LEGISLATIVE COUNCIL

Wednesday 11 February 1981

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

MINISTERIAL STATEMENT: SOUTH AUSTRALIAN HOUSING TRUST

The Hon. C. M. HILL (Minister of Local Government): I seek leave to make a statement.

Leave granted.

The Hon. C. M. HILL: There has been some critical comment from the Opposition spokesman on housing, Mr. Slater, M.P., concerning the policies of the South Australian Housing Trust in relation to the management of the trust's commercial properties. Mr. Slater has sought an explanation of the recent decision by the trust to involve private enterprise in the management of such commercial properties.

The trust's holdings in shopping centres and offices are largely located in the Elizabeth, Salisbury and Munno Para council areas, in the Noarlunga council area, at several country towns, and in the metropolitan area. These 46 shopping locations presently house 401 tenancies. During 1980, consideration was given to the trust's investments in shopping centres with particular concern for the market and building requirements for the next decade. In the re-examination of the investments, the trust accepted that the Elizabeth Regional Centre will need to be restructured. Set against this valid requirement was the need for the trust to apply all of its available funds to overcome the rising demand for rental-housing accommodation.

The trust is therefore now well advanced in a programme where companies with the necessary experience and funds to restructure the centre are being invited to submit proposals to secure a long-term lease of the Elizabeth Regional Centre. This centre continues to be managed by the trust for the time being with the expectation that management will pass to the successful tenderer in due course.

The trust also decided to invite firms of managing agents to proffer propositions for the management of the majority of the other properties in metropolitan Adelaide. It was considered that the employment of a range of commercial experience would be in the best interests for the future of the centres, especially for the occupant tenants. It is of course understood that the current conditions of each particular lease prevail. The trust invited propositions from various firms and received four proposals. Two management contracts were awarded. One group covers centres in Southern Elizabeth, Salisbury and Parafield Gardens and the other group the Northern Elizabeth, Smithfield Plains and metropolitan centres. The contractual commencement date was 2 February 1981. The management contracts have been entered for four years. The trust has the right to sell any property at will. The contractual arrangements are as follows:

(a) Colliers International Property Consultants manage:

Northern Elizabeth and Smithfield Plains	9 centres
	98 tenancies
Inner Metropolitan	17 centres
	74 tenancies

(b) Jones Lang Wootton manage:

Southern Elizabeth, Salisbury and Parafield Gardens	8 locations
	101 tenancies

An important feature leading to the decision to appoint managing agents for these commercial properties was to enable the trust staff in the Commercial and Industrial Property Section to concentrate their efforts to support the State Government Industrial Incentive Scheme in which the trust plays a major role in association with the Department of Trade and Industry. There have been no staff retrenchments.

It is also pointed out that the trust's action places the trust's commercial property management activity on the same basis as its housing development activity and its maintenance activity where it has always been trust policy to employ the services of private sector builders and maintenance contractors. It has been trust policy to charge market rents for its commercial properties, and this policy will be continued by the recently appointed managing agents. For this reason there are likely to be increases on the occasions of rent reviews. The payments to the managing agents will be derived from the rental income from the commercial properties. Additional trust staff would have been required if managing agents had not been appointed.

QUESTIONS

WOOD CHIPS

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

Leave granted.

The Hon. B. A. CHATTERTON: Yesterday during an urgency debate in another place the Premier stated:

> There was a possibility that Mr. Dalmia was proposing to engage in activities and indeed was in breach of the law in negotiating, in breach of the Indian law, and indeed putting it in clear language that he could well have been two-timing South Australia, the South Australian Government and the Indian Government.

The Premier went on to say:

> This was a very serious matter indeed. It was regarded as a most serious matter that at that time when the South Australian Government could have been bought into a branch of an international situation, international law, by the activities of Mr. Dalmia.

The Premier was referring to the possibility that Mr. Dalmia might be selling the chips that he purchased from South Australia to a third party, possibly the Japanese. Not only was Mr. Dalmia perfectly entitled to dispose of any wood chips he purchased in any way he liked under the contract signed and sealed on 20 December 1979, but the Director of Woods and Forests (Mr. Peter South) had discussed with him the possibility of spot sales to a third party.

On 4 February 1980 Mr. Dalmia flew to Kuching to discuss the contract after he had received a series of ultimatums from the Woods and Forests Department on 30 January 1980. After that discussion the Director reported to his Minister the matters that were discussed. That report says, in part:

> If chip becomes available and he [Dalmia] can't take it immediately for reasons of shipping for example or unloading facilities it is agreed that "spot" sales to other customers will be made.

On 18 February Mr. Norm Lewis (Acting Director of the Woods and Forests Department) reported in writing to the Minister, as follows:

> Further inquiries [have been] received from Japanese buyers for softwood chips . . .

He recommended that a Crown law opinion be sought on procedures for termination of the Punwood contract "in case it is required". In view of the fact that Dalmia ws told by the Director of Woods and Forests (by the Director's own admission) that he could make spot sales, and the fact that the Acting Director was outlining actions to be taken to void the 20 December contract at the same time, will the Premier take steps to investigate whether there was a conspiracy by the Director under instructions from the Minister to put Mr. Dalmia into a position which the Premier now regards as a "breach of international law"?

The Hon. K. T. GRIFFIN: I can answer to some extent the honourable member's question. I can say that there will not be any inquiry with respect to the allegation of a conspiracy by the Director of Woods and Forests, because there was no conspiracy. The facts are clear from the investigation that the Government has conducted: there is no fault on the Government's part or that of its officers with respect to dealings with Mr. Dalmia.

The fact is that Mr. Dalmia freely negotiated a contract with the South Australian Government (that is, the former Government as well as the present Government), and following his request to vary the contract, the March 1980 amendment was entered into. They were terms that Mr. Dalmia freely negotiated. However, when Mr. Dalmia could not perform the terms that he had negotiated, the Government took steps to cancel the exclusive nature of the contract that Mr. Dalmia had entered into with it.

The Hon. M. B. Cameron: The Opposition is damaging the State now.

The Hon. K. T. GRIFFIN: The Opposition has much to answer for concerning its own relationship with Mr. Dalmia and its own negotiations for this exclusive contract of supply to Mr. Dalmia.

The Hon. N. K. Foster: What are they? Tell us what they are.

The PRESIDENT: Order!

The Hon. K. T. GRIFFIN: It was quite clear during the course of the discussions with Mr. Dalmia that he did not have the capacity to perform the obligations that he had entered into freely, and, in accordance with good commercial practice, when Mr. Dalmia had been given ample opportunity to comply, the contract was cancelled.

The Hon. B. A. CHATTERTON: The Attorney-General has answered the question that I directed to the Premier. I should like to know whether he will refer my question to the Premier, to whom it was originally directed. When the Attorney-General answered my question, he spoke with confidence that he had seen all the documents. I now ask the Attorney whether he has, in fact, seen the report that the Director made to the Minister of Forests about the meeting with Mr. Dalmia on 4 February before the contract was signed for the pulp mill and, if he had seen the document, will the Attorney say whether he has seen the document in which the Director agreed with Mr. Dalmia that spot sales to third party customers could be made?

The Hon. K. T. GRIFFIN: I will certainly refer the honourable member's question to the Premier, although I can indicate (as I have already indicated) that the answer to the question will be similar to that which I have given. Regarding access to documents, I have received sufficient information from the Minister and his officers and seen sufficient documents to indicate to me that the conspiracy that the Hon. Mr. Chatterton has alleged does not exist.

The Hon. B. A. CHATTERTON: Has the Attorney-General seen the report made by the Director of Woods and Forests after the meeting with Mr. Dalmia in Kuching on 4 February? The Minister referred to documents generally, but I ask specifically whether he has seen the report of that meeting, which report was made to the Minister of Forests.

The Hon. K. T. GRIFFIN: I have no recollection of seeing the documents in detail, but I have certainly seen extracts.

P.E.T. BOTTLES

The Hon. J. R. CORNWALL: I seek leave to make a brief explanation before asking the Minister of Community Welfare, representing the Minister of Environment, a question concerning P.E.T. bottles.

Leave granted.

The Hon. J. R. CORNWALL: On 30 October last year I asked the Minister a series of questions regarding the combustible quality of P.E.T. bottles. Immediately following those questions (indeed, within three or four days), a departmental officer took one of the monster P.E.T. bottles under his arm and, for the first time in South Australia, conducted some combustibility tests.

I made that fact known to the Council during a debate on a motion to disallow the regulations concerning P.E.T. bottles on 5 November. During the debate on that motion I also listed a number of questions which apparently the Government regarded as rhetorical in nature because it made no attempt whatever to answer them. However, eventually on 27 November—some six weeks after I asked my initial questions—the Minister did provide what purported to be answers to the original questions. In the answers he referred to tests carried out by the Department of Chemical Engineering at the New York State University and also tests carried out by the United States Food and Drugs Administration.

The Minister referred to tests at 700 degrees centigrade in a furnace through which air was passed at a flow rate of 500 mililitres per minute and also tests at 2 400 degrees centigrade. However, neither of these answers related directly or in any way to my original questions, which concerned the range of conditions which might be expected during combustion in an ordinary backyard incinerator. The department and the Minister have never made public the results of tests carried out three months ago. I do not know whether that is ominous or simply sloppy administration, whether the Minister is trying to keep something under wraps or, in fact, whether he has just not got around, in the fullness of time, to making the information public. However, I believe that it should be made public as soon as possible.

When did the South Australian Department for the Environment conduct its first laboratory controlled tests on P.E.T. bottles and by whom were they conducted? What were the results of those tests? Does the P.E.T. bottle contain other materials known as fillers? Why did the Minister and the Government allow the sale of P.E.T. bottles without checking the manufacturer's claims? Will the Minister table a certified copy of those results forthwith and, if not, why not?

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

WOOD CHIPS

The Hon. B. A. CHATTERTON: I seek leave to make a brief explanation before asking the Minister of Community Welfare a question about an interview with the Minister of Forests on *Nationwide* last night.

Leave granted.

The Hon. B. A. CHATTERTON: Last night the Minister of Forests said on *Nationwide* that the roundwood resource had been tied up by the Labor Government through commitments to the Indian company Punalur since 1977 and that this had restricted the activities of South Australian pulp and paper manufacturers. Of course, the Minister has misquoted the facts, and no letters of intent were signed with the Indian company until October 1978. At this time the South Australian subsidiary of Australian Paper Mills (Cellulose) had a very sorry track record of not purchasing the pulpwood resources for which it had made commitments to the South Australian Department of Woods and Forests. In 1980, world prices for chip and pulp were very high, and we are in possesion of documents that indicate South Australian "private interests" showing interest in the resource.

Can the Minister say whether it was as a result of Cellulose pressure that the Acting Director of the Woods and Forests Department (Mr. Norm Lewis) wrote to the Minister on 20 February advising him that only 250 000 cubic metres of roundwood were available following "revised requirements from private companies"?

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

PARLIAMENT HOUSE MODIFICATIONS

The Hon. N. K. FOSTER: I seek leave to make a statement prior to directing a question to the Attorney-General regarding modifications to this building in the interests of the International Year of the Disabled.

Leave granted.

The Hon. N. K. FOSTER: Just before Christmas or early this year, the Attorney-General did a publicity exercise in a wheelchair (and I saw it on television) no doubt to gain some knowledge of the great problems of people who are unfortunately confined to a wheelchair. I have seen being carried out in this building certain work that I understand is designed to allow access to the building by people confined to a wheelchair. May I say that the notice in this Chamber ought to be removed, because it is directly in front of an area where, it states, people ought to be seated and are not to put their feet on railings. I think that notice could be shifted.

My main concern is about the rear of this building, which has been unattended, unguarded and unlocked from a security point of view for a number of weeks as a result of certain work being carried out by the Public Buildings Department. I have discovered that, as you enter the two swing doors that give access, the right-hand door immediately in front will give clear unimpeded passage along the tunnelled passageway allowing access to the lift. However, the brainstrust, or whoever worked it out, having decided to install a ramp, has constructed railing and reduced the manoeuvrable space to no more than about one metre. In fact, I think it is impossible to manoeuvre a wheelchair in that area.

In addition, I have assessed that the pressure required to open either one of those doors is in the vicinity of 40 to 50 lb., something that I think would be beyond the capacity of most disabled people in the community. Unfortunately, there has been no attempt to take into consideration the configuration of that opening or access to the building by anyone with any common sense or an understanding or knowledge of what is involved. The height of the doorway to be used by everyone entering that part of the building has been reduced to such an extent that we will all finish up in wheelchairs. Perhaps the planners, if there were any, have taken into consideration the fact that the Premier, who is an ophthalmologist, will finish up getting business in the event that we will all knock ourselves blind on the brickwork.

Notwithstanding the difficulties to which I have already referred and the great deal of money that has been spent on this project, I have also observed that those people in wheelchairs who use the left-hand tunnelway will have to do a sharp left turn and then a right turn to approach the lift. The whole exercise is absolutely brainless. I would have thought that the Attorney-General, who, when shown on television, was trying to remove himself in a wheelchair from an inaccessible telephone booth, would note the problems inherent in this terrible exercise.

Will the Attorney-General have all work on that entrance cease immediately and have a proper study undertaken to ensure that people who are confined to wheelchairs have easy entry into this building? Further, will he say who planned this obstacle course for the disabled—was it an outside job or a P.B.D. exercise? Were any consultants consulted and, if so, were they P.B.D. officers or from outside firms? Was the organisation for the disabled consulted and, if so, what were their recommendations, if any? In his recent publicity exercise in a wheelchair did the Attorney-General learn that negotiating space and floor levels are most important aspects in relation to manoeuvrability by the disabled? Finally, will the Attorney-General invite members of this Chamber, at the rising of the Council today, to accompany him on an inspection of the entrance in question?

The Hon. K. T. GRIFFIN: The initiative for making changes to this building with respect to access for the disabled came partly through me and partly through the Public Buildings Department, which is undertaking a programme to make public buildings more accessible for the disabled and is relying upon 1981 for initiatives to be taken in relation to such matters. The planning of the actual work in question and the authority for it has not been my responsibility. Generally, that has been the responsibility of the Public Buildings Department in conjunction with the appropriate authorities and, I believe, with the authorisation of the Presiding Officers. In view of the honourable member's comments I will immediately refer the matter to the Minister of Public Works and have the matter investigated. I know that other changes have already occurred within the building making it more accessible—

The Hon. N. K. Foster: They cannot get in.

The Hon. K. T. GRIFFIN: Wait until I answer the question. If there is a problem at the rear of the building in the basement, certainly it must be looked at and remedied immediately. In passing, I point out that the previous Government spent about $7 000 000 on this building but gave no thought to the disabled at all.

URANIUM

The Hon. J. E. DUNFORD: My question is directed to the Minister of Community Welfare, representing the Minister of Health. Whilst this Council was not sitting, Mr. John Scott intervened on behalf of the Thebarton ratepayers and complained very vigorously in the press at the siting of a uranium dump at Thebarton. I was very pleased to read about that because John Scott has been a very close colleague of mine for many years, and we were in the trade union movement together.

The PRESIDENT: Order! Has the Hon. Mr. Dunford sought leave to make a short statement?

The Hon. J. E. DUNFORD: I am sorry, Mr. President. With the Liberal Government in power, we only sit about 35 days a year, so we get very rusty. I apologise for not making that request, and seek leave to make a short statement.

Leave granted.

The Hon. J. E. DUNFORD: I congratulate John Scott on his action; although we State politicians are not too slow in taking up the cudgels on behalf of people in the areas we represent, of course, the Council was not sitting at the time. Mr. Scott was fortunate enough to be able to bite the bullet and take up the cudgels, as the Leader of members opposite often says. This is my first opportunity to do the same thing. Of course, everyone in South Australia is concerned about uranium. On the New South Wales coast, the Wollongong Council has declared itself a nuclear-free zone.

The Hon. L. H. Davis: Do you know what that means?

The Hon. J. E. DUNFORD: I can give the Hon. Mr. Davis a lesson about nuclear-free zones, because he would not know what it means.

The Hon. N. K. Foster: He is a nuclear freak.

The Hon. J. E. DUNFORD: I do not accept that he is a nuclear freak; there is more wrong with him than that. This is a very important issue, and I propose to ask my question in three parts. Will the Minister ask the Thebarton council for a summary of the debate it had regarding the proposed resiting of the Australian Mineral Development Laboratories uranium operation at Thebarton? Secondly, will he also ascertain what legal technicalities, under the Local Government Act, could restrict local government bodies declaring their respective council areas nuclear-free zones?

The Hon. N. K. Foster: We should be a nuclear-free State.

The Hon. J. E. DUNFORD: I agree. Thirdly, at a meeting last night the Thebarton council decided that the result of testing at the Thebarton plant be forwarded to the local board of health. Will the Minister also make available to this Council details of that testing?

The Hon. J. C. BURDETT: I shall be pleased to refer the honourable member's questions to my colleague the Minister of Health and bring down a reply.

FLY MENACE

The Hon. G. L. BRUCE: I see seek leave to make a short explanation before asking the Minister of Community Welfare, representing the Minister of Health, a question about the fly menace.

Leave granted.

The Hon. G. L. BRUCE: I refer to a recent article in the *Australasian Post* headed, "Those Bloody Flies", written by Trevor Robbins, which states:

> Flies are something every Australian knows about—and hates. They swarm over your barbecued steak and salad, crawl up your nostrils just as you pound down a cannon ball serve and feed off your eyes as you're about to putt. You can spray, swot or swear at them but they'll still come back. But take heart, something is being done in Australia about flies.
>
> In Victoria the State Government has set up a Fly Suppression Unit to find out all about houseflies, how and where they breed and even where they go in winter. And the CSIRO is now making big progress in the battle against the bushfly with its South African dung beetle programme. Scientists throughout Australia are playing their part in the battle against the flies.

The article goes into much more detail and, of course, flies have been a problem in Adelaide this year, more so than in recent years that I can remember. There has been some commentary in the press about this problem, and I refer to a brief article on how to kill flies, which states:

> While some people may enjoy the slightly oriental atmosphere that Adelaide has acquired with its increased fly population, I do not. There are very few buses, trams, shops, houses or restaurants and no streets that do not contain at least one fly. Apart from their ability to annoy, flies are filthy.
>
> I suggest that in order to deal with this problem each block should be equipped with a letter box-like device in which is placed a lump of rotten meat (to attract the flies) and a poison to kill them.
>
> Because most flies are good at getting into confined spaces and bad at getting out again there would be little danger of a breed of flies developing which would be resistant to the poison used. Nor would there be any danger of the poison's being spread and affecting other animals; and the amount of poison used would be much less than in a spraying operation.

The point made by the correspondent comes at the end with this punchline:

> This method of fly control is used effectively in Uruguay.

If it can be demonstrated that countries with a Mediterranean climate similar to ours can control the fly menace, I am sure that we can do something about it. We are urged by the Minister of Tourism to make the most of our facilities, to eat outside and have sidewalk restaurants, but that cannot be done in the present situation, with so many flies about. It is not only a health problem; it is also a tourism problem which affects not only Adelaide but the whole of Australia. Recently I visited Victoria and was driven almost to the point of insanity, so I bought a fly net and hat. That was the only way I could see the upper regions of Victoria in any sort of comfort.

Flies seem to thrive on Aerogard. The more one uses the more it seems to attract flies. It is vital that the Minister of Health and Minister of Tourism, who is one and the same person, come to grips with this problem. Can the Minister say whether the Government would be prepared to fund a fly suppression unit along similar lines to the Victorian unit, or at least investigate the feasibility of this approach to the problem? Secondly, through her departments, will the Minister contact the C.S.I.R.O. and the Victorian Fly Suppression Unit to obtain the latest information on fly control and, through her departments, release such information for the widest possible circulation, for example, to local councils, schools, national parks, tourist organisations, residential groups and the press, etc., for the information of people concerned with this problem?

The Hon. J. C. BURDETT: I will refer the honourable member's question to the Minister of Health and the Minister of Tourism who, as the honourable member has observed, is one and the same person. I will bring back a reply for the honourable member.

ELECTRICITY REBATES

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

Leave granted.

The Hon. ANNE LEVY: As I am sure all members are aware, at present the Electricity Trust does not give rebates or any reduced rates at all to pensioners or those people with pensioner medical benefit cards, unlike the South Australian Gas Company, which has a small rebate

scheme. Moves have been made in recent times to introduce a policy under which the trust would provide rebates for pensioners and, as I am sure all members would be aware, the Labor Party supports such a change. However, recently the Minister of Mines and Energy (Hon. E. R. Goldsworthy) was reported in the press as announcing quite firmly that it was not Government policy for the trust to provide such rebates and that they would not be introduced. I heard recently that at a Mannum meeting the Minister of Community Welfare was a guest speaker, and many people at that meeting were left with the impression that the Minister said that the trust does provide rebates for pensioners and that all these people had to do was to show their pensioner medical benefit card and request the rebate when they went to pay their bill.

The fact that this is not the case or that this does not apply has embarrassed a number of people in Mannum, and understandably I presume it has embarrassed the trust. Can the Minister say whether he did say that trust rebates were available for those with pensioner medical benefit cards, or whether he said they would become available? If the latter is the case, can the Minister tell the Council from when such rebates are expected to operate?

The Hon. J. C. BURDETT: At that meeting a number of pensioners who were present stated that they did receive such rebates. Apparently that is incorrect. Certainly I will take up the matter with my colleague whether such rebates can be applied. It does seem to be anomalous that they are available in regard to gas and unavailable in regard to electricity. At that meeting a number of people asked me whether the rebates on gas could be made available for bottled gas as well as for city gas. What I spoke about was pensioner benefits. It was obviously a Commonwealth matter and I referred to a booklet that had been supplied to me by the Commonwealth Department of Social Security. The booklet outlines a number of consumer benefits, including gas, that are available. Gas was the one first discussed and after that had been discussed the question was asked about electricity, and a number of pensioners stated, obviously incorrectly (based on the inquiries I have made), that they did receive benefits in regard to electricity. I will certainly take up with my colleague the question of whether pensioner benefits can be made available for electricity.

HANDICAPPED PERSONS

The Hon. FRANK BLEVINS: I seek leave to make a brief statement before asking the Attorney-General a question about handicapped persons.

Leave granted.

The Hon. FRANK BLEVINS: I assume that all members have been circulated with a letter from a Mr. Cielens, who I am sure is known personally to all members. Mr. Cielens lobbies extensively on behalf of handicapped persons, and I certainly commend him for his zeal. In his latest letter to members of Parliament he makes a couple of suggestions that I thought were worthy of further consideration and it would certainly be interesting to know the Government's attitude to them. By way of explanation I will quote briefly from Mr. Cielens's letter, which states:

> As we move into the International Year of Disabled Persons, it is obvious that many energetic and caring people are going to do much to the benefit of the disabled. It is my belief, however, that the greatest legacy we can provide is to have created the mechanisms whereby the disabled can continue to protect their own interests, and further their own cause. The need for this is especially urgent in the area of employment of disabled persons, particularly in the special environments such as sheltered workshops. To this end I ask for your support in fostering the establishment of a union for disabled persons.

He then goes on to explain his reasons for that request, but I will not refer to that part of the letter. He further states:

> In addition to the provisions of general funds, I ask for your support in obtaining money to fund a march aimed at demonstrating the existence of disabled workers and giving them a chance to take their case to the public. Your statement of support is needed to enable me to approach the relevant authorities and representatives with requests for more direct forms of support. The New South Wales Government has already taken considerable initiatives in these areas, having made funds available for both a march and the establishment of a disabled persons' union. Both projects are essential if we are to use this year to give the disabled the means by which they can regain and retain their dignity, to use their own energies to defend themselves and not rely on "welfare" and "charities".

Honourable members will agree that those sentiments expressed by Mr. Cielens are admirable, and we would not argue with him. Whether the specific projects for which he seeks support are equally as worthy is open to debate, and I would certainly like to hear the Government's view on his suggestion. Has the Attorney-General considered the letter sent to him by Mr. Cielens of 4 February and, if he has, what is his attitude to the request? If the Attorney-General has not yet considered the letter, will he do so and advise the Council of his view?

The Hon. K. T. GRIFFIN: I have no recollection of having received that letter from Mr. Cielens. I have received various letters from him over a period, as I suspect other members of the Council have received numerous letters from him.

The Hon. J. E. Dunford: We see him and speak to him.

The Hon. K. T. GRIFFIN: I speak to Mr. Cielens, too, on various occasions, not only in Parliament House but at various other forums where Mr. Cielens invariably turns up in the audience. I have no recollection, as I said, of having received a letter on 4 February from him. If it is in the office it will get to me in the next day or two and I will give it some consideration. I do not share any enthusiasm for money being spent on a march for disabled workers, nor do I share his enthusiasm for a union for disabled persons. I believe there are other more effective ways in which disabled persons can be encouraged to become more independent and determine their own future rather than relying on the care and charity of Governments in particular and voluntary organisations on which they had to rely in the past.

Of course, one of the initiatives that will contribute to that objective is the Handicapped Persons Equal Opportunity Bill, which I hope to be able to introduce into the Parliament for consideration during this part of the session. There are other areas in which the International Year of the Disabled Secretariat and Advisory Council are taking steps to ensure that emphasis is placed on the individuality of persons with disabilities and on their legal rights to independence and to be able to make decisions for themselves.

There are a number of other areas relating to this objective about which I will inform honourable members when they occur at different stages during the year. I hope honourable members will see that, following all the other initiatives taken not only by private organisations but also by Government agencies, there is a concern to make 1981 a year in which the legal rights of disabled persons become paramount.

AGENT ORANGE

The Hon. N. K. FOSTER: I seek leave to make a statement before asking the Minister of Local Government, representing the Minister of Repatriation, a question regarding Agent Orange.

Leave granted.

The Hon. N. K. FOSTER: I think that most honourable members will be aware of the shocking effects that have been caused by what some people call pesticides that have been used in chemical warfare, and the ingredients of certain such repellants that were dumped during the Vietnam war. Already, we have seen the rallying of and demonstrations by so-called Vietnam veterans in the United States. Those people have been demonstrating their plight because of the non-recognition of the part that Agent Orange played in the destruction of human life in Vietnam. Indeed, it affected the members of our armed forces who went to Vietnam during Australia's shameful involvement in that exercise.

I should like to refer to a case that came to my knowledge when I was a member of the Federal Parliament. Certainly, I hold a strong view regarding the exposure of people to what was not necessarily known then as Agent Orange. I wish that the Hon. Mr. Dawkins would wake up. He was young enough to go to Vietnam, but did not do so. Also, the Hon. Mr. Davis should help out his country. That honourable member and the Hon. Mr. Griffin were eligible to be sent, but they sent others to do the dirty work.

I realise that repatriation matters fall within the Federal sphere. However, one of my great concerns (and I am sure that it is a concern of yours, Sir, as well as that of other honourable members) is that the human need has been completely overlooked in the legalistic arguments that have been raised. Indeed, it is shameful that members of the South Australian community must rely on a court case being conducted in the United States in relation to whether or not they will be entitled to any benefits as a result of their being exposed to Agent Orange.

As we have a Minister of Repatriation in this State, he should accept his responsibilities. I am sure that no member of this Parliament would conscientiously vote to deny any person who was so exposed in Vietnam his full repatriation rights, without raising any arguments or legal points. I am sure that honourable members will accept that this terrible poison was thrown on members of the Australian forces, who had to go through the foliage on which Agent Orange was used. It should be accepted that the presence of those persons in Vietnam at that time is proof positive that their ailments are a direct cause of that presence in Vietnam. This could be similar to what the Repatriation Department did, if my memory serves me correctly, in relation to tuberculosis. For many years, it involved a tribunal argument within the repatriation framework. Of course, that disease was completely wiped out and, if one contracted it, it was taken as being war caused.

The Minister to whom I have directed this question is listening attentively, and I thank him for that. A former serviceman, the Minister knows, I hope, something of the anguish felt in the community for those who served in Vietnam. Will the Minister ask the Minister of Repatriation to introduce in the South Australian Parliament a Bill that will have as its purpose a recognition that all South Australians who served in Vietnam have a right to repatriation and compensation for diseases that are declared by a doctor as being partly attributable to their involvement in Vietnam?

The Hon. C. M. HILL: I shall be pleased to refer the honourable member's explanation and question to the Minister of Repatriation, who, I am sure, will give every consideration to the whole issue. I think the honourable member must agree that there will be a need for considerable liaison with the Federal Minister and his department before an answer and a formal resolution can be achieved.

BOOTHBY BY-ELECTION

The Hon. J. R. CORNWALL: I seek leave to make a brief explanation before asking the Attorney-General a question regarding the cost of the Boothby by-election.

Leave granted.

The Hon. J. R. CORNWALL: All honourable members will be aware that, because of an act of gross political cynicism, the electors in the Federal electorate of Boothby in this State are facing a by-election not more than four months after they last turned out to go to the polls. I have heard from very reliable sources that the direct cost to the Electoral Department of that by-election is about $100 000, which seems to me to be an enormous waste of taxpayers' money for what is, I repeat, an act of gross political cynicism. Of course, the Attorney is in charge of electoral matters in this State, and I am sure that it would be within his knowledge so that he could at least give the Council a close estimate of what the cost of that by-election will be. Can the Attorney confirm that the by-election will cost approximately (or indeed fairly accurately) $100 000?

The Hon. K. T. GRIFFIN: I am not prepared to speculate on the cost of a by-election in a Federal seat; that is a matter for the Federal Government. I remind the Council that the former Government took the unprecedented step of going to the polls 18 months early in 1979, and that that cost the public of South Australia $1 000 000, and that in 1975 and 1977 the same Government also went to the electorate very much earlier than it should have done, thereby costing the people of this State a considerable sum of money.

TIME BOOKS

The Hon. G. L. BRUCE: I seek leave to make a statement before asking the Minister of Community Welfare, representing the Minister of Industrial Affairs, a question regarding the reply to a question I asked previously about time books.

Leave granted.

The Hon. G. L. BRUCE: I received recently a reply to a question that I asked previously about time books. The gist of the question was whether enough staff was available in the Department of Industrial Affairs and Employment for the routine checking of time books. Having asked the question twice, I received two replies. On 26 November 1980 I received a reply which stated:

> The answer given on 26 November 1980 to the same question asked by the honourable member on 23 October fully covers the matter raised. I repeat that the attention given to routine checking is the maximum which can be done consistent with proper attention to the level of complaints received.

I do not consider that that answer is adequate. I was seeking from the Department of Employment and Industrial Affairs information in relation to the amount of money received on routine checking, whether there was enough staff to handle it and whether there should be more routine checking. The answers I am receiving are not

consistent with what I am looking for. Will the Minister ascertain the percentge of time and manpower spent on the checking of complaints on wages? Will he also check the percentage of time and manpower spent on routine checking of time books and wages?

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

CRIME

The Hon. J. E. DUNFORD: I ask leave to make a brief explanation before asking the Attorney-General, representing the Premier, a question on manpower ceilings in the South Australian Police Force.

Leave granted.

The Hon. J. E. DUNFORD: I read with interest an article in this morning's *Advertiser* in which Mr. Draper, the Commissioner of Police, suggests that the manpower ceilings in the Police Force should be reconsidered by the Government. The article, headed "Draper: More Police Needed", states:

> Recorded offences against the person rose by 40 per cent, assaults against police rose 90·3 per cent and arson and malicious or wilful damage by fire rose 60·05 per cent.

I have said many times before that, when this do-nothing Government was elected, it was elected very strongly on a law and order platform. The article continues:

> During 1979-80, 3 198 drug offences were recorded by the department, compared with 1 441 in 1978-79—a 121·93 per cent increase.

We may not agree with Mr. Draper that this is the answer. However, he is a responsible officer of the Police Force. He has made this request, and anything the Government can do to alleviate crime should be done. There has been no reply to Mr. Draper's suggestion.

I ask that the Government do something to solve the problem. I have always maintained that, because of unemployment and the system under which we live, young people are exploited, especially with the sale of drugs. The people at the top supply the cash and are often unable to be apprehended or prosecuted. One crop recently was worth $50 000 000, and such crops cannot be grown unless there is a sale. The expertise to install the machinery is needed and large amounts of capital are involved. Often respectable businessmen are supporting this sort of activity. As a result of the drug scene we get violence. Like all parents in the community I am concerned about the children of today.

The PRESIDENT: I draw the honourable member's attention to the time.

The Hon. J. E. DUNFORD: If Mr. Draper believes that this proposal would solve the problem, the Government ought to give it serious consideration. What action does the Government intend to take as a result of Mr. Draper's plea for the Government to lift police manpower ceilings?

The Hon. K. T. GRIFFIN: I will refer the question to the Premier and bring back a reply.

LEAD-FREE PETROL

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

> 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.

(Continued from 3 December 1980. Page 2479.)

The Hon. R. J. RITSON: This resolution raises important questions which are worthy of very serious consideration by this Parliament. The question is rather complex. For a very long time the element lead (which is at once both an important ingredient of modern industrial life and a chronic and cumulative poison) has been scattered over the surface of the earth by both natural and artificial means. In terms of the earth's history, lead is the end product of serial degradation of uranium. It occurs not only in the ground where it was formed long ago but also it is continuously forming in the atmosphere and falling to earth due to degradation of naturally occurring radon gas.

The result of mankind's industrial progress is that naturally occurring lead has been processed and used to good purpose and then left in the environment in concentrated and potentially toxic form either as various organic and inorganic salts incorporated into manufactured items or as paints and chemicals, dust or vapour in the atmosphere.

One such means of dumping lead after it has served its purpose is to discharge it from the backside of the motor car. From all of these sources lead finds it way into water, animals, plants and human beings. This chronic cycling of small amounts of lead through the bio-system is known as the lead burden. Given that lead is known to be a chronic and a cumulative poison, the very serious questions that we have to ask are, first, of what order of magnitude is the present total lead burden; secondly, how much more can this lead burden be allowed to increase before a significant health threat to the general population could be expected—that is, what is the safety margin that we have left; thirdly, which contributing factors are controllable and which are not; fourthly, what can be done to limit increases in the lead burden; fifthly, what is the time scale involved in the effective institution of control means; and, finally and ultimately, what is the value judgment as to what the risks are and what is the price?

I have studied a number of documents dealing with environmental lead in general and atmospheric lead in particular. I have read documents such as the British Department of Health and Social Security's Working Party Report on Lead and Health of 1980; the local Vensac Report; proceedings of the 1974 New South Wales conference on ambient lead and health; the report of the National Health and Medical Research Council of Australia; and many other pieces of material. I have to confess that some of the anxieties expressed by the Hon. Dr. Cornwall would seem to be justified by what I have read so far. However, there are a number of important reports and scientific papers which I am still awaiting and have requested from oil companies and motor vehicle manufacturers. They deal with the technical and logistic difficulties involved with tackling the leaded petrol question. Unfortunately, they are not yet to hand. However, I hope to obtain them soon and I take this resolution most seriously. It would be wrong for me to argue the matter to a conclusion without assessing this additional material. For that reason I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

HISTORY TRUST OF SOUTH AUSTRALIA BILL

The Hon. C. M. HILL (Minister of Local Government) obtained leave and introduced a Bill for an Act to establish the History Trust of South Australia; to define its powers and functions; to repeal the Constitutional Museum Act, 1978; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

Its purpose is to establish an authority to co-ordinate and develop the wide-ranging functions and activities of the differing institutions and organisations concerned with the history of South Australia. The Bill also repeals the Constitutional Museum Act of 1978, as management of that museum will fall to the new authority, which will be known as the History Trust of South Australia.

South Australian history has long suffered from serious neglect. Priceless relics and other records of our past have been lost, destroyed, allowed to deteriorate or kept from public view. Collections have not been adequately cared for and catalogued. Research into South Australian history has been piecemeal and there has been no systematic attempt to inform South Australians of the richness of their traditions through high-quality interpretative displays and publications. This neglect cannot be blamed on any one institution or organisation.

It is true that various bodies have from time to time been charged with responsibility for aspects of South Australia's history, but either their terms of reference were defined narrowly or their historical functions were defined as less important than other responsibilities. Private organisations and individuals have laboured long and mightily but their efforts have lacked co-ordination and have sometimes been misdirected for lack of expert advice. In many areas of South Australian history there has been, frankly, a policy vacuum.

Consequently, when Mr. Robert Edwards was charged with reporting on the future development of the South Australian Museum, his investigations led him to suggest in his first interim report that there was need for a body to co-ordinate historical programmes and to provide adequate resources to care for items associated with South Australian history, including historical Government buildings. Mr. Edwards later convened a State History Centre Working Party, composed of eminent historians and representatives of interested departments, authorities and societies, to examine his proposal. After careful consideration of various options, the working party gave its full support to the proposal that the care of South Australian history be vested specifically in a central agency. This Bill has been framed on the basis of Mr. Edwards's distillation of the working party's recommendations.

The establishment of the History Trust will bring the Constitutional Museum and the Birdwood Mill under this one authority. While the Constitutional Museum will continue to develop its present policies and activities, the reorganisation of the Birdwood Mill will be one of the trust's first priorities. The mill is already an important tourist attraction, with the nation's finest collection of vintage cars. The trust will seek to develop the mill as the National Motor Museum, with accreditation as such from the Commonwealth Government. Meanwhile, the mill's other collections will be carefully catalogued and conserved and the trust will investigate the feasibility of developing a major thematic museum based in the old mill building.

As the foregoing plans show, the History Trust will be encouraged to take fresh initiatives. Thus, consultations will be held with ethnic communities to determine their specific needs and requirements for a South Australian Ethnic Museum. The trust will also be made responsible for a programme of accrediting museums as part of a general obligation to advise the Government on policy relating to all museums other than the South Australian Museum.

Expert advice and other assistance will be made available to museums after their potential and their needs have been carefully assessed. The trust will ensure that private and other efforts are not duplicated, that worthy projects are encouraged and that the creative energies of the private sector in South Australian history are harnessed effectively. This is especially important as museums are a significant component of the State's tourism industry. Too often one local museum looks very like another. The trust will ensure that South Australia develops a true museum system, marked by diversity and specialisation of its parts.

The collection and conservation of historical material will be one of the trust's main tasks. At present, heritage legislation in South Australia does not extend to portable objects such as documents, pictures and artefacts. This Bill gives the History Trust the power to assume responsibility for such objects and to establish and maintain collections of historical importance in its own right. The ownership, organisation and redistribution of existing collections will, of course, be a matter for negotiation by the trust and institutions holding those collections.

The trust will take charge, as soon as is convenient, of the State's Performing Arts Collection, using the collection's sound recordings as the nucleus for a central archives and bringing together various sound collections at present housed inadequately. Private owners will be encouraged to conserve items of historical significance, and the trust will keep registers of such items.

No central agency exists to answer the many inquiries and requests for help from members of the public interested in South Australian history. The trust will establish an information centre to meet public demand and to take the burden of answering inquiries from the shoulders of staff of other North Terrace institutions. Historical organisations will be able to look to the trust for professional support, while the trust will promote research and foster more and better publications on South Australian history.

The creation of the History Trust has special significance in the planning for the celebrations in 1986 of 150 years of official European settlement. The trust will likewise help South Australians to gain more from the bicentennial celebrations in 1988 and to make the 1980's the decade when not only South Australians but all Australians come to realise that this State has a rich and unique history. The creation of this trust itself serves as an example of the State's tradition of innovation in the arts. No other Government in this country has taken such a systematic and imaginative approach to the many-sided task of fostering the preservation of our past.

Clauses 1, 2 and 3 are formal, and clause 4 sets out definitions of terms used in the Bill. Clause 5 repeals the Constitutional Museum Act, 1978, and transfers rights, liabilities and employees' status from the Constitutional Museum Trust to the History Trust of South Australia. Clause 6 provides that the Act does not apply to, or in relation to, the South Australian Museum Act, the South Australian Heritage Act, and the Aboriginal Heritage Act. Clause 7 provides for the establishment and basic powers of the trust as a body corporate and subclause (4) provides that the trust shall be subject to the general control of the Minister. Clauses 8 and 9 set out the terms and conditions upon which members of the trust hold

office. Subclause (2) of clause 8 provides for the appointment of a Chairman. Clause 10 requires members of the trust who have any interest in any contract contemplated by the trust to disclose such interest and thereafter refrain from any deliberations under the contract. Clause 11 sets out the remuneration of members, while clause 12 sets out various procedural measures relating to the conduct of trust business. Clause 13 is concerned with the validity of acts of the trust and the liability of trust members.

Clause 14 sets out the functions and powers of the trust. Clause 15 provides for the Constitutional Museum to be under the care, control and management of the trust and provides for the Governor to grant land to or place land under the care, control and management of the trust where the land is of historical significance to the State or where it is otherwise expedient for such land to be so placed.

Clause 16 is concerned with employees of the trust. Clause 17 provides for banking, investment and expenditure procedures, while clause 18 sets out the trust's borrowing powers. Clause 19 provides that proper accounts of its financial dealings shall be kept by the trust and that these shall be audited at least once a year by the Auditor-General. Clause 20 provides that the trust will prepare an annual report for the Minister on the administration of the Act and for this to be laid before each House of Parliament together with the audited statement of accounts for the relevant period. Clause 21 provides that no stamp duty is payable on any instrument by virtue of which real or personal property is assured to, or vested in, the trust.

Clause 22 imposes criminal liability on any person who unlawfully damages property of the trust and, in addition, provides for the payment of compensation in consequence of such damage. Clause 23 provides that proceedings for offences against the proposed Act may be disposed of summarily, and clause 24 empowers the Governor to make appropriate regulations.

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

KANGARILLA TEMPERANCE HALL (DISCHARGE OF TRUSTS) BILL

The Hon. K. T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to discharge trusts affecting the temperance hall and certain other land at Kangarilla; to make other provision in relation to the Temperance Hall and that other land; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

It relates to two pieces of land within the area of the District Council of Meadows. The land has had a complicated and somewhat obscure history. The allotment on which the Kangarilla Temperance Hall now stands came into the hands of the trustees of the Temperance Hall Kangarilla by a conveyance dated 28 May 1875. It may be that the trustees were to hold the property on trust for the Kangarilla Bible Christian Church. The adjacent land certainly had belonged to the Bible Christians, and it was conveyed by the Methodist Church to the trustees for the Temperance Hall in 1930. The trustees declared that they held both pieces of land on the same trusts. In 1952 the trustees sought to have the land vested in the Kangarilla Institute. The attempt, however, miscarried because the institute was not then incorporated. In 1976 the surviving trustees purported to transfer the land, subject to the trusts, to the District Council of Meadows. There is considerable doubt as to the validity of this transfer, although the Registrar-General has issued certificates of title to the land, subject to a caveat preventing disposal of the land, in the name of the council.

The purpose of the present Bill is to confer an unequivocal title to the land on the council, to free the land from all trusts and interests that may presently affect it, and to empower the council to sell the vacant allotment. It is intended that the hall should be maintained for the benefit of the public, and the moneys realised from the sale of the adjacent allotment will be applied towards the maintenance and improvement of the hall. 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 contains definitions required for the purposes of the new Act. Clause 3 declares that the land is vested in the council in fee simple and discharges trusts and other rights, interests or claims that might exist immediately before the commencement of the new Act. Subclause (2) requires the council to maintain the hall in perpetuity for the public benefit. Subclauses (3) and (4) empower the council to sell the adjacent land and require it to apply the proceeds of sale towards the maintenance and improvement of the hall.

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

ELECTION OF SENATORS ACT AMENDMENT BILL

The Hon. K. T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Election of Senators Act, 1903-1978. Read a first time.

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

That this Bill be now read a second time.

It brings the Election of Senators Act into somewhat closer conformity with the corresponding (but more modern) legislation of the other States. The present Act is a rather antiquated document and is possibly defective in some respects; for example, it does not provide for the fixing of a date for the return of the writ.

Clause 1 is formal. Clause 2 repeals section 2 of the principal Act and enacts two new sections. Under new section 2 (1) the Governor is empowered to fix, by proclamation, the date for issue of a writ for a Senate election, the place at which nominations are to be made and the day on or before which nominations must be made, the date for taking the poll, and the date on or before which the writ must be returned. Subsection (2) provides that nominations must be made after the issue of the writ and before 12 noon on the day of nomination. Subsection (3) provides for polling to take place at the polling places appointed under the relevant law of the Commonwealth. New section 3 provides that, within 20 days before or after the date fixed for polling, the Governor may, by proclamation, extend the time for holding the election, extend the time for returning the writ, or provide for meeting any difficulty that might otherwise interfere with the due course of the election.

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

ELECTORAL ACT AMENDMENT BILL

The Hon. K. T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Electoral Act, 1929-1980. Read a first time.

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

That this Bill be now read a second time.

This amending Bill results from a most comprehensive review of the Electoral Act. The Electoral Act was last reviewed in 1969. Some amendments of a limited nature have occurred since then, but the recent examination of the Act has revealed defects which require amendment to ensure better operation of the Act. There are changes in this Bill resulting from experience gained at the last election in particular. Some of the amendments reflect problems identified in the Norwood Court of Disputed Returns *(Crafter v. Webster and Guscott);* others result from a review of the running of elections generally.

The Court of Disputed Returns dealt with a wide range of matters, and consideration of the judgment of that court has led to amendments which will clarify the powers, duties, roles and functions of officers with respect to an election and the procedures to apply in a Court of Disputed Returns. Let me identify several of the important matters arising from the recent Court of Disputed Returns. Section 170 of the Electoral Act sets out the requirements of a petition but is silent upon the application of the Limitation of Actions Act, which the Full Supreme Court has ruled does give a wide descretion to extend the time for lodging or amending a petition challenging the result of an election. With respect, that does not take into account that the Limitation of Actions Act is designed to apply principally to litigation, not to elections.

It is desirable that a Court of Disputed Returns be convened expeditiously and that the grounds of complaint in a petition should be known at an early stage after an election, and the matter dealt with quickly. To apply the Limitation of Actions Act opens up the potential for considerable delay and detracts from the objects of the Electoral Act. Therefore, it is appropriate to clarify the time constraints on a petitioner under the Electoral Act rather than relying on the Limitation of Actions Act. The Bill provides for a petition to be lodged within 21 days but the court is allowed a discretion to grant an extension of up to 28 days if hardship would result if an extension were not granted.

The matter of "doubling up" was a subject of concern. Accordingly, the Bill allows a voter to be accompanied by a person rendering assistance where the presiding officer is satisfied that that is appropriate. In company with this, but having wider application, the Bill provides that an error of an officer shall not void an election if the act or omission of the officer was reasonable in the circumstances and his action could nevertheless be deemed to be substantial compliance with the Act. In the Court of Disputed Returns, excusable and inadvertent errors by officers were identified but they did not affect and would not have affected the result.

The Bill also clarifies the position where ballot papers are found by presiding officers outside ballot boxes. It is clearly provided that they are invalid and must not be placed in ballot boxes by officers. Entitlement to enrolment and transfer of enrolment are clarified to ensure that rolls accurately reflect the residency of electors. Where a Court of Disputed Returns orders a new election the same rolls will be used as for the avoided election if the writ for the new election is issued within six months of the writ for the avoided election. It must be remembered that the new election is not a by-election but a re-run of the avoided election.

There are a number of other changes. For example, polling will close at 6 p.m. rather than 8 p.m. This brings us into line with a number of other States where the change has brought advantages and no inconvenience has occurred. Earlier closing and better use of the hours of daylight will be of a great advantage in country areas where ballot boxes have to be conveyed long distances to counting centres. Election results will be available and materials returned to returning officers at least two hours earlier. There should be fewer problems with poorly lit polling centres when elections are not held in daylight saving time. A number of complaints are received about polling booths in poorly lit areas. The change will also mean that polling staff, who already work long hours during polling hours and in counting, may be relieved from the pressure of such long hours by the reduction in polling hours.

A returning officer may with the concurrence of the Electoral Commission reject a nomination, if in the opinion of the returning officer the name of the person nominated is obscene, frivolous or has been assumed for an ulterior purpose. There has been an increasing problem in this area where persons change their names only for the purposes of an election and then change them again after the election. The amendment complements the amendments made last year to the Births, Deaths and Marriages Act, 1966-1980. The powers and functions of the Electoral Commissioner are broadened by enabling him to conduct elections (with the approval of the Minister) which do not take place under the Electoral Act on behalf of various non-governmental or semi-governmental bodies. These include elections for officers of associations of employers and employees where their rules specifically allow this to occur.

The other significant amendments relate to the Legislative Council voting system which has contained a serious anomaly which should never have been tolerated. At the moment, where a group gains less than half a quota of primary votes its preferences are distributed. That position remains. Also, where a group gains more than half a quota in no way will the preferences of any part quota of that group be distributed. That is the serious anomaly which is corrected by this Bill to ensure that in the counting of votes there is no distortion of the system (as there is at present) and that all votes and preferences are counted.

At present, optional preferential voting is allowed in the Legislative Council vote. That is not so in the House of Assembly, the Senate or the House of Representatives. It is not an appropriate system where all preferences are to have electoral weight. Accordingly, the Bill provides for full preferential voting.

Other consequential changes are made by the Bill. In addition to amendments affecting other matters in the Electoral Act, there has been a comprehensive review of the monetary penalties to ensure that they are more realistic.

This Bill represents the first major revision of the Electoral Act since 1969. It covers a very wide diversity of subjects and, for this reason, it will be convenient to explain it in terms of its individual clauses. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 repeals a number of obsolete transitional provisions in section 3 of the principal

Act. Clause 4 amends the definition of "prescribed postal elector" in section 5 of the principal Act. The definition substitutes the phrase "place of residence" for the previous phrase "place of living". The proposed amendments relating to qualification for enrolment are framed in terms of the elector's "principal place of residence". Hence the change in terminology proposed by this clause.

Clause 5 amends section 6 of the principal Act. The amendment deals with the powers and functions of the Electoral Commissioner and empowers the Commissioner to carry out non-statutory functions as authorised by the Minister. The amendment will thus enable the Electoral Commissioner to conduct certain elections that do not take place under the Electoral Act on behalf of various non-governmental or semi-governmental bodies.

Clause 6 enacts new section 6a of the principal Act. This new section will empower the Minister to delegate any of his powers or functions under the Electoral Act to the Electoral Commissioner or any other officer. Clause 7 makes a consequential amendment to section 6c of the principal Act. Clause 8 repeals sections 6f and 6g of the principal Act and subsitutes a new section. The repealed sections and the new section are transitional provisions. The new section 6f provides that, where in any other Act or in any document, rule or regulation a reference is made to the returning officer for the State, the assistant returning officer for the State, or the principal returning officer, the reference shall be read as a reference to the Electoral Commissioner.

Clause 9 amends section 7 of the principal Act. The amendment prevents the appointment of persons over the age of 70 years to the office of returning officer, and provides that a returning officer, on attaining the age of 70 years, shall cease to hold office as such. A returning officer who attains 70 years of age during the course of an election may, however, continue in office until the election is completed.

Clause 10 amends section 8 of the principal Act. At present, this section prevents the appointment of assistant returning officers at places outside the State with responsibilities relating to postal voting. It has been found that this limitation causes inconvenience in a number of cases and, consequently, clause 10 removes that limitation. Thus, in future, such returning officers may be empowered to deal with postal voting applications.

Clause 11 inserts a new section 8a in the principal Act. This new section empowers the Minister by instrument in writing to fix a scale of fees and allowances payable to officers or specified classes of officers employed on a temporary basis in the administration of the Act. The present system under which the fees of temporary employees are fixed by regulation has been found to be excessively cumbersome and, consequently, the simpler method of fixing these fees by instrument under the hand of the Minister is now proposed.

Clause 12 repeals and re-enacts section 14 of the principal Act. At present, this section provides that the Minister may fix polling places in relation to individual subdivisions. Under the new system proposed by the Bill, a voter will be able to vote at any polling place within his district and, hence, the relationship of polling places to individual subdivisions is no longer desired. The new section is framed by omitting reference to the appointment of polling places for individual subdivisions.

Clause 13 repeals section 15 of the principal Act. The substance of this section is now to be incorporated in new section 19. Clause 14 makes a consequential amendment to section 17 of the principal Act.

Clause 15 repeals section 19 of the principal Act and substitutes a new section. The new section provides that, whenever a new subdivision or district is constituted, or the boundaries of an existing subdivision or district are altered, a new roll is to be prepared for that subdivision or district. The old provision under which the Governor was to require the preparation of new rolls by proclamation has been removed. Clause 16 makes a consequential amendment to section 22 of the principal Act.

Clause 17 inserts new provisions dealing with compulsory enrolment. At present, enrolment for the House of Assembly is not compulsory, and once a person is enrolled there is no obligation for him to seek to change his enrolment to some other subdivision or district when he changes his place of residence. New subsection (2) provides that a person who is qualified for enrolment as an elector and whose principal place of residence is in a subdivision shall, if his principal place of residence has been within the subdivision for at least one month, be entitled to have his name placed on the Assembly roll for that subdivision, and, if he fails to make a claim to have his name placed on that Assembly roll within three months after he became so entitled, he shall be guilty of an offence and liable to a penalty not exceeding $100.

New subsection (3) provides that an elector whose name is on the roll for a subdivision and whose principal place of residence is in another subdivision shall, one month after that place became his principal place of residence, be entitled to have his name transferred to the roll for the subdivision in which his principal place of residence is situated, and, if he fails to make such a claim for transfer of enrolment within three months after his entitlement arose, he shall be guilty of an offence and liable to a penalty not exceeding $100. New subsection (5) deals with a change of address within the same subdivision. Thus, where an elector whose name is on the roll for a subdivision changes his principal place of residence, but that place of residence remains nevertheless within that subdivision, the elector is required to notify the Electoral Commissioner within three months of the address of his present place of residence.

Clause 18 repeals and re-enacts section 29 of the principal Act. This new section deals with formal requirements in relation to a claim for enrolment or transfer of enrolment. Clause 19 makes consequential amendments to section 38 of the principal Act. Clause 20 removes an obsolete reference in section 44.

Clause 21 amends section 46 of the principal Act. A new subsection (3) is enacted providing that an objection may be made against an enrolment on the ground that the principal place of residence of the person enrolled is not, and has not during the period of three months immediately preceding the date of objection been, in the subdivision for which he is enrolled.

Clause 22 amends section 50 of the principal Act. The new subsection (2) inserted by this clause deals with the issue of a writ for a new election where an election of a member to a seat in the House of Assembly is declared void by the Court of Disputed Returns. The present subsection dóes not deal with this case and it is though t it should do so.

Clause 23 amends section 53 of the principal Act. This section presently provides that at least seven days must intervene between the day of nomination and polling day. The amendment increases this period to 10 days, which is thought to be a more realistic period.

Clause 24 amends section 61 of the principal Act. A new subsection inserted by the clause provides that the returning officer may, with the concurrence of the Electoral Commissioner, reject a nomination if in the opinion of the returning officer the name of the person

nominated is obscene, frivolous or has been assumed for an ulterior purpose.

Clause 25 repeals and re-enacts section 69 of the principal Act. This section deals with the case where a candidate dies before or on polling day. At present, the section provides that the death of a candidate avoids the election. However, this may well cause problems in relation to an election of candidates to the Legislative Council. Thus, a new subsection (2) provides that if a nominated candidate for election to the Legislative Council dies before or on polling day the Act shall apply in relation to the election as if the name of that candidate did not appear on the ballot-paper, and if that candidate constituted a group in his own right any preference expressed by a voter for that group shall be ignored.

Clause 26 amends section 71 of the principal Act. The purpose of the amendment is to provide that, where an election is declared void by the Court of Disputed Returns, any deposit paid by the candidate is to be returned to him.

Clause 27 amends section 73 of the principal Act. The amendments add physical disability (as distinct from "infirmity") to the list of reasons justifying postal voting and do away with the requirement that an application for postal voting papers be made in the presence of an authorised witness. Clauses 28 and 29 make consequential amendments to the principal Act.

Clause 30 amends section 75 of the principal Act. The amendments are partly consequential on previous amendments made by the Bill, but a new subsection (1a) is inserted which empowers an officer to correct an error in an application for postal voting papers. Clauses 31 and 32 make consequential amendments relating to postal voting.

Clause 33 amends section 81 of the principal Act. The amendment deals with the witnessing of a postal vote, and provides that the authorised witness must print his full name and the address of his usual place of residence in block letters in the space provided on the envelope. Clauses 34 and 35 remove from the principal Act the references to the certified list of voters. This concept is no longer necessary or desirable in view of modern methods of preparing and maintaining the roll.

Clause 36 amends section 101 of the principal Act. The purpose of the amendment is to provide that the poll shall close at six o'clock in the evening instead of eight o'clock as at present. Experience has shown that the period of 10 hours between eight o'clock in the morning and six o'clock in the evening allows a sufficient opportunity for voting. The further two hours in the evening results in unnecessary expense.

Clause 37 amends section 105 of the principal Act. The amendment deals with the questions that may be put by the presiding officer to a person claiming to vote. The purpose of the amendment is to make it clear that, where a person has ceased to have his principal place of residence within the district for which he is enrolled for three months or more preceding the date of the issue of the writ, he is not entitled to vote at an election in that district. Clauses 38, 39 and 40 remove further references to the certified list of voters.

Clause 41 amends section 109 of the principal Act. This amendment relieves a voter from the obligation to fold his vote in such a way as to show clearly the initials of the presiding officer and to exhibit it so folded to the presiding officer. Thus, the voter merely has to fold his vote so as to conceal his vote and deposit the voting paper in the appropriate ballot box.

Clause 42 repeals and re-enacts section 110 of the principal Act. This section deals with assistance to voters who may be physically handicapped or who may need other forms of assistance in registering their vote. Subsection (1) provides that, if a voter satisfies the presiding officer that he is unable to vote without assistance, he may be accompanied by an assistant of his choice while in the polling booth. Subsection (2) provides that the assistant may assist the voter in any of the following ways:

(a) he may act as an interpreter between the voter and the presiding officer or any other officers;

(b) he may explain the ballot-paper and the voter's obligations under the principal Act in relation to the marking of the ballot-paper;

(c) he may assist the voter to mark the ballot-paper, or may himself mark the ballot-paper at the voter's direction;

(d) he may fold and deposit the ballot-paper in the ballot box on behalf of the voter.

A person who assists a voter is prohibited from disclosing any knowledge of the vote of that voter.

Clause 43 amends section 110a of the principal Act. This section deals with voting by persons whose names have been omitted in error from the relevant electoral roll. The amendments are largely consequential on earlier amendments made by the Bill, but the presiding officer need not ensure that scrutineers are present when he folds the voting papers and places them in an envelope under subsection (3). Clause 44 makes a consequential amendment to section 111 of the principal Act.

Clause 45 deals with the adjournment of a poll in an emergency. Subsection (1) of the new section 114 provides that a returning officer may adjourn the polling at polling places generally or at any specified polling place or polling places for a period not exceeding 21 days. Subclause (2) provides that a presiding officer may adjourn polling at a specified polling place if, in the circumstances, there is no time to communicate with the returning officer for the district. Under subsection (3) public notice of an adjournment is to be given as soon as practicable after the adjournment takes effect. Clause 46 amends section 118a of the principal Act. These amendments are purely of a drafting nature.

Clause 47 amends section 123 of the principal Act. This section relates to the conditions on which votes are to be declared informal. Paragraph *(a)* provides that the section will apply to absent voting, postal voting and electoral visitor voting. At present, the section provides that it will not apply to these forms of voting except to the extent to which the regulations make it so apply. There seems, however, no reason why it should not apply of its own force to such forms of voting. Paragraph *(b)* amends paragraph *(a)* of subsection (1). The amendment removes reference to authentication by the initials of a presiding officer, thus leaving to regulation the manner in which a ballot-paper is to be authenticated.

Paragraph *(b)* provides that full preferential voting is to apply both in relation to House of Assembly voting and in relation to Legislative Council voting. At present, full preferential voting is not required for the Legislative Council. The Government believes, however, that preferential voting will make possible a more accurate ascertainment of the will of the people in relation to the election of members of the Council. It will have the added advantage of achieving greater uniformity between Council voting and Assembly voting. The amendments provide that the voter must mark all groups in order of his preference. There is, however, a proviso that, where a voter has indicated his preferences for all candidates or groups except one, it shall be presumed that the candidate or group in respect of which no indication has been made is the one least preferred by the voter and that the voter

has accordingly duly indicated his preference for all candidates or groups (as the case may require). A new paragraph *(e)* is inserted to make clear that, where a ballot-paper that is required under the provisions of the Act to be deposited by the voter or a person assisting the voter in a ballot-box is not so deposited, the ballot-paper is to be regarded as invalid.

Clause 48 amends section 125 of the principal Act which deals with the counting of votes. The amendment relates to the counting of votes for the Legislative Council. At present, if the division of the votes received by each group by the quota does not result in a sufficient number of whole quotas to fill the number of vacancies in the Legislative Council, the group or groups with the highest fractions provide the necessary members to fill those vacancies. This method produces anomalies in a number of cases, and the Government believes that it would be fairer if the allocation of preferences continued by excluding the group with the smallest fraction and allocating the surplus votes of that group amongst the remaining group until a sufficient number of quotas has been obtained.

Accordingly, new subparagrph *(f)* provides that, where the required number of vacancies has not been filled on division of the first preference votes by the quota, the group that has the least number of surplus votes is to be excluded from the count, and a number of ballot-papers equal to the number of surplus votes of that group is to be selected at random from the ballot-papers attributed to that group and distributed amongst the continuing groups according to the next available preference of the voter. If in consequence of that distribution a continuing group obtains a quota, a candidate or further candidate from that group is to be elected, and the process is to be continued until the required number of members has been elected. Clause 49 amends section 127 of the principal Act to enable the Court of Disputed Returns to order a recount.

Clause 50 repeals and re-enacts section 129 of the principal Act. This section deals with the conduct of the recount. It provides that the officer conducting a recount may, and at the request of a scrutineer shall, reserve any ballot-paper for decision. Where a ballot-paper has been reserved for decision under the proposed section, the Electoral Commissioner is to decide whether the ballot-paper is to be allowed and admitted or disallowed and rejected. However, where the recount was ordered by the Court of Disputed Returns, the court is to decide whether the ballot-paper should be allowed or rejected.

Clause 51 repeals section 162 of the principal Act. This provision presently provides the witnesses called on the part of the prosecutor in any prosecution for an offence against the Act may, unless the court orders to the contrary, be cross-examined by the prosecutor or his counsel. It further provides that the court may, without argument, order that the prosecutor or his counsel be not allowed to cross-examine any witness called on his part if the witness appears to the court to be hostile to the person charged. The provisions of this section are somewhat curious, and there seems no real point in its retention.

Clause 52 amends section 170 of the principal Act. The amendment deals with the lodging of petitions before the Court of Disputed Returns. It provides that, if the Supreme Court is satisfied on application made before or after the expiration of the period allowed for lodging a petition against an election that the period should be extended in order to prevent undue hardship to a petitioner, it may extend the period by not more than 28 days. Except as provided in this amendment, the period for lodging a petition is not to be extended. The amendment also provides for service of a copy of the petition on every candidate in the disputed election.

Clause 53 repeals and re-enacts section 181 of the principal Act. The purpose of the amendment is to make clear that the Court of Disputed Returns may inquire into the qualifications of a person permitted to vote under section 110a, that is, a person whose name did not appear on the relevant electoral roll.

Clause 54 amends section 184 of the principal Act. This section at present provides that the Court of Disputed Returns is to act according to equity and good conscience and in accordance with the substantial merits of the case without regard to technicalities and legal forms. The purpose of the amendment is to make clear that, notwithstanding that the court acts without regard to legal formalities, nevertheless the onus of satisfying the court that proper grounds exist for granting the relief sought by the petitioner lies on the petitioner.

Clause 55 repeals and re-enacts section 185 of the principal Act. The new section provides that no election shall be declared void on account of delay in the declaration of nominations, the polling or the return of the writ; an act or omission of an officer that was, in the circumstances, reasonable and in substantial conformity with the Act; or an act or omission of an officer that is not proved to have affected the result of the election.

Clause 56 amends section 190 of the principal Act. The purpose of this amendment is to ensure that, where a new election is ordered by the Court of Disputed Returns, the same rolls will be used for that new election as in the previous election and only those who were entitled to vote at the previous election will be entitled to vote at the subsequent election. However, this principle will not apply if more than six months intervenes between the dates on which writs for the respective elections were issued.

Clause 57 increases penalties in the principal Act. These have not been altered now for some years and an increase is necessary in order to take account of the effect of inflation on the value of money. Clause 58 makes a consequential amendment to the fourth schedule of the principal Act.

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

RESIDENTIAL TENANCIES ACT AMENDMENT BILL

The Hon. J. C. BURDETT (Minister of Community Welfare) obtained leave and introduced a Bill for an Act to amend the Residential Tenancies Act, 1978. Read a first time.

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

That this Bill be now read a second time.

It overcomes several anomalies and clarifies various technical sections of the Residential Tenancies Act which have presented difficulties in the administration of the Act since it came into operation on 1 December 1978.

This Bill incorporates many of the recommendations which were made by an inter-departmental working party which was set up in December 1979 to review the Act and its administration. The report of the working party, which was completed in May 1980, contained extensive recommendations to amend the Act, regulations, procedures and staffing arrangements under the Act. The recommendations were made after detailed consultation and discussion with interested parties, including the Real Estate Institute, the Landlords Association, the Tenants' Association, the South Australian Council for Social Services, and Government departments and authorities involved in renting premises.

The Government recognises that the Residential Tenancies Act has substantially simplified and modernised the law relating to residential tenancies, by defining the rights and duties of landlords and tenants, establishing a system for the resolution of disputes, and providing for the control of bond moneys. The Bill seeks to overcome the practical difficulties which have hampered the effective day-to-day operation and administration of the Act, while at the same time adhering to the spirit of the legislation.

The amendments to the Act reflect three basic premises. First, there is a need to maintain an adequate supply of rental accommodation in South Australia. It is a Government responsibility to ensure that reasonable accommodation is available to all people in our society. Secondly, the Bill recognises that unnecessary restrictions and burdens placed on landlords of residential premises should be avoided. Thirdly, every effort has been made to ensure that a proper balance is struck and maintained between the rights and obligations of both landlords and tenants.

Several of the amendments are of a technical nature or relate to the administration of the Act. The Crown is to be bound by the provisions of the Act with the exception of the Housing Trust of South Australia. While there is no justification to exempt the Crown from compliance with the Act, the trust is of a unique nature in that it operates as a welfare housing organisation, charging rents usually below market levels in order to assist tenants in financial difficulties. In practice, the trust provides security of tenure beyond that afforded by the Act.

Several definitions in the Act have caused difficulty in their interpretation. The Act does not apply to premises ordinarily used for holiday purposes. What premises constitute "holiday premises" has been difficult to define and an amendment clarifies this definition. The definition of a residential tenancy agreement has also been clarified to include the occupation of part of premises. This amendment is necessary to make clear that a landlord may set aside a room of the premises for storage purposes. This right is subject to the landlord's obligation to give the tenant quiet enjoyment of the premises.

Section 7 (1) of the Act sets out those residential tenancy agreements to which the Act applies. It was originally intended that a periodic tenancy would be regarded as being renewed for each period and would therefore be covered by the Act as from the commencement of the first period after the Act came into operation. A Supreme Court decision has since ruled that this is not the case, and many tenants do not have the protections that the Act was designed to provide. The amendment proposed has the effect that a periodic tenancy should be deemed to create a fresh tenancy for each period. However, the amendment has no retrospective application.

At present, the Act does not deal with holding deposits, and these have been a major source of concern. It is reasonable for a landlord to be entitled to retain so much of a holding deposit as is reasonable to compensate him for leaving premises vacant, and disputes in this area should be resolved by the tribunal. Therefore, section 22 (1) of the Act will be amended to provide the tribunal with the power to hear disputes relating to deposits paid prior to a residential tenancy agreement being entered into.

An amendment to section 22 (4) provides that the person to whom a certificate of an order of the tribunal is issued shall be responsible for registering it at the appropriate Local Court rather than the Registrar or Deputy Registrar of the tribunal. This amendment was proposed by the Clerk of the Local Court, Adelaide, to facilitate registration of certificates or orders of the tribunal. This procedure would be in line with other legal processes under which it is the responsibility of a party to complete a praecipe and pay a fee to have a judgment or order registered in the appropriate court.

Several amendments are proposed dealing with security bonds. Section 32 (1) *(b)* is to be amended to provide for the payment of a security bond not exceeding four weeks rent. The section has been the subject of much criticism by landlords, as the present permitted amount of bond is insufficient to recoup losses when tenants abandon premises and there are arrears of rent. The proposed amendment to section 63 (3) to provide for only seven days notice by a landlord for non-payment of rent, together with this amendment, will enable a landlord to mitigate his financial loss in these circumstances. It is not appropriate to limit the amount of security bonds for high rent properties, as usually the parties are in a better position to negotiate the amount of a security bond without any restrictions imposed by the Act. Detailed consideration will be given and further consultation will be held with interested parties in setting the amount when regulations are prepared under the Act. If the pescribed amount were to be set at too low a level, the protection of the Act might be denied to large families or groups who need to rent large premises. The Government is aware of the need to exercise care in prescribing the amount of rental.

Additional protection will be given to landlords by prohibiting tenants undertaking any renovations, repairs, painting or alterations to premises without the landlord's written consent, unless the tenancy agreement provides otherwise. This will ensure that any such work is carried out in a proper and workmanlike manner and further that the work conforms to reasonable and acceptable tastes. As a balance to the situation, a landlord is not to arbitrarily or unreasonably withhold his consent. If both parties cannot resolve their subjective values, the tribunal will be able to determine the matter before any work is undertaken.

The question of the termination of residential tenancy agreements has been a major source of criticism by landlords. The working party paid particular attention to the problems which occur because of the present wording of the Act and recommended several amendments. In the case of a fixed term agreement, the agreement will terminate if the tenant delivers up vacant possession of the premises on or after the expiration of the term or the tribunal terminates the agreement. At present, a landlord must give 120 days notice if the tenant does not vacate on the agreed day. The proposed amendment will recognise what the parties have agreed to.

Landlords are presently required to give 14 days notice of termination of the agreement for non-payment of rent. The notice is to be reduced to seven days. The payment of rent in return for accommodation is the very basis of a residential tenancy agreement, and tenants must be prepared to leave premises at relatively short notice if they breach that fundamental term of the agreement.

The Bill provides that where a landlord is party to a contract for sale of the premises he may give 60 days notice of termination on or after the date of signing the contract for sale. This amendment will prevent hardship to a landlord who wants to sell his premises and who must presently give 120 days notice. Cases have arisen, where hardship is caused by the longer period, and 60 days is sufficient time within which a tenant might find alternative accommodation.

A major provision of the Bill relates to goods which are abandoned by tenants. The existing common law is unsatisfactory in that a landlord may become a bailee of the goods left on premises by tenants and thus unable to

dispose of them. The new provision provides that where a tenancy agreement is terminated and certain goods are left on the premises they may either be destroyed or removed if for example they are perishable goods. If the value of the goods is less than the total estimated cost of removal, storage and sale, the landlord may also dispose of these goods after storing them for two days. In all other cases the landlord must store the goods for not less than 60 days and machinery is provided for the landlord to dispossess himself of these goods. Any money received from the sale of the goods is to be dealt with as unclaimed moneys after allowing for the landlord's reasonable costs of removing, storing and selling the goods or any other amount owed to him under the former residential tenancy agreement.

Several further amendments to Part IV of the Act have clarified the obligations of landlords. The consideration for a tenancy agreement is expressed in positive terms to clarify the intention of section 30. A further amendment to section 31 is designed to overcome the practice of some landlords who, at any time after the first two weeks of a tenancy, seek an advanced rental payment which results in a tenant perpetually being a period in advance. This practice also establishes an additional security bond over which the tribunal and tenant have no control. A penalty of $200 is created.

The practice of some landlords who secure an additional bond by circumventing the Act is further prohibited by inserting a new subsection 32 (1b) to overcome the practice of a landlord who fixes rent at say $100 per week for the first four weeks of the tenancy and $50 per week thereafter. The amount by which the higher rent exceeds the lesser will be deemed to be a security bond for the purposes of the Act. A further method used by some landlords to circumvent the Act is prevented by prohibiting schemes which impose a penalty for late payment of rent by way of rebate. An offence is created for any landlord who engages in such a practice.

Several provisions of the Bill deal with the administration of the Act. The general administration of the Act has been vested in the Commissioner pursuant to section 9 of the Act. It is proposed that the Commissioner will now have statutory responsibility for the total administration of the Act, excluding the judicial function. This is necessary to avoid a lack of co-ordination and inefficient use of resources resulting from the high demand on staff at both the tribunal and the Consumer Affairs Branch of the Department of Public and Consumer Affairs who are both required to answer inquiries and advise landlords and tenants. The Registrar's responsibility for the administration of the Residential Tenancies Fund will pass to the Commissioner with the tribunal retaining its independence and judicial responsibility. Provision is made for the appointment of a legal practitioner to be Chairman of the tribunal. The Commissioner will be responsible for the administration of the Act including the finance, administration, investigation and advisory functions. The Registrar will no longer have a judicial function to avoid the present confusion as to whether he is acting as a tribunal member or in his capacity as Registrar. These amendments will foster the efficient administration of the Act.

The income derived from the investment of the Residential Tenancies Fund is to be applied towards the cost of administering the Act rather than just the fund. This is appropriate as the Act provides protection for a clearly identifiable group, namely, landlords and tenants, and the cost of the administration of all aspects of the Act would be borne by those deriving the benefit rather than the community generally. The burden on the State's financial resources will be significantly defrayed.

The Bill proposes that the time limit for prosecutions be altered by providing that a complaint in respect of any offence against the Act may be made within two years of the commission of the alleged offence. At present section 94 requires offences to be prosecuted summarily, which means that a complaint must be laid within six months after the alleged offence. This is unsatisfactory, as most tenancies are for a period of more than six months and often the offences occur at the beginning of the tenancy but do not come to light until its termination. Sections 52 (2), 58 (3), and 58 (4) of the Act are to be repealed. The sections serve no practical purpose and have in some cases acted as obstacles to landlords and tenants in negotiating agreements. 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 operation of the measure. Clause 3 amends the definition of residential tenancy agreement contained in section 5 with the intention of making it quite clear that a landlord may reserve a part of premises let under a residential tenancy agreement for his own use or any use other than the tenant's use. Clause 4 substitutes a new section 6 providing that the Crown, including its agencies, but not including the South Australian Housing Trust, is to be bound by the Act.

Clause 5 makes an amendment to section 7 of the principal Act relating to the application of the Act to letting for holiday purposes. The clause removes paragraph (b) of section 7 (3). This paragraph was designed to exclude holiday flats and other premises ordinarily used for holiday purposes from the application of the Act, whether or not a particular letting during the off-season was for residential purposes. The clause instead inserts new subsections (2a) and (2b) which provide a test that is related to the purpose of each particular letting and not to the purpose for which the premises are ordinarily used. Under proposed subsection (2a) the Act is not to apply to any agreement that is entered into in good faith for the purpose conferring a right to occupy premises for a holiday. Clause (2b) provides that a letting for a term of two months or more will be deemed not to have been for holiday purposes in the absence of proof to the contrary.

Clause 6 inserts a new section 7a designed to bring any existing periodic tenancy that commenced before the commencement of the principal Act within the scope of the Act on and from the first rental payment day occurring after the commencement of the new section. Subsection (2) of proposed section 7a preserves existing rights and ensures that no liability is incurred under the transition in respect of anything that took place before the transition.

Clause 7 makes an amendment to section 11 of the principal Act correcting a wrong reference. Clause 8 amends section 14 of the principal Act relating to the constitution of the Residential Tenancies Tribunal. The clause provides for the appointment of a Chairman of the tribunal who is a legal practitioner. Clause 9 removes the requirement from section 16 that the Registrar of the tribunal be a legal practitioner. Clause 10 amends section 17 of the principal Act so that it provides that the duties of the Registrar shall be as directed by the Chairman of the tribunal instead of the tribunal.

Clause 11 substitutes references to the Minister for references to the Attorney-General in section 19 which relates to the declaration of declared areas. Clause 12

amends section 20 so that it provides that the tribunal will be constituted of one or more members at the direction of the Chairman of the tribunal. The clause removes present subsection (4) which empowers the Attorney-General to nominate the member of the tribunal who is to constitute the tribunal in a declared area. The clause also provides that the Minister and not, as at present, the Attorney-General may direct the times and places at which the tribunal is to hear proceedings.

Clause 13 amends section 22 of the principal Act which provides for the jurisdictional and other basic powers of the tribunal. The clause amends the section so that a party to an agreement for an option to enter into a residential tenancy agreement may bring proceedings before the tribunal. The clause also amends subsection (4) so that it will not be the duty of the tribunal to register certificates of its orders with the Local Court but this will instead be left for the party who required the tribunal to issue the certificate.

Clause 14 inserts a new section 22a providing that a party or former party to proceedings before the tribunal may, within three months after the making of an order, vary or set aside the order. Clause 15 amends section 23 to make it clear that there need not be a fee for applications to the tribunal. Clause 16 substitutes a new section 30 providing that it will be an offence for any person to receive any monetary consideration from a tenant or prospective tenant for entering into, renewing or continuing a residential tenancy agreement other than rent and a security bond. Proposed subsection (2) of this new section is designed to make it clear that this prohibition does not apply to consideraton for an option to enter into a residential tenancy agreement, if, upon the option being exercised, the amount is repaid or applied towards the rent.

Clause 17 amends section 31 which prohibits the requirement at the commencement of a tenancy of more than two weeks rent under the agreement. The clause inserts a new subsection which prohibits a person from requiring a tenant to make any payment of rent until the period of the tenancy in respect of which any previous payment has been made has elapsed. Clause 18 amends section 32 so that it provides that the maximum amount of a security bond will be an amount equal to four weeks rent under the agreement instead of the present three weeks rent. The clause amends the section so that the maximum will not apply in the case of any agreement with a rental exceeding an amount fixed by regulation. The clause also inserts a new subsection providing that, where the rent under an agreement decreases or is decreased during the first six months of a tenancy, the amount paid in excess of the lower rent shall be deemed to have been paid as a security bond.

Clause 19 amends section 33 which sets out the procedure for recovery of security bond money held by the tribunal. The clause makes provision for payment without a hearing where an application is not contested. Clause 20 amends section 34 of the principal Act which regulates the manner and circumstances in which rent may be varied. The clause amends the section so that rent may be increased in any case where the rent has been fixed under the Housing Improvement Act and the rent-fixing order is subsequently revoked. In these circumstances the rent may, under the clause, be increased by not less than 14 days notice instead of the present minimum of 60 days notice.

Clause 21 makes an amendment to section 35 that is consequential to the amendment under clause 18 increasing the maximum amount of a security bond. Clause 22 amends section 37 so that it will not be necessary to give a receipt for rent if the rent is paid into an account at a bank, building society or other similar body pursuant to an agreement between the landlord and the tenant.

Clause 23 substitutes a new section 39 prohibiting any person from requiring rent to be paid by postdated cheques. At present this prohibition is directed to landlords only. Clause 24 amends section 48 so that the prohibition of any interference with the locks attached to premises subject to a residential tenancy agreement applies not only to the landlord and tenant but also to the landlord's agent.

Clause 25 amends section 50 of the principal Act which presently regulates the removal by the tenant of fixtures affixed to the premises by him during his continued occupation of the premises. The clause amends the section so that it also regulates the right of the tenant to affix fixtures. Under the clause a tenant shall not affix a fixture to or alter or renovate the premises unless he is authorised to do so under the agreement or by the consent of the landlord which the landlord shall not unreasonably withhold.

Clause 26 deletes subsection (2) of section 52 which reverses the onus of proof in relation to the issue whether a landlord withheld his consent to a proposed assignment or subletting unreasonably.

Clause 27 amends section 56 of the principal Act which requires a landlord to deliver to his tenant a copy of any written residential tenancy agreement entered into by the parties. The clause amends this section so that the obligation applies to an agent of a landlord.

Clause 28 deletes subsections (3) and (4) of section 58. These subsections prohibit any inquiry being made of a prospective tenant whether he has children or proposes to have children live in the premises if they are let to him, if the inquiry is made for the purpose of determining whether to grant the tenancy.

Clause 29 amends section 59 so that it provides that a tenant shall have the benefit of a clause that provides for a reduction in rent if the tenant does not breach the agreement whether he breaches the agreement or not and that a landlord who inserts such a clause in an agreement shall be guilty of an offence.

Clause 30 amends section 61, which specifies the circumstances and ways in which a residential tenancy agreement terminates or may be terminated. The clause amends this section so that a residential tenancy agreement that creates a tenancy for a fixed term comes to an end at the end of the term without a notice being required to be given as is presently the position but only if, as is the case with a periodic tenancy, the tenant then gives up possession of the premises or is ordered to do so by the tribunal.

Clause 31 amends section 63 of the principal Act so that the period of a notice of termination for breach of the obligation to pay rent will be a minimum of seven days instead of the present minimum of 14 days.

Clause 32 amends section 64 of the principal Act so that the shorter 60 days notice of termination under the section may be given in circumstances where the landlord has entered into a contract for the sale of the premises under which he is required to give vacant possession of the premises. The clause also makes amendments consequential to the amendment made by clause 30. Clauses 33 and 34 also make amendments consequential to the amendment made by clause 30.

Clause 35 requires that any landlord who enters into a residential tenancy agreement for a fixed term of less than 120 days, that is, less than the period of the ordinary notice of termination, must notify the Registrar of the basic details of the agreement.

Clause 36 inserts a new section 73a, which empowers the tribunal to terminate and make an order for possession in respect of a residential tenancy agreement for a fixed term. Under the new section the tribunal may suspend the operation of such orders on the grounds of hardship as is the case under section 73 in relation to periodic tenancies. The tribunal may also under proposed subsection (3) *(a)* of the new section refuse to make the orders where the fixed term tenancy was for less than 120 days unless the tribunal is satisfied that the landlord genuinely proposed at the time he entered into the agreement to use the premises after the expiration of the term for purposes inconsistent with the tenant continuing to occupy the premises or that the tenant of his own initiative sought a tenancy of a term of less than 120 days.

Clause 37 inserts a new section 79a providing a procedure under which landlords may dispose of goods abandoned on their premises by tenants. Under the section, perishable foodstuffs or goods of less value than the cost of their removal, storage and sale may be destroyed or disposed of at any time after the expiration of two days after the termination of the agreement. Under the section, valuable goods must be stored for not less than 60 days, during which time notice must be given. At the expiration of that period the goods must, if unclaimed, be sold by public auction.

Clause 38 corrects a typographical error. Clause 39 amends section 82 so that it provides that a bailiff of the tribunal shall be entitled to such remuneration and expenses as the Minister may determine. Clause 40 amends section 84 relating to the Residential Tenancies Fund. Under the clause, the fund is to be kept by the Commissioner instead of, as is presently the case, the Registrar.

Clause 41 amends section 86 so that certain payments contemplated by clause 37 may be made from the income derived from investment of the fund. The clause also amends the section so that the income derived from investment of the fund may be applied towards the cost of administration of the Act. Clause 42 amends section 87 of the principal Act. Under the clause the accounts of the receipts and payments of the fund are to be kept by the Commissioner instead of the Registrar.

Clause 43 amends section 88 so that the annual report relating to the administration of the fund is to be prepared by the Commissioner and not the Registrar. Clause 44 amends section 93 so that service of documents shall be deemed to have been effected on a landlord if the documents are given to a person apparently over the age of 16 years apparently residing at the place of residence of the landlord. Clause 45 makes an amendment to section 94 enabling any prosecution for an offence to be commenced within two years after the offence is alleged to have been committed.

BUILDING SOCIETIES ACT AMENDMENT BILL

The Hon. J. C. BURDETT (Minister of Community Welfare) obtained leave and introduced a Bill for an Act to amend the Building Societies Act, 1975-1976. Read a first time.

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

That this Bill be now read a second time.

The Building Societies Act came into operation on 17 April 1975, and there has only been one minor amendment since that date. This Bill introduces several amendments which are intended to facilitate building society operations and which relate to the administration of the Act.

The Bill provides for the establishment of a Building Society Advisory Committee to act as a formal committee to advise the Government on a wide range of building society matters. The committee will have a broad cross-section of expertise and will comprise the Registrar of Building Societies, nominees of the Treasurer, the Minister responsible for housing and three persons suitable to represent the interests of building societies.

The committee will report directly to the Minister on matters within its terms of reference. Immediately the committee has been set up, it will be requested to review other sections of the Act which are not subject to amendment in this Bill but which require detailed examination as to the need to introduce further amendments to the Act at a later stage. Provision is made for the appointment of standing deputies in the absence of committee members with the same powers as the member. The establishment of the committee was recommended and is fully supported by the South Australian Association of Permanent Building Societies.

The Act presently provides that the Registrar of Building Societies shall be the Public Actuary or, if he is not able to undertake the duties of the Registrar, the Governor may appoint some other suitable person. The Public Actuary has not acted as Registar since May 1977 and, accordingly, the reference to him is deleted. The result will be that the Registrar will be an officer of the department responsible to the Minister having the administration of the Act.

Section 12 (3) of the Act deals with the registration of new building societies. The existing section requires that a society seeking registration have a minimum capital of $500 000 with the proviso that $100 000 of that sum be capital which is advanced upon terms which prohibit its repayment for 10 years without the consent of the Registrar. These requirements are substantially less than the requirements of corresponding legislation elsewhere (the lowest corresponding figures in any other Australian jurisdiction are $1 000 000 and $500 000, respectively). The Bill increases the minimum capital requirements for the registration of new societies so that a new society seeking registration must have a minimum capital of $2 000 000, with $1 000 000 of that sum being moneys which cannot be repaid within 10 years without the consent of the Registrar.

Division V of Part III of the Act deals with the amalgamation of building societies, and the Bill makes substantial amendments to this division. Two or more societies may be amalgamated either upon application or by direction of the responsible Minister. New section 22 sets out the procedure for an application for amalgamation. The application will still have to be supported by the special resolution of both societies involved.

The existing section 21 (2) requires that consent in writing be obtained from the holders of not less than two-thirds of the whole number of shares in each society. This is cumbersome and impractical. The Bill provides that an amalgamation will proceed unless 10 per cent in number of the shareholders of either society object in writing to the proposed amalgamation. The existing section permits the Registrar to approve an amalgamation notwithstanding that requisite approvals have not been obtained and this power is retained.

A major provision of the Bill proposes that the Minister may direct one society to amalgamate with another in circumstances where a society is insolvent or is, in the Minister's opinion, in danger of becoming insolvent. However, the other society must be prepared to amalgamate. This amendment seeks to ensure that stability is maintained within the industry as a whole and

that members and depositors are assured that their shareholdings and deposits are secure. The winding up of a building society may jeopardise confidence in the industry as a whole.

This power could be exercised in the case of a society which is trading at a loss due to inefficiencies of size and a smaller society which has suffered a reduction in its operating margin due to its competition with far more cost efficient societies. The amalgamation of such a smaller society with a larger one would give the new society a larger asset base as well as achieving cost efficiencies.

At present, the Act allows the Minister, upon the recommendation of the Registrar, to fix a maximum rate of interest for loans made by societies. The existing provision is inflexible and the proposed amendment will enable different rates to be fixed for different types of loans or loans of different amounts. The Minister has a similar power to fix maximum rates of interest in relation to restricted loans.

The Bill also expands a society's power to raise funds under section 41 of the Act. Provision is made for regulations to be made authorising other means of raising funds apart from accepting deposits or borrowing money.

The present section 50 of the Act dealing with a society's power to make contributions is repealed, and the new section 50 will enable a society, if it so wishes, to make contributions for a charitable foundation which is defined as a foundation that exists or is to be established for charitable purposes. This widening of the power to make contributions for charitable purposes is within the spirit of the Act, and any such contributions are not to exceed 5 per cent of the previous year's surplus or such other proportion of that surplus as may be prescribed. The use of a charitable foundation will provide a society with a separate and efficient body to conduct and administer those matters pertaining to its charitable services to the community.

The Bill enacts a new Division V in Part VII of the Act, dealing with management contracts. A society will be prevented from entering into a management contract without first obtaining the written approval of the Registrar. A management contract is defined in new section 64a and includes an agreement whereby a society agrees to perform the whole or any part of its functions in a particular manner, or in accordance with the directions of any person or subject to specified restrictions. A management contract also includes an agreement whereby a person who is not an officer or an employee of the society agrees to perform the whole, or a substantial part, of the functions of the society.

It will be beneficial for the Registrar to have the power to review management agreements to ensure that the immediate and long-term effects on the society will not be to the detriment of the society in relation to its financial viability. This amendment has been made by and with the support of the South Australian Association of Permanent Building Societies, which feels that there is a potential for abuse in this area. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 inserts a definition of "restricted loan" in the interpretation section of the principal Act. The definition simply refers to the detailed definition of this term which appears in section 33 and is inserted here simply for convenience. Clause 4 removes the requirement in section 6 of the principal Act that the Registrar of Building Societies be the Public Actuary. Clause 5 increases the minimum share capital requirements of new societies prescribed by section 12 to adequate levels.

Clause 6 repeals sections 21, 22 and 23 of the principal Act and replaces them with four new sections. The principal change is that new section 23 provides for amalgamation by direction of the Minister where a society is insolvent or in danger of becoming insolvent. This has required a rearrangement of the existing provisions. New section 21 provides the two situations in which amalgamation can occur: either on application of two or more societies or by direction of the Minister. New section 22 sets out the procedure on an application for amalgamation. Under subsection (5) the amalgamation cannot proceed if 10 per cent or more of the members of either society object. Section 23a sets out the effects of an amalgamation whether it be an amalgamation on application or by direction of the Minister.

Clause 7 replaces section 27 of the principal Act with a provision that will allow the Minister to fix different rates of interest in respect of different classes of loans. New subsection (3) makes it clear that this section does not apply to restricted loans. Section 33 (4) empowers the Minister to fix a maximum rate of interest for restricted loans.

Clause 8 replaces section 41 (1) with a provision that will enable the scope of societies to raise funds to be widened by regulation. Clause 9 makes a consequential change to section 47 (6) of the principal Act. Clause 10 replaces section 50 of the principal Act with a more detailed provision that has similar effect to the existing section. However, under the new section a society will be able to apply funds to establish and maintain a charitable foundation which is defined by subsection (4). Under the new section the proportion of the surplus that can be used for charitable purposes can be varied, if necessary, by regulation.

Clause 11 inserts a new division into Part III which deals with management contracts. In practice a management contract is an agreement or arrangement whereby one person (usually a society) attempts to control the operation of another society. New section 64a requires that such a contract must have the written approval of the Registrar. Clause 12 makes a consequential amendment to section 74 of the principal Act. Clause 13 enacts new section 90 which establishes the Building Societies Advisory Committee.

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

ROMAN CATHOLIC ARCHDIOCESE OF ADELAIDE CHARITABLE TRUST 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.

Its object is to create the necessary statutory body to administer certain trusts administered within the Roman Catholic Archdiocese of Adelaide and to enable the adaptation to present and changing needs of past, existing and future trusts and bequests within the archdiocese.

The charitable activities of the Catholic Church, especially with regard to family and child care in the Archdiocese of Adelaide, have a long history on a variety of levels. Two of the better known have been St. Vincent

de Paul's Orphanage, conducted by the Sisters of Mercy at Goodwood, and St. Joseph's Orphanage, conducted by the Sisters of St. Joseph at Largs Bay. Changes in needs have required departure from these traditional operations.

The orphanages have ceased to exist as such, and orphans are being cared for by the sisters in conditions which approximate more closely those in normal family homes. There are, no doubt, wills and other documents in existence which give property specifically to, for example, "the Goodwood Orphanage". It is desirable that such a gift should not fail just because the sisters no longer carry on an orphanage at Goodwood. Under the proposed Act gifts made to the orphanages or any of the bodies mentioned in clause 5 *(a)* of the Bill will be construed as gifts to the trust.

The Catholic Church Charitable Trust Incorporated was created to hold, as trustee, the cottage properties used by the sisters in the care of orphans. At present, the Catholic Church Endowment Society Incorporated holds, as trustee, other property used by the various charitable undertakings of the Catholic Church, as well as general church property. Neither of these bodies could receive a gift made specifically to one of the defunct orphanages.

It is desirable that one body should exist for the purpose of acting as trustee solely for the charitable undertakings of the church, including undertakings not yet in existence.

The Bill establishes a property and general trust which will hold charitable trusts in the Roman Catholic Archdiocese of Adelaide as regards family and child care and such other trusts as may be necessary to meet future needs. The Endowment Society will continue to hold general church property.

The trust will be entirely under the control of the trustees appointed in the manner contained in the Bill. The trustees are to be the Archbishop and his nominee, the Provincials of the Sisters of Mercy, Adelaide, the Sisters of St. Joseph, and the Salesians of St. John Bosco or their nominees, and also such other members as shall be appointed by the trustees with the prior approval in writing of the Archbishop.

The Bill contains the necessary provisions for vesting property owned by and used for charitable purposes of the bodies named therein and other bodies in the Roman Catholic Archdiocese of Adelaide Charitable Trust. Provision is made for the adaptation of future bequests and donations to such other uses or trusts as may be required if the original purpose or intention cannot reasonably be given effect to, but constrains the trust to use such bequests and donations as nearly as may be possible for the purposes designated by the donor or testator. I seek leave to have the detailed 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. Clause 3 sets out the arrangement of the Act. Clause 4 provides the definitions necessary for the operation of the measure. Clause 5 sets out the objects of the trust and also provides that a certificate by the Chairman or Secretary of the trust that the trust has taken over a specified undertaking is to be conclusive evidence of that fact.

Clause 6 constitutes the trust. Clause 7 provides for membership and related matters. Clause 8 provides for a quorum at meetings and for the vacation of offices. Clause 9 provides for the filling of casual vacancies. Clause 10 provides for use and custody of the common seal. Clause 11 deals with the formalities required for the execution of deeds and contractual documents on behalf of the trust. Clause 12 provides for the execution of documents on behalf of the trust by agents and attorneys.

Clause 13 vests in the trust the property of the undertakings as contemplated and also provides that property so vested shall be discharged from any trust which requires property to be used for a specific purpose such as use for a church or a church hall. Where the donor or another person has a beneficial interest under any trust, that interest will be preserved. The interests of mortgagees, lessees and others are preserved by subsection (3) *(d)*.

Clause 14 provides that no attornment by a lessee is necessary. At common law a lessee cannot accept a new lessor without the consent of the original lessor. This will not be necessary in cases where the trust becomes lessor under the provisions of the Act. This provision is necessary because in some cases the original lessor will be an incorporated association which has ceased to exist. Clause 15 provides that instruments giving property, either directly or on trust, to the undertakings are to be construed as giving property to the trust. Clause 16 empowers the trust (with the approval of the Archbishop) to resolve ambiguities in any document referring to any of the undertakings.

Clause 17 provides that an incorporated association may transfer all or part of its undertaking to the trust. Clause 18 provides that, where an association has transferred its undertaking or property to the trust, the trust may where necessary alter the rules of that association. Clause 19 is an evidentiary provision. A certificate under the common seal of the trust is to be *prima facie* evidence that property described therein is held by it on trust.

Clause 20 provides for enforcement by and against the trust of rights and liabilities in respect of property vested in the trust. Clause 21 provides for the registration without fee by the Registrar-General of the proprietary interest of the trust in any land vested in it in pursuance of the Act. No stamp duty is to be payable on any application to be registered under the provision. Clause 22 provides that the trust may make claims for compensation in respect of any of its property which is compulsorily acquired. Clause 23 provides for the effectiveness of a receipt given on behalf of the trust.

Clause 24 provides that a person who deals with the trust is not required to inquire into the proprietary of the manner in which the trust exercises its powers. Clause 25 makes provision for service of process on the trust. Clause 26 provides that the trust may act as executor or administrator of an estate, or as trustee of a trust that arises otherwise than under this Act. Clause 27 permits the trust to hold property jointly or in common with other persons. Clause 28 provides for the making of regulations by the trust. Clause 29 provides for use of trust property in co-operation with a church of another denomination.

Clause 30 preserves, in relation to clause 29, any restriction that has been placed on property by the donor of that property. Clause 31 makes provision for alteration by the trust of the terms of any trust when it has become impossible or inexpedient to carry them out. Clause 32 provides an indemnity to the trustees in respect of liabilities incurred by them in carrying out their duties. Clause 33 provides for the blending of trust money into one fund and the ratable distribution of the interest from that fund. There is also power to make loans for the purposes of the Roman Catholic Church. Clause 34 confers a wide power of investment on the trust.

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

PUBLIC FINANCE 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 seeks to make a number of important amendments to the Public Finance Act to bring the requirements and procedures prescribed by the Act up to date with the needs of present-day Government. The amendments proposed are intended to—

(1) reflect more clearly the procedures agreed with the Auditor-General in 1978 when he withdrew from the process of determining depreciation;
(2) introduce the concept of the Consolidated Account which combines the present Revenue and Loan Accounts;
(3) amend the procedures for presentation of Warrants;
(4) extend the provisions related to the Treasurer's Advance Account; and
(5) replace the provision related to Deposit and Suspense Accounts with a section which authorises the use of these accounts in clearer terms.

The most significant of these proposals is the provision for consolidation of the Loan and Revenue Accounts into a single account. For several years now, the Appropriation and Public Purposes Loan Bills have been introduced into Parliament together to give members the opportunity to understand more clearly and consider more effectively the Government's overall financial plans. The proposal in this Bill is a further step in formal recognition of that practice. Because it will do away with the differences between the Appropriation rules for Revenue and Loan expenditures, it will provide the opportunity for changes in the presentation of the Budget papers and the Treasurer's Statements and Accounts, thereby giving further impetus to the Government's determination to make the financial affairs of the State more readily understandable to members of the Parliament and the public.

Members will be aware from earlier comments I have made that two major thrusts on financial reporting are in train at present. They are the development of programme and performance budgeting and a new Treasury accounting system. The provisions of this Bill will provide part of the framework within which those initiatives will be developed.

With the combination of the two accounts, appropriation authority will be sought by means of Appropriation Acts. Public Purposes Loan Bills will no longer be presented. Recognising, however, that members will want to know the details of capital expenditure the Government intends to make, a Works and Services Account will be established. This account will form part of the Consolidated Account, and expenditure from it will be detailed in a Second Schedule to the Appropriation Acts of each year.

The amalgamation of Revenue and Loan Accounts necessitates a revision of the excess expenditure provisions. At present, there are two separate arrangements by which the Government may be authorised to expend funds which are not specifically authorised by Appropriation Acts, Special Acts or Public Purposes Loan Acts. Under the Revenue Account procedures, there is a Governor's Appropriation Fund upon which may be drawn expenditure not exceeding 1 per cent of the amounts appropriated by Parliament by the Appropriation Acts of the year. Of this 1 per cent, not more than one-third may be used for purposes which are not previously authorised purposes.

On Loan Account, there are no such limits. Provided an Act of Parliament exists which authorises the work to be carried out or the service to be provided, section 32b of the Public Finance Act authorises unlimited excesses. Some authority for excess expenditure is necessary to enable the Government to provide additional money for an unexpected contingency such as an increase in the cost of erecting a building, the provision of assistance in the case of a natural disaster and so on. The Government is mindful, however, that an appropriate balance should be struck between the needs for flexibility and the control by Parliament of the public purse.

The Bill seeks to achieve this balance by combining elements of both current sets of arrangements. Section 32b of the principal Act is repealed, and section 32a is re-enacted to give an increase in the limit of the Governor's Appropriation Fund to cater for the larger fluctuations which occur in relation to capital expenditure but, at the same time, to bring capital expenditures within the limit. Thus, there are in the proposals an easing of some restrictions and an imposition of other restrictions. The Governor's Appropriation Fund limit is increased to 3 per cent but it will now be 3 per cent of the previous year's votes and it will cover excess expenditures on capital works which were not previously subject to a legal limit.

Section 32a of the principal Act distinguishes between excess expenditure on previously authorised purposes and excesses for purposes other than previously authorised purposes. It limits the latter to one-third of the fund. The Government can see no reason why an excess on a previously authorised purpose should be regarded as more inherently justifiable than expenditure on a new purpose and the Bill provides for the elimination of this distinction. In practical terms, this has enabled the limit on the Governor's Appropriation Fund to be set at a lower level than would have been possible otherwise, thereby enhancing Parliamentary control.

The transfer provisions of the annual Public Purposes Loan Acts are imported into this Bill but, whereas it was the Treasurer's prerogative under these Acts to approve these transfers, it will now be a matter for the Governor in Executive Council. The opportunity is taken to tidy up some other aspects of appropriation law. I will deal with these in my explanation of the individual clauses. The other issues this Bill seeks to address are of about equal significance. Therefore, I will explain them in the order they appear in the Bill.

Some two years ago, the Auditor-General raised the point that the depreciation certificates which had been produced by successive Auditors-General were no longer appropriate. Following discussions with him, the Under-Treasurer recommended that allocations of cancelled securities to cover depreciation, as such, no longer be provided but that annual write-downs of accounts representing past capital expenditures should be made on the basis of a sharing of the debt repayment commitments of the State amongst the relevant departments. Since that new procedure was introduced, the Auditor-General has not specified appropriate provisions in a certificate addressed to the Treasurer and, as a consequence, section 27a of the Act has become redundant.

The opportunity is taken also to address the question of Governor's Warrants. The Constitution Act requires these Warrants to be produced but does not specify the period for which they will be issued. However, section 32g of the principal Act specifies that they shall be issued monthly.

This requirement is in addition to the requirement that the money must first be appropriated by an Act or in accordance with sections 32a or 32b of the principal Act. There is no benefit in undertaking this procedure so often. It involves unnecessary time in the preparation of each Warrant and signing by the Governor and a Minister of the Crown. A more realistic period is three months and it is proposed that the section be amended accordingly.

As is the case with excess expenditures, there are different Warrant procedures at present for Revenue and Loan. Under the consolidated account, only one Warrant will be necessary. It is intended that this will follow generally the form of the current Revenue Warrant, containing estimates of amounts to be expended during the ensuing quarter on payments authorised by special Acts, together with recurrent and capital expenditure authorised by the Appropriation Acts.

The Bill seeks to extend the provisions related to the Treasurer's Advance Account. This account is a means by which distortions which would otherwise occur from time to time in the reported results on the main budgetary accounts (Revenue and Loan) can be smoothed out. Expenditure on externally-funded programmes (mainly Commonwealth-funded programmes) can be recouped to Revenue and Loan by charging this account, notwithstanding that, for some reason, the cash is late in arriving from the Commonwealth.

The existing section 35 refers only to grants made pursuant to an Act of the Commonwealth Parliament. The new section makes it clear that any payment made pursuant to an agreement or arrangement with the Commonwealth is included. At present, section 35 of the Act restricts the use of the Treasurer's Advance Account to circumstances where the State expenditure has been made from Revenue or Loan. New subsection (3) provides for the reiumbursement of any account from which expenditure contemplated by a Commonwealth Act, agreement or arrangement has been made.

The Bill replaces sections 36 and 37 of the principal Act with a new section 36 which enables the Treasurer to open Special Deposit Accounts for any of the purposes of a Government department or instrumentality of the Crown. Moneys may be paid into and out of the account, with the approval or authority of the Treasurer, for any purpose for which the account was opened. The Crown Solicitor has advised the Government that special deposit accounts opened under the existing section 36 of the principal Act can be used in this way but has suggested that the section should be amended so that the power is clearly stated. The Government proposes to amend the Audit Act, 1921-1975, to ensure that Parliament and the Auditor-General are properly informed as to Special Deposit Accounts. Section 36 (1) *(f)* of that Act will be replaced by a new provision which will require the Treasurer to provide the Auditor-General with a statement each year of any new Special Deposit Accounts which have been opened and the balance in each account at the end of the preceding financial year. In his annual report to Parliament, the Auditor-General is required by section 37 of the Audit Act, 1921-1975, to explain all statements made under section 36. In addition, the Auditor-General may, under existing provisions in the Audit-Act, 1921-1975, require production of all records relating to Special Deposit Accounts. Section 37 of the principal Act deals with the purchase of stores and supplies for use by Government departments. With the enactment of the new section 36, the existing section 37 will be unnecessary. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 repeals section 4 of the principal Act. Both section 4 and section 39 of the Act provide a regulation making power. Apparently, when section 39 was enacted in 1949, section 4 was overlooked.

Clause 4 repeals sections 27 and 27a of the principal Act and enacts a new section 27. The new section has the same effect as the existing section except for the addition of paragraphs *(d)* and *(e)*. The section allows the Treasurer to authorise credits to Treasury accounts in amounts which do not exceed reserves arising in the manner specified in subsection (1). Paragraph *(d)* includes in subsection (1) reserves arising by reason of grants made by the Commonwealth for capital works and paragraph *(e)* allows credits to be made in anticipation of reserves arising in the future under the Financial Agreement. This agreement is an agreement between the Commonwealth and the States and under it the State pays money to the National Debt Commission which then repays State borrowings. Sometimes there is a delay between payment to the commission by the State and repayment of borrowed moneys by the commission. Although a reserve does not arise until borrowed moneys are repaid, paragraph *(e)* will allow credits to be made in anticipation of such repayment. Subsection (2) ensures that, when credits are made under section 27, allowance must be made for previous credits made in anticipation of reserves which have not arisen because the National Debt Commission has not, at that time, made the expected repayment of borrowed moneys.

Clause 5 replaces section 32a of the principal Act. Subsection (1) of the new section does not include the definition of "previously authorised purpose" which appears in the existing section. The reason for this, as I have already explained, is that, under the new section 32a, there will be no limitation on the amount of excess money appropriated under the section which may be used for new purposes as distinct from previously authorised purposes. The term "Appropriation Act" is defined as an Act for the appropriation of moneys from Consolidated Account. The definition includes a reference to General Revenue and Loan Fund Account because subsection (3) limits the amount of excess appropriation by reference to amounts appropriated by Appropriation Acts passed in the previous financial year. In the first year that the Revenue and Loan Accounts are combined, there will have been no Consolidated Account in the previous financial year and it will therefore be necessary to refer to appropriations from Revenue and Loan Fund Account respectively.

Subsections (2) and (3) allow the Governor to appropriate, for the purpose of excess expenditure in the current year, up to 3 per cent of the money appropriated in a previous financial year. Subsection (4) requires that any money appropriated in this way may be recouped to the Governor's Appropriation Fund and is similar to the existing section 32a (3). The items representing loan moneys will be shown in detail in a second schedule to the Appropriation Acts and the total of these moneys will be included in the First Schedule. The purpose of subsection (5) is to avoid the possibility that these items are taken into account more than once in calculating the money which can be appropriated under section 32a. Subsection (6) allows the Governor to appropriate money from one purpose to another and back again, if necessary. Section 6 (3) of the annual Public Purposes Loan Acts empowers the Treasurer to adjust the amount of moneys appropriated from Loan Fund Account by Parliament so that excess money for one purpose can be transferred to another purpose where there is a deficiency. With the combining of

the two accounts and the fact that, in the future, Public Purposes Loan Acts will not be required, it is necessary to include this provision in the principal Act. It will allow the adjustment of the amounts of money appropriated from revenue as well as from borrowed funds.

It is impossible, when making estimates, to foresee or cater for all possibilities. The reorganisation of a department, or the transfer of a section from one department to another, for instance, will require adjustments in the amount of money appropriated to each department. The power given by this section will allow the administration of Government to proceed smoothly without the necessity of recalling Parliament to vote extra funds which would be offset by savings elsewhere and therefore have no net effect on the State's finances. Subsection (7) enables the Governor to reduce the moneys appropriated to a particular purpose, if necessary. The Government proposes to amend section 36 of the Audit Act, 1921-1975, to require the Treasurer to provide the Auditor-General with a statement of appropriations made under section 32a and a statement of moneys transferred from one purpose to another under that section. Details of these statements will appear in the Auditor-General's report to Parliament.

Clause 6 repeals section 32b of the principal Act. This section provides for excess expenditure from Loan Fund Account. In the future, however, the Loan Fund will form part of the Consolidated Account with provision for excess payments being made by the new section 32a of the principal Act. Clause 7 amends section 32c of the principal Act to bring it into line with an amendment to section 71 of the Constitution Act, 1934-1978. Clause 8 re-enacts section 32g of the principal Act with a provision which is substantially the same as existing section 32g except that, in future, Warrants will be required every three months instead of every month. Amendments consequential on the introduction of the Consolidated Account and minor drafting changes are also made.

Clause 9 makes a consequential amendment to section 32j of the principal Act. Clause 10 replaces section 35 of the principal Act with a section of similar effect. The section empowers the Treasurer to authorise the application of money granted by the Commonwealth for the purpose for which it was granted. Provision is also made for the application of money from the Treasurer's Advance Account in anticipation of the receipt of money which the Commonwealth has promised to provide but which has not been received. The new subsection (3) combines the effect of the existing subsections (3) and (4) and is a more concise provision. It also extends the operation of these subsections which, at the moment, provide only for payment from the Treasurer's Advance Account for the purpose of reimbursing General Revenue or Loan Account.

Clause 11 replaces sections 36 and 37 of the principal Act with a new section 36 which makes it clear that departments and Government instrumentalities may pay moneys received by them into an account and then draw on the money without first obtaining the authority of Parliament in each case. The new section allows this only with the approval of the Treasurer. Subsection (1) requires that the Treasurer authorise the opening of each Special Deposit Account. By subsection (2), moneys payable to the Government department or instrumentality can only be paid into a special deposit account with the approval of the Treasurer and by subsection (4) only the Treasurer can appropriate, issue and apply moneys in a special deposit account and then only for the purpose for which that account was opened. Subsection (3) enables the Treasurer to pay money already appropriated by Parliament for the purposes of a department or instrumentality into a special deposit account opened for that department or instrumentality. Subsection (5) is a transitional provision. Section 37 of the principal Act gives the Treasurer authority to provide money for the purchase of stores and supplies for the use of Government departments. With the enactment of the new section 36, the existing section 37 will not be required.

Clause 12 replaces section 38 of the principal Act. The new section provides for the establishment and maintenance of the Consolidated Account. Subsection (2) provides that the Consolidated Account shall be constituted of the General Revenue and those moneys which presently constitute the Loan Fund Account.

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

AUDIT 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.

Its purposes are, first, to update the procedures required for the audit of public accounts and, secondly, to amend the principal Act in consequence of amendments proposed to the Public Finance Act, 1936-1975.

The principal Act was enacted in 1921. Since then many changes have occurred in relation to the auditing of Government accounts. The volume of Government transactions has multiplied many times and the methods of keeping records have changed dramatically. In the old days each department kept a cash book but now many departments record cash book entries and other information on computers. The increased use of computers and bookkeeping machines has increased the accuracy of department records. These improvements together with improved methods of auditing have enabled auditors to cope with the increased volume of Government business. The principal Act, however, has not yet caught up with these changes. Section 26 prescribes detailed auditing requirements which are out of date to such an extent that they can no longer be implemented. Although section 32 of the principal Act allows the Auditor-General to dispense with the audit of the details of any accounts he cannot avoid the requirements of section 26. It is proposed therefore that section 26 be repealed and that the reference to section 26 be removed from section 32. The removal of section 26 will not reduce the powers that the Auditor-General presently enjoys nor will it prevent him from adopting the procedures prescribed by section 26 if he thinks they are appropriate.

The other provisions of the Bill are intended to update the operation of the principal Act or are consequential on amendments proposed to the Public Finance Act, 1936-1975. I will discuss their operation and effect as I deal with each clause of 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 differential commencement of the provisions of the Bill. This will enable provisions consequential on the amendments to the Public Finance Act, 1936-1975, to be brought into operation after the other provisions of the Bill if necessary. Clause 3 repeals sections 25 and 26 of the

principal Act and replaces section 25 with a new provision. At the moment section 25 requires the Treasurer to produce his cash book and other records to the Auditor-General every day or as often as is prescribed by regulation. It is more appropriate and convenient that the Treasurer's records be produced whenever the Auditor-General requires and the new section has this effect. Section 26 is repealed because it is impossible and inappropriate to comply with the detailed auditing requirements that it prescribes.

Clause 4 removes from section 27 of the principal Act a reference to "cash book" and other documents. Many departments no longer use cash books or documents that were used in the past. Instead, they record transactions by means of computers. The amendment refers generally to records and other documents and will be wide enough to cover all types of documentation used.

Clause 5 replaces section 30 of the principal Act. Section 30 requires the Auditor-General to inspect the balance of moneys held by the Treasurer each month and to examine securities held by the Treasurer every three months. Once again these requirements are outdated and unrealistic and accordingly the section has been redrafted so that the Auditor-General may inspect moneys and securities held by the Treasurer whenever he thinks fit. Clause 6 makes a consequential amendment to section 32 of the principal Act. Clause 7 amends section 36 of the principal Act. These amendments are made in consequence of the amendments proposed to the Public Finance Act, 1936-1975. Paragraphs *(a)*, *(b)* and *(c)* make amendments that are consequential on the combining of Revenue and Loan Fund Accounts into the Consolidated Account.

Two new paragraphs are inserted into subsection (1) of section 36. Subsection (1) requires the Treasurer each year to provide the Auditor-General with statements relating to the matters set out in the paragraphs of that subsection. New paragraph (da) will require from the Treasurer a statement of appropriations made from the Governor's Appropriation Fund under section 32a of the Public Finance Act, 1936-1975. The proposed new section 32a of that Act will enable the Governor to appropriate excess moneys already appropriated for a particular purpose to be transferred from that purpose to a purpose in respect of which insufficient funds have been provided. New paragraph (db) inserted by this clause into section 36 (1) of the principal Act will require the Treasurer to make a statement to the Auditor-General of moneys transferred in this way. The amendment to paragraph *(e)* of section 36 (1) of the principal Act is consequential on the proposal to combine Revenue and Loan Fund Accounts. Paragraph *(f)* of section 36 (1) is replaced with a paragaph that requires the Treasurer to provide the Auditor-General with a statement of special deposit accounts opened in the preceding financial year in addition to the present requirement that the Auditor-General be notified of the balance standing to the credit of each special deposit account at the end of ther preceding financial year.

Clause 8 replaces section 38 of the principal Act with a provision that is more concisely drafted. The new provision requires the Auditor-General to append to the report that he makes to Parliament a copy of any opinion of the Crown Solicitor obtained by him in relation to moneys that have been spent without lawful authority. The existing provision requires that all opinions, no matter what their subject, obtained from the Crown Solicitor be appended to the report. No purpose is served by production to Parliament of opinions that are unrelated to questions involving the misapplication of public moneys.

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

PUBLIC SUPPLY AND TENDER 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.

The Public Supply and Tender Act is a rather antiquated measure which is in some respects difficult to construe. In particular, it contains a curious definition of the "Public Service", which makes the precise ambit of the Act difficult to ascertain. The Crown Solicitor has recently advised that, in his opinion, the Act should be taken to apply not only to the Public Service, in the normally accepted meaning of that expression, but to all statutory authorities as well. This interpretation places an impossible burden on the Supply and Tender Board, particularly in view of the fact that the board presently has no power of delegation.

The Government believes that new legislation dealing adequately with the various problems of procurement and disposal of public supplies is urgently needed. Accordingly, a committee consisting of Mr. Voyzey, Director-General of the Department of Services and Supply, Mr. Guerin of the Public Service Board, and an expert consultant in the field is to be appointed and will have the task of recommending revision of the present legislation and advising on reforms that should be made in administrative procedures.

However, in the interim period prior to the introduction of more satisfactory legislation, urgent steps are needed to validate what has occurred in the past and to provide a power of delegation that will make the present legislation rather more manageable. The present Bill is introduced with this purpose in view. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the Bill will come into operation on a day to be fixed by proclamation. Clause 3 repeals section 15c of the principal Act, which is an old transitional provision no longer required for the purposes of the principal Act. A new section 15c is substituted. This new section empowers the board to delegate its powers to an instrumentality or agency of the Crown or the Government, to a member or officer of any such instrumentality or agency, or to an officer or member of the Public Service. A new section 15d is inserted in the principal Act. The new section provides that no contract made before the commencement of the amending Act is to be void or voidable by reason of non-compliance with the amending Act.

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

ADJOURNMENT

At 4.36 p.m. the Council adjourned until Thursday 12 February at 2.15 p.m.