, $400 000 extracted from 130 bookmakers would be an average of $3 077, which compared with the $19 000 income amounts to 17 per cent of net income. Those 130 bookmakers would be paying the Betting Control Board that amount. It is simple to divide that $400 000 by 130 and come up with that figure of $3 077. That is an additional tax on their net income of 17 per cent. I believe that that is quite outrageous and could not be justified in any circumstances.

I know that the Government will immediately refute that by saying that the bookmakers can adjust the percentage to which they bet: in other words, that they can pass that amount on to the poor old punter who will get less value for money at a time when all the other initiatives and the whole thrust of this Bill we are putting through would be to adopt other recommendations to get more people back on to racecourses. People will not go to racecourses when bookmakers are being forced to bet lesser percentages because of this additional ·3 per cent tax. That is another very good reason why we ought to oppose it.

One can imagine the outcry in the community at large if the Federal Government as the income-taxing authority was suddenly to turn around and say it had been running deficit budgeting for the past two or three years and that it had a bit of a problem and would raise income tax by 17 per cent. That is really quite outrageous. Never at any time whilst in Government did we consider a 17c in the dollar imposition on personal income in this State. Members opposite can rant and rave as much as they like about taxation. I am not here to defend their notion of small government. I am not here at this time to say that the Opposition does not believe that people have to pay tax because, of course, they do: if one is going to have a modern, civilised caring society, somebody has to pay for it. We acknowledge that taxation is a necessary measure, but not, I suggest, by raising personal income tax 17 per cent or passing on yet another burden to the punter.

There are two other matters I should mention. One is that at this very moment in South Australia, as members would be aware, bookmakers are generally having quite a struggle to survive. This is brought about by a combination of two factors. First, the economic downturn has caused the mug punter like myself not to go to the races any more. It is people like myself who kept the industry going for many years. There is a very good reason for that. People like myself are not particularly well informed and do not have time to do their homework. We go along to the races and speculate, but never accumulate. We are the sort of people who, quite frankly, keep the game going. On the other hand, you now have people like Mr. Magic operating in South Australia who are extremely astute persons and who devote their entire time to matters associated with this pastime and work them out in the most scientific way, using computers to see what is value and what is not value.

Mr. Magic has sent some big names in the bookmaking industry to the wall, and there is every indication that he is going to continue to do so. Matters have reached the stage where some of the quite big bookmakers, people who have been in the industry for many years, are now having to impose limits on the amount of money that they will hold from this gentleman and his operators. The best of luck to him. I do not want anyone to interpret what I am saying as being critical of his doing what I could not do in my 15 years of trying, but it is a serious problem. I know of a gentleman who was in the bookmaking field for a long time and who in his heyday in the 1950's was a man of considerable substance but who is now living on the age pension.

That is the sort of thing that has happened. We cannot go on bleeding the bookmakers. I know that there is a general impression that bookmakers drive large cars, smoke cigars, live the good life and have unlimited amounts of money. That may have been true in the past, but it is certainly not the position in South Australia at this time. The other thing we have to take into account when talking about turnover tax is the position in comparison with other States. One sees, on looking at the turnover tax, that there is a situation in South Australia where the bookmakers are paying 2 per cent on local races and 2.6 per cent on interstate races at metropolitan meetings. In the country they are paying 1.8 per cent on local races and 2.4 per cent on interstate races. I will not run through the whole list. However, I have here a list of those figures and, with the concurrence of the Council, I seek leave to have them inserted in *Hansard* without my reading them. They are purely statistical figures.

Leave granted.

TAXATION ON BOOKMAKERS

Turnover taxes exist in each State of Australia as follows:

	Per Cent
South Australia—	
Metro meetings	2·0 local races
	2·6 interstate races
Country meetings	1·8 local races
	2·4 interstate races
New South Wales—	
Metro Galloping	2·25
Metro Trots, dogs and Country Galloping	1·75
Country Trots and dogs	1·25
Victoria—	
Metro meetings	2·25
Country meetings	1·75
Queensland—	
Metro meetings	2·5
Country meetings	2·0
Western Australia—	
First $100 000	2·0
Sums over $100 000	2·5
Tasmania—	
All meetings	2·5
Canberra—	
Galloping and trots	1·5
Dogs	1·25

The Hon. J. R. CORNWALL: It is not difficult to make comparisons using this table. If an additional 0·3 per cent is paid in South Australia, it will be clear and away the highest paid in Australia. Looking at these figures, for

example, one sees that in Victoria the figure for metropolitan meetings is 2·25 per cent.

We have to compare that with South Australia, with 2 per cent on local races and 2.6 per cent on interstate races. I would then have to get the average figures, and they are available to me, but I will not go into that. The estimated figure in South Australia presently is about 2.25 per cent, which compares with metropolitan galloping in New South Wales, for example, and metropolitan meetings in Victoria, and it is about the same as Western Australia and almost on par with the other States where racing is booming. It is not in the depressed state that exists here. Racing in Western Australia is way ahead of racing in South Australia, and Queensland (they are comparable States; they are not the super States of New South Wales and Victoria) has a turnover tax which is close to the net effect of the turnover tax in South Australia.

If we raise it by 0·3 per cent it will be by far and away much higher than in any other State. That is beyond question. Those figures are close to the mark, and presently we are on a par. If we take an additional $400 000 from the industry we will impose a grave hardship on some of the bookmakers who are not those tremendously affluent members of our society whom they are generaly painted out to be.

The Hon. R. C. DeGaris: I don't think it'll come out of the bookmakers' pockets; it'll come out of the punters' pockets.

The Hon. J. R. CORNWALL: True, it will probably come from punters' pockets, but it is the little bloke who keeps the game going. There is no question about that. It is not Mr. Magic or others of his ilk who keep the industry going, and it is not the breeding industry that keeps the game going, because they are the people who make a profit from it. Someone has to pay, and there is no question about who it is: it is the regular racegoer, who is a relatively small punter and who approaches the whole business on a hit-and-miss basis and, because of the percentages that are bet or the percentages that are taken out by the TAB, that punter leaves money in and keeps the industry going.

I have commented on the areas of concern, and we will deal with those individually in Committee. Finally, the Opposition congratulates the Government on its initiative. We do not carp about that at all. We congratulate the Government on what it is doing, but we do have reservations about some clauses in the Bill.

The Hon. R. C. DeGARIS: I do not wish to speak at great length, because most of the matters that I wanted to raise have been covered by the Hon. Dr. Cornwall. It is extremely difficult to make a State-by-State comparison of racing and betting taxation because of the differences in the actual taxing systems. One point is clear, however, and that is that under this Bill South Australia is to become the highest taxing State in regard to bookmakers' taxation. That point has been made clearly by the Hon. Dr. Cornwall, and I agree with the figures that he has just given.

The actual increase in bookmakers' taxation will be between 15 and 18 per cent. One thing that any Government and legislators must realise is that the most important source of funding to the racing industry comes from race followers, the punter. It is the punter who carries the racing industry. Punters keep the racing, trotting and dog-racing industries going. Racing taxation in South Australia is made up of several elements, including totalizator tax, betting ticket tax and commission on bets. Each is payable pursuant to the Racing Act. Section 70 provides for authorised racing clubs to pay the Treasure turnover tax on each day's turnover of 1.2 per cent where the turnover is less than $10 000; 3.75 per cent on $10 000 to $20 000 and 5.25 per cent on $20 000 or over. Further funds go to the Racecourse Development Board of 1 per cent of the multiple betting turnover.

Section 114 requires bookmakers to pay commission on bets of 2 per cent on local and 2.6 per cent on interstate metropolitan meetings, and 1.8 per cent and 2.4 per cent respectively or country meetings. Section 115 requires bookmakers to pay betting ticket tax of 2 cents a ticket at metropolitan grandstand enclosures and 1 cent a ticket elsewhere. The Bill amends section 70 to provide that totalizator tax on each day's turnover less than $10 000 will be 1 per cent; when it exceeds $10 000 but not $20 000 it is $100 plus 2 per cent; between $20 000 and $40 000 it is $300 plus 3 per cent; and over $40 000 it is $900 plus 5.25 per cent. That change can be agreed to by the Council without any argument.

It does make the turnover tax on the on-course totalizator much more realistic than previously. Section 114 is amended by increasing bookmakers' tax from 2 per cent to 2.3 per cent, and it increases it by ·3 per cent all round. I agree with the Hon. Dr. Cornwall that it will take this form of taxation to the highest level in Australia. The point that must be understood is that it will not be the bookmaker who will pay the extra tax but the punter, who will be taking slightly shorter odds.

The Hon. J. R. Cornwall: We don't really know that in an area where there is such fine tuning.

The Hon. R. C. DeGARIS: I think we know that, and knowing bookmakers and their abilities to adjust themselves to such situations, I think it is reasonable to assume that the person who will be affected will be the punter. It will be the punter who will bear the cost. I would like to make comparisons in regarding to tax paid from the racing industry, but it is extremely difficult because of the different systems that apply in each State. I would like to make a quick comparison of income from this source of taxation. I understand that bookmakers paid tax in 1978-79 in South Australia of $3 900 000. There seem to be two figures, and I do not know whether the Hon. Dr. Cornwall agrees. One amount of $1 900 000 goes to consolidated revenue. I am quoting from Australian Bureau of Statistics figures.

In South Australia a contribution is made to consolidated revenue of $1 900 000 in commission on bets. Commission on bets to the Betting Control Board also amounted to $1 900 000 in 1978-79. Bookmakers' tax in South Australia for the same year amounted to $3 900 000; in New South Wales it was $9 156 000; in Victoria, $10 758 000; Queensland, $3 533 000; Western Australia, $1 289 000; and Tasmania, $780 000. Those figures indicate that South Australia is in line with the other States in relation to bookmakers' tax. South Australia's total income from racing and betting taxes, including T.A.B., in the same year was $11 075 000; New South Wales, $84 720 000; Victoria, $67 325 000; Queensland, $23 345 000; Western Australia, $15 082 000; and Tasmania, $3 039 000. If one compares the income from bookmakers' taxation with overall taxation in the racing industry one notices a large discrepancy. The administrators of the racing industry in South Australia should examine these figures to determine why South Australia's income in relation to bookmakers' taxation is comparable with the other States, but in relation to total taxation for all forms of racing we do not compare with the other States. This situation deserves further analysis.

The Hon. J. R. Cornwall: Are you referring to the amount actually generated?

The Hon. R. C. DeGARIS: Yes, the amount that goes

into consolidated revenue.

The Hon. J. R. Cornwall: The lotteries have been responsible for that.

The Hon. R. C. DeGARIS: I am not referring to lotteries at all. I am referring to the generation of taxation from the T.A.B. and betting tickets only in relation to the racing industry.

The Hon. J. R. Cornwall: Over the last 10 years the lotteries have increasingly taken more and more.

The Hon. R. C. DeGARIS: Bookmakers' tax in this State is comparable with bookmakers' tax payable in other States. However, in relation to overall racing taxation South Australia cannot compete with the other States.

The Hon. J. R. Cornwall: The T.A.B. receives more money than the bookmakers. Bookmakers do not hold as much percentage-wise in this State as they do in other States.

The Hon. R. C. DeGARIS: Yes they do. Overall racing taxation includes the T.A.B., bookmakers and so on. South Australia receives only about $11 000 000 in racing taxation overall, compared to New South Wales, which receives about $84 000 000 and Victoria about $67 000 000. It is difficult to find additional revenue by raising the tax on bookmakers' turnover to the highest rate existing in Australia when one compares the figures that I have mentioned. As I pointed out earlier, Parliament should be careful that in trying to solve some of the financial problems facing the various racing codes it does not bleed the punter to the point of exhaustion. I sometimes wonder whether those interested in the racing codes and those who legislate realise that the answer to most of the problems facing the industry is related to the attraction of people to the actual courses and to the various racing codes.

Of course, country racing clubs will make considerable gains from this Bill. Whilst I have supported in principle the Hon. Dr. Cornwall's comments, at present there is some dissatisfaction with the administration of racing in this State and with the financial arrangements relating to country clubs in South Australia. I am not going to argue the point about whether or not I support them in that.

The Hon. J. R. Cornwall: The committee of inquiry didn't come to grips with that.

The Hon. R. C. DeGARIS: No, it did not. The country racing clubs are quite happy with the arrangement in this Bill. For that reason I will not be opposing the clause in question although I believe I have given a reasonable warning that one cannot continue bleeding the punter in an endeavour to maintain a racing code that is in some difficulty. Clause 8 provides, in part:

> Subject to subsection (3), the Totalizator Agency Board may, by notice published in the *Gazette*—
>
> *(a)* fix the amount that shall, for the purposes of this Act, constitute a unit in relation to off-course totalizator betting on any form of racing;

Subclause 2 has the same powers in relation to on-course totalizators. Can the T.A.B. fix two different units for the same race meeting in relation to on-course and off-course T.A.B. bets? If it can, how is the dividend declared? If the dividend is declared based on a $1 minimum investment on-course and a 50c minimum investment off-course, the question of fractions which go to the board arises, and there is difficulty in striking the correct dividend. There may be a logical explanation for this. I wonder whether there is a minimum unit on-course which is different from the minimum unit off-course, and whether that is possible under this clause. According to the clause, an amount can be fixed for off-course and another amount can be fixed for on-course.

The Hon. J. R. Cornwall: Have you seen the amendment moved by the Minister in another place?

The Hon. R. C. DeGARIS: No, I have not seen that amendment. Perhaps an amendment has been passed in another place which clarifies this situation, and that is another reason for not making haste when we are dealing with unamended Bills from another place. Is it possible to have two different minimum bets on-course and off-course? If it is, I can see difficulties in relation to the declaration of dividends.

The Hon. K. T. GRIFFIN (Attorney-General): I thank members for their consideration of the Bill and the indication, in particular, that the Opposition supports it. The questions raised by members can probably be best left until the Committee stage, but I will try to give a response to several questions now. The Hon. Dr. Cornwall seems to place his principal concern on the increase in the turnover tax of bookmakers. The Hon. Mr. DeGaris, in a sense, takes up that comment by indicating that we cannot go on bleeding the punter for ever. I think that is how he described it, and I believe that one should put those two matters together, because they relate to the same sort of question about the turnover tax on bookmakers. I draw the attention of members to the report of the committee of inquiry, which addressed its mind to that question of an increase in turnover tax and the removal of stamp duty as being in the interests of the codes generaly. The committee stated:

> The ability of bookmakers to generate this turnover depends entirely on opportunities provided by the clubs which bear the whole of the administrative and other expenses of holding the meetings.

Later, the report states:

> Bookmakers, who as a group are enjoying an exceptionally high percentage of total on-course betting turnover, are dependent upon the success and growth of racing. The committee considers they should contribute additional amounts to ensure their future position in the industry, particularly as the opportunities for bookmakers to conduct their businesses are provided entirely by the clubs.

The Hon. J. R. Cornwall: That's the position interstate. It's a fallacious argument.

The Hon. K. T. GRIFFIN: The Hon. Dr. Cornwall joins issue with the committee of inquiry but I have no alternative other than to take recommendations of the committee, which was a committee of some status within the industry, and to accept that it has adequately canvassed the point that the Hon. Dr. Cornwall was putting to the Council, except that the committee reached a different conclusion from that reached by the Hon. Dr. Cornwall. The committee further stated:

> It is the committee's opinion that the adoption by the Government of the recommendations in this report would provide substantial additional funds to the codes to increase stakemoneys. As a result, the quality of racing will improve, the industry will grow and bookmakers will benefit from increased turnover.

I guess that it is really a chicken-and-egg situation. What comes first, and increase in stakemoney to attract more punters to improve the business of bookmakers, or something else? The Government has accepted the committee's recommendations that an increase in turnover tax will not adversely affect the bookmakers and punters when it is balanced against the considerable injection of funds into the industry. It will create considerable incentive for the industry in general and for punters in particular, and that will reflect in the turnover of the bookmakers.

The other point that the Hon. Mr. DeGaris has raised is about why there are two subsections to the new section 71.

I am informed that both the off-course function and the on-course function are technically two separate functions. That is the principal reason for providing two separate subsections to deal with the unit of betting, but one will note that the amendment made in the House of Assembly provides some safeguard to ensure that there is no difference in approach in the fixing of the units and that, in relation to off-course totalizator betting or on-course totalizator betting, the Minister must give his approval to the amount fixed in each case.

I am further informed that the codes do maintain close consultation in relation to the fixing of the amount of the units and that they do co-ordinate their decisions with the T.A.B. Whilst there is provision for the amounts to be fixed separately, the Minister intends to follow the normal practice of ensuring that the approach as between on-course and off-course totalizator betting units is uniform. I thank members for their contribution and for the enlightening discourse on the subject.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Interpretation."

The Hon. J. R. CORNWALL: I understand that the Minister has given an undertaking in the House of Assembly that the unit referred to will not be increased to more than 50c but the thrust of this is to make a minimum investment of $1. I would like an absolute assurance from the Attorney-General that that is the position. I said in my second reading speech that I was particularly concerned in regard to multiple betting, such as on fourtrellas. trifectas, and so on, where people invest in various permutations and combinations and may take 40 or 60 units. They are investing $20 or $30, although only in 50c units. In the same way, if the investment is 50c for a win and 50c for a place, that is a minimum investment of $1. We would have to oppose the clause if there was an indication that it was intended to provide for a minimum unit of $1 right across the board.

The Hon. K. T. GRIFFIN: I will repeat the undertaking which the Minister gave in the House of Assembly. As I understand it, the unit of betting will remain at 50c for the foreseeable future with respect to minimum investment. The Minister has undertaken in the Assembly, and I again repeat, that a very convincing argument would need to be made to him before he would agree to an increase in the minimum investment above a dollar for multiple bets. I think that that covers the undertaking that the Hon. Dr. Cornwall is seeking, at least I hope it does.

The Hon. J. R. CORNWALL: This is a House of Review and as a member of it I do not take a great deal of notice of what is going on the Lower House. I thank the Minister for that assurance.

Clause passed.

Clause 4 passed.

Clause 5—"Totalizator betting facilities for metropolitan horse racing meetings."

The Hon. J. R. CORNWALL: The Opposition opposes this clause strenuously. It is interesting to read from the submission of the South Australian Bookmakers League Inc. to the racing industry inquiry. That submission was made and prepared by a well known South Australian expert in the field, Mr. Hugh Hudson. He stated:

> The continuation of flat enclosures at S.A. metropolitan galloping meetings is an important service to punters. The small punter who would shy away from paying a significant entrance fee is able to attend meetings and still achieve better prices for his bets than TAB prices. This particularly is important for low-income families and for unemployed people who seek enjoyment in attending race meetings. Furthermore, parents with children are often able to use flat enclosures and be confident that the playground facilities provided will ensure a cheap outing and enjoyment for all members of the family. The same situation is not achieved effectively in the grandstand or derby enclosures, and admission fees are not conducive to family outings for those on low incomes.

The Hon. D. H. Laidlaw: It is the only place in Australia that would still have a flat.

The Hon. J. R. CORNWALL: Indeed, and we are keen to see that it remains. I am well aware of the counter argument that, with on-course totes moving to computerisation, it is not economically sound to put that facility on the flat. If one looks at it purely from that viewpoint, I can say that, if I had a principal business that was going nicely, a branch that was going well and another branch that was losing money, I would close that branch down. That agrument completely overlooks the education and stimulation of people in the racing business. It is a great training ground for the battling punters and always has been. In that respect it was interesting to see what Mr. Hudson had to say to the committee of inquiry , as follows:

> It has been submitted above that the level of attendance is an important long-run determinant of the number of off-course TAB patrons.

That is very significant. It is a training ground for the small punter. The evidence continues:

> An average attendance of 10 500 at metro race meetings may mean that as many as 50 000 individuals attend the races during any one year. That group of people is the fundamental source of regular TAB patrons. The knowledge that non-regular race goers build up of horses and their form is an important influence of off-course betting when the "racegoer" doesn't attend but follows his fancies by betting off-course on TAB. The closure of flats would reduce average attendance (and total on-course betting turnover) and in the long-run the number of people who bet off-course and patronise TAB.

So, the arguments are twofold. First, it is the battlers playground. It is an area where at Victoria Park they get in without any admission charges. There is a certain degree of family atmosphere on the flat that does not exist in the grandstand or derby enclosures. The Hon. Mr. Hill is always looking after the little people, and I would have thought he would oppose the clause for that reason. I expect him to give it due consideration.

Perhaps even more significant is the fact that it is a training ground for the small punter. It is place where they build up an interest and keep up with what is going on. If we look at it on economic grounds, perhaps we could justify the closing of the flat. However if we look at it on social grounds and the fact that it is a training ground for small investors who are important to the industry, we believe that it would be a retrograde step to close the flat.

The Hon. K. T. GRIFFIN: In the second reading explanation I indicated that the experience of recent years had seen a diminishing use of the flat by racegoers. In 1971 flat bookmakers had 28 per cent of the total bets and held 12 per cent of the turnover, yet by 1980 those figures had dropped to 19 per cent and 10 per cent respectively.

The Hon. J. R. Cornwall: The unemployment rates are different also.

The Hon. K. T. GRIFFIN: The committee of inquiry considered that the expense of maintaining totalizator betting facilities in the flat enclosure is not justified. The obligation to provide flat enclosures with a new computerised totalizator facility will only add a further financial burden which is not warranted in view of the falling attendance in those enclosures. This amendment relieves the South Australian Jockey Club from the

obligation to provide facilities on flat enclosures.

I should add that there will be a period which is yet to be negotiated between the S.A.J.C. and the Betting Control Board for appropriate arrangements to be made concerning bookmakers. This clause implements one of the recommendations of the committee of inquiry's report. I urge the Council to support the clause.

The Hon. J. R. CORNWALL: The Attorney-General is not too comfortable with this Bill, he has just argued in support of the second factor that I put up. There is, as he says, between the early 1970's and the late 1970's a lower percentage of investment on the flat. I made that point quite clearly that it is the battlers' playground. The Attorney-General knows that unemployment has gone up during that period from 1 per cent for what may be called the hard core unemployables to something close to 8 per cent. Clearly people in that lower income group have not got the betting dollar that they had 10 years ago when there was virtually full and almost overfull employment in South Australia. He simply reinforced the argument that I put up. I thank him for supporting my argument. The Opposition opposes the clause.

The Committee divided on the clause:

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

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

Pair—Aye—The Hon. M. B. Cameron. No—The Hon. C. W. Creedon.

Majority of 1 for the Ayes.

Clause thus passed.

Clause 6—"Application of percentage deducted from totalizator bets made with the Totalizator Agency Board."

The Hon. J. R. CORNWALL: I emphasise what I said in my second reading speech. The Opposition enthusiastically supports this clause. The basis is that the various racing codes will receive about $1 500 000 on current turnover levels. This clause is not relevant to bookmaking.

Clause passed.

Clause 7 passed.

Clause 8—"Fixing the amount of betting unit."

The Hon. R. C. DeGARIS: I do not wish to speak directly to this clause, but I wish to raise a matter that I have raised previously. I have always argued that the means of computing dividends on units for a place bet is wrong and unjustified. I refer this matter to the Attorney-General and ask him to take it up with his colleague so that when next time the matter is before the Council it can be attended to. Where a horse in a place bet is a favourite and the stake cannot be repaid, it is wrong to take from the pool of the other placed horses to make up the return on that horse. Often it means that a horse that runs a place at long odds pays practically nothing because the whole of the pool from that horse is taken to make up the return of the stake on the short priced favourite. This is wrong and unjust. A system should be incorporated in the Act so that the fractions that the Government claims already should be used to make up the return of stake of the favourite in that case. It is wrong that money that belongs to one horse is taken to make up the dividend on another.

The Hon. K. T. GRIFFIN: I shall be pleased to refer that matter to the Minister.

Clause passed.

Clause 9 passed.

Clause 10—"Payment to board of percentage of moneys bet with bookmakers."

The Hon. J. R. CORNWALL: I seek advice, Mr. Chairman. The Opposition opposes clause 10 and also clause 11. We seek the retention of the *status quo*. We would not oppose clause 11 in other circumstances. Is it possible to consider the two clauses together?

The CHAIRMAN: We should deal with clause 10.

The Hon. J. R. CORNWALL: The Opposition opposes this clause for the reasons I outlined in the second reading debate. I refer to the comments of the Hon. Mr. DeGaris, who said that the punter will pay, that it will not be the bookmaker. To some extent in the second reading debate I indicated that that may be the position, but it is not such a fine-tune operation as the TAB. It is easy to put 100 per cent of one's money into the churn and say that one will take 14·5 per cent. It is not possible for bookmakers to fine tune to ·3 per cent. They would have to bet to substantially worse percentages, and if they do that the punters will pay. Much competition exists (the Hon. Mr. De Garis should talk to the Betting Control Board about this) in the ring and one has to watch percentages. Smart bookmakers are doing that and are making a dollar.

There is a high degree of competition and a limit to the sort of percentages that bookmakers can bet. It is going to be extremely difficult for bookmakers to define percentages to the extent that they will pick up an amount according to their increased turnover tax. A fact that I did not mention earlier in the debate was that that annual turnover varies between $300 000 up to $3 000 000 across the bookmaking fraternity. When talking about averages, they are very much averages.

I have a great feeling for country racing clubs and I am aware of the difficulty that they face. However, I do not believe that this is the appropriate way to solve their problems. The whole question of country racing clubs and the on-going disputes that have occurred within the S.A.J.C. committee and at various other levels about the funding of country racing clubs was not really addressed by the committee of inquiry. In my humble submission, the committee did not really look deeply enough into this problem. The committee of inquiry acknowledged that there was a problem, but it did not define the extent of that problem to a degree that I would have thought was necessary, and it certainly did not look for a genuine solution.

The committee of inquiry brought forward an excessively simple solution. The committee recommended that bookmakers should be taxed an additional .3 per cent enabling more money to be given to country racing clubs. The Opposition does not agree with that. It is an over-simplification to tax bookmakers an extra 17c in the dollar. The Opposition does not support that proposal because bookmakers are not in a position to pay that extra tax. It is outrageous to impose what amounts to personal income tax on bookmakers. The Opposition feels very strongly about that matter.

The committee of inquiry also stated that there are probably too many bookmakers employed in the industry and that many of them should go to the wall. If that occurred, not only would it deprive bookmakers of their livelihood, but it would also deprive their clerks, bag men and others employed by bookmakers of employment. It is all very well to say that some bookmakers should go to the wall, but that would amount to putting about 150 people out of a job. Once again, the Opposition does not accept that. The committee of inquiry actually stated that some bookmakers should leave the industry. That is simply a euphemism for what amounts to putting these people out of business, and the Opposition will not cop it. It is a grave injustice perpetrated on bookmakers, and the Opposition will not cop it. I give a firm undertaking on behalf of the Opposition, that, if the Government persists with this

measure, when the Opposition is returned to Government—provided the other measures introduced are successful and there are substantial amounts of funding for the codes to gee them up very considerably—we will repeal the provision for an additional .3 per cent.

The Hon. K. T. GRIFFIN: I have already indicated that this measure resulted from a recommendation of the committee of inquiry into the racing industry. The Government believes that it is an appropriate recommendation when one takes into account the fact that bookmakers as a group enjoy an exceptionally high percentage of the total on-course betting turnover and are dependent on the success of racing. Whilst it is a very appealing proposition for the Honourable Dr. Cornwall to average the cost over all the bookmakers, that is a misleading proposition and should not carry the weight which he seeks to give it. The Government believes that bookmakers can only benefit by the aggregate implementation of the recommendations of the committee of inquiry. Whilst on the one hand bookmakers will be paying a slightly increased turnover tax, that is far outweighed by the benefits that will flow to them and to all persons employed in the racing industry through the other initiatives that the Government is taking.

The Hon. J. R. CORNWALL: I repeat that the Opposition feels very strongly about this matter to such an extent that we may have to oppose it and suggest that it should be deleted. In those circumstances it is appropriate that I seek a ruling from you, Mr. Chairman, and ask whether you consider this to be a money clause.

The CHAIRMAN: Yes, after studying the form guide I believe this is a money clause. The House of Assembly also considered that it was a money clause, and advice I have received suggests that that is so.

The Hon. J. R. CORNWALL: I have looked at the Act and it appears that the Betting Control Board is the body responsible for collecting this money from bookmakers and transferring it to the racing clubs. At best, I think the point is arguable. Mr. Chairman, it is regrettable that you have ruled that this is a money clause, because the Opposition will have to oppose it. We oppose this clause very reluctantly in view of your ruling, Mr. Chairman. In view of the circumstances, I do not believe that this clause should be classified as a direct taxation measure. It may well be that the Opposition will have to move to dissent from your ruling, Mr. Chairman.

The CHAIRMAN: Why does the Honourable Dr. Cornwall find it necessary to question my ruling? The word "suggested" is merely a way of pointing out that this is a money clause.

The Hon. J. R. CORNWALL: Mr. Chairman, I am sure that you are aware of how strongly the Opposition feels about tampering with anything that might remotely be considered a money Bill. Is it a question of sending the matter back for further consideration?

The CHAIRMAN: It has been the standard practice. It does nothing to your amendment.

The Hon. C. J. SUMNER: I object to the ruling and I have prepared my objection in writing. I move:

That the Chairman's ruling be disagreed to.

The President having resumed the Chair:

The PRESIDENT: As President, I uphold the decision of the—

The Hon. C. J. SUMNER: Before you do that, I am wondering whether, as President, you might care to receive submissions from members on the ruling. It may shorten the proceedings.

The PRESIDENT: I would have liked your submissions prior to your having moved against my ruling but, as you have done that, there is no point in debate and at present I uphold the ruling of the Chairman, which I thought I would, anyway.

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

That the President's ruling be disagreed to.

The PRESIDENT: That will have to be in writing.

The Hon. C. J. SUMNER: Yes.

The PRESIDENT: The Hon. Mr. Sumner has presented to me a notice in writing. Unless the Council decides that the matter requires immediate determination, the debate must be adjourned and made the first Order of the Day for the next sitting day.

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

That the debate on the motion for disagreement to the President's ruling be proceeded with forthwith.

Motion carried.

The Hon. C. J. SUMNER: I have raised this matter because I believe it brings up a question of general importance on which the Council should express an opinion. Clause 10 increases what is called the tax on bookmakers' turnover and I think that in all cases the increase is ·3 per cent. The argument that has to be addressed is whether that clause constitutes a money clause. "Money clause" is defined in section 60 of the Constitution Act as follows:

> "money clause" means a clause of a Bill, which clause appropriates revenue or other public money, or deals with taxation, or provides for raising or guaranteeing any loan or for the repayment of any loan:

I think the only part of that section that could be interpreted as applying to clause 10 is the part that refers to deals with taxation. I do not believe that the Bill appropriates revenue or other public money, or that it provides for raising or guaranteeing any loan or for the repayment of any loan. One first needs to turn to what is meant by "taxation". The definition of a tax in the *Concise Oxford English Dictionary* is:

> Contribution, levied on persons, property or business for support of national or local government.

The so-called tax that this clause increases is certainly a contribution levied on a person or business. It may well be argued that it is being levied on a business. The point is whether that contribution is levied for support of national or local government. The money raised under section 114 of the Act goes to the Betting Control Board.

While the board is a statutory authority under the general control and direction of the Minister, it has been made clear that the money raised by this so-called tax does not rest with the Betting Control Board, a Government instrumentality, but goes to the jockey clubs or other private organisations running the racing codes in South Australia.

So, it is fair to say that, if it is a tax, it is not for the support of national or local government. It is imposed for the support of the racing code because, although the money goes to the Betting Control Board, from there automatically (and the Government admits this) the money goes effectively into private hands. Therefore, I do not believe that it can be characterised as a tax. On the face of it, it is a tax, in the sense that it does go to the support of national or local government. The impost raised by section 114 goes to the support of the private code. That to my mind does not make it a tax under the definition that I have read out. The definition that I have read out involves a contribution levy on persons or business as the first leg, and there is the second leg for support of national or local government. This may be a contribution levy. If it is, I do not believe that it is money for the support of national government. So, that is the first argument.

The second argument is more fundamental—that it is

not properly characterised as a tax, anyhow. The imposts and contributions acquired from bookmakers are more in the way of a licensing fee which is imposed upon the bookmakers and which goes to the Betting Control Board. It has the resposibility for the licensing, administration and regulation of bookmakers. So, there is an argument that it is not a tax, that it is a fee extracted by the Government for the privilege of obtaining the bookmaker's licence and operating as a bookmaker.

There are two legs to the dissent that I am moving. The first is that it is not a tax but a licence fee and secondly, if it is in the face of it, a tax it actually is not one, because it does not go the the support of the Government but to private organisations. I have moved dissent to enable the Council to express a view on your ruling, Mr. President. It is a matter of some importance to decide in Parliament from time to time what ought and what ought not to be considered as money clauses. I believe that there is considerable doubt. On that basis, I challenge your ruling, and I believe that the arguments I have put, which are two pronged, have merit and require serious consideration by the council.

The Hon. K. T. GRIFFIN: I take issue with the Leader of the Opposition. I do not want to speak at great length on such an interesting point at this hour of the morning. However, several matters need to be covered. First, the board is constituted by statute and holds its property on behalf of the Crown, and its members are appointed by the Governor. Those two factors are very significant factors in determining whether or not the board is an instrumentality of the Crown. From the viewpoint of raising revenue, it is for practical purposes indistinguishable from the Crown as an object of the revenue being raised. The Leader of the Opposition made the point that the amendment under section 114 of the Act is really in the nature of a licence fee or is categorised in the some other way than as a tax. However, I suggest that, whether they are called licence fees, franchise fees, or by any other name, they are still for practical purposes a tax, because they raise revenue.

Notwithstanding the board raising these amounts fixed by Statute and paying some of these amounts to the clubs or various codes, in addition the board pays a portion of the amounts raised in the revenue of the State. That acts as a conduit or revenue collector for the State so that part of the funds raised go through the board to the Crown. The others are paid out to the codes.

The Hon. C. J. Sumner: All this increase is going to the codes.

The Hon. K. T. GRIFFIN: It does not matter whether the increase is going to the codes. One cannot say that, because the .3 per cent goes to the codes, it changes the character of the principal section to be amended. My response to the Leader of the Opposition would be that this clause deals with taxation in its broadest description. Therefore, I suggest that the Council ought to support your ruling, Mr. President.

The Hon. C. J. SUMNER: I pointed out that the Betting Control Board was a statutory authority which held its moneys on behalf of the Crown and was subject to the general direction and control of the Minister. However, the Government has made clear that the increase in fees which will be achieved from clause 10 (·3 per cent increase) will go not to the Betting Control Board but to the private codes. It is quite clear that the ·3 per cent is not going to go to the support of Government: it is going to the support of a private organisation—the South Australian Jockey Club and the other clubs running the different racing codes in South Australia.

If it could be said that this money is going to the board and that there was some doubt as to what it was going to do about it, I think we would be on very thin ice with our argument. However, the Government made quite clear that the ·3 per cent is going through the board, admittedly, but going, nonetheless, to the racing codes. That, I think, takes it out of the category of a tax, because it is not an impost or contribution levied against these people, the bookmakers, for the support of Government. It is an impost levied against the bookmakers for the support of private organisations. I think that that argument alone is grounds for disputing the President's ruling apart from the argument that it may, in any event, not be a tax but more a licence fee or franchise type of arrangement. I ask the Council to disagree to the President's ruling. I do not believe, as the President has said, that this will have a great deal of practical effect on how we treat the Bill, except that section 62 of the Constitution Act provides that the Legislative Council cannot actually amend a money clause but can only suggest an amendment to or the omission of that money clause.

So, if the ruling is upheld, we treat the matter as a money clause and can only suggest amendments. We cannot actually amend the Bill in this Chamber. If the ruling is disagreed to, we can proceed to deal with the matter not as a money clause, but amend it in the normal way that the Council proceeds in relation to amendments.

The PRESIDENT: Before putting the question, I want to make quite clear that it makes no odds to me whether or not the Council upholds my ruling. That is for the Council to decide. However, since the Leader asked for a ruling (and I was surprised that he did), there are two points that I would make here. I took what advice I could in the time given to me, and section 60 (3) of the Constitution Act, provides:

> For the purposes of the said sections a Bill, or a clause of a Bill, shall be taken to deal with taxation if it provides for the imposition, repeal, remission, alteration, or regulation of taxation.

The Leader would argue that it is not a tax, but I would argue that it is. Section 86(e) of the Racing Act quite definitely provides:

> The Board (e) shall hold its property on behalf of the Crown.

The Board is therefore responsible to the Crown for all moneys that are collected. All moneys, no matter how collected and returned to the Crown by way of taxation or whatever impost may be applied, must surely be termed as revenue. How they are distributed afterwards is not really the point. The board does, in fact, hold this property on behalf of the Crown and since the Leader asked me for a ruling I have so ruled and will now put the question, hoping that the Council will uphold my ruling.

The Council divided on the motion:

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

Noes (11)—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, K. L. Milne, and R. J. Ritson.

Majority of 1 for the Noes.

Motion thus negatived.

The Chairman having resumed the Chair:

The Hon. J. R. CORNWALL: I move:

> That it be a suggestion to the House of Assembly that clause 10 be deleted.

The Committee divided on the suggested amendment:

Ayes (10)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall (teller), C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, C.

J. Sumner, and Barbara Wiese.

Noes (11)—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, K. L. Milne, and R. J. Ritson.

Majority of 1 for the Noes.

Suggested amendment thus negatived; clause passed.

Clause 11—"Betting tickets."

The Hon. J. R. CORNWALL: Had we been successful in suggesting that clause 10 be deleted, we would have also suggested that clause 11 be deleted. However, as our amendment to clause 10 has been defeated we most certainly would not make any suggestion in regard to this clause.

Clause passed.

Remaining clauses (12 to 16) and title passed.

Bill read a third time and passed.

LOTTERY AND GAMING ACT AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2486.)

The Hon. J. R. CORNWALL: I will try to be mercifully brief, but I cannot give any undertaking that my Leader will be the same, because the main part of this Bill is virtually consequential upon the Trading Stamp Bill that was before this Council earlier. It seems regrettable that this Bill was introduced in another place despite the fact that the bulk of its provisions are consequential upon the Trading Stamp Bill which was introduced in this Chamber. They really should have travelled together, because there is no doubt that the principal thrust of the Bill concerns trading stamps.

The other two parts of significance tighten up the legislation with regard to S.P. bookmaking, and the Opposition does not oppose that. If the initiatives that have been undertaken by the Government in regard to the racing industry are to mean anything, widespread action in regard to S.P. bookmaking must be taken in South Australia. The other significant part of the Bill deals with action taken to outlaw in-line bingo machines. The Opposition supports this because in-line bingo machines are promoted by the Bally Corporation, which is most dubious, to say the least, and we support the Government in the action it is taking.

It is a pity that while this action is being taken something was not done to control pinball machines, which are proliferating at an enormous rate in South Australia at the moment. There has been a lot of public comment on the possible social evils which these machines are causing. Eventually, I believe the Government will have to address itself to this problem. I am not competent to say whether it is a social problem, as has been alleged by some people. There seems to be some conflict of opinion on that matter, but it is up to the Government, which will eventually have to grasp the nettle one way or another and adopt a firm position.

I would have thought that this Bill was a reasonable opportunity for the Government to take a firm stand. It is regrettable that in the event the Government has not seen fit to make its position clear with regard to the problem of the ever-increasing numbers of pinball machines, space invaders and similar devices which are proliferating at an enormous rate all over this State.

The Hon. C. J. SUMNER: Some aspects of this Bill are related to the Trading Stamp Act which passed in this Council earlier today. I believe the Government has been somewhat remiss in the way that it has handled these two pieces of legislation. There is no doubt that clauses 4 and 5, which deal with regulations covering free lotteries, are related to the Trading Stamp Act. I believe that both Bills should have been introduced in one House and that there should have been concurrent debate on them in the sense that the Bills should have been dealt with one after the other. That would have given each House an opportunity to consider the Lottery and Gaming Act amendments relating to free lotteries and their regulation in relation to the Trading Stamp Act.

At present, free lotteries or competitions are prohibited by the old Trading Stamp Act. With the passage of the new Act, free lotteries or competitions will be permissible. However, the Government felt that there should be some regulation of free lotteries, and accordingly clauses 4 and 5 of the Lottery and Gaming Act Amendment Bill provide that regulations may be made covering the conduct of free lotteries. While the Government is deregulating in one area through the Trading Stamp Act, thereby allowing free lotteries to operate, on the other hand it is reregulating through the Lottery and Gaming Act.

The Opposition believes that the Trading Stamp Act should have been further considered and should not have been passed at this time. Given that it has passed, obviously the Opposition will have to support the provisions in the Lottery and Gaming Act Amendment Bill which involve some regulation of free lotteries. When considering Bills of this type in the future, which are clearly related, I think the Government should introduce them together in one House and, when there are amendments in one measure consequential on the passage of another, the House can see the amendments in context. I support the Bill, particularly clauses 4 and 5, but only as a second best position. The Opposition's primary position is that free lotteries should not be allowed at least without further considerable investigation, along with all the other matters relating to the Trading Stamp Act.

The Hon. K. T. GRIFFIN (Attorney-General): The Bill seeks to at least place under some regulation trade promotion lotteries. Whilst the Leader has suggested that deregulation in one area counter-balances reregulation in another, nevertheless I believe it is a desirable objective. Even the Leader would agree that unless trade promotion lotteries are subject to regulation they can be an evil in the community and can race unchecked throughout the trade promotion area. It is interesting to note that in New South Wales trade promotion lotteries are subject to licensing and, provided they meet the criteria outlined in regulations, there are very few limitations on trade promotion lotteries in that State. In South Australia the Government certainly intends to be much stricter with respect to trade promotion lotteries. I thank members for their support for the Bill.

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

STAMP DUTIES ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

In view of the hour, Mr. President, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill makes provision for a number of significant amendments to the principal Act, the Stamp Duties Act, 1923-1979. The Bill provides for the repeal of those sections of the principal Act that require the payment of duty on bank notes issued and in circulation pursuant to the Bank Companies Act. That Act was repealed in 1946. Although, by virtue of the Commonwealth Reserve Bank Act, bank notes are no longer issued, the Bank of Adealide still pays duty of $65 each quarter on bank notes issued many years ago but still in circulation. This head of duty is being removed in consultation with that bank.

The Bill proposes an amendment to the provision in the second schedule to the principal Act that provides for the rate of duty payable on leases. This amendment is designed to overcome a difficulty that arose recently as a result of an objection to an assessment of duty under this head. The present provision imposes *ad valorem* duty on one year's rent under a lease where a rate of rent per annum can be ascertained or estimated under the lease, but otherwise nominal duty only. The long-standing practice of the Commissioners has been to interpret this as authorizing the assessment of *ad valorem* duty on the highest rent payable in any year under a lease. However, on the objection referred to, the Crown Solicitor advised that duty should be assessed on the average yearly rental. This interpretation could have significant effect on revenue as it is quite common for the rental under leases to be expressed in such a way that, although one year's rental can be ascertained, an average yearly rental cannot. Accordingly, the Bill amends the schedule so that *ad valorem* duty on leases is charged on the rate of rent per annum or the average rate of rent per annum if an average can be ascertained or estimated.

The Bill proposes amendments to the principal Act designed to give some measure of taxation relief in the area of stamp duty on life insurance policies. These amendments are a first step in fulfilling the pre-election promise that a Liberal Government would bring the rates for stamp duty on insurance premiums down to a level that accords with the pattern in the other States. The amendments remove the duty on that portion of any premium that is not related to any insurance risk or general policy administration charges but is of a specified or ascertainable amount and declared to be for investment purposes only or administration charges in respect of investment. In effect, these amendments would eliminate duty on the investment portion of the premiums for deposit administration insurance business and the investment portion of premiums for "unbundled policies" that is, policies similar to conventional whole of life or endownment policies but under which the investment and temporary life cover elements are clearly separated.

The Bill provides an exemption in respect of duty on any life or personal accident insurance policy where the policy owner's principal place of residence is the Northern Territory and the policy is registered by the insurer in a registry kept in the Northern Territory pursuant to the Life Insurance Act 1945 of the Commonwealth. This exemption is designed to ensure that duty is not payable both under the principal Act and under the corresponding legislation of the Northern Territory. This problem has arisen as a result of the application of the Northern Territory Stamp Duties Ordinance to life and personal accident insurance business carried on in the Northern Territory but managed from offices situated in South Australia.

The Bill makes provision for a stamp duty concession designed to encourage investment at the high risk stage of mineral and petroleum exploration operations. This matter arose most recently in relation to undertakings given by the previous Government and subsequently confirmed by this Government that the assignment to British Petroleum of portion of Western Mining Corporation's interest in certain exploration licences in respect of the Stuart Shelf would be exempt from stamp duty or subject to nominal duty only. The amendment is designed to provide a standing stamp duty concession for every case under which the holder of an exploration tenement assigns its interest enabling another body to carry on the exploration work or assigns portion of its interest in order to obtain additional risk money for the next phase of exploration or investigation.

The Bill proposes a substantial reduction in the rate of duty charged on the sale of any fixed interest security from the present maximum of 0·6 per cent to a flat rate of 0·1 per cent of the consideration for the sale. This proposal is designed to encourage the growth of a secondary market in such securities, there having been very little market activity in this area up to the present. Any increase in market activity would, of course, reduce the effect on revenue of reduction in the rate of duty in this area.

Finally, the Bill proposes a number of amendments designed to counter avoidance schemes that are mainly in the area of stamp duty on conveyances.

The Bill proposes the insertion of a provision designed to make it clear that duty is chargeable in respect of an instrument that is outside the State but relates to property situated in the State or any matter or thing done or to be done in the State. This provision is related to another proposed new section which is designed to make a copy of an instrument chargeable with the duty with which the original instrument is chargeable. These two provisions are directed at schemes under which the original instruments conveying South Australian property are retained outside the State and instead the parties rely upon copies held within the State for stamp duty and other purposes. It should be noted that the Bill also proposes a provision that would limit duty on any security to an amount proportioned to the value of the property charged under the security that is South Australian property.

The Bill proposes an amendment increasing the penalty for late stamping to a minimum of fifty dollars or an amount of ten per centum of the unpaid duty for each month that the instrument remains unstamped or insufficiently stamped until the penalty equals the amount of the unpaid duty. At the same time, this amendment fixes a maximum period of six months within which an instrument executed outside the State must be stamped in order to avoid liability to a penalty for late stamping.

The Bill proposes an amendment designed to counter a scheme whereby separate conveyances related to a single transaction are used to avoid stamp duty on conveyances operating as voluntary dispositions *inter vivos,* that is, conveyances between living persons that are not made pursuant to sale. This is done by extending the application of section 66ab to such conveyances. Section 66ab, which presently applies only to conveyances on sale, eliminates any advantage from effecting one transaction by a number of separate conveyances by providing for the aggregation of the consideration shown in each separate conveyance. Under the amendments, where separate voluntary conveyances *inter vivos* are used to effect one transaction, the values of the properties separately conveyed will be aggregated for the purposes of calculating the stamp duty payable.

The Bill proposes amendments to section 71 of the principal Act which presently deals with instruments chargeable as conveyances operating as voluntary dispositions *inter vivos.* The Bill makes a number of amendments to this section designed to counter avoidance

schemes which make use of ordinary trusts, unit trusts, discretionary trusts or equitable mortgages. In general terms, the effect of these amendments is to make any transfer of property into trust chargeable with full *ad valorem* duty whether or not there is any change in beneficial ownership of the property affected. Any transfer of the beneficial ownership in property subject to a trust is also to be subject to *ad valorem* duty, as is any transfer of property to a beneficiary under a trust who does not have the beneficial interest by virtue of an instrument that is duly stamped. These provisions differ from the present approach in that, in general terms, under the present provisions, *ad valorem* duty is chargeable only in respect of instruments that transfer beneficial ownership. The amendments propose a number of necessary exceptions. The first retains the present exemption for any transfer of property for nominal consideration for the purpose of securing the repayment of an advance or loan, but not in relation to land subject to the provisions of the Real Property Act. The second exception retains the present exemption for a transfer *in specie* made by the liquidator of a company to a shareholder of the company. The Bill exempts a transfer of shares or other marketable securities issued by a public company, where the transferor retains beneficial ownership. This exception will enable the existing practice to continue whereby overseas purchasers of shares commonly vest legal ownership of the shares in nominee companies. The present exemption for any transfer made for the purpose of effectuating the retirement of a trustee or the appointment of a new trustee is also retained, but only where the Commissioner is satisfied that the transfer is not part of a scheme for conferring a benefit in relation to the trust property upon the new trustee or any other person to the detriment of the beneficial or potential beneficial interest of any other person. The Bill exempts a transfer to the object of a discretionary trust where the discretionary trust was created by an instrument that is duly stamped wholly or principally for the benefit of that person or a family group of which that person is a member. A transfer of a potential beneficial interest by a member of such a family group to or in favour of another member is also to be exempt. The amendments propose that instruments that merely acknowledge, evidence or record a transfer of property to a person as trustee, a declaration of trust or a transfer of a beneficial interest in property subject to a trust will also be dutiable as conveyances operating as voluntary dispositions *inter vivos,* in addition to instruments that effect such transactions. This is necessary in order to counter schemes such as those used in relation to unit trusts whereby the units are not transferred by instruments but by the process of cancelling units and issuing new units. With respect to discretionary trusts, the Bill proposes that a transfer of the potential beneficial interest of an object of a discretionary trust will also attract full *ad valorem* duty calculated by reference to the value of the interest that the object would have if the discretion under the trust were so exercised as to confer maximum benefit upon that object. Finally, the Bill proposes that the Commissioner have a discretion, where he has stamped any instrument related to a trust, to stamp any other instrument that he is satisfied relates to the same transaction with a stamp denoting that it is duly stamped.

Clause 1 is formal. Clause 2 provides that the measure shall be deemed to have come into operation on the day on which the Bill was introduced in the Parliament. Clause 3 amends the definition section, section 4, by including in the definition of "marketable security" any interest in a deed approved for the purposes of Division V of Part IV of the Companies Act. This is designed to ensure that any transfer of a unit under a public unit trust scheme attracts marketable security conveyance rates of duty only.

Clause 4 inserts new section 5a and 5b. New section 5a is a transitional provision relating the application of the amending measure to the time at which instruments are executed. New section 5b deals with the liability to duty of instruments that are outside South Australia. The proposed new section provides that any instrument that is outside South Australia shall, subject to any other relevant provision, be liable to duty if it relates to property situated, or any matter or thing to be done, in South Australia, whether the instrument was executed in South Australia or elsewhere.

Clause 5 proposes the repeal of section 17 of the principal Act. This amendment is related to the amendment proposed by clause 6.

Clause 6 inserts a new section 19a dealing with the liabiity to duty of copies of instruments. Under the principal Act in its present form only original instruments, or, by virtue of section 17, duplicates or counterparts of original instruments, are dutiable. New section 19a provides that any copy of an original instrument, including a duplicate or counterpart, shall be chargeable with duty and any penalty as if it were the original and had been executed by the person or persons who executed the original at the time at which the original was executed. This proposed new section together with proposed new section 5b are designed to ensure that, where an original instrument is kept outside the State, a copy cannot be used to prove for stamp duty purposes the effect of the original instrument without itself being liable to duty.

Clause 7 amends section 20 of the principal Act which fixes a penalty for late stamping. The clause increases the penalty from a minimum of $20 to a minimum $50 and, while it retains the maximum of an amount equal to the amount of the unpaid duty, it provides that this is to accrue at the rate of ten per centum per month instead of the present ten per centum per annum. The clause also amends the section so that it provides that an instrument executed in the State must be stamped within two months after execution, instead of the present period of one month, while an instrument executed outside the State must be stamped within two months after its receipt in the State or within six months after execution, whichever period first expires. Under the section, in its present form, there is no limit upon the period for which an instrument that relates to South Australian property, or any matter or thing to be done in South Austraia, may, if it was executed outside South Austraia, be kept outside the State without attracting a penalty for late stamping.

Clause 8 makes an amendment to section 35 that is consequential on the exemptions proposed by clause 15 in relation to duty on insurance premiums.

Clause 9 provides for the repeal of sections 43, 44, 45 and 45a of the principal Act. These provisions deal with the duty presently charged on bank notes. Amendments to the second schedule, proposed by clause 13, remove this head of duty. Clause 10 amends section 66ab of the principal Act. This section aggregates the consideration for separate conveyances that relate to the same transaction or series of transactions for the purposes of calculating the duty payable on those conveyances. This principle of aggregation applies only to conveyances on sale and the clause amends the section by extending its application to separate conveyances operating as voluntary dispositions *inter vivos* that relate to the same transaction or series of transactions.

Clause 11 amends section 71 of the principal Act which sets out those conveyances that are to be chargeable with duty as conveyances operating as voluntary dispositions

inter vivos. Under the amendments, the present position is continued whereby any conveyance that is not a conveyance on sale is to be treated as a conveyance operating as a voluntary disposition *inter vivos*. However, the clause also provides that certain trust related instruments are to be deemed to be conveyances operating as voluntary dispositions *inter vivos*, whether or not consideration is given for the transaction to which the instrument relates. Under proposed new subsection (3)*(a)* any instrument that effects or acknowledges, evidences or records in relation to land, marketable securities or units under a unit trust scheme a transfer to a person as trustee, a declaration of trust or a transfer of a beneficial interest or potential beneficial interest is deemed to be a conveyance operating as a voluntary disposition *inter vivos*. A potential beneficial interest is, by proposed new subsection (15), defined as the rights, expectancies or possibilities that the object of a discretionary trust has in the property subject to the discretionary trust before the exercise of the discretion under the trust. Proposed new subsection (8), provides that a transfer of such a potential beneficial interest is to be chargeable with duty as if it transferred the beneficial interest in the property that the object would have if the discretion under the discretionary trust had been so exercised as to confer upon him the greatest benefit that could have been conferred upon him under the trust. Proposed new subsection (9) provides that duty is chargeable upon an instrument that merely acknowledges, evidences or records a transfer, but does not effect the transfer, as if it did in fact effect the transfer. Proposed new subsection (10) provides that, for the purposes of determining the value of property transferred, no regard shall be had to the fact that the person to whom the property is transferred takes or is to hold the property subject to a trust or to the fact that such person already has the beneficial interest in the property. These provisions together would have the effect of making any instrument relating to land, marketable securities or units under a unit trust scheme that either effects or relates to a transfer into trust or a transfer subject to trust (including a potential beneficial interest) chargeable with *ad valorem* duty based upon the full market value of the property affected. This differs from the present position under which only those instruments which transfer the beneficial interest in property are subject to such duty. Proposed new subsections (5), (12), (13) and (14) provide exceptions designed to ensure that such *ad valorem* duty is not payable in appropriate cases. Under paragraph *(a)* of proposed new subsection (5), *ad valorem* conveyance duty would not be payable in respect of a mortgage unless it relates to land subject to the Real Property Act. Under paragraph *(b)* of that subsection, *ad valorem* conveyance duty would not be payable on a transfer *in specie* by the liquidator of a company to a shareholder of the company. Under paragraph *(c)* of that subsection, *ad valorem* conveyance duty would not be payable on a transfer of marketable securities issued by a public company where the transferor retains the beneficial interest in the property and the transfer is not in pursuance of a sale. Under paragraph *(d)* of that subsection, *ad valorem* conveyance duty would not be payable on a transfer made for the purpose of effectuating the retirement of a trustee or the appointment of a new trustee where the Commissioner is satisfied that the transfer is not part of a scheme for conferring a benefit in relation to the trust property upon the new trustee or any other person to the detriment of the beneficial or potential beneficial interest of any person. Paragraph *(e)* provides that such duty would not be payable in respect of a transfer of property to a person who has a beneficial interest in the property by virtue of an instrument that is duly stamped. Paragraph *(f)* provides that a transfer to a natural person who is an object of a discretionary trust is not dutiable if the trust was created by an instrument that is duly stamped wholly or principally for the benefit of that person or a family group of which that person is a member. Paragraph *(g)* provides that a transfer of the potential beneficial interest of a member of such a family group to or in favour of another member is also to be exempt. Paragraph *(h)* provides that *ad valorem* conveyance duty would not be payable on transfers related to deceased estates unless made pursuant to sale. Paragraph *(i)* exempts any variation of the terms of a trust where the variation does not involve any change in beneficial or potential beneficial interests under the trust. Paragraph *(j)* exempts transfers that are wholly for charitable or religious purposes. Paragraph *(k)* exempts transfers of a class prescribed by regulation. Proposed new subsection (12) is designed to ensure that *ad valorem* conveyance duty is not payable under these provisions in respect of more than one instrument, where the Commissioner is satisfied that the instruments relate to the same transaction. Proposed new subsection (13) makes it clear that *ad valorem* duty is not payable on a declaration of trust in respect of property or an interest in property if the property or interest was transferred to or vested in the trustee as trustee and appropriate duty has been paid on that transfer or vesting. Proposed new subsection (14) provides for a refund of *ad valorem* duty paid on a transfer to a trustee where the transferor in effect retains beneficial ownership of the property transferred if that property is subsequently transferred back to the transferor.

Clause 12 amends section 71a of the principal Act which provides an exemption from *ad valorem* conveyance duty where property subject to a trust under which it is to be converted into money is instead transferred *in specie* to the beneficiary . The clause amends this section so that the exemption applies only if the beneficiary under an instrument other than a will is beneficiary by virtue of an instrument that is duly stamped.

Clause 13 inserts a new section 71d under which nominal duty is payable upon any transfer of an exploration tenement or interest in an exploration tenement where, upon application, the Treasurer, after consultation with the Minister of Mines and Energy, is satisfied that commercially exploitable mineral or petroleum deposits have not yet been found in the area subject to the tenement or further substantial exploration and investigatory operations are required in order to determine the nature or extent of any discovered deposits or whether they are commercially exploitabler or whether further deposits exist in the area.

Clause 14 inserts a new section 81b which provides that duty chargeable on a security given over property will be proportioned to the value of the property that is in South Australia. This will ensure that copies of company securities which are required to be registered in South Australia will be dutiable only in relation to that part of the property charged that is South Australian.

Clause 15 proposes various amendments to the second schedule to the principal Act which fixes the various rates of duty and provides various exemptions from duty. Paragraph *(a)* of this clause inserts two exemptions related to duty on life insurance policies. The first exemption relates to the investment portion of premiums for deposit administration insurance policies or "unbundled" endowment policies. The second exemption relates to premiums for life or personal accident insurance policies where the policy owners reside in the Northern Territory and the policies are registered in the Northern Territory. Paragraph *(b)* of the clause removes the head of duty

relating to bank notes. Paragraphs *(c)*, *(d)* and *(h)* of the clause effect a reduction in the rate of duty on the sale of fixed interest securities from a maximum of 0·6 per cent of the consideration for such sales to a flat rate of 0·1 per cent. Paragraph *(e)* of the clause makes an amendment to the item dealing with conveyance duty that is consequential on the amendments to section 71 of the principal Act. Paragraph *(f)* provides that the duty for any conveyance to which proposed new section 71d applies is to be fifty dollars. Paragraph *(g)* amends the head of duty relating to leases by providing that the amount of duty on a lease is to be ascertained by reference to the average rate of rent per annum, if that can be ascertained or estimated, or, if not, by reference to the rate of rent for any year. Paragraph *(i)* makes an amendment to the first general exemption that is consequential on the amendments to section 71 of the principal Act.

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

STATE DISASTER BILL

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

TRADING STAMP BILL

Returned from the House of Assembly without amendment.

METROPOLITAN MILK SUPPLY ACT AMENDMENT BILL

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

ADJOURNMENT

At 2 a.m. the Council adjourned until Thursday 4 December at 2.15 p.m.