LEGISLATIVE COUNCIL

Tuesday 24 February 1981

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

STATE LOTTERIES ACT AMENDMENT BILL

His Excellency the Governor, by message, intimated his assent to the Bill.

PUBLIC WORKS COMMITTEE REPORTS

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

Government Office Accommodation—State Government Insurance Commission Building,
Port Adelaide Community College—Headquarters,
Port Pirie Community Welfare Centre.

PAPERS TABLED

The following papers were laid on the table:

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

Pursuant to Statute—

Public Finance Act, 1936-1975—Regulations—Approval of Dealers.

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

Pursuant to Statute—

Harbors Act, 1936-1978—Regulations—Various Charges.

Recreation Grounds (Regulations) Act, 1931-1978—Regulations—Control of Elizabeth Oval.

Barossa Recreation Grounds—University of Adelaide—Report and Legislation, 1979.

District Council of Snowtown—By-law No. 23—Repeal of By-law No. 21.

By the Minister of Community Welfare (Hon. J. C. Burdett)—

Pursuant to Statute—

Mental Health Services Report—1978-79.

Planning and Development Act, 1966-1980—Regulations—Interim Development Control—District Council of Franklin Harbor.

Woods and Forests Department—Report, 1979-80.

MINISTERIAL STATEMENT: NORTHERN TOWNS WATER SUPPLY

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

Leave granted.

The Hon. C. M. HILL: In recent weeks widespread media coverage has been given to the water supply to the northern cities and to Yorke Peninsula. In particular, an article in the last issue of the *Sunday Mail* irresponsibly generated public alarm throughout northern communities, and has raised the question of the safety of these communities' water supply.

I wish now to state the facts on this matter, and in doing so to assure this Council and the public that the water supply is safe. In 1972 a programme monitoring of selected South Australian public water supplies was initiated following the demonstration of a relationship between a case of amoebic meningitis in Port Augusta and the water supply. At that time supplementary chlorination for Port Augusta, Port Pirie and Kadina was introduced with a view to maintaining a free chlorine residual of 0·5 mg/L at consumers' taps in these towns. Subsequently, additional chlorination stations were established after Paskeville Reservoir No. 2 in 1975 (Yorke Peninsula Supply) amd after Upper Wakefield storage in 1976 (supply to Paskeville area). The commissioning dates of chlorination installed in connection with the programme are shown in table 1. I seek leave to have table 1, which is purely statistical, inserted in *Hansard* without my reading it.

Leave granted.

TABLE 1

CHLORINATION STATIONS ALONG THE MORGAN-WHYALLA AND ASSOCIATED PIPELINE SYSTEMS

	Commissioning Date	Chlorine Dose Rate at 11.2.81 (mg/L)	Reasons for Chlorination
Morgan-Whyalla System			
Morgan	March 1972 (slug dosing from 4.3.59)	6·5	Originally for slime control Raw water source
Robertstown	*T April 1972 P 10.12.73	3·0	Booster dose
Bundaleer	T 9.4.64 P 17.8.68	3·0	Open reservoir with natural catchment
Nelshaby	25.2.69	4·5	Open storage with some natural catchment Booster dose for Port Pirie
Napperby	22.5.73	3·0	Booster dose for Port Pirie
Baroota	3.11.61	12·5	Open reservoir with natural catchment
Stirling North	T March 1972 P 10.12.72	2·0	Booster dose for Port Augusta
Port Augusta West	T 15.3.72 P Lincoln Gap No. 1	8·0	Open storage 'back feeding' to Port Augusta
Lincoln Gap No. 1	18.12.79	3·5	Replaced Port Augusta West
Lincoln Gap No. 2	18.12.79	4·5	Open storage serving Whyalla, Iron Knob, Iron Baron

CHLORINATION STATIONS ALONG THE MORGAN-WHYALLA AND ASSOCIATED PIPELINE SYSTEMS—*continued*

	Commissioning Date	Chlorine Dose Rate at 11.2.81 (mg/L)	Reasons for Chlorination
Whyalla	T 31.1.81	3·0	Booster dose for Whyalla
Bute	9.12.72	4·0	Booster dose for Kadina area
Swan Reach-Upper Wakefield-Paskeville System			
Swan Reach	T 20.9.67	9·5	Originally for slime control
	P 1.12.71		Raw water source
Upper Wakefield	9.7.76	3·5	Open storage serving Paskeville area
Paskeville No. 1	8.11.72	5·0	Open storage serving Kadina-Paskeville area Booster dose for Kadina-Paskeville area
Paskeville No. 2	8.11.75	5·5	Open storage serving Yorke Peninsula
Kairton Corner	T 5.2.81	4·0	Booster dose for Yorke Peninsula
Upper Mt. Rat	T 5.2.81	5·0	Booster dose for Yorke Peninsula

* T = Temporary Unit P = Permanent Unit

The Hon. C. M. HILL: The monitoring programme as arranged in 1972 was designed to locate possible sources of contamination of supplies by the amoebae which cause amoebic meningitis, and to evaluate the effectiveness of chlorination control. This programme initially concentrated on the towns of most concern to the (then) Department of Public Health, namely, Port Augusta, Port Pirie and Kadina, but included Whyalla and other towns supplied from the Morgan-Whyalla system. Monitoring of the lower Yorke Peninsula supply at Minlaton, Ardrossan and Edithburgh commenced in 1976, and the programme as at December 1979 is shown in table 2, which is purely statistical and which I seek leave to have inserted in *Hansard* without my reading it.

Leave granted.

TABLE 2

AMOEBA AND BACTERIOLOGICAL MONITORING PROGRAMME (December 1979)

*Location		Frequency
Morgan-Whyalla water supply		
Before chlorination		
River Murray at Morgan		Fortnightly
After chlorination		
Morgan Tank		Fortnightly
Port Pirie system		
Napperby	(before rechlorination)	Monthly
Napperby Town Supply		Monthly
Nelshaby Reservoir	(before rechlorination)	Monthly
**Georges Corner		Weekly
**Wright Street		Weekly
**Agnes Street		Weekly
Port Augusta system		
Nectar Brook	(before rechlorination)	Prior to use and monthly in use.
**Stirling North	(before rechlorination)	Monthly
Stirling North Tap		Weekly
**Causeway		Weekly
**Flinders Memorial Park		Weekly
**Loudon Road		Weekly
Woomera Pipeline		Weekly
Lincoln Gap Reservoir		Monthly
Whyalla system		
**Whyalla E. & W.S. Depot		Weekly
Yorke Peninsula and associated sytems		
Upper Wakefield	(after rechlorination)	Weekly
Paskeville-Warren Main		Weekly
Bute	(before rechlorination)	Monthly
**Bute	(after rechlorination)	Weekly
Paskeville	(before rechlorination)	Monthly
**Paskeville No. 1	(after rechlorination)	Weekly
**Paskeville No. 2	(after rechlorination)	Weekly
**Paskeville E. & W.S. Depot		Weekly
**Kadina E. & W.S. Depot		Weekly
Lower Yorke Peninsula system		
**West Terrace, Ardrossan		Monthly

TABLE 2

AMOEBA AND BACTERIOLOGICAL MONITORING PROGRAMME (December 1979)

*Location	Frequency
**Lot 106, Second Street, Minlaton	Monthly
**Opp. Sec. 647, Robert Street, Edithburgh	Monthly
Other northern systems	
**Balaklava E. & W.S. Depot	Monthly
Clare	Monthly
Milcowie Reservoir	Monthly
**Warnertown	Weekly
**Crystal Brook E. & W.S. Depot	Weekly
**Port Wakefield†	Monthly (weekly initially)
**Port Broughton†	Monthly (weekly initially)

* Bacteriological monitoring indicated.
** Amoeba Monitoring Locations (summer only).
† Location added April 1980.

The Hon. C. M. HILL: In an Engineering and Water Supply Department report on the monitoring programme 1973-79 it was concluded that *naegleria* species are adequately controlled at trunk mains by chlorination. No pathogenic amoebae were isolated over this period. Following a meeting between officers of the Engineering and Water Supply Department, the Central Board of Health and of the South Australian Health Commission in September 1979, the Chairman, Central Board of Health, confirmed that the minimum level of free chlorine in the Port Augusta and Port Pirie water supply systems during the summer months could be reduced to 0·3 mg/L but that the level at Kadina should be maintained at 0·5 mg/L. Chlorine doses applied in other parts of the system, including Whyalla, were unchanged.

As I will point out again, the results of the monitoring programme have demonstrated that the free residual chlorine level of 0·3 mg/L at consumers' taps has given full protection to Port Augusta and Port Pirie. Members will realise, of course, that higher residuals are maintained in trunk mains and distribution mains. Might I add that these decisions were based on the findings of the South Australian Health Commission and the expert microbiologists of the State Water Laboratories.

These officers of the State Water Laboratories and the South Australian Health Commission are recognised internationally in this field of expertise on *naegleria fowleri*. South Australia is indeed very fortunate to have the best advice available in the world on this matter, and any decision made would first need the recommendations of these scientists, which in fact has been the case.

The reduction of chlorine residual levels for Port Augusta and Port Pirie only was undertaken for several reasons, and these were: that no pathogenic amoebae had been detected in the reticulated system of the Mid-North of the State since intensive monitoring had commenced in 1972; adverse water consumer reaction to the high chlorine levels in mid-north towns in past summers; and the increase in corrosion in pipework and fittings, which, *inter alia,* hinder water quality control. However, I emphasise that the health of the people was held in prime regard when considering to what extent chlorine levels might be lowered. Any possible financial savings that may have accrued from changed chlorine levels has not been at any time, and is not now, a consideration by the authorities responsible for maintenance of water quality.

I also add that this change in the chlorine level by the review committee stressed that the residual chlorine level of the Kadina supply be maintained at 0·5 mg/L. This decision was based on the characteristics of this supply which were considered to allow a greater chance of contamination.

Furthermore, it was recommended that a review of the chlorine level for the 1979-80 summer be undertaken and that the publicity campaign which commenced in 1972 be continued. These recommendations of the review committee were assessed by the Central Board of Health, which subsequently advised the Engineering and Water Supply Department to the effect that a reduction of chlorine levels was acceptable for Port Pirie and Port Augusta.

The review committee met again in April 1980 and noted that there had been no isolation of pathogenic amoebae in the Port Pirie and Port Augusta supplies and the the results of the monitoring programme demonstrated that the supplies to these towns were adequately protected by the free chlorine residual of 0.3 mg/L at consumers' taps. It was also agreed that monitoring for amoebae need only be carried out from December to March, provided that unusually high temperatures did not occur outside that period.

Summer sampling frequencies at other locations were not reduced. In fact, additional locations were added at the beginning of the 1980-81 summer. These included Maitland, Brinkworth, Blyth, Snowtown and Lochiel. The fact that one *naegleria fowleri* was identified at Paskeville on each of three occasions in 1980 (January, February and March) demonstrates the acuteness of the monitoring programme which was and is practised. Within days of having determined the presence of *naegleria fowleri* at Paskeville, the department immediately carried out disinfection of the system and increased monitoring to determine any possible source of contamination. However, this could not be determined absolutely, as the amoebae can be present in the soil or cling to dust particles suspended in the air.

The presence of these organisms was not confirmed by the Institute of Medical and Veterinary Science until after the summer months, and, on the advice of Health Authorities, no public announcement was made of the 1980 pathogenic strain of amoebae. Subsequent sampling during 1980-81 season demonstrated isolation in the water supply system, and these were confirmed as containing the pathogenic organism in early February 1981 (February 3 and 9). Action was taken immediately to disinfect the tanks and the system, and an additional booster chlorination station was installed at Mount Rat on Yorke Peninsula.

It has been suggested that a publicity campaign on amoebic meningitis was delayed and downgraded because of lack of funds for printing of brochures. This claim is baseless and thoroughly mischievous. Let me add that $6 615 was approved for expenditure in this area and, in fact, was spent in the past 10 weeks for this campaign.

Chlorination procedures for the water supplies of northern towns have remained unchanged since 1972, with the exception that boosted chlorine levels in Port Pirie and Port Augusta were slightly reduced, but were shown to give full protection. This is amply demonstrated by the documents that have been stolen, and all or parts of it are now in the possession of the Leader of the Opposition. The *Sunday Mail* ignored this fact, as does the Opposition. The case of amoebic meningitis occurred at Whyalla, and not at Port Pirie, Port Augusta, Kadina, or Paskeville.

The Government has done everything in its power to prevent the spread of this organism. It has quickly installed three additional booster chlorinators costing some $100 000. Honourable members can see the sampling programme in the statistics I now wish to table. I seek leave to have table 3, which is purely statistical, inserted in *Hansard* without my reading it.

Leave granted.

TABLE 3

AMOEBA AND BACTERIOLOGICAL MONITORING PROGRAMME

Bacteriological samples are collected from all locations. Amoeba samples from those Marked A.

Location		Frequency
Morgan-Whyalla water supply	December 1980	Jan.-Feb. 1981
Before chlorination		
River Murray at Morgan	Fortnightly	Fortnightly
After chlorination		
Morgan Tank	Fortnightly	Fortnightly
Port Pirie system		
Napperby (before rechlorination)	Monthly	Monthly
Napperby Town Supply	Monthly	Monthly A
Nelshaby Reservoir (before rechlorination)	Monthly	Monthly
Georges Corner	Weekly A	Weekly A
Wright Street	Weekly A	Weekly A
Agnes Street	Weekly A	Weekly A
Port Augusta system		
Nectar Brook (before rechlorination)	Monthly	Monthly
Stirling North (before rechlorination)	Monthly A	Monthly A
Stirling North Tap	Weekly	Weekly
Causeway	Weekly A	Weekly A
Flinders Memorial Park	Weekly A	Weekly A
Loudon Road	Weekly A	Weekly A
Woomera Pipeline	Weekly	Weekly A
Lincoln Gap Reservoir	Monthly	Monthly
Lincoln Gap-Port Augusta main (after chlorination)	Weekly A	Weekly A
Whyalla system		
Whyalla E. & W.S. Depot	Weekly A	Weekly A
Whyalla distribution additional centres (4 No.)	—	Weekly A
No. 1 Main after chlorination in Lincoln Gap	Weekly	Weekly A
No. 1 Main entering Whyalla	—	Weekly A
No. 2 Main after introduction of chlorinated Baroota Water	Monthly	Weekly A
Whyalla tanks (5 No.)	—	Weekly A

Yorke Peninsula and associated systems		Frequency
Upper Wakefield (after rechlorination)	Weekly	Weekly
Paskeville-Warren Main	Weekly	Weekly
Bute (before rechlorination)	Monthly	Monthly
Bute (after rechlorination)	Weekly A	Weekly A
Paskeville (before rechlorination)	Monthly	Monthly
Paskeville No. 1 (after rechlorination)	Weekly A	Weekly A
Paskeville No. 2 (after rechlorination)	Weekly A	Weekly A
Paskeville E. & W.S. Depot	Weekly A	Weekly A
Kadina E. & W.S. Depot	Weekly A	Weekly A
Lower Yorke Peninsula system		
West Terrace, Ardrossan	Monthly A	Weekly A
Lot 106, Second Street, Minlaton	Monthly A	Weekly A
Opp. Sec. 647, Robert Street, Edithburgh	Monthly A	Weekly A
Maitland	Monthly A	Weekly A
Yorke Peninsula trunk main (Hd. Tiparra)	Monthly A	Weekly A
Arthurton	—	Weekly A
Port Vincent	—	Weekly A
Stansbury	—	Weekly A
Port Victoria	—	Weekly A
Yorketown	—	Weekly A
Storage Tanks Lower Yorke Peninsula (26 no.)	—	Weekly A

AMOEBA AND BACTERIOLOGICAL MONITORING PROGRAMME

Bacteriological samples are collected from all locations. Amoeba samples from those Marked A.

Location		Frequency
Clinton Resr.		Weekly A
Other northern systems		
Balaklava E. & W.S. Depot	Monthly A	Monthly A
Clare	Monthly	Monthly
Milcowie Reservoir	Monthly	Monthly
Warnertown	Weekly A	Weekly A
Crystal Brook E. & W.S. Depot	Weekly A	Weekly A
Port Wakefield	Weekly A	Weekly A
Port Broughton	Weekly A	Weekly A
Brinkworth	Weekly A	Weekly A
Blyth	Weekly A	Weekly A
Snowtown	Weekly A	Weekly A
Lochiel	Weekly A	Weekly A

The Hon. C. M. HILL: But, most important, the Government cannot stop the amoebae from getting into the soil or open private water storages and swimming pools. Research has shown that this amoebae has been found in puddles of casual water and in swimming pools and was demonstrated by the tragic cases in Western Australia early last year, when the assistance of our expert microbiologists from the State Water Laboratories was greatly appreciated by the Western Australian Government. If proper precautions are taken as have been outlined by my colleague the Minister of Health, the water is as safe as any other supply.

MINISTERIAL STATEMENT: I.M.V.S.

The Hon. J. C. BURDETT (Minister of Community Welfare): I seek leave to make a statement.

Leave granted.

The Hon. J. C. BURDETT: On 28 October last, the Minister of Health announced a wide-ranging inquiry into the Institute of Medical and Veterinary Science. The inquiry was to be conducted by a three-member committee, chaired by Dr. R. Wells, physician in private practice and formerly Chairman, Capital Territory Health Commission, Deputy Director-General, Australian Department of Health, and Secretary, National Health and Medical Research Council, with Professor N. Stanley, Department of Microbiology, University of Western Australia, and Mr. J. Burdett, Assistant Commissioner, Public Service Board, as members. The inquiry was to review and report to the Minister on the structure, administrative arrangements and operations of the Institute of Medical and Veterinary Science, and, where appropriate, to recommend changes to current arrangements.

The committee has presented its report, which I now table. The committee notes that its recommendations will require implementation by a number of authorities, including the State Government, South Australian Health Commission, institute administration, universities and Royal Adelaide Hospital. The committee has accordingly edited and consolidated its recommendations into groups to facilitate their consideration by appropriate bodies.

In relation to recommendations identified as requiring consideration and decision by the Minister of Health and Government, the committee's principal recommendations are that the institute should continue as a joint medical and veterinary organisation and should be incorporated under the South Australian Health Commission Act by specific legislative amendments. The committee further recommends that forensic pathology services should continue to be provided by the institute. The Government endorses the recommendation that the institute continue to be the body responsible for the provision of veterinary pathology services.

Similarly, the Government endorses the recommendation that the institute continue to provide forensic pathology services. In relation to the recommendation for incorporation of the institute under the South Australian Health Commission Act, the Government agrees that it is inappropriate for an institute with an annual operating budget of over $17 000 000, whose services have a significant impact on the cost and quality of health services, to be independent of express Ministerial control and direction, and of the South Australian Health Commission which was established to co-ordinate and integrate health services in South Australia.

The Government believes, however, that incorporation under the South Australian Health Commission Act, as recommended by the committee, while it may be appropriate for a body engaged exclusively in the provision of health services, would fail to recognise adequately the role of the institute as a provider of veterinary pathology services as well as human pathology services—in other words, a body whose role extends beyond health services.

The Government therefore proposes that legislation will be introduced later this year which will substantially rewrite the Institute of Medical and Veterinary Science Act in a manner which recognises the role and responsibilities of the Minister of Health and the South Australian Health Commission in relation to the provision and co-ordination of health services but, at the same time, recognises the unique position of the institute as a provider of both human and veterinary pathology services.

While I do not propose to canvass the provisions of the proposed legislation in detail at this stage, the Bill will provide for a restructuring of the council and definition of the institute's functions along the general lines recommended by the committee. It will bring the institute under Ministerial control and direction and provide the means of ensuring that the South Australian Health Commission is able to exercise its statutory role of rationalisation, co-ordination and integration of health services. At the same time, it will ensure that the policies and requirements of the Department of Agriculture in respect of veterinary services are duly taken into account.

With respect to the other recommendations of the committee, which are identified as requiring the attention of various bodies, the Government endorses the tenor of the recommendations and will ensure that effective action is taken to facilitate early consideration by such bodies. In order to ensure that this occurs, the Minister has asked the

Chairman of the South Australian Health Commission to consult with the appropriate bodies and establish an implementation team with appropriate representation from those bodies. The team will develop a programme for implementation of the recommendations and will report on a regular basis.

In view of the recent retirement of Dr. J. A. Bonnin from the position of Director, one recommendation has already been acted upon. The committee recommended that the appointment of a new Director should not proceed immediately, but should be deferred pending a Government decision on the future role of the institute and pending determination by the council of its position regarding the other recommendations in the report. The committee further recommended the appointment of an interim Director for a limited period. The council has accepted the committee's recommendation, and an announcement will be made shortly in relation to an interim Director.

I believe the committee's report provides the framework for restructuring of the institute and development of sound management processes. It identifies deficiencies and makes constructive recommendations to remedy those deficiencies, something which could never have been achieved had the witch-hunt so desperately wanted by members opposite been embarked upon. The previous Government had 10 years in which to act—all we got was inaction; the institute's legislation remained largely in its 1937 form; a report by management consultants was only partially implemented. One can but question the motives of the Opposition in calling for an inquiry as it did last year.

I wish to conclude by placing on record appreciation of the work undertaken by Dr. Wells, his committee and support staff, and of the co-operation and willing assistance of the council and staff of the institute.

QUESTIONS

RIVERLAND CANNERY

The Hon. B. A. CHATTERTON: I seek leave to make an explanation before asking the Attorney-General a question about the Riverland cannery.

Leave granted.

The Hon. B. A. CHATTERTON: I am sure that the Attorney-General is well aware of the great concern by both growers and workers in the Riverland at the future of their cannery. They are wondering whether the cannery, now that it is up for sale, will be amalgamated with other canneries in the area or whether a lot of its operations will be transferred interstate. The growers are particularly surprised at the move, because the export opportunities from canned fruit are looking particularly good. The South African crop has been destroyed by floods, and I understand that that damage will not be rectified for at least three years and that the cannery can expect good export markets for at least that time.

The Attorney-General has said on a number of occasions that the Government was undertaking an investigation into the affairs of the cannery. First, I believe a task force was set up by the South Australian Development Corporation to look into the affairs of the cannery, and later the Attorney-General informed the Council that the Government committee looking at S.A.D.C. itself would look at the cannery's affairs. To my knowledge, neither of the reports from those two investigating committees has been made public, and certainly has not been put before growers or workers at the cannery.

My questions, directed to the Attorney-General, are: in view of the fact that the cannery is now up for sale and likely to be purchased by private interests, is the Government going to impose any conditions on the sale of the cannery, to protect the growers or the workers involved? For example, will the growers be allowed to have any say in the future operations of the cannery? Will there be any protection for the employment of workers if there are any amalgamations between the cannery and other canneries, and will the Government be ensuring that there is still local processing of local fruit in the Berri area?

The Hon. K. T. GRIFFIN: The honourable member's questions really invite the Government to look into a crystal ball and to indicate in advance what sorts of conditions are likely to be considered by the Government as prerequisites to the receivers selling the cannery. The fact is (and I have said this on a number of occasions and do so again) that essentially it is the responsibility of the receivers and managers who have been appointed by the State Bank, the principal secured creditor, to make decisions about whether or not the cannery is to be sold and to whom, but, as I have also indicated, the receivers and managers and the State Bank have been in close consultation with the Government at each stage of the process of dealing with the cannery and the many problems that this Government has inherited.

When tenders for the sale of the cannery close, the receivers and managers will again consult with the Government about decisions that ultimately the receivers and managers, in conjunction with the State Bank, will have the responsibility to make. The honourable member has suggested that growers are surprised at the decision of the receivers and managers, in the light of the international situation, and he has instanced particularly the floods in South Africa. However, I should have thought that that situation would be an incentive to sell the cannery and that, in fact, that probably would be one of the principal reasons why better prices are likely to be offered by tender, by reason of the established nature of the cannery in the Riverland and the South African situation not being as good for the next three years as it has been, as the member suggests.

The Government intends to monitor the situation closely and to consult with the receivers and managers at all stages, as has been happening. As we have previously indicated, we certainly would want to ensure as much as possible that there is a viable canning operation in the Riverland. The receivers and the State Bank are both aware of that, and I am sure that all those who tender will likewise be aware of that objective of the Government. We will certainly monitor it. We will keep in close consultation with the receivers and managers of the State Bank, and I would expect that protection for the growers and the maintenance of a viable cannery operation will be an objective that is achieved by the sale by the receivers and managers.

The Hon. B. A. CHATTERTON: The Attorney-General has said that the Government will consult closely with the receivers and managers of the cannery before the selection of the successful tenderer is made. Will the Government also consult with the growers and workers, whose livelihood will be affected, before the successful tenderer is selected?

The Hon. K. T. GRIFFIN: The receivers and managers already have a consultative committee that comprises a representative of the unions, a representative of the growers, and several other experts who endeavour to ensure that there is communication between all those who are involved in the operation of the cannery in the

Riverland, and that advisory committee advises the receivers and managers. In terms of the final decision that the receivers and managers take, the Government will be anxious to ensure that all views are taken into account, including those of the growers and the employees in the Riverland, to ensure that the best decision is taken for the maintenance of a viable canning operation in the Riverland.

The Hon. N. K. FOSTER: I am disturbed, and therefore I ask a supplementary question. The Attorney-General has said that ultimately the decision will be for the receivers and managers. Eventually, 100 000 people could be involved. I ask the Attorney-General, in view of his reply that only a commercial decision will be made, whether he will reconsider that attitude expressed in his reply to the Hon. Mr. Chatterton's question. Secondly, should there be no tender or an unacceptable tender, has Cabinet, the Government or the department a plan to ensure that the fruit processing and marketing of Riverland products will continue through the cannery?

Should there be a successful tenderer, the system of payments to growers should be a matter of extremely close scrutiny, with the possible need for legislation to ensure that the growers are paid for their product in the same manner as other commercial business interests are paid. As an example, B.H.P. is paid for the steel in which the fruit is canned and the transport authorities are paid, but the grower is rarely ever paid either on time or in full.

The Hon. K. T. GRIFFIN: The honourable member does not know what he is talking about. If he looks at the history of the present Government's involvement in the Riverland cannery, he will see that growers have a preferred position. The guarantees given from 25 June to 12 September subsequently mean that the growers get more out of this settlement than the unsecured creditors.

The Hon. N. K. FOSTER: I rise on a point of order. I asked in my question whether the cannery will continue in existence and whether the Government has had enough guts to look at that area, rather than—

The PRESIDENT: Order! The honourable member should have asked another question on that.

The Hon. K. T. GRIFFIN: The honourable member said that I indicated that only a commercial decision would be taken, and that is nonsense. If the honourable member reads *Hansard* he will see that I did not make any such comment at all. The fact is that this Government's record in relation to the Riverland Co-operative is a thousand times better—

The Hon. N. K. FOSTER: On a point of order, Mr. President, I cannot look at *Hansard*. That is what the Minister said: he has reflected on whether I have looked at today's *Hansard*. I cannot do that immediately. My point is that the Minister said a few moments ago in answer to the initial question by the Hon. Mr. Chatterton, and if the Attorney-General cannot remember what he said—

The PRESIDENT: Order!

The Hon. K. T. GRIFFIN: I did not at any stage indicate or say that only a commercial decision would be taken in relation to the sale of Riverland Fruit Products Proprietary Limited. I just did not say that. If the honourable member would care to look at the history of this Government's involvement in the Riverland Co-operative and the problems that we inherited from the previous Government, he will see that creditors are a thousand times better off than they were under the shambles that we inherited from the previous Government.

The fact is that growers who had previously received between 80c and 60c in the dollar for their 1980 crop were guaranteed a further 50c in the dollar of the balance that was owing to them, subsequent to a receiver being appointed, and that has been guaranteed by the Government.

The growers are in a much better position than the unsecured creditors who, before 25 June 1980, were owed a substantial amount. If one cares to read last year's *Hansard* one will find that unsecured creditors, other than the growers, are left to prove in the receivership for the debts that are owed to them. They had certain guarantees that they would be paid in full for debts incurred subsequent to 25 June, but prior to that date, if they are unsecured creditors, they did not get any guarantee from the Government at all. The growers did, and this Government's record, as I say, is a thousand times better than the record of the previous Government in dealing with growers.

If one looks a bit further ahead one will see that this Government guaranteed the receivers, to ensure that the 1981 crop (apricots, pears and peaches, in particular) and products such as tomatoes for which contracts had been entered into between 25 June and 12 September were fully guaranteed. It is only because of the Government's guarantee that the apricot, pear and peach crop for 1981 has been fully processed and that the growers in the Riverland have got guarantees which they did not get from the previous Government.

The fact is that I am not prepared to speculate on the hypothetical question that the honourable member raised in relation to unacceptable tenders. I have every confidence that there will be a satisfactory tender and that the receivers and managers will not only take a commercial decision but will be very much aware and will take into consideration the object of the Government of maintaining a viable canning operation in the Riverland.

The Hon. N. K. FOSTER: I wish to ask a supplementary question. Obviously, the Liberal Minister thinks that 1981 will go on forever and forever, and that there will not be a possible crop in 1982 and subsequent years. What plans has the Minister's Government, in the event of no tender or an unacceptable tender, to protect the long-term interests of the producers in the Riverland? Will the Government ensure that a cannery is at the disposal of growers?

The Hon. K. T. GRIFFIN: I am confident that the receivers will reach a proper and reasonable solution, and for those reasons it is not necessary to answer the honourable member's question.

CONSULTANTS

The Hon. J. R. CORNWALL: I seek leave to make a short statement before asking the Attorney-General a question about consultants.

Leave granted.

The Hon. J. R. CORNWALL: The Opposition has been trying to prise information out of the Government for months about the number and cost of outside consultants it is employing. This is the subject of many Questions on Notice in the House of Assembly since last October. It is also the subject of a Question on Notice which I have before the Legislative Council. I realise that I am therefore unable to raise those matters today.

Recently, however, I have received additional information which adds a new dimension to the story. It concerns the manner in which consultants are filling their contracts. Most of the Government consultancies concern business administration and management techniques. The great majority of this work has all been done before. It is available from management consultants and academic institutions around the world. Of course, the consultants are well aware of this. Once consultancy contracts have

been let they buy management reports at bargain basement rates in the United States and rewrite them to fit Government specifications. In practice they are retailing secondhand reports at an enormous profit. In most instances the Government is paying consultants millions of dollars for information which is not unique or applicable to particular problems. This sort of information is available at little or no cost from other resources.

Government consultancies have become a multi-million dollar rip-off. They are wasting millions of dollars of taxpayers' money while the Government's cost cutting in public health and safety has become a major scandal. Let me give just one example. It has come to my attention that a senior Adelaide representative of Touche Ross has made eight trips to the United States in the past 12 months to select and purchase suitable reports. These are edited on a "best fit" basis and used to fill consultancies. Is the Government aware that it is being sold edited secondhand reports? Will the Attorney-General investigate the manner in which consultants are preparing reports to fill their Government contracts? Will he report to the Parliament at the earliest possible time on the results of his investigations?

The Hon. K. T. GRIFFIN: The allegations made by the honourable member are non-specific. He has indicated some suggestion that a partner in Touche Ross has made eight trips to the United States, and he had imputed the reason he has gone there—to purchase reports. I believe that to be a dubious assertion, to say the least. The honourable member has not been able to give any other indication or illustration of facts to back up this wild beat-up that he has embarked on at the present time. The fact is that the Government is using consultants in a number of areas, and they are consultants who have undoubted expertise. As there may be some experience in other countries about the way in which problems are dealt with, it is quite proper for those consultants to draw on that experience, but there is no one Government like any other, nor is there any one problem like any other. The real skill with consultants is to be able to apply the broad range of their experience and knowledge to the problems which affect South Australia and the way in which they should be dealt with by the Government in this State. Therefore, unless the honourable member has specific facts upon which he can draw, I do not intend to take the matter further.

The Hon. J. R. CORNWALL: I desire to ask a supplementary question. I did specifically refer to Touche Ross. Therefore, I ask the Attorney whether he will investigate the activities of Touche Ross, particularly the eight trips that this representative has taken to the United States specifically to search on the West Coast of the United States for suitable secondhand reports. It is impossible to be more specific than that. It is with some regret that I have publicly nominated the company.

It is one example and I can assure the Attorney-General that, if he investigates, he will find many more instances where the Government is being ripped off. Will he investigate the allegations, including those made in regard to Touche Ross?

The Hon. K. T. GRIFFIN: If the honourable member was a duck shooter he would not get any ducks; he is firing scatter shot. He is shooting wildly from the hip and is not hitting anything. He made some comments about eight trips made by Touche Ross overseas. He has not given any indication as to whether they relate to a Government contract and, if they do, what contract it is or whether they relate to the normal interstate and overseas activities of accounting partnerships which are represented in the major cities of the world.

POLICE FORCE RECRUITMENT

The Hon. G. L. BRUCE: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Chief Secretary, a question about police recruitment.

Leave granted.

The Hon. G. L. BRUCE: I have had cause to be interviewed by a constitutent who had applied to join the Police Force. He had a slight handicap. He did not pass the medical to get into the Police Force. In the interview it was stated that, if he had something better to offer the Police Force, the handicap could possibly be overlooked. Throughout the interview the tenor was that he had to do better than just be what he was and had to offer something exceptional. That was the only way that the handicap situation would be overlooked and a position found for him in the Police Force.

Bearing in mind that it is the Year of the Handicapped, will the Minister state how strict the medical examination is and what the qualfications are for entrance into the Police Force? What latitude is exercised, if any, for any minor handicaps, and what latitude is exercised, if any, for major handicaps? What criteria are used in determining, if medical standards are waived, who are accepted and who are rejected as police recruits?

The Hon. C. M. HILL: I will refer those questions to the Chief Secretary and bring back a reply.

MINISTERIAL DEPUTATION

The Hon. J. E. DUNFORD: I seek leave to make a short explanation before asking the Minister of Community Welfare, representing the Minister of Industrial Affairs, a question on a deputation to the Prime Minister of Australia.

Leave granted.

The Hon. J. E. DUNFORD: Honourable members will be interested in my question if they are interested in the welfare and future of South Australia. Last night on the electronic media I heard comments made by the Minister of Industrial Affairs. Honourable members will know how I feel about the Minister of Industrial Affairs and that I am on record as saying that he is young, incompetent, and out of touch.

The PRESIDENT: The honourable member is not explaining his question.

The Hon. J. E. DUNFORD: Those comments refer to what I am going to ask. I am asking that a deputation be sent to Canberra through the Minister of Industrial Affairs. As a result of hearing him on the electronic media I have changed my opinion of him. If he carries out the requests that I put to him today I will be more than convinced that he ought to be the Minister of Industrial Affairs.

The Hon. J. R. Cornwall: For the time being.

The Hon. J. E. DUNFORD: Yes, we all know that it is for the time being. Because of the problems of drugs, crime, and so on, the Government will be in office for only a short time. However, while the Government is there we must listen to the people that talk about industrial affairs. The Minister was concerning himself with the Industries Assistance Commission Report. He went on to say that if the Federal Government adopted that report thousands of jobs would be destroyed in South Australia and the motor car industry would also be destroyed. We all know that, if the motor car industry goes in South Australia, we will lose the largest employer and the most prosperous

industry, outside tax avoidance. We can imagine the effect that that would have on ancillary areas; for example, spare parts, which is one of the most lucrative and profitable sides of the motor car industry. The industry will be destroyed as will the jobs of people we represent in this State. I do not believe that Federal Ministers or the Prime Minister take note of what State Ministers say. I ask that a deputation be sent to Canberra so that the Prime Minister knows that we are concerned about the motor car industry and its employees and their security.

I am concerned about the problem, although I do not work in the industry. If the motor car industry is destroyed I will not lose my seat, although I believe that the Hon. Mr. Carnie and some other Liberals would lose their seats. I was concerned when I heard the Minister's statement and wondered how the employees themselves must feel. It is a serious situation and I hope the Minister takes it as seriously as he sounded on the electronic media. It will be the testing ground for him to see how he reacts to my question. Will the Hon. John Burdett, representing the Minister of Industrial Affairs, ask the Minister to confer with the trade union movement and other interested bodies with a view to organising a deputation to the Prime Minister of Australia to get an assurance from Mr. Fraser that he will not, whilst Prime Minister, accept the I.A.C. Report that could, to use the Minister's words, "destroy the car manufacturing industry in South Australia"?

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

STATUTE AMENDMENTS

The Hon. BARBARA WIESE: I seek leave to make a brief explanation prior to asking the Attorney-General, representing the Premier, a question on statute amendments.

Leave granted.

The Hon. BARBARA WIESE: As a relatively new member of this Parliament I have often wondered at the curiously inconvenient procedures followed to amend Acts of Parliament. As all honourable members know, whenever a principal Act is amended the amendment is printed separately from the Act, rather than the whole Act being reprinted with the amendments incorporated.

After an Act has been amended three or four times, it becomes confusing and rather time consuming when one is referring back and forth from the principal Act to the amending Acts in an attempt to work out exactly what legislation says. Recently, I made some inquiries about the systems used in other States and found that only the Parliaments of Queensland and South Australia still follow this rather archaic system. In other State Parliaments, Acts are printed in loose-leaf form. This means that, when an amending Act is passed, the principal Act can be amended relatively easily and quickly by reprinting only those pages that are affected by the changes. The amending changes are then inserted into the loose-leaf copies of the Act and the original pages discarded. I understand that this system is operating rather effectively in the New South Wales Parliament in particular.

In South Australia, the laborious task of consolidating legislation passed prior to 3 February 1976 has recently been completed, and it would seem an opportune time to introduce a new system for printing amended legislation. Will the Premier introduce a new system for the consolidation of legislation similar to the loose-leaf system operating in other State Parliaments?

The Hon. K. T. GRIFFIN: This area is within the Attorney-General's responsibility, and I can indicate that some steps have been taken to investigate the implementation of that sort of system. It does occur with those Acts that are more frequently used than others, particularly through Butterworths and C.C.H., which periodically update legislation. I refer, for example, to the Stamp Duties Act, the Real Property Act and other more commonly used legislation. However, I will inquire regarding the progress of the investigation and bring back a reply to the honourable member.

I might say in passing that one of the difficulties is that, although that sort of update system is convenient for current laws, on a number of occasions practitioners in particular and others need to know what the law was on a certain date and, if one adopts a loose-leaf system where one discards all the pages that relate to old legislation, one necessarily creates that sort of difficulty. I refer, for example, to the Local Government Act, which is particularly complex and in relation to which one can have considerable difficulty knowing what the law was at a certain date. That is one of the complications that I know the department is examining at present.

SPEED LIMITS

The Hon. C. W. CREEDON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Transport, a question regarding speed limits.

Leave granted.

The Hon. C. W. CREEDON: This State has in recent times introduced P plates for drivers who have just acquired their driver's licence. For other licence holders, the maximum speed is 110 kilometres an hour. The maximim speed limit also applies to learners. When this matter was raised with me recently, I said, "So what. I could not imagine anyone in their right mind instructing learners and permitting them to drive above what could be described as a reasonable speed."

I was promptly informed that these days the teacher is often a young person instructing an even younger person on how to gain his licence, and often the learner is not averse to travelling at a high speed. I could not imagine an older instructor permitting one to travel at an excess speed, as most instructors fear for their safety.

Another problem, I am told, is that in recent times a new method or different approach has been adopted for the issuing of drivers' licences. Each person is tested for ability by a person associated with the Motor Registration Division, and I believe that in many cases some people must appear for testing many times before being issued with a licence.

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

That Standing Orders be so far suspended as to enable Question Time to continue until 3.30 p.m.

Motion carried.

The Hon. C. W. CREEDON: Some people have had many months of driving practice and the desire to test the machine is always with them. They want to travel at 110 kilometres an hour, which is permitted by the Act.

The motor bike is probably the area of greatest danger and a problem. The learner rides alone and can travel at whatever speed takes his or her fancy. However, if there is a limit to the speed at which the learner can travel, and his or her licence is at risk if he or she exceeds the learners' speed limit, the generally sensible learner would observe these limits. Has the Minister examined the possibility of

creating a lower speed limit for learner drivers and, if not, will he?

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

SITTINGS AND BUSINESS

The Hon. FRANK BLEVINS: Has the Attorney-General any information to give the Council regarding the sittings for this portion of the session and about what is to happen later in the year?

The Hon. K. T. GRIFFIN: Parliament will rise at the end of next week and the Government then intends to sit for the first two weeks in June. That will be the end of the session. Although the commencing time for the next session has not yet been agreed, it is expected to be towards late July or early August.

WOOD CHIPS

The Hon. B. A. CHATTERTON: Has the Attorney-General a reply to the question I asked on 4 December 1980 regarding wood chips?

The Hon. K. T. GRIFFIN: I have been provided with the following reply:

During all the negotiations with Mr. Dalmia following his visit to Adelaide in December 1979, the Minister of Forests was kept informed by his officers of developments in the wood pulp project involving Punalur Paper Mills Limited. In particular, the Minister was aware that Mr. Dalmia had been advised that the preliminary opinion of the Foreign Investment Review Board did not suggest any insurmountable obstacles to Punalur's ownership of Punwood Proprietary Limited. The Minister was also aware that Mr. Dalmia had been clearly advised that a final recommendation of the FIRB would depend upon the consideration of the formal submission for approval by Punalur Paper Mills Limited.

Because of the significance of the pulp project, the Minister of Forests maintained a continuing interest in its progress. Further, to expedite the project and assist Punalur Paper Mills Limited, an officer of the Minister's department was assigned to work with a representative of the company, to assist him in preparing the submission to the FIRB and in satisfying associated technical formalities such as ensuring that the correct forms were obtained and completed in the appropriate manner. This assistance was welcomed by Punalur Paper Mills.

To ensure that the FIRB was kept informed and that all appropriate action was being taken to satisfy the requirements of applications to the board, intermittent contact was made by Government officers. The Government's view remained firmly that Punalur Paper Mills Limited was to receive the assistance of the Government and that no obstacles would be created with the FIRB or in any other quarter which might impede Mr. Dalmia in meeting the conditions of his agreement with the Minister of Forests.

The transfer of the Government's interest in Punwood Proprietary Limited, which was provided for in the deed signed on 5 March 1980, reflected the Government's desire to accommodate Mr. Dalmia's own request to make Punwood a wholly-owned subsidiary of Punalur Paper Mills Limited. In return it was proposed by Mr. Dalmia that he would provide $10 000 000 of his own as equity and borrow the balance of $40 000 000 through a consortium of foreign banks. The Minister was aware of and agreed with the transfer of shares incorporated in the 5 March deed.

It needs to be stressed that the involvement of Punalur Paper Mills Limited in the pulp project did not flounder because of any "dirty tricks" campaign as alleged, ridiculously, by the honourable member, nor did it flounder because of Punalur's inability to satisfy the FIRB's foreign investment guidelines. Punalur Paper Mills Limited floundered because it failed to demonstrate its ability to raise funds and as a result could not submit a detailed financial plan for the project in accordance with the deed of 5 March 1980.

The Hon. B. A. CHATTERTON: Has the Attorney-General a reply to a further question I asked on wood chips on 11 February 1981?

The Hon. K. T. GRIFFIN: It was agreed from early in negotiations with Punalur for the formation of Punwood Proprietary Limited that, if the chip exporting facilities were established and Punalur could for any reason at any time not accept a shipment or any number of shipments, Punwood Proprietary Limited would endeavour to make spot sales to third parties. Mr. Dalmia was never authorised to make sales to third parties on behalf of Punalur Paper Mills Limited at any time or on behalf of Punwood at that stage (4 February 1980).

This was clearly understood by Mr. Dalmia; otherwise he would not have strongly denied later in February that he had made any offers while in Japan between 8 and 18 February. It is quite untrue that the December 1979 agreement permitted Mr. Dalmia to dispose of any wood chips in any way that he liked. There was no conspiracy. At the Kuching meeting the Director was particularly endeavouring to get the original agreements back on the path to expeditious implementation. Events since have clearly demonstrated that our insistence on a professionally conducted feasibility study if there was to be a pulp mill was justified.

SEX DISCRIMINATION

The Hon. ANNE LEVY: Has the Attorney-General a reply to a question on sex discrimination which I asked on 27 November 1980?

The Hon. K. T. GRIFFIN: The A.M.P. leaflet referred to was "A Career with the A.M.P. Society" and was printed in October 1975. Since then the society's terms for staff appointments and related benefits have been amended to non-discriminatory and equal opportunity provisions. In particular, the eligibility rules for home purchase provisions have been amended accordingly. These amendments were prepared between 1975 and 1977 and, except for a transitional period mentioned below, now apply to all staff.

The amendments, prepared in agreement with their Staff Association, included some transitional (discriminatory) terms for pre-1975 employees to protect their former eligibility expectations up to 1 June 1980. These transitional terms and the current eligibility terms were then conveyed to the South Australian Sex Discrimination Board in December 1977 in association with the society's application to have the transitional terms to 1 June 1980 exempted from the provisions of the Sex Discrimination Act, 1975, and this was granted by the board.

During their current investigations, it was discovered that some of the pamphlets in question were, to the best of their knowledge, only used for a brief period last year mainly to enclose other printed material for recruitment purposes. It is now realised that the inadvertent use of the pamphlet has caused some misunderstanding and, incidentally, was to their disadvantage to have conveyed out-of-date information. Action has been promptly taken

through their head office in Sydney to bring to the attention of all their State offices that the pamphlet is obsolete. They are similarly advising those careers centres, etc., in Adelaide which, to their knowledge, may hold the pamphlet, to withdraw and destroy any stocks.

MEAT HYGIENE

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

Leave granted.

The Hon. B. A. CHATTERTON: Last week I directed a question to the Minister asking him whether he would clarify the position in relation to slaughterhouse owners in this State. I have had some indications from slaughterhouse owners, particularly in the Barossa Valley, that they were very unclear as to the Government's policy in issuing licences for slaughterhouses. A particular matter of concern was the throughput of slaughterhouses and how much the Government would allow. That was the main complaint I received at that particular time.

Since then I have received futher complaints from many slaughterhouse owners stating that there are other discrepancies between the proposed regulations and the report that was made by the Joint Parliamentary Committee. In view of this uncertainty within the industry, will the Minister speed up the policy statement that I asked him to provide last week, because of the concern and the uncertainty within the industry as to what the Government intends in relation to the licensing of slaughterhouses? Will the Minister produce a policy statement on this matter as soon as possible?

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

ELECTORAL ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 February Page 2714.)

The Hon. C. J. SUMNER (Leader of the Opposition): This amending Bill can be roughly divided into three parts. First, those amendments of a technical nature which are not particularly contentious about which the Opposition may have some queries and with which we have no substantial objections. Secondly, technical amendments in the sense of amendments to the methods by which a person should cast his vote; or the qualifications for enrolment on the electoral roll; and matters dealing with the procedure for disputing the result of an election, and so on, which are more contentious. The Opposition will be raising some considerable queries and argument before deciding its attitude on these issues. In this second category I include the change envisaged by way of qualification for enrolment on the electoral role from the place of living as the criterion to the place of residence, which is the proposed criterion.

At this stage I raise a query about the relationship between clauses 21 and 37 and clause 17 in that regulation where there seems to be some confusion as to whether the qualification for enrolment is one months residence in a place and what relationship that bears to the three months criterion mentioned in clauses 21 and 37.

We will also be raising questions about the changed procedure for section 110a votes, or votes by people who claim to be entitled to vote but are not on the roll on polling days. It is proposed to remove the role of scrutineers in the claiming of section 110a votes, and we believe that should be subject to some query.

Further, the Bill provides that the Limitation of Actions Act should not apply to petitions contesting the result of an election in the Court of Disputed Returns. At present, as a result of the Norwood by-election case in the Supreme Court, the law is that a petition may be amended or may be filed beyond the period of 28 days stipulated in the Act if the requirements in the Limitation of Actions Act are fulfilled. In the Norwood case, the judge permitted some amendment to the petition after the time limit of 28 days for filing the petition had expired.

This Bill gives a further 28 days within which a petition may be filed or amendments made in certain circumstances but provides that, after that period, in no circumstances amendments for a new cause of action be added. We wish to raise some queries about the possibility of this. There would seem to be some merit, if one has a Limitation of Actions Act, that that Act apply, as was found by the Supreme Court, across the board, unless it specifically is held not to, for good reasons. We will certainly be raising queries about that.

We will also be looking at the extent by which errors by poll clerks and other errors in the conduct of the poll should invalidate the election, and we will be giving attention to the changes that the Government intends to make in that area. We believe there may be scope for too great a discretion in poll clerks with the errors they may make and the challenges that can be brought as a result of those errors. In other words, this Bill provides that errors can be made by poll clerks or other errors made in the conduct of an election that would not necessarily invalidate the election. We believe that every election error should not invalidate an election, but at this stage we are concerned that the proposed changes carry the matter of the errors by poll clerks or other officers in the conduct of the poll too far and that they may be unduly restricting the power of challenge that can result from those errors.

Another matter to which we will be giving attention is the provision that a by-election following a Court of Disputed Returns should be held on the same roll as the original election. I can see, while there is some superficial logic to that proposition, that there can be severe problems with it and in Committee we will be giving attention to that matter, but at present our view is that that ought not to apply and that, in the case of a by-election following a Court of Disputed Returns, that by-election should be on a roll that is updated to that by-election.

Any alternative could disfranchise a number of voters and, further (this is a problem), if the original election were held on a roll that in some way had been affected by the actions of the electoral officers, for instance, in taking people off the roll, that situation ought to be righted for a by-election following a Court of Disputed Returns. The other problem is that a Court of Disputed Returns may take several months. If it is a complex matter and involves complex constitutional and legal issues, it may take up to a year.

If a by-election ordered by a Court of Disputed Returns were held on the old electoral roll, that certainly would not be giving the most up-to-date expression of the views of the electorate. We see severe problems with the proposition in the Bill that a by-election following a Court of Disputed Returns should be on precisely the same roll as the original election, and at this stage we are opposed to the change.

There are a number of other matters which I have said are of a technical and non-contentious nature and about

which we will be raising queries. I have mentioned that some are more contentious so that the Attorney can consider them. In Committee, we will be subjecting the Bill to closer scrutiny, and on individual clauses we will take up queries then. I do not believe it appropriate for me, in this debate, to canvass all of those.

The third category of change in this Bill is the major change to the voting system for the Legislative Council, and in this debate I will be concentrating my remarks on those changes and the issues of principle involved. Before dealing with that, I will make some general comments. First, the Attorney, in introducing the Bill, has said that it results from "a most comprehensive review" of the Electoral Act. If it is a comprehensive review of that Act, it is certainly not a Bill that can be said to be a great reforming piece of legislation. The major democratic issues in elections in this day, not only in Australia but throughout the world, are not touched by this legislation.

The whole question of the financing of elections and of the political process that surrounds elections is not touched by the Bill. There is no indication of laws that would, for instance, limit the size of expenditure by Parties and candidates, and there is no indication of laws on donations or laws that would provide for disclosure of sources of funds and provide for some funding of the process from General Revenue. Australia today is almost alone among the developing democracies in resisting these reforms.

This Bill does not do anything to touch upon them. The Opposition believes that a Select Committee should be established to examine and propose new laws to regulate the financing of elections. That has been hinted at before, and the Opposition intends at some appropriate time in the near future (probably in the next session of Parliament) to move for the establishment of such a Select Committee.

In regard to the financing of the political processes surrounding elections, the funding of political Parties, and donations and the like, which are significant matters for a democracy, I believe that Parliament should give close attention to this matter. This Bill does not do that. Other matters not touched on could have included the question of providing the names of political Parties on ballot-papers, and an indication on the ballot-paper of the name of the Party for which a particular candidate is standing. We believe that system should be introduced. It has been introduced in most of the developed countries in the world. This system applies in Canada, France, New Zealand and Norway, and in the United Kingdom a description of no more than six words, including occupation and political Party, can be included on the ballot-paper. Doubtless, there are other countries where this applies, but at least here are some examples of where that system has been permited.

The Hon. K. T. Griffin: It would require the registration of political Parties.

The Hon. C. J. SUMNER: It may not require registration of political Parties. A candidate could indicate whether or not he wanted his name and his political Party to be described on the ballot-paper for the election he was contesting. It would not require the registration of a political Party, but it would require the nomination of a political Party by the candidate.

The Hon. R. C. DeGaris: He could use the name of a Party that is well known. A candidate could use the name "Labour Party".

The Hon. C. J. SUMNER: The Hon. Mr. DeGaris raises a technical argument in the second reading debate about a general principle. The general principle to which I referred was whether the name of political Parties ought to be included on the ballot-paper. It is a matter that has been accepted in many other countries having developed democracies, and it is an issue that we should consider in this State. This Bill does not do that.

The other matter that could have been looked at was the question of the House of Assembly ballot-papers and the positioning of candidates on those ballot-papers. We have a position in the Legislative Council where there is a draw for positions on the ballot-paper, and that surely is the fairer system. It is quite absurd that the position on the ballot-paper should be determined in alphabetical order. That order gives an advantage in an election to the Hon. Mr. DeGaris that the Hon. Mr. Sumner has not had. It seems absurd that the question of which letter a name starts with determines whether one has an advantage in an election. The Opposition believes that this is another matter which could have been looked at in this so-called review of the Electoral Act and which was not looked at. We believe it is absurd that the name of a person and the letter with which the name starts should determine whether or not he has some advantage. In fact, it is discriminatory as between the candidates who may stand in an election, and it can lead to unfortunate results. For example, a minor Party could know that it could not win an election and wished to pick up a few easy votes and could select a candidate with a name starting with "A" and so attract the so-called donkey vote. We believe that matter should be looked at. It has not been looked at by this Bill, and it could have been if this Bill was intended to be a major review and a major reforming measure, which it is not. At best, it is a piecemeal tinkering with the Act, in so far as it deals with these technical matters that I have mentioned. At worst, in that it alters the voting system for the Legislative Council, it is an attempt to turn the clock back on the reforms brought about to the Legislative Council voting system by the Labor Government in 1973 after years and years of hard electoral work, particularly after years of obstruction by Liberal members in this Council.

I now turn to the Legislative Council voting changes which are crucial to all members of this Council. Possibly one could say they are even more important than the Parliamentary Superannuation Bills that we get from time to time in this Council. The question of how we as a community elect our members of Parliament is of paramount importance to the community and the Parliamentarians who are elected by that process. It did not take the Liberals long to try to tamper with the system that was introduced in 1973. After only 18 months in Government they have decided that they are going to fiddle around with the system that was passed by this Parliament in 1973 and passed, as I said, after much opposition over the years, over the decades, from members of the Liberal Party in this Council. It was passed in 1973 after being a specific commitment at the election in this State earlier that year, and it was passed after a long a protracted debate and after a rearguard action by Liberals in this Council in 1973, but the reform has achieved the most significant democratic reform to the Legislative Council voting system in the history of this State.

Since that time, as members will know, there have been two elections, one in 1975 and one in 1979, under the new system. The new system introduced for the first time a system of universal franchise. It introduced a system of proportional representation. That system of voting for the Upper House had not existed in this State before.

The Hon. R. C. DeGaris: Yes it had.

The Hon. C. J. SUMNER: It had not existed at that time. It existed in another place in the 1930's. The system applying before 1973 was a system of restrictive franchise

and not a system of proportional representation voting.

So, it was the most significant democratic reform in the Legislative Council in the history of our State. Since then there have been two elections, and two elections only. It is on the basis of these two elections that the Liberal Party is attempting to tamper with the system. However, it can now be said that there is at least a consensus on one issue. There is now an agreement on the appropriateness of the new system for Legislative Council elections. I would like briefly to deal with the argument that somehow or other the list system is undemocratic.

The argument goes that, because you can only vote for a list of candidates put out by a particular Party and cannot vote for an individual candidate within that list, the system is somehow undemocratic. That is an argument with which I do not agree. First, the candidate is only on the list because he has the support of his Party. If he did not have the support of his Party he would not be on the list. That is quite clear. It does not preclude candidates from nominating for the election if they are not members of a Party. Individuals can nominate and can run quite freely in an election. They have the advantage of the system of proportional representation. So, if they as individuals can obtain a certain percentage of the vote (8·3 per cent) they can be elected. There is no restriction on individual members of the community running apart from a political Party. They do not have to be a member of a political Party or nominate as a member of a political Party in Legislative Council elections. However, if they do nominate as a member of a political Party and stand as candidates in a political Party, they acept the priority as determined by that political Party. That is not unreasonable, as they are only on the list because they are a member of a political team.

In fact, in the Senate, where one can vote for individual candidates, the great majority of people vote in accordance with a Party ticket. People are put up as Party candidates but are grouped in Party groupings. The great majority of those groupings are voted for in accordance with the Party how-to-vote card. So, there is nothing intrinsically undemocratic about the system of list voting. It is true that it is not a system in great use in the Anglo-Saxon countries (if I can describe them that way). It is not part of the British tradition. However, I do not think that that should preclude us from giving consideration to the list system. Where it is desirable, as I believe it is in elections of this kind where we are electing 11 people at a time in a large electorate, it should be adopted. In European countries, as opposed to the British tradition, the list system is used quite extensively. Some of the countries that use this system are Austria, Belgium, Denmark, France, the Federal Republic of Germany, Italy, the Netherlands, Norway, Sweden and Switzerland.

Even the Hon. Mr. DeGaris, and I am sure the Hon. Mr. Milne, would find it difficult to say that those countries were any less democratic because they have a list system of voting than is the United Kingdom or the Australian Federal Parliament which do not. In fact, in many respects, these countries are more democratic than Australia in their voting and democratic procedures. Switzerland is often held up as a model of how democracy should work. I was in Italy recently, where they have a system of direct referendum. If a group in the community can obtain a certain number of signatures to a petition for a proposition against or in favour of a law, the Government is required to put those referendum questions to the public.

The Hon. K. T. Griffin: What about proposition 13?

The Hon. C. J. SUMNER: It is a similar situation to what occurred with proposition 13 in California. European countries have other processes which, to my mind, are more democratic than our system. It is absurd to pick out the list system and say that it is somehow or other intrinsically undemocratic. It is not an argument that would stand up. I am pleased to see that the Government has now accepted the Opposition's point and the Labor Government's original proposition that the list system is a valid system of voting for election to the Legislative Council.

The Hon. K. T. Griffin: We do not necessarily accept that.

The Hon. C. J. SUMNER: The Government's Bill does not interfere with the list system. Is the Attorney saying that there will be another Bill produced in the near future which will touch the list system? If that is going to be the situation, it behoves the Attorney-General to tell the Parliament now when it is debating this Bill whether or not that is the case. He must come clean in this debate when replying and say whether there is any intention at some later stage, if this Bill is passed and these changes are implemented, to alter the Legislative Council voting system. The Attorney said that he does not necessarily agree with the list system. If that is the case he should have introduced some changes in his Bill. The Bill does not interfere with the principle of the list system. I am glad to see that the Government and the Opposition are now in agreement on this point. I say that because I do not believe that the list system is an undemocratic one, nor is it inconsistent with the Liberal Party's policy on democracy.

I have tried to nail once and for all the proposition and talk in the community that somehow or other the system of voting for a list is undemocratic. It would be possible for a group of individuals, if they wanted to put up a non-Party list (a civic list of people not attached to any Party) to form a group under the Act. There is no restriction on individuals running for positions in the Legislative Council as individuals or, indeed, on some kind of list. The list system is an acceptable democratic system well used and well known in European countries—countries that in many respects are more democratic in their procedures than ours.

I am pleased to see that the Government has now accepted the list system as a valid system for the Legislative Council. If it does not accept it, it should say quite clearly in this debate whether it intends to tamper further with the system at some later stage. Is it proceeding on a bite now and a bigger bite later, or will it be happy with the changes that this Bill will bring about? That is the question that the Attorney-General must answer, not only for this Parliament but also for the public of South Australia.

If he does not answer it, he will be dodging his responsibilities and indicating to the people that the Liberals are prepared to play around with the voting system without disclosing to the public what they intend to do, and that they will continue to tamper with the Legislative Council voting system. Who knows where that will lead in terms of another place?

I deal specifically with what this Bill does to the Legislative Council voting system. First, it abolishes optional preferential voting. That is, without any question, a retrograde step, and is an appalling reversion to the bad old days. The Opposition supports the system of optional preferential voting not only for the Legislative Council but also for the House of Assembly. When the clauses dealing with the House of Assembly voting system are before the Committee, the Opposition will consider amendments to that effect.

The simple fact is that, if we are talking in terms of democratic theory, the optional preferential system is

much more democratic than a compulsory preferential system. The compulsory preferential system, which is peculiar to Australia (it may exist in some other countries, but certainly not in very many; there are systems of preferential voting in other countries), involves the problem that, if one is required to vote all one's preferences, it is absurd to say that the vote that one gives to No. 1 candidate is worth the same as the vote that one gives to the No. 36 candidate, which one may do and, in fact, has done in Australia in recent Senate elections. In New South Wales, I think that there were 75 candidates on the Senate ballot-paper. We have had up to 40 candidates on a Senate ballot-paper in South Australia.

The Hon. K. T. Griffin: We had seven groups at the last election.

The Hon. C. J. SUMNER: Do you mean the last Senate election?

The Hon. K. T. Griffin: No, the last Legislative Council election.

The Hon. R. C. DeGaris: How do you elect your Leader in your Party?

The Hon. J. E. Dunford: Very democratically.

The Hon. C. J. SUMNER: As the Hon. Mr. Dunford has said, it is done very democratically.

The Hon. J. R. Cornwall: And unanimously.

The Hon. C. J. SUMNER: Yes. There is usually such incredible accord amongst the members of the Labor Party that a consensus emerges. The argument that I am putting (and I am sure that the Hon. Mr. DeGaris and even the Hon. Mr. Davis must agree with this) is that, if we require a person to vote and to express every preference, it is absurd to say that the vote for the person to whom he gives his first preference ought to have the same weight as that for the person to whom he gives, say, his 36th preference, or even more, as applies in Senate elections.

That is the argument at its extreme, but surely, if a voter gives his preference to one candidate, that is the person that he wants to see elected. Even one's second preference cannot be seen in democratic terms to have the same worth as one's first preference. Yet, in a compulsory preferential system the second preference, third preference or 36th preference (if it gets down that far) has the same value as the first preference.

The Hon. R. C. DeGaris: It has the same value in optional preferential voting.

The Hon. C. J. SUMNER: That is quite right, but in the optional preferential system one does not have to express them all. However, if a voter expresses all his preferences, at least he is expressing those preferences consciously. He has the option not to express them but to say, "I am voting for one candidate and one candidate only, and I do not want any truck with the rest of them."

If the voter decides to give second, third, fourth and fifth preferences, it is difficult to see how the other preferences should be worth the same as the first preference. However, with an optional preferential system the voter has the choice and can express them all the way down the line if he likes, but he does not have to do so. So, in terms of democratic theory, compulsory preferential voting is far worse than the optional system, yet the Liberals in this State wish to return to the compulsory preferential system.

Apart from that argument relating to the general theory of preferential voting, the fact is that to insist on a compulsory allocation of preferences would disfranchise a large number of voters. I indicate to the Council the situation that has occurred by way of comparison with the last two Legislative Council elections, which had a list system and optional preferential voting, and the last four Senate elections, which had individual voting and compulsory allocation of preferences. I am speaking of these elections in terms of the informal vote.

In the 1975 Legislative Council election, the level of informal voting was 4·5 per cent, and in 1979 it was 4·4 per cent. In the 1974 Senate election it was 11·4 per cent, and in 1975, 9·95 per cent. In 1977, the figure was 10·4 per cent, and in 1980, 8·7 per cent. So, in most cases only half the informal vote occurred in Legislative Council elections which had a system of voting that was simpler and did not compel all preferences to be filled in.

However, in the last election in South Australia, with 8·7 per cent of the votes informal, 70 366 persons voted informally. Probably some of those intended to do so. However, a large number of them would have voted informally because of a mistake resulting from the complicated nature of the voting system. It is interesting to note that there were 28 candidates in the 1979 Legislative Council election. In the 1980 Senate election there were 27 candidates. With 28 Legislative Council candidates, the informal vote for 1979 was 4·4 per cent, and with 27 Senate candidates the informal vote in 1980 was 8·7 per cent, almost twice as much.

The informal vote in the House of Assembly was 34 114, whereas in the Legislative Council it was 33 637. Therefore, the informal vote in the Legislative Council was less than the informal vote in the House of Assembly. I believe that that situation would be unique in terms of the comparison of informal voting between Upper and Lower Houses in Australia. In relation to specific voting places in 1980, for the Senate, 17·4 per cent voted informally at Port Adelaide; 16 per cent at Angle Park; 15·4 per cent at Royal Park; 15·1 per cent at Ethelton; 14·1 per cent at Brompton; and 14·6 per cent at Woodville Gardens. I do not accept that all those people in those particular areas intended to vote informally. I believe that many of them intended to record a formal vote. However, many people are confused by the complicated nature of the system and in some cases one has to fill out up to 75 numbers on the Senate ballot-paper, which is what occurred in New South Wales. That situation is quite absurd.

The disfranchising of electors which occurs by the more complicated voting system particularly occurs in relation to pensioners and older people who may have difficulty filling out ballot-papers or reading them. That difficulty also applies to migrants who are often unfamiliar with the voting system that operates in Australia because the system in Europe is completely different. They are also faced with the added complication of a compulsory Senate preference system. The abolition of optional preferential voting will disfranchise many electors.

I am surprised to see that the Liberal Government is introducing legislation that will disfranchise electors. After the years of battling that occurred to reform the electoral system in South Australia, I would have thought that the Liberals would have learnt their lesson. However, that is not so and they are now insisting on abolishing the optional preferential voting system, which in democratic terms is the system that is preferable to compulsion, and it will disfranchise a large number of electors and turn the clock back.

The Hon. K. T. Griffin: How do you equate that with your New South Wales colleagues in the Legislative Council?

The Hon. C. J. SUMNER: My colleagues in New South Wales introduced legislation using the list system. A Select Committee was appointed in the Legislative Council where the Government did not have a majority. As a result of that Select Committee, and no doubt some

political bargaining, the present system in New South Wales emerged. That does not mean that it is a better system than the one used in this State. I believe that the electoral system used in South Australia is equal to, if not better than, any electoral system in Australia. The Hon. Mr. DeGaris made an interjection about compulsory preferential voting and said that one must go to the polls with compulsory voting. That is true; we do have to go to the polls. However, as the Hon. Mr. DeGaris knows, one does not have to express an opinion on the candidate presenting themselves for election; one's only obligation is to appear at the polls. The system that insists that one casts a preference for every candidate is not as democratically justifiable as an optional preferential system and further disfranchises many voters. That fact is borne out in the figures I have cited.

The final matter that I wish to refer to is the change which requires that all preferences be distributed. The present law requires that only the preferences of those groups of candidates or individual candidates who receive under 4·166 per cent of the vote, that is under half a quota, are distributed. The preferences of those candidates who obtain more than half a quota, and are therefore competing for the final full quota, are not distributed between the final two or three competitors for the final seat. There would need to be three or more competitors for that final seat before that would happen. In 1975 the competition for the final quota was between the Australian Labor Party, the Liberal Party and the Liberal Movement. The A.L.P. obtained five positions in its own right, the Liberal Party obtained three positions and the Liberal Movement obtained two positions. There was a contest amongst those three major Parties who had obtained more than half a quota for the final position. The A.L.P. had the largest vote in the competition for the final quota and therefore the sixth person on the A.L.P. ticket was elected.

The Hon. K. T. Griffin: That is really first-past-the-post voting.

The Hon. C. J. SUMNER: It is first-past-the-post voting for the final position. In 1979 the contest was between the Liberal Party, the A.L.P. and the Australian Democrats for the final quota. The Liberal Party obtained six, the A.L.P. four, and the Australian Democrats had none. However, the Australian Democrats had more than half a quota, so it was in the fight for the final seat. The Australian Democrats won out and the Hon. Mr. Milne was elected. The Attorney-General has said that is a first-past-the-post system and that is correct, because it is a first-past-the-post system in the competition for the final quota. When this system was introduced in 1973 there was acceptance for it by honourable members in this Council. Speaking on behalf of the Opposition the Hon. Mr. DeGaris said on 27 June 1973—

The Hon. R. C. DeGaris: That is what I said after the conference. What about what I said before the conference?

The Hon. C. J. SUMNER: The Hon. Mr. DeGaris can raise that himself. I would not like the Council to be misled by what I said and, if the Hon. Mr. DeGaris wants to correct the record, he ought to be allowed to do so. He has a lot of record to correct and he tries to correct it time and time again but he does not convince many people. This is what he said when the thing was all washed up and agreement had been reached between the two Houses:

> I pointed out, I think on many occasions, that the use of a list system, when 11 members are being elected to the Council, makes it difficult to implement a full preferential system. Nevertheless, we have achieved a situation where every vote cast in the election will have a value and will in most cases play some part in electing a member to this Chamber.

That was an acceptance by the Hon. Mr. DeGaris, on behalf of the Liberal Opposition that had the numbers in this Council in 1973 and took the legislation that the Labor Government had introduced through all stages and to a conference. He said it is difficult to implement a full preferential system, yet that is what the present Government is doing. In 1973, with only two elections since the introduction of this system, the Liberal Party was happy.

The Hon. M. B. Cameron: You know that was a totally different situation.

The Hon. C. J. SUMNER: I do not know that. I do not know how many times the legislation on universal franchise for the Upper House had been introduced previously, but certainly it had been introduced more than once over the previous years by a Labor Government. Finally, after a battle on electoral reform that went back to the early 1950's, the legislation was passed in this Chamber, with the support of the Hon. Mr. DeGaris.

Since then, there have been two elections that the Liberals are complaining of. The advantage with this system is that all the votes are counted, in that we do not have to rely on sampling. The votes for the minor Parties, those who get less than half a quota, can be physically counted. The disadvantage with the Liberal system is that it relies on sampling. I do not want to go into problems that can occur with sampling at this stage. The Hon. Miss Levy has touched on this matter previously and I will leave it to her to mention the problems.

The Hon. K. T. Griffin: It has been no problem in the Senate.

The Hon. C. J. SUMNER: We do not know whether it has been stopped. There have been complaints about the Senate in close running. I think that the present Senator Colston, the Labor candidate in 1974, missed out by a small margin and there was a suggestion that that was because of the sampling method.

The Hon. R. C. DeGaris: Was there a recount?

The Hon. C. J. SUMNER: I do not think there was. With the system we have now, all the votes can be physically counted. All the preferences of the minor Parties, those with under 50 per cent of a quota, can be counted, so there is no scope for error. However, with the system for which the Bill provides, we will have to rely on a sampling of votes. The sampling method is more accurate with voting for a particular Party if there are, say, 300 000 votes for the Labor Party, but if the votes for the Party are 1 000 or 500, the scope for error is greater.

The Hon. R. J. Ritson: Count them all.

The Hon. C. J. SUMNER: The present system allows for the counting for the minor Parties, those with less than half a quota. That can be done physically and that is the advantage. In this Bill the sampling method will be used across the board for all candidates. Under the present system there is no scope for error. We are saying that those who have enough support in the community, at least half a quota, ought to be able to compete for the final position, with the preferences for the minor parties being physically distributed. We are saying that people with half a quota ought to make the running for the final position because it has been shown by their first preferences that they had substantial support and are not in a minor Party which, under this system, could be elected without having any great support at first preference level. It is the first preferences of voters for a Party that show for whom the people want to vote.

The Hon. R. C. DeGaris: How can you say that?

The Hon. C. J. SUMNER: I should have thought it fairly obvious. If a person indicates a No. 1 vote for a candidate, that is the candidate that he wants elected. It is absurd to say that, if he votes for 36 candidates, the vote for No. 36 is a vote and he wants that candidate elected just as much as he wants No. 1 elected. Even for you, I should have thought that was obvious.

The Hon. R. C. DeGaris: You didn't say that.

The Hon. C. J. SUMNER: That is what I have said, and I have repeated it. It is absurd to say anything else and I am surprised at the interjection. The important argument in this case is that, in the present system, all the votes are physically counted. With the system proposed by the Government, some will be. We will not be physically counting and the likelihood of error and of a wrong person being elected is increased.

I am not saying that the likelihood is great but, in a close election, a very tightly-fought election, the sampling method, as opposed to the physical method, could be crucial, and we have to look at how the voting system would operate in a really tight election. It could be that, with the system that the Government is introducing, the wrong person is elected. That is what the Hon. Mr. DeGaris was saying on 26 June 1973, when he accepted the system. He said it was difficult to introduce a full preferential system with the list system.

The Hon. R. C. DeGaris: I didn't say that.

The Hon. C. J. SUMNER: I have just read it. I quoted it, as follows:

> I pointed out, I think on many occasions, that the use of a list system, when 11 members are being elected to the Council, makes it difficult to implement a full preferential system.

The Hon. R. C. DeGaris: That was as I was advised at that stage.

The Hon. C. J. SUMNER: I have seen the Hon. Mr. DeGaris try to wriggle out of a few propositions in the past, but I am flabbergasted by that. The Hon. Mr. DeGaris is now blaming the Parliamentary Counsel. He can no longer blame the Attorney-General or the Hon. Mr. Burdett and must resort to blaming the Parliamentary Counsel. The point is that that was what the honourable member said in 1973, and we agree with him. The fact is that the present system allows for the physical counting of votes. The Government's system would introduce the possibility of error because of sampling.

In conclusion, this Bill is an attempt to turn the clock back. It is an attempt to replace a simple democratic system which enfranchises the maximum number of votes by a system which will be more complicated and which will disfranchise many voters, particularly the elderly. This comment applies particularly to the abolition of optional preferential voting. It is in the interests of democracy in this State and the long fight for it which the community in this State has waged through the agency of the Labor Party, with the Liberal Party strenuously opposing it until 1973. It is in the interest of that democracy that these proposals, the change to the Legislative Council voting system, should be opposed.

The Hon. R. C. DeGARIS: I have been listening for a long time to the Hon. Mr. Sumner on this Bill and I must admit that, as far as logic is concerned, it is probably one of the worst speeches I have heard the honourable gentleman make in this Chamber. I will come to some of his specific points later, but I want to make one comment of the things that he said early in his speech. The Hon. Mr. Sumner talked about the use of the same roll for a by-election, and said that, when an election is declared void by a Court of Disputed Returns, the roll used for the by-election should be the current roll. He said that what the Bill provides is wrong.

The Bill provides that, where a Court of Disputed Returns requires a by-election to be held, the roll used should be the same roll that applied at the time of the general election. If that is not the case, then there will be people who will vote twice in the one election.

How can the Hon. Mr. Sumner justify that suggestion in a democracy? He talked a lot about that word "democracy". If in one election a voter votes twice in two separate electorates, and that is what the honourable member is seeking if he opposes this amendment, how can he say it is democratic? The Hon. Mr. Sumner also referred to the question of public funding, which is not dealt with by the Bill. I give some support to that concept and, if honourable members remember, I have already spoken in this Chamber on this matter and said that in the near future it will be necessary for Parliament to consider some public funding in relation to electoral campaigns. This has already been found in New South Wales, some American States and, of course, the British Parliament supports such an approach.

I do not say that it should be done immediately, but there is no question that, if the principles of democracy which we are all supposed to be serving are to best served, there must be some introduction of public funds in regard to the question of campaigning, and there must be greater control of how those funds are used in that particular campaign. The rest of what the Hon. Mr. Sumner had to say I will cover in later comments, but I make the point that this Bill is fundamentally a Committee Bill. It contains a whole range of changes to the Electoral Act, many of which this Council can approve unanimously. There are certain matters that deserve comment at the second reading stage.

My first comment concerns clause 9, which amends section 7 of the principal Act. The amendment prevents the appointment of persons over 70 years of age to the office of Returning Officer. I raise no real objection to this amendment except that I feel that the appointment of a person over the age of 70 years could be made with Ministerial approval where circumstances determine that the best course of action is to appoint a person over 70 years of age. Those circumstances may, of course, never occur, but I would mention one circumstance that could occur. As I understand the position, there is no age limit applying to Assistant Returning Officers. It may happen that the appointed Returning Officer has to resign for some reason, or a death occurs, and the best replacement for that Returning Officer is the Assistant Returning Officer, who is over 70 years of age. There could be other circumstances too. I just raised this point but, if honourable members are satisfied that no-one over the age of 70 should serve as a Returning Officer in any circumstance, then I do not press the point. I just point out that it may be of some advantage to have the proviso that, where extenuating circumstances occur, with Ministerial approval, then a Returning Officer may be appointed who is over 70 years of age.

Clause 17 makes an important change, although in practice will make very little change. The present Electoral Act does not compel a person to enrol, although in practice, because we use the Commonwealth rolls where enrolment is compulsory, the State provision is rarely used. A person may, compelled as he is to enrol on the Commonwealth roll, specifically request that he does not wish to be enrolled on the State roll. There are still some who avail themselves of this right.

So, on principle, the change is from a voluntary roll to a compulsory roll but, in practice, there will be very little

change. I would still argue strongly for the right of a person not to enrol if that is his or her desire but, faced with the practices that have been adopted, I do not see any great future in doing that. So, I am prepared to accept the amendment with some misgivings.

Clause 23 amends section 53 of the principal Act. This section provides that at least seven days must intervene between the day of nomination and polling day. This question has been strongly debated in the Council on previous occasions. The amendment increases this period to 10 days. Often an argument can be put that the 10-day period is still not long enough to cater for all possible contingencies, particularly in some of our largest electorates.

One must remember that there are electors who live long distances from a polling booth with limited mail services. Although some of the problems have been alleviated by an amendment which was obtained in this Council a few years ago (that is in relation to the permanent postal roll), nevertheless, the 10-day period, while improving the position, could still prevent some electors from casting a vote. I ask the Attorney-General whether he is satisfied that the 10-day period is sufficient to cater for all probable contingencies.

Clause 24 amends section 61 and has my approval. It deals with the question of change of name for the purpose of standing for election. The humour associated with the nomination of "Suzie Creamcheese" has worn a little thin, and some of the names under which people have stood for election should not have been tolerated.

The Hon. Frank Blevins: What about the lack of an appeal provision? There is no appeal against the decision. Do you think there should be?

The Hon. R. C. DeGARIS: I agree in principle with what the Bill does. If the honourable member wants to put in an appeal provision, he may get my support. At this stage it is interesting to note that Mr. Screw the Taxpayer (plus a few other words) is still that gentleman's official name. I believe he could still stand under that name if he so desired.

The Hon. C. J. Sumner: You are very dreary.

The Hon. R. C. DeGARIS: Maybe, but I think it has gone past the humorous stage. As far as the House of Assembly is concerned, if a nominated candidate dies before or on polling day, the election shall be deemed to have failed. I am now dealing with clause 25 of the principal Act which substitutes new provisions and raises some interesting points. In relation to a candidate dying between nomination day and polling day, as far as the House of Assembly is concerned the realistic policy is to have a re-election in that electorate. However, when it comes to the Legislative Council, where 11 members are to be elected, the whole process of a full-scale State-wide election in the event of a candidate dying should be avoided if possible. As the voting paper lists the names of candidates in the main groups of political affiliation, and as the groups nominate more candidates than can be elected realistically, it is reasonable to allow the poll result to stand as if that candidate did not appear on the ballot-paper.

That is why the Liberal and Labor Parties should endorse seven. If they get six, that is the maximum that they can get. If one dies, there is still another person. However, one must be sure in all possible circumstances that the wishes of the electorate are accurately interpreted as far as possible. While the major Parties endorse usually seven (an absolute maximum that could be won under our elections) it is possible that more than one candidate in a group could die between nomination day and polling day. I know that it is a 1 000 to 1 chance.

The Hon. Frank Blevins: I suggest a billion to one would be closer.

The Hon. R. C. DeGARIS: That is not so. There are such things as car accidents and aeroplane accidents. I remind honourable members of the air crash of the aircraft Kyeema which took the lives of three Federal politicians very close to a Federal election, one of whom was Charles Hawker from South Australia.

The provision of clause 25 does not cater for all known possibilities. As compensation for this we could have the Parties, instead of nominating seven as they do now, nominating 10 and 11 in case complications occur. As far as Parliament is concerned, we should try to avoid this happening. A number of suggestions could be made to overcome the problem if it occurred. For example, the election result could stand and the Party could have the right to nominate a person or persons to replace the candidate or candidates who die, just as if those people had been elected to the Chamber. If a person takes his place in the Chamber, is here for a day and dies, the Party has the right of nomination for a person to take his place.

The Hon. C. J. Sumner: It is not in our law.

The Hon. R. C. DeGARIS: No, but it is in a convention agreed to at a conference, which I am sure the Liberal Party would abide by. The other suggestion is that Parties could nominate a further list to the Electoral Commissioner from which names could be drawn to replace any deaths that may occur between nomination day and polling day. In other words, as soon as polling day takes place and people are elected, that list would no longer have validity. If between nomination day and polling day a candidate dies, then the list lodged with the Electoral Commissioner supplies the necessary names for replacement. For the moment I leave that problem to the contemplation of the Council.

I believe that it is a problem that we should examine and some arrangement should be made so that we do not have the complication of further argument between the Parties in regard to people who die between nomination day and polling day. That does not cover the whole point in this clause. Under the exisitng Act, if the deceased candidate belongs to a group polling 4·16 per cent, or if an amendment now before us in this Bill dealing with counting of preferences is agreed to, the preferences from that group, whether under or over 4·16 per cent, will be allocated. I have no objection in this case but I ask why, if a candidate is an Independent and stands for election in a group as a single candidate and dies on or before polling day, any preference expressed for that person or persons shall be ignored. There must be a strong reason for the Government to adopt such a policy.

Perhaps I can put the position this way. Two candidates stand under the banner of the Independence group—candidates A and B. The group polls 5 per cent of the vote and in the final allocation of preferences wins the eleventh position, but candidate A died on polling day so candidate B is elected. Now let me vary this by supposing that the group does not win the last position, even though A died, the preferences are still allocated. Now suppose both A and B are killed in a car accident on polling day. Are the preferences still allocated from that group?

If, on the other hand, candidate A stands alone as an Independent and polls 5 per cent of the vote but dies on polling day, the expressed preference of A's voters is ignored, even if he is elected. What the voter does in marking his paper preferentially is to say, if A is not successful, "I would like my vote to go to somebody else."

Having done that, the provision of new section 69 (2) denies that voter the right to have his votes counted. I would like a much more detailed explanation of the

thinking of the Government before I could accept what apears to be a denial of the right of the voter to have his votes counted, in circumstances beyond his control where, if a later amendment in the Bill is accepted, he is compelled to express a preference.

Clause 36 provides that polling booths will close at 6 p.m. instead of 8 p.m. as presently applies. I do not think that there is much objection to that amendment. Federal Parliament still insists on polling booths opening until 8 p.m. At the present time New South Wales, Victoria, and now South Australia will be required to close polling booths at 6 p.m.

The Hon. Frank Blevins: Queensland was the first.

The Hon. R. C. DeGARIS: I think Western Australia still has an 8 p.m. closing time, as is the case with Federal elections. An approach may be made for the Federal Government to come into line with what the majority of the States are doing.

I will support it, but I should like to know how many people really oppose closing at 6 p.m. and whether it disadvantages any groups. I doubt whether it does. However, certain people would be disadvantaged if the polls closed at 6 p.m. I am certain that the change will be appreciated by many people, including booth workers, Party workers, poll staff, commentators, and all others closely associated with elections.

Clause 47 will create strong opposition from some quarters of the Council (as we have already heard from the Hon. Mr. Sumner), because it removes the existing optional preference provision that now applies. I suppose that this can be said to be a matter of high principle to all political Parties in this place.

After hitching its policy for the electors of the State to first-past-the-post voting (a procedure that it fails to adopt within its own Party structure; can one imagine the Leader of the Parliamentary Labor Party being elected on a first-past-the-post basis—I do not think so), the A.L.P. has changed ground and now supports optional preferential voting.

The Hon. Frank Blevins: It was many years ago.

The Hon. R. C. DeGARIS: No. I have been in this Council for a long time now, and I know that we have heard about it only in the past couple of years. Until then, there was a great advocacy of first-past-the-post voting. Never has the A.L.P. used first-past-the-post voting in its own system.

The Hon. C. J. Sumner: What do you use?

The Hon. R. C. DeGARIS: Preferential voting.

The Hon. C. J. Sumner: Are you sure?

The Hon. R. C. DeGARIS: Yes.

The Hon. C. J. Sumner: What about in the Council?

The Hon. R. C. DeGARIS: In the Council, too.

The Hon. C. J. Sumner: What about in your plebiscites?

The Hon. R. C. DeGARIS: Yes. With exhaustive ballots it is exactly the same thing, but it takes longer to get through. It gives one the right to change one's mind. With a good, strong Labor man like the Hon. Mr. Blevins, who knows his mind all the time, it would not make any difference. In this context, it is rather a storm in a teacup because, while full preferential voting is required for House of Assembly elections, no Party would instruct its voters to do anything but vote preferentially for all groups on a Legislative Council ballot-paper.

I agree that if the democratically unacceptable list system remains as the system in South Australia it is reasonable that all voters should mark the ballot-paper with preferences, because the number required is only from one to a maximum of 10. I think that at the last election it was to seven. For the reasons that I have already given, the amendment will make little or no difference to the votes cast in South Australia. In other words, in practical terms this change means nothing. All political Parties advise how to vote.

However, if the system changes so that the voter is granted the democratic right to vote for an individual candidate, the case for a modified form of optional preference voting is irresistible. At this stage of the debate, I indicate my support for the Tasmanian or New South Wales provisions in their Legislative Council voting procedure where it is necessary for the ballot-paper to be marked up to 10 candidates in New South Wales and up to seven candidates in Tasmania.

The Hon. J. E. Dunford: Why? Are only seven required?

The Hon. R. C. DeGARIS: Yes, and 15 are required in New South Wales. The Bill retains the proviso that, if the last square is left vacant, and all other preferences are in sequence, it shall be deemed that the vacant square indicates one's last preference. It is reasonable that, where the last square is left vacant, it should be taken as being his last preference. On a number of occasions I have seen votes classified as informal where I believe that the voter's intention was clear. However, it becomes difficult with provisos to get the interpretation clear so that a vote can be interpreted clearly by the returning officers.

I have seen declared informal a ballot-paper with the figures "1", "2", and "4" thereon, there having been only four candidates. Under the Act, the only proviso is where the last square is left vacant. Therefore, a ballot-paper showing "1", "2" and "4" would be an informal vote, although I think that the voter's intention in such a case would be perfectly clear.

The Hon. C. J. Sumner: What if it is marked "2", "3" and "4"?

The Hon. R. C. DeGARIS: Just a moment. My point is that, once we start making provisos, we never know where to stop. We must therefore have a clear law regarding what is and what is not an informal vote, so that it can be interpreted clearly by returning officers and booth workers all over the State. I am prepared at this stage, for the reasons to which I have referred, to let this clause stand as drafted. However, the provision in this clause touches on very firm views that I hold on other clauses in the Bill.

The Hon. C. J. Sumner: Which clause was it?

The Hon. R. C. DeGARIS: I have been referring to clause 47. Clause 48 is an intense disappointment, and perhaps the Council will bear with me while I outline briefly the legislative and political developments that have taken place over the past 11 years to reach the present position.

The Hon. Frank Blevins: You're inviting retaliation.

The Hon. R. C. DeGARIS: It could not come from a nicer person. In the late 1960's and early 1970's, a strong pressure developed from the A.L.P. and certain Liberal Party members, supported by the majority of the electorate, for full adult franchise for election to the Legislative Council. The problem lay in the plain fact that other constitutional changes had to be achieved before adult franchise could be accepted. Probably the most important point was that the Constitution Act of South Australia provided no protection for the abolition of the Legislative Council without any reference to the people of South Australia.

The first step was therefore to achieve that protection for the House of Review so that abolition of either House would have to be approved by the South Australian electorate. The history of the abolition of the Upper House in Queensland and the attempts at abolition in New South Wales are well enough known to honourable

members, so there is no need for me to enlarge on that matter. The opportunity came to this Council in 1969 to place necessary protection in the Constitution Act when the 47-seat redistribution Bill came before the House.

The protective provision was achieved with considerable opposition from Labor and some Liberal Party members. However, to Don Dunstan's credit, on the return of the Bill to another place, the protective clauses, assuring the democratic right of the people of this State to vote on the reference before any part of our Parliament was abolished, were accepted.

The next step was to gain acceptance of a voting system that would interpret absolutely the philosophy of each vote having as near as possible an equal value. The then existing electoral system of five districts, each electing two members at each election (or four per district) on a virtual winner-take-all basis, had to be changed. During a television debate with the then Premier (Hon. D. A. Dunstan) I agreed that, if a Bill for adult franchise with proportional representation—with each vote cast counting equally—was presented to Parliament, it would have my support.

When the two Bills were presented, one introducing adult franchise and the other introducing the list system, it marked one of the most dramatic periods of the last 20 years in the South Australian Parliament. The electoral Bill did not interpret the broad agreement reached on television with the Premier. The Bill imposed the list system which contained provisions for the destruction of the votes of certain lists or groups polling below 4·166 per cent of the total vote.

There were three basic objections to the Dunstan proposals: first, the list system, which denied the right of an elector to vote for a person. An elector was forced to vote for a preselected group. Secondly, no preferences were to be counted and, thirdly, the removal from the count of all votes below 4·16 per cent. It was a dramatic period with threats of double dissolutions and emotional performances the order of the day. I am deeply grateful to those people in this Council who under severe pressure did not capitulate but did what they could to achieve a rational and fair voting system for the Legislative Council.

Although the Hon. Mr. Sumner has quoted me at length, I said that every vote cast would have a value (I did not say that they would have an equal vote), and that every voter would play some part in electing members to this Chamber. That is true, because the original Bill did not do that. The original Bill provided for the destruction of votes; so many votes would play no part in the election of members to this Chamber. In the ensuing conference between the two Houses a compromise was agreed which overcame the controversy relating to the question of adult franchise and left Parliament with a voting system that still needs changes if we believe in democratic voting procedures. Already in one election the system has produced a majority of elected members for the A.L.P. when it received less than 50 per cent of the expressed vote.

I was also very interested in the Hon. Mr. Sumner's reference to sampling in regard to full preferential voting. There is a possibility of random sampling not providing the right answer. In all examinations of this system, whenever there has been a recount of a Senate election, random sampling has never been found to produce an incorrect answer. However, we know that in this State the existing list system has produced the wrong answer. There is no question about that at all, because one cannot justify a proportional representation system where 48·2 per cent of the vote returns six out of 11 and 51·8 per cent of the vote returns five out of 11. This system has already created a position where a wrong decision has been made, and therefore it must be changed.

The Hon. J. C. Burdett: How did the list system come about?

The Hon. R. C. DeGARIS: I have already covered that. When the Bill was first introduced all votes under 4·166 per cent for a group were to be destroyed. Those votes were quietly put in the sewerage system and flushed away.

The Hon. J. C. Burdett: Was there any historical basis for that?

The Hon. R. C. DeGARIS: None at all. The system used in this State is not based on any other existing system. Perhaps I should point out to the Hon. Mr. Sumner the mathematics of this sytem. The system adopts the single transferable vote quota, that is, dividing by one more than the number of candidates (in this case 12). It uses the single transferable quota to elect people in a first-past-the-post proportional representation system. If one wants to produce the correct results for the final positions on a first-past-the-post basis, one must use the André quota and divide by 11, not 12, to determine the quota. If that was the system used for first-past-the-post voting, which is the sytem we have at present, the Hon. Mr. Sumner would not be present in this Chamber today.

The Hon. C. J. Sumner: You would have missed me.

The Hon. R. C. DeGARIS: I think that the Labor Party would have missed you more.

The Hon. J. C. Burdett: Is this system used in Europe?

The Hon. R. C. DeGARIS: There is no continental model that I know of which adopts the list system as it operates in South Australia. In fact, there is no comparable list system operating anywhere else in the democratic world. I may be wrong about that, but I believe that that is the position. This system is a mathematical gerrymander, and everyone who understands the electoral system will know that. The Hon. Mr. Sumner is the only member of this Chamber who has not been democratically elected.

It is interesting to note that the New South Wales Government introduced an adult franchise Bill for the New South Wales Legislative Council in 1977 to replace the nominated system used in that State for many years. That Bill followed the same philosophy as the original Bill introduced by the Dunstan Government in South Australia. When that Bill was transmitted to the Legislative Council a Select Committee was appointed. Evidence was taken from all over Australia from political scientists, academics, politicians, and electoral reformers.

The Hon. Frank Blevins: Who had the numbers in the Upper House?

The Hon. R. C. DeGARIS: I am talking about the people who gave evidence.

The Hon. Frank Blevins: Who's got the numbers?

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

The Hon. R. C. DeGARIS: I am talking about the people who gave evidence before the Select Committee, and they were the Australia Party, the Australian Democrats, the Australian Family Action Movement, the Constitutional Association of Australia, the Institute of Public Affairs, the Liberal Party of Australia, the New South Wales Constitutional League—

The Hon. J. R. Cornwall: The Democrats did not exist at that time.

The Hon. R. C. DeGARIS: The Democrats existed in 1977. Others to give evidence were the Women's Electoral Lobby, the Women's International League for Peace and Freedom, the Young Liberal Movement, and the Young National Country Party. Academics who offered evidence were Professor Don Aitkin, Professor Neal Blewett,

whom we know, Mr. Jeremy Buxton, Dr. Dean Jaensch, and Mr. Malcolm Mackerras, both of whom we know. Professor Joan Rydon, and Professor Ken Turner. The interesting point about this is that, of all the groups and individuals right around Australia who gave evidence to that Select Committee, not one supported the list system. Not one shred of evidence taken by the Select Committee supported the list system as it operates in South Australia.

The Hon. K. T. Griffin: What about Dr. Blewett?

The Hon. R. C. DeGARIS: He did not support it.

The Hon. C. J. Sumner: Any list system?

The Hon. R. C. DeGARIS: As far as I know, no-one who gave evidence supported it.

Members interjecting:

The PRESIDENT: Order!

The Hon. C. J. Sumner: You would do anything to misrepresent the position. You have done it all your life.

The PRESIDENT: Order!

The Hon. R. C. DeGARIS: I am quite serious. There may have been 100 who gave evidence and as far as I know, no-one supported the list system.

The Hon. C. J. Sumner: Don't misrepresent the position.

The PRESIDENT: The Hon. Mr. DeGaris has answered your question, and I ask that you desist.

The Hon. C. J. Sumner interjecting:

The Hon. R. C. DEGARIS: I ask that that be withdrawn. The Hon. Mr. Sumner accused me of being a liar. As far as I know, I have answered the question honestly and truthfully.

The PRESIDENT: If the Hon. Mr. Sumner has accused the Hon. Mr. DeGaris of telling lies, he must withdraw.

The Hon. C. J. SUMNER: I am not sure that that is what I said. If the Hon. Mr. DeGaris has determined it that way, I will withdraw, but we have really done him a favour, because he was, after all—

The PRESIDENT: Order! I accept the apology, weak as it may be.

The Hon. R. C. DeGARIS: New South Wales today has an electoral system operating in its Legislative Council elections to which no objection can be taken on democratic grounds, except that it does not go quite as far in assisting individuality as does the system in Tasmania. There is no objection to the New South Wales system as it operates at present.

The Hon. C. J. Sumner: What about 10 European countries? Are they undemocratic? What about West Germany, Italy, Switzerland, and Sweden?

The Hon. R. C. DeGARIS: In West Germany, the list system is not used as the sole system of voting for the Parliament. It is used as a top-up position.

The Hon. C. J. Sumner: That's one example.

The Hon. R. C. DeGARIS: I know, but the Leader quoted it. I am not an expert on every European system, but I know that in West Germany the list system is not used on its own as it is used in this State.

The Hon. C. J. Sumner: There are all those countries with the list system. Are you saying they are not democratic?

The Hon. R. C. DeGARIS: They are not as democratic as they should be, because the most used and recommended democratic system in the world is the single transferable vote. That is in New South Wales.

The Hon. C. J. Sumner: Are you saying all those countries are shoddy democracies? Are Sweden and Switzerland shoddy democracies?

The Hon. R. C. DeGARIS: I do not know about the system in Sweden, but in West Germany it is not the sole system. Tasmania has operated a proportional representation system in its Lower House for 40 years and follows a similar pattern that allows maximum freedom to the voter to record his vote as he wishes his vote to be expressed. My next point is germane to the whole question. That is that the great plea of the Labor Party at present is that, if the system changes, there will be a tremendous increase in informal voting for this place. That has been the basis of the argument by the Leader of the Opposition in the House of Assembly and by the Hon. Mr. Sumner today.

If one looks at the question of informal voting, one finds that in New South Wales, in the voting for the Senate, the informal vote is approximately 10 per cent. In the Legislative Council voting system in New South Wales, it is 4 per cent. In South Australia, with a list system, it is 4·4 per cent, and in Tasmania the informal vote is 3·8 per cent. If the comments made by the Hon. Mr. Sumner are valid and if he wants a reduction in informal voting, he must support the New South Wales system or the Tasmanian system, because the number of informal votes in both those systems is lower than in South Australia. If either of those is adopted here, one can predict a decline in informal voting in this State.

There was no question in the mind of anyone who gave evidence to the New South Wales Select Committee, which heard evidence from the leading academics and reformers in Australia, that the list system in South Australia was a system that would not be supported as a thoroughly democratic system. The voter must be granted the maximum freedom in expressing his choice of those candidates offering for election, and it is an insult to the elector to be offered Party lists to vote for, giving him no right to vote for a person he would like to see representing him in the Parliament.

If this Bill passes in its present form, that will be a victory for the Party machines, a victory for the dominance of the Executive, and a denial of the rights of the individual to choose the representatives he favours to serve in the Parliament. It is a bitter disappointment to me that the Government has not taken the last step in a controversy that has racked the State politically for 10 years or more. Everything that fairness dictates has been achieved, except the final scrapping of the iniquitous list system. It is a puzzle to me, when prominent Liberals, prominent Labor people, respected academics, and prominent reformers have all trenchantly criticised the list system operating in South Australia, that the Government has not seen fit to take that final step.

The Hon. C. J. Sumner: You supported the list system.

The Hon. R. C. DeGARIS: I never supported the list system. The only time I supported it was in relation to a conference between the two Houses.

The Hon. C. J. Sumner: Wrong!

The Hon. R. C. DeGARIS: Show me where.

The PRESIDENT: Order! I ask the Hon. Mr. DeGaris to continue the debate, and I ask the Hon. Mr. Sumner to stop interjecting.

The Hon. R. C. DeGARIS: I think it would be fair to all concerned if I stated clearly my intention on this clause. I will oppose the clause. If the Council supports its deletion, I will seek recommittal of the Bill in Committee to introduce amendments that will lead to the New South Wales system or the Tasmania system. Finally, I refer honourable members to the United Nations Convention that was signed by Australia in 1980. If we look at that, not one person here can say without reservation that the present list system does not offend against that convention.

The Hon. C. J. Sumner: Read it.

The Hon. R. C. DeGARIS: I have not got it here, but it was quoted in the *Advertiser* on Saturday. I had a copy of the Convention but I gave it to the President to read. I am

sure that, before the debate is over, a member will quote it. Clauses 52 to 56 deal with the Court of Disputed Returns. The clauses are reasonable and I have no comment on them. I am indebted to the Attorney-General for a discussion I had with him on a question to which the Parliament has not as yet directed its attention. I think all members would agree with this. Recently, there appears to be a tendency for appeals to go to the Court of Disputed Returns more frequently, and, as a Parliament, we need to be sure that the procedures laid down in the Electoral Act are adequate to cater for all appeals that may be lodged. While clauses 52 to 56 attempt to clarify certain details, they do not address themselves specifically to the problems that can occur if a dispute arises in a Legislative Council election.

In the previous clauses dealing with the problems that can arise if a death occurs between nomination day and polling day, it was clearly seen that the problems in the House of Assembly election are relatively simple when compared to the problems if a death occurs in a Legislative Council election. Similarly, the problems facing the legislator are multiplied when one begins considering disputes in a multi-member State-wide proportional representation voting system. Where a dispute is instituted the court can, declare any person who was elected not so elected, delare any person elected who was not so elected, declare the election void, or dismiss the petition. I intend to examine briefly those four procedures open to the court as they could apply to a Legislative Council election.

The dismissal of the petition causes no problems at all, but the declaring of the election void, with another full-scale State-wide election, would be a finding that no-one would relish. The other possibilities raise some interesting points. If the court declares that the person against whom the petition was lodged was not duly elected, leaving the Council one short of its complement, how is that vacancy filled? Is it to be a State-wide election between the petitioner and the person against whom the action was taken? Supposing there was more than one petitioner: if it was for a by-election it could seriously distort the proportionally that the system is supposed to enshrine. Are there any legislative powers for the conduct of such a by-election for the Legislative Council? I think the answer to that question is probably "No". It must be remembered that under the provisions of section 182 (1), if the court finds that a candidate has committed or attempted to commit bribery or undue influence, then his election is declared void.

As for the Legislative Council election, whether the voting is for groups as at present or a change is made to a more acceptable system, the problem of political groupings complicates the position. For example, can a group of candidates lodge a petition against another group or must the petition be lodged by one candidate against another? These brief comments do not cover all the possibilities, but they serve to show some of the difficulties in petitions to the Court of Disputed Returns from a Legislative Council election. I am grateful to the Attorney-General for his views expressed to me, and I know that he is keenly aware of the problems.

It is a problem that needs to be discussed in the Council, because under the existing provisions a Court of Disputed Returns finding could seriously affect the fundamental concept of the voting system. At the outset, I said that the Bill was in essence a Committee Bill. The matters I have raised during this part of the Bill's passage will be, in most cases, amplified or debated again as the individual clauses are discussed.

While I am dealing with general questions surrounding Courts of Disputed Returns, I would direct the attention of the Council to the fact that there is no appeal against the decision of one judge sitting as a Court of Disputed Returns. As I understand the position, an appeal does lie to the Full Court in the Commonwealth legislation. Single judges are fallible, and they do make mistakes. I do not think that any honourable member could object to such an appeal being permitted from a Court of Disputed Returns to the Full Court.

Also, a judge, knowing that no appeal can be lodged against a decision, may not be as meticulous in assessing the evidence as he might be if the appeal did exist. When the changes were made from the court being constituted by members of Parliament, presided over by a judge, the question of providing the right of appeal did not arise in that debate.

Other matters in the Electoral Act deserve consideration that are not touched by the amending Bill. For example, the Bill does not touch upon the question of how-to-vote cards and their use. Most people I have spoken to on this point would like to see the handing out of how-to-vote cards (together with the recent practice of having large placards and photographs at the polling booth entrances) abolished. A step was made when the how-to-vote cards were displayed in the booth, but most people find them difficult to use. People who like to use how-to-vote cards like placing the card on the bench of the booth and copying it on to their ballot-paper, but there still remains a strong objection to the practice of handing out how-to-vote cards at the booth entrance. People going to vote divide themselves into three categories, as far as how-to-vote cards are concerned: those who take a card, those who do not take a card, and those who take a card from everyone (some of them then spend most of their time in the booth sorting out this mass of material until the one they want is discovered).

It appears to me that a better way to handle this question is to have in the polling booth, under the control of a person in charge of the booth, how-to-vote card dispensers, to which any voter may go if he so desires and take the how-to-vote card he or she requires. This is of more assistance to the voter than an array of cards pinned in the actual polling booth and does away with the practice of having an army of people pressing their wares on the voting public as they go to vote. It is a question to which the Council should direct its attention. I am sure that the majority of the public would like to see some changes made in this area.

The second point upon which I would like to touch at this stage has already been touched on by the Hon. Mr. Sumner and questions why details should not appear on a ballot-paper to indicate to the voter the Party affiliation of various candidates. This also is a matter that should be considered in relation to the eventual doing away with how-to-vote cards on election day. The question has been raised about what is a political Party, and I agree that what the Attorney-General says is correct. Before this happens or before any changes are made with regard to the Constitution to allow for changes in this Chamber in regard to casual vacancies, it is necessary to have some form of registration and some form of legislative recognition of political Parties and their particular titles. Unless that is done, there will be some difficulty both in the Party affiliation to be shown on the ballot-paper and in replacement regarding casual vacancies. With those comments, I support the second reading.

There are many other matters that could be touched on in regard to the Electoral Act as a whole, but I believe I have referred to the matters that have attracted most attention. I support most of the conditions in the Bill, but I am opposed to the continuation of voting under the list

system. I am opposed to the system that allows a warping of the intention of the voters which can occur in the system that we have. I believe we should follow the proven system in Tasmania or New South Wales for the election of members to this Council, where the electors are given the democratic right to make their choice in relation to the candidates that they want to represent them in Parliament.

My final point concerns the variation in Senate voting by people who deliberately alter the list that was given. The number is quite remarkable, and was up to 13 per cent in many cases. I refer to the case of the double dissolution recently in Victoria where a gentleman called Hartley held the No. 5 position on the Labor Party ticket. The Labor party got four members in but if it had gone to the fifth position, it is doubtful whether Hartley would have won the fifth position over the No. 6 candidate, because of the number of people who deliberately placed Hartley below the No. 6 candidate on the list in that system. The individual must have the right to make that variation if he desires. He should not be given a block group to vote for to which he can make no variation.

The Hon. C. J. Sumner: What about European countries?

The Hon. R. C. DeGARIS: Who is arguing about that? I am saying that the system operating in Australia, in New South Wales and Tasmania, is a system of greater democratic content than the system operating in South Australia. There is absolutely no reason why we should not want to change a system that is more acceptable to democratic principles than the one we have at the present time. I support the second reading.

The Hon. K. L. MILNE: In discussing electoral matters I think we must adopt the attitude of what is best for the State and not what is best for any person or any political Party. If this Bill passes in its entirety or its present form this could well be the end of democracy as we know it in this State.

Members interjecting:

The Hon. K. L. MILNE: The Party machine will take over from the people as a whole. It will not look as though we are destroying democracy but it would be a heavy Party machine system.

The Hon. G. L. Bruce: It is now.

The Hon. K. L. MILNE: Yes, too much now. Parliament will represent the interests of political Parties even more than it does now. We object to many of the changes for that very reason. The main fault which other speakers have stressed, in the present method of electing the Legislative Council is that of the Party list system, retained in this Bill, where the voter must vote for a Party group and cannot vote for individual candidates within that Party or within another Party. The Australian Democrats are definitely opposed to that. Clause 17 is a clause that I support although I do have some doubts. I point out that the Australian Democrats believe that enrolment on the electoral roll should be compulsory. It is compulsory for the Federal roll and should be compulsory for this roll. Voting should not be compulsory for the House of Assembly or the Legislative Council.

Clause 36 concerns the closing of polling booths at 6 p.m. I agree with that amendment but I believe that an amendment enlarging the eligibility for voters making a postal vote would be advisable to cover people who may, because of work or other commitments, be prevented from getting to the polls before 6 p.m. Shift-workers, for example, could come into that category. It may be unusual but there might be some. There may be some religious groups that may not want to vote on Saturday before sundown or because of some other belief of their own. I am assured by the Attorney-General that the obtaining of postal votes under the new Bill will make it much easier. In that case, we would support it. If it passes I think the majority of the States will close their polls at 6 p.m. and we should then try to persuade the Federal Government to do the same.

Clause 42 deals with assistance given to voters in polling booths and is a clause that I commend as it allows another person to assist a voter in filling out his paper in the cubicle itself. I saw this done for a blind person last Saturday. However, I believe that the set penalty of a maximum of $1 000 for divulging how the voter has voted is excessive and should be amended to read $200. I will move an amendment to that effect. That amount should be a sufficient deterrent. I realise that, even with a maximum of $1 000, no judge or court would probably impose a fine of $1 000, although they could do so. It is far too high but it does not matter very much because people are not that prickly about someone divulging how they voted.

I refer also to clause 47. Optional preferential voting already exists for the Legislative Council and I cannot see why it should be changed. I will make the Australian Democrats policy clear because there was some doubt in the Hon. Mr. DeGaris's mind as to what our policy was on preferential voting. It is very clear. We say that there will be optional preferential voting such that voters need indicate all their preferences only if they wish to do so. In other words, optional preferential voting is what we advocate. I believe, and I am sure that the majority of the public agrees, that electors should be given complete freedom of choice and this includes choosing candidates as the elector sees fit, ignoring those candidates that he or she is opposed to or knows nothing about. This would surely lead to a more informed result.

Why should the order in which candidates have been listed by the Party heavies and the Party machine be made compulsory to be obeyed by the electors? Why should they not have the opportunity to disobey the Party machine if they want to? It nearly always comes to a better result. The Hon. Ren DeGaris has mentioned the system used to elect the New South Wales Legislative Council. That is, broadly speaking, the system which the Democrats would prefer. In New South Wales the optional preferential voting system is supported by both the Liberal and Labor Parties, admittedly after great trauma and compromise. However, it is now a working system agreed to by both Parties. Under this system a voter must indicate his preference for at least 10 candidates even though there are 15 candidates to be elected each time. We believe that we need optional preferential voting for the Legislative Council and that the voter should be compelled only to mark preferences for 10 candidates but no more unless he or she wishes to do so. Someone else mentioned a figure of 11. We would not mind that in the circumstances. It would have to be changed if the number in the Legislative Council was increased.

The Hon. Frank Blevins: Why is it 10 in New South Wales?

The Hon. K. L. MILNE: I suspect that they realise that most people can count up to 10 easily and beyond that it gets difficult.

The Hon. Frank Blevins: If you are saying that the system is so good then why do you justify 10? What is the rationale?

The Hon. K. L. MILNE: You will have to ask them.

The Hon. Frank Blevins: You are saying that it is good. What is good about it?

The Hon. K. L. MILNE: I like 10.

Members interjecting:

The PRESIDENT: Order! If the Hon. Mr. Milne wants

the protection of the Chair, I ask that he ignore the interjections.

The Hon. K. L. MILNE: Voters should be compelled to mark preferences for 10 candidates but no more unless they want to do so. They should be encouraged to do so by the wording of the ballot-paper and the how-to-vote cards. I propose to move an amendment that, where there is optional or compulsory preferential voting, the vote will be valid up to the stage where the voter makes a mistake. The Hon. Mr. DeGaris gave an example, and I will give mine. If he or she had to fill in 10 numbers and wrote 1, 2, 3, 4, 5, missed 6 and continued 7, 8, 9, 10, 11, that vote would be valid and would be used for the counting of preferences up to No. 5 where the mistake occurred.

The Hon. Frank Blevins: What if they made a mistake and wrote 1 and then 3?

The Hon. K. L. MILNE: That would be a mistake. That could be made valid by an amendment if the Opposition wished to do so but it is better to keep it consistent, consecutive and as simple as we can.

What I have advocated is eminently fair and sensible; to invalidate the entire vote is quite unreasonable and archaic. I am even more strongly opposed to this clause because it perpetuates a system of voting for a group or list of candidates with only one number. Therefore, it is either the group that is listed or nothing. That is democratically unacceptable. I am making a distinction between a Party list where one votes for a number of candidates, and when the candidates are listed and one votes for them individually. I call that the individual list system.

I support most emphatically the statement made by the Hon. Mr. DeGaris that the voter should be given the utmost freedom in choosing the individual, not the Party. The Party machine should stop when the election starts; then one elects individuals. One should have the freedom to choose the candidate that he wishes to have representing him in Parliament. That right is not given to him when voting for Party groups without the right to vote for a certain person in that group or in another group.

As the Hon. Mr. DeGaris also said in his lucid argument, if this Bill is passed in its present form it will be a denial of the rights of the individual to vote for the representative of his choice to serve in the Parliament and be a victory for Party machines and the Party bullies over the right of the individuals. We do not like it.

That is apparently what the Liberal Party and the Labor Party want. However, it is exactly what the Australian Democrats do not want. The Liberal and Labor Parties seem to believe that the Party list system is right and proper but, as South Australia is the only State to have it, there must be something wrong with it. The Australian Democrats do not want it, whether or not it favours us. We want a proper system, whether or not it favours us. We want it right, and so should everyone in this Council.

The stand that we are taking is consistent with the electoral reform which has been proposed in this State for many years and which the Premier (Hon. D. O. Tonkin) was reported in the press on 29 November 1979 as supporting, when he reputedly stated that "the Government would introduce a voting system based on that used for the Senate, which lets people vote for the person of their choice rather than a Party". I should like to ask why, given the Premier's statement on this matter, the Government has not taken this opportunity of removing the Party list system.

The Hon. C. J. Sumner: Haven't you ever changed your mind about anything?

The Hon. K. L. MILNE: Yes, I have. What is so funny about that?

The Hon. C. J. Sumner: I am not laughing.

The Hon. K. L. MILNE: The Leader was laughing. This is not a funny matter and I will change my mind if I want to do so. The difference between the Australian Democrats and anyone else is that we are allowed to do so.

The Hon. J. E. Dunford: Mr. Millhouse is in the gallery. He's been in court all day making the money and knocking back a wage rise.

The PRESIDENT: Order!

The Hon. K. L. MILNE: The Government has now done the opposite to what it said it would like to do after it came to office, and I do not know why. As far back as 1973, the member for Flinders (Mr. Blacker) in another place, speaking against the list system proposed by the then Labor Government, said:

> A block vote for Party affiliation takes away from the whole context of voting the personal and individual approach.

This was demonstrated in Tasmania, where the person who was on top of the Party list came last and the other person came first because the voters had a choice.

I now refer to clause 48. We have been saying enough about the Party list system, but Australia committed itself to electoral justice by its ratification in August 1980 of the International Covenant on Civil and Political Rights, which, in article 25, guarantees the right to take part in public affairs through freely chosen representatives. Clearly, our present list system deprives the voter of the right to choose between candidates, and it could be argued that this is inconsistent with the covenant. I think that the Hon. Mr. Sumner wanted that explanation, so I have given it to him.

Clause 56 deals with a by-election after the holding of a Court of Disputed Returns. I commend the Government for the introduction of this clause. Of course, it has faults, but I believe that it has fewer faults than allowing a new set of electors, many of whom would have voted for someone else in the election, to have a second vote in a by-election in another electorate. I cannot for the life of me see how many voters would be disfranchised. Some voters may have left the area, but I cannot see that many would be disfranchised.

I have some new matters to raise, some of which have been raised by other members. About others, apparently only the Australian Democrats are worried. I refer, first, to the handing out of how-to-vote cards at polling booths. I do not object to having how-to-vote cards in boxes from which electors can obtain them and to which they can return the cards after they have been used. How-to-vote cards should be inside the polling booth, and there should not be all the nonsense of persons handing out cards to people before they enter booths. In this way, if the cards were returned after they were used, only a fraction of the number would be needed.

In Tasmania, the handing out of how-to-vote cards on polling days is prohibited, although cards distributed before polling day may be brought into polling booths and must be removed by the elector. It is understood that polling booth staff remove any cards inadvertently left in booths. I am sure that it would be of assistance to the presiding officer at the booth if how-to-vote cards were not handed out at booths in South Australia, and that this would prevent ballot-papers being left in voting compartments in error. We are in favour of Party names on ballot-papers. That would be a great help. In Tasmania, they put the Party against the name of each member, but they then have a different rotating or alphabetical system.

I now refer to misleading advertising. We note that interference with the voter has been mentioned. However, it is a question of what the Government means by that; we

should define it more accurately. I intend to move an amendment inserting an extreme penalty for misleading advertising, as this is the worst way in which a voter can be interfered with. The Government has not mentioned this matter. It has frequently used misleading advertising, and intends to retain the right to do so.

It is difficult for one to say what is and what is not misleading. All political Parties make promises, some of which may not possibly be honoured and others of which may be inaccurate. I am talking not about that but about the distortion of the facts regarding an election: how one should vote and what will happen to one's vote. I am particularly worried about advertisements that are creeping in not from political Parties but from individuals throughout the community. The Opposition suffered from that during the last State election campaign.

The Hon. J. E. Dunford: And the last Federal election. It's in the High Court now.

The Hon. K. L. MILNE: That is possible. It is no good our saying that we can leave it alone. I do not know exactly what we should do, but we should not ignore it.

The Hon. R. J. Ritson: Do you want to confine it to Party advertisements?

The Hon. K. L. MILNE: No, probably the reverse. The consumer legislation contains sections which protect the consumer against misleading advertising. However, there is no protection for the voter against misleading advertising. In view of the fact that in recent years pressure groups and individuals other than political Parties have begun to use the media to push their special points of view, the penalty for misleading advertising should apply to them as well as to the candidates or to the candidates they are supporting.

The consequences of promoting, authorising and using misleading advertising should be drastic and should be imposed on all concerned with such advertisements, including the media which publish them. It is demonstrably unfair and totally undemocratic for political groups with vast sums of money to be able to misuse the media with false advertising and public lying while other groups have difficulty in raising sufficient funds with which to advertise at all.

That is another argument mentioned by the Hon. Mr. Sumner. I believe there is some argument for at least some help with political electoral expenses so that every Party can put its points of view before all the electors. This Bill contains some improvements. Some parts of the Bill are brave, some are not. I hope that the Government will take courage. The Government has decided to reform the electoral system: I hope that it will do it properly and settle this matter once and for all. If it does, it will get the credit for it, which it will deserve.

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

HISTORY TRUST OF SOUTH AUSTRALIA BILL

Read a third time and passed.

[Sitting suspended from 5.55 to 7.45 p.m.]

INDUSTRIAL AND COMMERCIAL TRAINING BILL

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

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

That this Bill be now read a second time.

Well structured training arrangements are vital to the overall economic growth and development of South Australia and to the people of this State to give them the opportunity to gain the skills and knowledge needed for vocations and careers. It is a sad reflection on the policies of the past that at a time of high unemployment companies have been forced to bring in skilled labour from overseas. For too long successive Governments representing both political Parties have relied on importing trade skills rather than training our own people.

Australia is on the verge of a minerals and resources boom which will create a significant increase in demand for skilled tradesmen and technicians in this decade. In addition, significant new investment is being made in manufacturing industry. Last year, the Federal Minister for Industry and Commerce (Sir Phillip Lynch) released details of future projects which estimate that 20 billion dollars will be invested in Australia during the 1980's. This is a staggering sum, but already consulting economists and planners in Australia's leading companies have suggested that this figure is conservative and that as much as 60 or even 70 billion dollars will be spent in resources' projects in this country in the decade up to 1990. Whichever figure one prefers to use, the conclusion is still the same—coupled with the rapid introduction of new technology, Australia and this State will need large numbers of skilled workers, including those in professions.

Further evidence of these forecast shortages was produced by the Departments of Labour Advisory Committee (DOLAC) Working Party on Skills Shortages in its report during 1980 on "The Prospective Demand for and Supply of Skilled Labour, 1980-1983 with Particular Reference to Major Development Projects". The Working Party estimated that in the years 1980 to 1983 there will be a demand in Australia for 4 000 additional metal tradesmen each year. In the electrical trades the demand is expected to be for an extra 2 000 each year and an extra 1 000 tradesmen will be required each year in the building trades.

Throughout history, apprenticeship has been an important means of training skilled craftsmen. This Government recognises the importance of the apprenticeship system of training. However, insufficient skilled tradesmen have been trained through the apprenticeship system to meet the country's requirements. In addition, there are many industries in which training is either not provided or it is offered in an unco-ordinated way. The fact that there was an overall reduction of some 30 per cent in apprenticeship intakes between 1977 and 1979 has been a matter of considerable concern to the Government. A number of steps have been taken to improve the situation, and it is of significance that in our first year in office, that decline has been reversed.

In 1981 the number of places made available in Government departments and instrumentalities in South Australia for training under the Commonwealth group one-year apprentice scheme has been increased to 84—more than double the number of places for 1980. Ninety-nine apprentices have commenced indentures in Government departments during 1981 and late last year Cabinet approved of up to a further 50 places being made available for apprentices to undertake training utilising spare training capacity in State Government departments.

During December last year the Minister of Industrial Affairs wrote to some 4 000 employers advising them of the need to recruit and train additional apprentices in the metals and electrical trades areas and as part of that

campaign arranged a special telephone advisory service within the Department of Industrial Affairs and Employment to help acquaint interested employers with various forms of financial assistance available to them from State and Commonwealth sources. During the first week of February, as part of the launching of the Master Builders Association of South Australia group apprenticeship scheme, the Minister of Industrial Affairs presented the first group of apprentices in that scheme with their tool kits.

During this year 96 first-year apprentices are expected to be taken on under this scheme. In addition, 50 apprentices who had lost their jobs in the building trade have been offered positions. Although this is the first scheme of its type in South Australia, a similar scheme will begin shortly with the Metal Industries Association of South Australia which is expected to create jobs for 50 first year metal trades apprentices this year. In both cases funding of the administrative costs is being borne on a $1 for $1 basis by State and Commonwealth Governments and other practical assistance has been rendered by the Department of Industrial Affairs and Employment and the Department of Further Education, and the Commonwealth Department of Employment and Youth Affairs, in order to commence operations.

These and other training measures have involved an additional outlay for the State Government in the order of $1 600 000 during 1981 with an expected increase of some 15 per cent to 20 per cent in the number of new indentures, over the 1979 figures.

However, the need for flexible and more mobile skills has developed over the last decade. One of the purposes of this Bill is to co-ordinate the administration of all areas of commercial and industrial training, including apprenticeship, into an integrated whole and to ensure that training opportunities will be available to men and women of all ages. The discrimination against older people under the old apprenticeship system will at last come to an end. In order to develop effective training policies it is necessary to have an effective means of forecasting future employment needs. Following the 1980 report of the State Working Party on Manpower Forecasting, the Government decided to set up a Manpower Forecasting Unit within the Department of Industrial Affairs and Employment. The Minister of Industrial Affairs expects the staff of that unit will be appointed within the next few weeks. One of their functions will be to provide information and advice on the expected demands for various occupations, both skilled and semi-skilled.

The Government has also established a Council for Technological Change to advise it of the effects of new technology, including the needs of skilled workers, particularly in respect to the upgrading of skills. Under the chairmanship of Professor D. R. Stranks, Vice-Chancellor of the University of Adelaide, the council has a widely representative membership. The council will assist in consultations between the Government and employers, trade unions, professional bodies and academics on training in the context of technological change.

The Liberal Party's industrial and commercial training policy stated that, in the fields of manpower planning and industrial and commercial training, the Government's objectives would be to "ensure that people are taught trade, technical and commercial skills to participate in the restructuring and development of Australian industries during a period of rapid technological change" and that such training should have similar status to academic education. That policy will be implemented through this Bill.

Over the past nine months the contents of this Bill have been widely discussed with unions, employers and the large number of bodies which have an obvious interest in training. The Minister of Industrial Affairs has personally met representatives of the four employer associations and with representatives of the United Trades and Labor Council. The Minister of Industrial Affairs found a broad consensus of agreement with employer and education bodies. Following lengthy talks with the U.T.L.C., some significant changes have been made. We have assured the trade unions that apprenticeship will remain a fundamental part of training. The rights of tradesmen will be protected.

Whether the unions wish to support this Bill or not is up to them. However, the Minister of Industrial Affairs has indicated that he is determined to ensure that vested interests are not allowed to prevent essential changes occurring in our training system. To do so would be neglecting his responsibility to the advancement of South Australia and to the well-being of the unemployed.

The Bill repeals the Apprentices Act, 1950-1978, and establishes an Industrial and Commercial Training Commission comprising a Chairman (to be appointed by the Governor), the Director-General of Further Education or his nominee, the Director of the Department of Industrial Affairs and Employment or his nominee, three members representing the interests of employers and three members representing the interests of employees.

The commission will be empowered to develop and facilitate the establishment of training strategies to meet existing and projected needs in respect of:

1. Those trades or occupations in which formal contracts of training (including indentures of apprenticeship) are required.

Throughout the Bill specific references are made which reflect a recognition of the importance of the apprenticeship system and the intention to retain apprenticeship as a vital strategy for skilled training. I stress that we do not want to abolish the present apprenticeship scheme or to down-grade it. Rather there are other forms of training that can, and should, go side by side with the apprenticeship system.

2. Other industrial training schemes.
3. Post-secondary school pre-vocational training.

This is an area previously ignored and we are now placing emphasis on the integration of secondary school education with occupational training. It is specifically designed to equip young people with the necessary skills to obtain meaningful employment.

In South Australia in 1981, 400 young people will be given pre-vocational training for up to 12 months in Department of Further Education Establishments. This programme is being run in conjunction with the Federal Governments School-to-Work Transition Scheme. Under this scheme people receiving pre-vocational training will receive unemployment benefits, plus $6 a week. This training will be given to people who have been unemployed.

4. Retraining arrangements. With the rapid introduction of new technology, particularly automation, new skills will be needed. The need for some skills will decline, and it is vital that people be given the opportunity to retrain so that they can get meaningful work.

The commission itself will not be authorised to conduct training programmes; the actual training will be provided by the appropriate specialised education and training institutions. Amongst its functions, the commission will be responsbile for:

1. matters relating to contracts of training, including the approval of those employers or employer associations which have the facilities to train an

apprentice or a person under a contract of training;

2. the monitoring, supervision and general oversight of apprenticeship training including the numbers of apprentices in training;
3. shortening the term of a contract of training if the commission is satisfied that the apprentice or trainee is competent (provided that at least 75 per cent of the period of training has been completed), and if the employer and employee agree.

To enable the commission to give due attention to policy matters, and relieve it of the responsibility for day-to-day administrative matters, provision has been made for:

1. the appointment of committees to either undertake the duties of the commission or to make recommendations to it;
2. certain powers to be delegated to the Chairman, Deputy Chairman, or a Training Advisory Committee;
3. the commission to establish Industry Training Advisory Committees in such industries as are determined by the Minister, on the recommendation of the commission.

The main purpose of the Industry Advisory Committees will be to make recommendations on what the training needs are for that entire industry. They will comprise equal numbers of representatives of employers and employees in the industry concerned, together with a nominee of the Director-General of Further Education and a representative of the National Training Council, under the chairmanship of the Chairman or his nominee. I anticipate that the Deputy Chairman of the commission will be the Chairman of most of the Industry Advisory Committees.

In addition, Training Advisory Committees may appoint sub-committees in respect of a trade or group of trades or on any other basis. If a sub-committee involves a trade it will be called a Trade Advisory sub-committee. In order to deal more expeditiously with disciplinary problems that arise during the course of a training contract (including an indenture of apprenticeship), the Bill provides for a disciplinary committee, comprising the Chairman (or his deputy) and any one of the members of the commission representing employers and any one representing employees. The disciplinary committee will have the full powers of the commission in disciplinary matters, and will be empowered to seek advice on any matter before it from the relevant Training Advisory Committee. As a result of the in-depth consultations with interested parties in respect of this important aspect, the Bill contains measures to protect the interests of all parties.

A trainee or apprentice will have the right to bring a matter before the disciplinary committee if he or she alleges that his or her employer is breaching the terms of the training contract. Conversely, the employer also has the right to refer a matter to the disciplinary committee if he considers a trainee or apprentice is breaching the terms of the training contract. The commission itself may initiate action where it believes that a party to a contract of training is in contravention of, or failing to comply with a provision of the contract or of the Act.

However, some cases do arise (I understand that normally there are not more than 20 cases a year) when some immediate action is necessary because of the serious or wilful misconduct of an apprentice. The Act provides that an employer may suspend a trainee or apprentice who, in the employer's opinion, is guilty of serious and wilful misconduct. In such a case the employer will be required to refer the suspension forthwith to the disciplinary committee and to confirm such suspension in writing within three days. No suspension will have effect for more than seven working days unless confirmed by the disciplinary committee, and in those cases where it does not confirm the employer's action in suspending the trainee or apprentice, the suspension will be considered null and void and the employer will be required to make up his or her wages during the full period of suspension.

Earlier, I referred to the need for flexible and more mobile skills and the need to develop training approaches to complement the apprenticeship system, which in itself will continue as a vital training strategy. The Bill contains the necessary provisions to enable occupations (including the traditional trade occupations) to be prescribed by regulation to be "declared vocations". The effect will be to enable contracts of training (including indentures of apprenticeship) to be entered into in respect of people being trained for those occupations. The commission's functions include the approval of training facilities in relation to training under any such contracts.

No person will, by reason of age, be disqualified from entering into a contract of training. I should emphasise at this point that the Bill does not affect the requirements of those awards that prohibit the employment of juniors in traditional craft occupations other than as apprentices. The commission will have power to transfer a contract of training (including an indenture of apprenticeship) from a full-time to a part-time basis and *vice versa*. Also, in appropriate cases, it is empowered to vary any term of a contract or indenture. The main purpose of a contract of training is to create the flexibility in approach to training which is so necessary, whilst at the same time providing means for the co-ordination and administration of all relevant areas of industrial and commercial training.

Apart from the formally constituted training contracts in declared vocations, the commission is empowered to determine and approve other schemes of training appropriate to non-trades and non-declared vocations but for which a training contract is not considered necessary. It may also determine and approve courses of pre-vocational training designed as preparation for training in declared vocations (including the apprentice trades) as it considers necessary. A person who successfully completes such a course will be entitled to credits in respect of the training required for a declared vocation as may be determined by the commission. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1, 2 and 3 are formal. Clause 4 repeals the Apprentices Act, 1950-1978, whilst preserving the validity of any indentures of apprenticeship and decisions and approvals of the Apprenticeship Commission in force before the commencement of the Act. Clause 5 contains a number of definitions required for the purposes of the new Act. Clause 6 enacts that where there is any inconsistency between the provisions of this Act and the Industrial Conciliation and Arbitration Act, 1972-1979, or any regulation, award, order or industrial agreement made under that Act, then the provisions of the present Act shall prevail. The clause also preserves the provision contained in some State awards that non-apprentice junior trainees cannot be employed in areas that are declared vocations (involving traditional trade areas), where apprentices are employed. Clause 7 binds the Crown.

Part II deals with the administration of the Industrial and Training Commission. Clause 8 establishes the Industrial and Commercial Training Commission. Clause

9 provides that the commission will have nine members, including the Chairman, who is the only full-time member; the Director of the Department of Industrial Affairs and Employment, or his nominee; the Director-General of Further Education or his nominee and a further six persons nominated by the Minister, three of whom will be appointed after consultation with the employer associations to represent their interests and three after consultation with the United Trades and Labor Council.

Clause 10 sets out the terms and conditions of office of members of the commission. The Chairman will be appointed initially for a term of five years, whilst the Deputy Chairman, who in the absence of the Chairman will act in his place and exercise all his powers, functions, and duties, will be a public servant. The initial terms of appointment of the employer and employee representatives will be staggered to allow for continuity in the membership of the commission. Thus one employer and one employee representative will be appointed for an initial term of one year, two for two years, and two for three years. All subsequent appointments will be for a period of three years. Provision is made for the appointment of deputies to all members of the commission other than the Chairman. The same provision relating to nomination and consultation apply to these appointments. The usual grounds for removal of a member from office are included, and provision is made for the filling of casual vacancies.

Clause 11 entitles the Chairman to a salary, in addition to allowances and expenses as determined by the Governor. Part-time members are entitled to allowances and expenses only. Clause 12 regulates the conduct of meetings of the commission. There will be no quorum of the commission unless five members of the commission, including the Chairman, one employer and one employee representative are present. Clause 13 empowers the commission to delegate any of its powers of functions to the Chairman or Deputy Chairman of the commission or to a Training Advisory Committee.

Clause 14 sets out the functions of the commission, which include investigating and reviewing all methods of training both present and future, that should be provided to develop those skills and knowledge required in industry and commerce; investigating, monitoring and reporting to the Minister upon systems and methods of apprenticeship training and making recommendations to the Minister concerning those occupations which should be classed as trades or declared vocations. Where practicable the commission is required to consult and co-operate with persons or bodies that may be affected by any of its recommendations or actions. The Commission is also empowered to establish committees and sub-committees to advise it upon any facet of the Commission's functions.

Clause 15 provides that the Minister may appoint Training Advisory Committees to advise the commission upon matters relating to any area of industry or commerce. Such Training Advisory Committees will be constituted of not less than seven members including the Chairman of the commission or his nominee; the Director-General of Further Education or his nominee; a nominee of the Commonwealth Government Minister responsible for matters relating to industrial and commercial training whilst the remainder, who are to be appointed after consultation, will be divided equally between persons representing the interest of employers and employees engaged in the relevant area of industry or commerce. A Training Advisory Committee is empowered to co-opt additional members as it sees fit, although such co-opted members have no voting rights. Finally, there is no quorum of the committee unless at least one employer and one employee nominee is present.

Clause 16 empowers a Training Advisory Committee to establish subcommittees (on the basis of a trade, group of trades, or any other ground) to assist it on any matter within its sphere. Whilst the subcommittees must include amongst their membership some members of the Training Advisory Committee, non-members of the Advisory Committee also may be appointed. Employers and employees must be represented in equal numbers on the subcommittees which are Trade Advisory Sub-Committees. Clause 17 provides that the function of a Training Advisory Committee is to advise and make recommendations (on a variety of matters including apprenticeship and new forms of training), to the commission, either on its own initiative, or at the request of the commission.

Clause 18 establishes the disciplinary committee of the commission. The committee sitting as the commission, from whose decision there is no appeal, will be constituted of three members, namely the Chairman or Deputy Chairman of the commission and one employer and one employee representative.

Clause 19 provides for the appointment of staff to the commission. The terms and conditions of employment are to be approved by the P.S.B. in all cases. Clause 20 contains the powers of entry and inspection which may be exercised by any authorised person. These powers include the power to question any person involved in training on any matter relevant to the inspection and the power to inspect places or premises and any work in progress therein. It is an offence for anyone to hinder or obstruct a person in the exercise of any of these powers, or to refuse or fail to answer any question if the answer would tend to incriminate him of an offence. Part III deals with forms of training.

Clause 21 makes it an offence for an employer to train a person in a declared vocation unless such training is undertaken pursuant to a contract of training. However, this requirement does not apply to any further training or retraining of a person who has already completed the training required under the contract of training, or who has some equivalent qualification. In addition, an employer cannot employ a person pursuant to a contract of training unless the place of employment, the equipment and methods of training and the work supervisors have been approved by the commission. After entering into a contract of training the employer must notify the commission of such fact and file a copy of the contract with the commission. In certain circumstances the commission itself can enter into contracts of training, assuming the rights and obligations of an employer. Such power is to be exercised only upon a temporary basis and where it is not reasonably practicable for some other employer to enter into the contract of training.

Clause 22 provides that there is no age limit for entering into a contract of training. Clause 23 provides that the time period for any contract of training is to be determined by regulation. However, the time period may, in certain circumstances, be shortened by the commission. Where a person has completed at least 75 per cent of his period of training the commission may, on its own motion or where a joint application has been made by the parties to the contract of training or indenture of apprenticeship, terminate the contract where it is satisfied that the trainee or apprentice has reached a standard of competency acceptable to the commission. In other circumstances the commission may increase or reduce the time period of the contract.

Clause 24 provides that employment pursuant to a contract of training shall be either full or part-time and empowers the commission, on the application of the

parties, to transfer contracts of training from a full-time or part-time basis, or *vice versa*.

Clause 25 deals with the obligations upon a person employed under a contract of training. These include attending approved courses of training complying with the hours of attendance at approved courses of instruction and completing his course of instruction to the satisfaction of the commission. The employer who does not permit a person employed by him under a contract of training to carry out his obligations is guilty of an offence.

Clause 26 deals with disciplinary powers. A party to a contract of training who believes that the other party has contravened a provision of the contract or the Act, or the commission where it has reasonable grounds for suspecting that a contravention has occurred, may refer the matter to the disciplinary committee. An employer who considers that a person employed by him under a contract of training is guilty of serious and wilful misconduct may suspend him from his employment. However, in these circumstances, he must refer the matter forthwith to the disciplinary committee and confirm such suspension in writing within three days. No such suspension can be for a period in excess of seven working days unless confirmed by the disciplinary committee. Before reaching a decision on any matter before it, the disciplinary committee may consult with the relevant training advisory committee. Penalties which the committee may impose include reprimanding the party at fault, imposing a period of suspension, confirming or revoking any suspension imposed by the employer (where such suspension is revoked order the employer to pay any wages that would, but for the suspension, have been payable under the contract) and extending the period of the contract or cancelling it. No suspension imposed by the disciplinary committee can exceed four weeks.

Clause 27 enables the commission to approve and determine schemes of training which it considers necessary or desirable to advance the knowledge and skills required in areas of industry and commerce other than training in trades or declared vocations. Those who complete these courses successfully may be issued with a certificate by the commission.

Clause 28 enables the commission to determine and approve courses of pre-vocational training. A successful completion of the course entitles that person to credits, determined by the commission, in respect of the training required for the relevant trade or declared vocation. Part IV contains miscellaneous provisions. Clause 29 requires the commission to present a yearly report to the Minister.

Clause 30 preserves the validity of any act or proceeding of the commission, committee or subcommittee which would otherwise have been invalid because of a vacancy in its membership. It also grants immunity to any member of the commission, committee or subcommittee and to any other person exercising or discharging powers, functions, or duties under the Act for any act or omission of that person.

Clause 31 provides for the retention, by the employer, of such records as are prescribed by regulation. These records must be retained by the employer for at least two years from the date upon which the record was made. Clause 32 provides for the summary disposal of offences against the Act. Clause 33 is the regulation-making power.

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

BUILDING SOCIETIES ACT AMENDMENT BILL

In Committee.

(Continued from 19 February. Page 3016.)

Clause 11—"Insertion of new Division V."

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

Page 5, lines 26 and 27—Leave out subsection (1) and insert the following subsections:

(1) Subject to this section, a society may, upon the authority of a special resolution, enter into a management contract.

(1a) A society shall not enter into a management contract without first obtaining the written approval of the Registrar.

(1b) A society that proposes to enter into a management contract shall send to each of its members a statement, the contents of which have been approved by the Registrar, specifying the terms of the management contract.

(1c) A statement under subsection (1b) shall be sent so that it will in the ordinary course of post reach each member not later than the time at which he would receive notice of the meeting called to pass the special resolution authorising the society to enter into the management contract.

During the second reading debate I pointed out that, in a situation where a building society decided to enter into a management contract with an outside organisation, there should be some controls in the sense that the members of the society should have some say, as members of the society, in whether or not the society should hand over its affairs, which is what this would mean, to another organisation.

The Minister has said that he does not think that the details of any management contract should be made public. His argument was that it was a private matter between the individuals, the outside organisation and the building societies, and that there was no public justification for making available any details of the management contract. The Minister said that he responded to my questions when he replied to the second reading debate. I do not believe that that is any sort of response at all because, as I pointed out in the second reading debate, what we may have in this situation is something akin to a take-over. We have a situation where an outside organisation, another company, may be able to obtain the numbers on the board of a building society, and, having obtained those numbers, may at the board level, without involving the membership, enter into a management contract on behalf of the society with an outside company.

That could be done on terms adverse to members of the building society. The Minister will say that the Registrar has to approve it, and that is true. We are saying that, before the board of a building society can make such a decision, it ought to consult the membership of the building society. So, if the building society as a whole wants to enter into such a management contract which, in effect, may be a take-over by an outside organisation, that is all right; at least there has been some attempt at membership control of the situation.

The present Bill, I believe, would allow a management contract to be entered into. We are not arguing about that. It would allow such a contract to be entered into by the board without reference to the membership, and it could mean that some other outside organisation was taking over the building society. The outside organisation could obtain control of the board of the building society. We are saying that, if such a contract is to be entered into, two things should happen: first, that the membership should be consulted. In clause 11 (1), lines 26 and 27, we are deleting the present subsection and inserting a subsection which

would ensure that the members of the society were consulted if the board of the society wished to enter into such an outside management contract. Further, we are saying, by way of a new clause, that the Registrar, who must approve any such arrangement, ought to report to Parliament, or to the Minister on any management contract that he has approved between a building society and any other organisation. The amendment that we are specifically concerned with at the moment deals with consulting the membership of such an arrangement. I believe that this is akin to a take-over where an outside organisation could gain effective control of the building society by the use of a management contract.

The Minister will say that the Registrar has to approve it. Certainly, that is some protection. However, we believe that the protection ought to go back another step to the membership of the building society. That is what my amendment to clause 11 does. It ensures that a society that proposes to enter into a management contract should send to each of its members a statement, the contents of which have been approved by the Registrar, specifying the terms of the management contract. That society could then only enter into such a management contract upon the authority of a special resolution of the society as a whole. We believe that it is consistent with the general provisions that ought to operate in this situation involving companies or building societies. There ought to be some obligatory resort to the membership before a take-over is carried out.

The Hon. J. C. BURDETT: I oppose the amendment. I point out to the Committee that at present there is no restriction whatever on management agreements. Presently they may be entered into without any kind of restriction and without the Registrar having to know. The Government believes that there ought to be some sort of scrutiny, and it has therefore proposed the appropriate clause in the Bill. The Government believes that this is an adequate scrutiny provision and that the amendment moved by the Hon. Mr. Sumner goes much too far. In the main, I would say that the grounds of our objection are that it imposes an unwarranted invasion of privacy. The fact that there is an agreement, management or otherwise, necessarily predicates that there are at least two parties—

The Hon. C. J. Sumner: Who are the parties—the board or the membership?

The Hon. J. C. BURDETT:—except in special circumstances. The parties, in the case of a building society, are the society itself, which is the body corporate—

The Hon. C. J. Sumner: That's the board.

The Hon. J. C. BURDETT: Any body corporate is managed, as the Hon. Mr. Sumner well knows. Generally speaking, a contract is private to the parties concerned, and its terms should not be disclosed unless there are special reasons to do so.

The Hon. C. J. Sumner: Not even to members of the organisation?

The Hon. L. H. Davis: Does that happen in companies?

The Hon. J. C. BURDETT: Of course it does not. The basis of the Hon. Mr. Sumner's amendment is that the contents of management contracts should be disclosed in the Registrar's annual report on the Building Societies Act and also by the system of notice that he has proposed. He believes that members have the right to know about the existence and nature of these contracts and to see that the board of the society is not being divested of any control it should retain itself. The first question to be considered is whether there is a need for this disclosure of contracts to members. I do not believe that there is. There are two safeguards which will protect members. First, the Registrar must give his written approval to the contract. He will ensure that there is nothing in the contract which contravenes the Act, jeopardises the stability of the society or has detrimental consequence for its members.

Secondly, the Registrar has informed me that he intends to refer any such contracts to the Building Societies Advisory Committee. He has discussed this with both the present committee and the Association of Permanent Building Societies, which support this approach.

The second question to be considered is the consequences of the proposed amendment. Management contracts will contain confidential information. The parties must be free to contract knowing that the confidential nature of their arrangements are preserved, although the Registrar and the committee will have knowledge of the contents. The Registrar has advised that the industry does not envisage that many such contracts will be executed, and at present the Registrar is aware of only one society intending to enter into such an arrangement.

If the parties to the contract were aware that its contents would be given to members, conceivably this could encourage the parties to omit some details from the contract to be subject to an oral agreement at a later date. Other means could be devised so that full disclosure of the nature of such a contract is not made to the Registrar. A society must be free to negotiate such contracts, which are often in the nature of a secretarial arrangement involving such matters as remuneration and terms of office, etc. Therefore, on balance, I do not believe that the proposed amendment is at all necessary. In New South Wales, there has never been a management contract executed although it is legislatively possible, and in Victoria only a couple of secretarial arrangements have been executed.

For those reasons, and in whatever way the Registrar carries out his duties (whether he consults the association or not), I believe that the restrictions imposed by the Act, namely, that the Registrar must first approve in writing a restriction not contained in the legislation at present, go far enough and that this amendment, taking the matter much wider and impinging upon the privacy of contracts and of the parties to a contract, is unnecessary. I therefore oppose it.

The Hon. C. J. SUMNER: That was an appalling response by the Minister that answered none of the questions that had been asked. I am a little surprised that the Minister even bothered to read it out. The Minister said that at present there are no restrictions on management contracts or agreements. That may well be so, but he is now introducing legislation to deal with management contracts and is, no doubt, doing so because some problem has cropped up. Undoubtedly, something is in the offing with respect to these contracts that the Minister has heard about; otherwise, he would not bother.

So, given that the Minister believes that some controls are necessary on management contracts, it surely behoves the Committee to investigate what are the best controls. Really, the Minister's answers have been totally inadequate. He has hidden behind the notion of privacy and has said that this is an unwarranted invasion of privacy. How one could say that a requirement that the building society should consult its membership (those people who really are the building society) before it enters into a management contract is an invasion of privacy, I do not know. That is completely intolerable.

However, it gets worse, because the Minister said that the Registrar will refer any management contract that is brought to his attention to the Building Societies Advisory Committee. According to clause 13, with which the Committee is about to deal, there are on that advisory

committee three persons who, in the Minister's opinion, are qualified to represent the interest of societies. The Minister is therefore saying that the Registrar will refer to that committee details of any management contract, and that the building society's competitors will be on that advisory committee. There is no doubt about it. Of those three members, there is bound to be someone (perhaps even the whole three members) who is a member of a building society that is in competition with the society that is going to enter into a management contract.

The Minister is therefore saying that the Registrar can refer this matter to the building society's competitors, but has no obligation to refer it to the membership of the society. With due respect, I find that an absolutely absurd argument, and I am surprised that the Minister has put it up. He is saying that it is more justified to make available details of such a management contract for the competitors of the society than it is to the membership.

There is no question of an invasion of privacy. We are saying that on such an important matter, which could involve a take-over of a building society (and the Minister has not even confronted that argument), at least the membership should be given an opportunity to comment on it. When the Minister says that the membership should not be given an opportunity but that the building society's competitors should be given it, I find his argument quite intolerable.

I am asking the Committee to say that any attempt to take over control of a building society is a matter of public interest in South Australia and a matter of concern to the general public, particularly to those who may have invested in the society. If such a management contract can be entered into, those investors who are members of the society ought to have some means of knowing about a potential take-over bid and to have some means of either consciously agreeing to it or rejecting it. Accordingly, I ask the Committee to accept my amendment and to reject the Minister's argument.

The Hon. J. C. BURDETT: The Leader knows perfectly well that the method of management of corporations is through the board and that the protection in this case is that there must first be written approval by the Registrar. That, I suggest, on top of the fact that the board of management is vested with the task of managing the society, anyway, is a significant public scrutiny exercised by a public servant who has a duty under the Act by which he is appointed.

The Hon. G. L. BRUCE: I support the amendment, because I see a society relating to its members. The start of the legislation refers to "societies" and then goes on to provide:

> Subject to this Part, a society may be formed by any 20 or more natural persons of full age and capacity.

So, a building society may exist with only 20 members. We are talking about large societies, but surely it is not unreal, whether it is a small society or a large society, to say that it is responsible to its members, who should be aware of what is happening with management contracts.

The Hon. J. C. Burdett: I agree. They consult their members.

The Hon. G. L. BRUCE: Surely it depends on the number of members. If those people get together and consult the society, they are entitled to know the conditions of a management contract. I can see no reasons against the amendment, which I support.

The Hon. C. J. SUMNER: I am pleased to see that the Minister has really accepted the thrust of my argument. What he said is that the management of a building society rests with the board, and that the board can enter into a management contract. Therefore, the board can hand over the affairs of the building society to another organisation without any reference to the membership. That is precisely the point that I have been making. It is all very well for the Minister to say that somehow or other the members should have control of the board, but what happens is that an outside organisation could take control of the board and then enter into a management contract. The outside organisation, in effect, takes over control of the building society. That can be done without any reference to the membership.

The Minister said that the board has control of the affairs of the building society; that is precisely the point that I have been making. All he has done is support my proposition. The Opposition is asking that in a move of this kind the simple expediency of referring any proposal to the membership should be gone through. For some obscure reason the Minister does not seem to think that the members of a building society, the depositors who are average members of the South Australian community, should have any say in whether the society is taken over by an outside organisation. An outside organisation could bleed the society, and the Minister is saying that that situation can exist with the approval of the board and without any reference to the society's membership. I find it quite odd that the Minister is adopting that attitude.

The Committee divided on the amendment:

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

Noes (11)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill, D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clause 12 passed.

New clause 12a—"Amendment of section 88—Report."

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

Page 5, after line 42 insert new clause as follows:

12a. Section 88 of the principal Act is amended by inserting after subsection (1) the following subsection:

(1a) The Registrar shall, in a report made under this section, include details of the parties to, and the terms of, all management contracts approved by him during the period to which the report relates.

I think that the Committee should now try to rescue something from the quite serious decision it made on the last amendment. I find it quite surprising that members of the Committee would want to deprive the membership of a building society of having any say in a management contract. Apparently, members opposite are prepared to adopt one approach in their dealings in this Chamber when they talk about democracy, but when it gets to the murky world of company matters (and this applies particularly to the Hon. Mr. Davis) they want to see as much as possible kept secret. Members opposite are not in the least bit interested in letting the membership know what is happening within building societies.

I must confess that I find that attitude quite extraordinary. That seems to be the approach adopted by Liberal members. I notice that on this occasion the Hon. Mr. Milne has joined with members opposite for some odd reason, because he gave a very stirring speech in a previous debate and referred to the death of democracy in South Australia.

Members interjecting:

The CHAIRMAN: Order! I draw the honourable Leader's attention to the fact that, rather than putting

forward a new proposition, he is reflecting on a previous decision that was made by the Chamber.

The Hon. C. J. SUMNER: Mr. Chairman, that is the last thing I would want to do.

The CHAIRMAN: I would like the Hon. Mr. Sumner to proceed with his explanation on this amendment.

The Hon. C. J. SUMNER: Certainly, Mr. Chairman. However, I find it a trifle odd that an Australian Democrat should talk about the death of democracy in one debate and then vote to destroy the democratic right of building society members to enjoy the same thing.

Members interjecting:

The CHAIRMAN: Order! I ask the honourable member to proceed with his explanation.

The Hon. C. J. SUMNER: I am, Mr. Chairman.

The CHAIRMAN: No, you are not. You are reminiscing on a matter dealt with previously.

The Hon. C. J. SUMNER: The points of my previous remarks were relevant, Mr. Chairman. At this stage, I think we should rescue at least something in terms of the building society members' knowledge of what is going on in their organisation.

My amendment inserts new section 12a and provides that the Registrar, the man responsible for approving a contract, when he reports to the Minister, should include details of the parties to and the terms of all management contracts approved by him during the period to which the report relates. Although the Minister does not want the membership to know anything about these management contracts or take-overs before they occur, the membership should have, by way of a public report, some idea after they occur.

The Hon. Mr. Davis and the Hon. Mr. Carnie gasped when I said that the Minister was taking away control of any take-over situation for building societies from the membership of the board, but that is precisely what is happening. My amendment would rescue the situation to some extent. At least members of the building society should know what had happened and the public and members of Parliament should know, given that we are dealing with a matter of public concern. Members opposite must concede that the affairs of building societies are a matter of considerable concern to the community.

Members will recall that a few years ago the Government, through the agency of the then Premier, Don Dunstan, had to intervene when there was a run on a building society. They are financial institutions of some moment and the community should have some knowledge of what is going on within them. More particularly, the members of building societies should know after the event what has happened in terms of any contract that amounted to a take-over of a building society.

The Hon. J. C. BURDETT: I oppose the amendment. It is even more mischievous than the previous one, in that it makes disclosure not only to members but to the whole world, through reporting to Parliament. It has the additional ill that it is totally useless, because it may be 12 months or more before it is reported. It cannot do any good. All it does is totally breach privacy and the privacy of contract by giving information to the whole world on what may be a totally harmless contract. The protection is given for the first time that management contracts can be entered into only with the prior approval of the Registrar. The amendment makes known the business of parties to a contract.

The Hon. C. J. SUMNER: I am surprised by what the Minister has said. The amendment raises a very important point with respect to Parliamentary scrutiny of the affairs of the bureaucracy. The bureaucrat, the Registrar of Building Societies, is to be given an authority, a power, which he may exercise but which no-one in the Parliament or the public should know about. That seems to me to be a wrong principle. Parliament establishes, by Act, a Registrar of Building Societies and establishes, in a whole lot of other areas, public servants to carry out certain duties that involve the Registrar in supervision of building societies, credit unions, and others. Those public servants generally have a responsibility to report to Parliament on what they are doing.

Here the Minister is making an important exception to that general rule. He is saying that Parliament has appointed a Registrar but the Government is going to give that Registrar powers about which Parliament will not know. There will be no report on them. What the Registrar does in this area of building societies will be completely secret. Will the Minister be aware of any management contract? If the Minister knows, will other members of the Public Service know? The Minister has said (and I have pointed out the absurdity of it) that the competitors will know through the Building Society's Advisory Committee.

The Minister is saying that the building society's competitors, these other people on the committee, will know about a management contract but the Parliament that has set up the office of Registrar and given him certain powers will not know anything about it. That is quite wrong. It is akin to the sort of situation that I put last week, whereby the Minister prepares a report on certain administrative changes, and makes it available to certain interest groups but not to members of Parliament. He says that we have to make decisions but that he is not going to give information.

I hate to say it, but this Minister is the worst offender. The Hon. Mr. Burdett, right from the inception of his Ministry, has used this method of producing administrative change. He has used the method of having internal reports prepared, not making them available to Parliament, making them available to specified interest groups that he likes, and then making them the basis on which legislation should be introduced. You, Mr. Chairman, the Liberal back-benchers, and the Labor back-benchers are expected to vote, when they have no background information. What the Minister is doing should be unacceptable to Parliament as a matter of principle and I ask the Committee to vote for my amendment.

The Hon. J. C. BURDETT: The Leader well knows that there are a whole lot of cases where statutory officers have knowledge of confidential matters which they do not disclose in their reports and are not required to disclose and which it would be inappropriate to disclose.

The Hon. C. J. Sumner: Why is he going to make it available to the building society's competitors?

The Hon. J. C. BURDETT: He may or he may not.

The Hon. C. J. Sumner: You said that he would.

Members interjecting:

The Hon. J. C. BURDETT: It is not in the clause and it is not obligatory under the clause. The point raised by the Leader is absurd. As I have said before, there are many statutory officers who have knowledge of all sorts of confidential matters and who are not required to report to Parliament. Parliament cannot do anything about the particular contract anyway. The point I have made, and which I have made before, is that here is a private contract which at the present time may be made without any kind of scrutiny, and to subject it to the scrutiny of a responsible statutory officer is all that can be expected, is all that is needed, and is all that is required. To make it known to the world, which is what a report to Parliament

does, is absurd and cannot rectify the matter in any way.

The Hon. C. J. SUMNER: The Minister may be right when he says that certain public servants have confidential information that they do not make available to Parliament. In fact, that is half of Parliament's complaint, particularly with this Government, which tends to keep matters to itself on a confidential basis and, when we try to get information from Ministers, it is impossible. They just say that that is a confidential matter and that they are not going to reveal it to Parliament.

What the Hon. Mr. Burdett has just said completely supports what I am saying, that this Government is prepared to ignore Parliament and the legitimate inquiries of Parliamentarians. The point is that, even if there are some matters that require confidentiality, surely in this case what we are talking about is a public officer who, not just any public servant, has been established and set up under an Act of Parliament and who is required to report to Parliament. We are saying that there are certain things that he can do under the warrant of Parliamentary authority, but that he does not have to report to members of Parliament. I believe that is quite inconsistent with the responsibilities that Parliament should have *vis-a-vis* the Executive.

It is made even more ridiculous by the fact that the Minister has admitted that the Registrar has said that he intends to follow the procedure of referring the matter to the Building Societies Advisory Committee. If he follows that procedure, although the Minister said it is not in the Act (but he has just told us that that is what he intends to do), and is making available the details of the management contract, the private and confidential contract, known to the building society's competitors who are on the committee, then those details are being made known to the society's competitors, yet apparently they are far too confidential and private (and represent a dreadful invasion of privacy) to be made available to ordinary members of the public and ordinary members of Parliament. I think that is an approach that Parliament ought to reject.

The Committee divided on the new clause:

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

Noes (11)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill, D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

Majority of 1 for the Noes.

New clause thus negatived.

Clause 13—"The Advisory Committee."

The Hon. C. J. SUMNER: I raised some queries about this clause in the second reading debate and really did not get a satisfactory reply from the Minister. I pointed out that the Hon. Mr. Hill, in particular, previously has got most upset about advisory committees or boards being set up at the whim of the Minister, especially when they were able to have their terms terminated at any time by the Minister. That is exactly what the Minister is able to do with the Building Societies Advisory Committee. I find that to be inconsistent with the Government's approach, particularly when it was in Opposition to a whole host of boards that were suggested to be set up under the Labor Government where, almost without exception, it insisted that they should be set up with fixed terms.

On this occasion the Government is saying that an advisory committee should be set up with statutory authority, not one that the Minister decides to have around him for a bit of informal advice, which is one thing. It is all very well for the Minister to have a body which gives him a bit of informal advice, because we all have committees to do that.

It is a committee set up and enshrined in a Statute. The Minister is saying that the committee can be dismissed, removed and changed at his whim. I am pointing out that it is inconsistent with the approach that honourable members opposite have adopted on previous occasions. It is no answer to say that this is like the Community Welfare Advisory Committee or other committees that are set up, because this committee is being set up under Statute and is now being set up specifically with statutory authority. I recall that on previous occasions when there has been statutory authority for committees or boards, the Government when in Opposition has insisted that those people be appointed for a fixed term. Liberal Party members insisted on that for the reason that it would enable that board member or committee member to give his advice fearlessly and without favour.

Here the Minister is setting up a committee which he can dismiss at will and which will give advice. However, one can only question the impartiality of the advice that will be given. I know that it has been done on an *ad hoc* basis before where advisory committees have been set up. I know that from time to time the Labor Government introduced Bills that it thought appropriate where members of boards and committees held their positions at the behest of the Minister. I can recall honourable members opposite, particularly Mr. Hill, objecting to that course of action. However, they now seem to be doing precisely the same thing in the face of their previous position. I merely point this out to the Committee. The Building Societies Advisory Committee is something that we support and we certainly do not intend to oppose the clause but it is an interesting reflection on this Government's general attitude to the position adopted when in Opposition, compared to the position taken in Government.

The Hon. J. C. BURDETT: I have given the answer before but I do not think the honourable member was present when I gave it. There are different types of committees. This is simply an advisory committee.

The Hon. C. J. Sumner: With no power?

The Hon. J. C. BURDETT: The Leader can read clause 13 as well as I can. I explained previously how it came about. A committee exists at the present time and it was set up by the previous Government. It was then known as the Standing Committee. It has since come to be known as the Advisory Committee. It is the same committee which the previous Government set up and which, because there were no statutory powers, held office at the pleasure of the Minister as this present committee will do as set out in clause 13. Nothing has changed. I explained the history of why it has been put into the Bill: the committee requested it. It was not upset about the fact that it held office at the pleasure of the Minister. The members found it to be satisfactory in the past and they expect it to be satisfactory in the future. They believe that they would have somewhat more status if they were mentioned in the Act and that is what the clause in the Bill does.

Clause passed.

Title passed.

Bill read a third time and passed.

RESIDENTIAL TENANCIES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 February. Page 3011.)

The Hon. J. A. CARNIE: In 1978, when the previous

Government introduced the Residential Tenancies Act, it was the subject at that time of a long and intensive investigation. The original Bill, which I must confess I could not support, was put to a Select Committee in the House of Assembly. The result of that Select Committee was virtually a new Bill or certainly a Bill which had been substantially altered. The Bill came to the Legislative Council and passed the second reading. Even though the Opposition at that time supported the second reading, it believed that there were still some areas where the Bill was deficient, and it was amended in those areas. The Government supported many of the amendments put forward by the Legislative Council in 1978 but said that there were some that it did not support, and the Bill went to a conference. I was on that conference and it was one of the longest that I have ever been on, but it was also one of the most rewarding. I think that all members who are still here and who were on that conference would agree that there was a true spirit of co-operation and an apparent genuine desire to see that out of that conference came a Bill which sought to look after the interests of both landlords and tenants.

I said at the time in the second reading debate in 1978 that the Bill codified the existing system or custom and that it did not alter very much what was then being done, either because it was already in the law or because it was merely good business practice, for both landlords and tenants. I also said that most landlords and tenants did not need the protection of such a Bill. As is the case with so much legislation that comes before us, it was the actions of a few which caused it to be brought forward. There are bad landlords and bad tenants (hopefully few of both) but it is so often the actions of the few which lead to the necessity for legislation.

The Bill, as it came out of conference, was the result of a genuine attempt to compromise. In very few areas (and I stress that fact) there was dissension. In those areas of dissension there was a genuine attempt to compromise in the hope that the Bill would look after both the interests of landlords and tenants. However, it must also be remembered that the Bill was something quite new. It was crossing new ground. It would have been surprising if, after a year or two of operation, there were not some anomalies which had cropped up and some areas found where the Act did not work as intended or that some smart operators on both sides did not find a way around certain provisions.

It is because of these things that the Bill is now before the Council. I think that I am correct in saying that the former Government gave an assurance that it would examine the workings of the Act after it had been in operation for a suitable time. By the time that that suitable time had arrived, the Government had changed. Nevertheless, a working party was set up to review the Act and its administration.

The Hon. Mr. Sumner in his speech indicated that the Opposition would oppose certain clauses. Looking at those clauses, one sees that they could, in some way (certainly in the Hon. Mr. Sumner's mind), disadvantage the tenant. It is perhaps understandable that the Hon. Mr. Sumner would take that view, but it might have been a more balanced speech if he had pointed out that there are clauses that it could be said also disadvantage the landlord. In fact, "disadvantaged" is probably a bad definition. As I see it, this Bill tightens up those areas where anomalies exist or where anyone, either landlord or tenant, can circumvent the intention of the Act. For example, it was found that the original intention concerning periodic tenancies was deficient in the Act, and a Supreme Court decision ruled that section 7(1) did not cover the case envisaged. This is amended by clause 5 so that tenants do have the protection that the Act originally intended.

The amendments to sections 30 and 31 are both designed to tighten loopholes that some landlords are using to disadvantage tenants. Section 30 deals with the question of monetary consideration from the tenant to enter into a tenancy agreement. It was intended in the original Act that this should not apply. Section 30 provides that such a monetary consideration should not be entered into. What anomalies have been found in that section of the Act? Clause 16 amends section 30, in order to tighten up that provision so that the tenant is protected.

Section 31 is amended by clause 17 so that a landlord may not require the payment of rent in advance other than the initial payment. Again, it has been possible under the Act for a landlord (and apparently some landlords have been doing this) to charge rent in advance so that the tenant is disadvantaged in that he is always paying in advance and, in effect, is one or two weeks behind.

The Hon. Mr. Sumner has indicated that the Opposition will oppose clause 18 *in toto*. The honourable member said he is doing this on the basis that the proposed amendment allows for a security bond to an equivalent of four weeks rent to be required. The Act limits it to the equivalent of three weeks rent at present. The Hon. Mr. Sumner appears to have overlooked the fact, when he says the Opposition will oppose clause 18 altogether, that clause 18 also adds a new subclause which prevents a landlord from charging a higher rent for the first four weeks and a lower rent thereafter, which is the practice of some landlords and which is a way of circumventing the limitations of the security bond.

As the Minister said in his second reading explanation, it has been the practice, or it has certainly been possible, for a landlord to charge $100 a week for the first four weeks rent and then $50 a week thereafter. In effect, he is getting a security bond that does not come under the provisions of the Act.

Opposing clause 18 altogether, the Hon. Mr. Sumner will allow this practice to continue, and I cannot for the life of me see how this will advantage the tenant. There are many other areas where this Bill is clamping down on unscrupulous owners. By implication, the Hon. Mr. Sumner is saying that the Government is seeking to make life harder for tenants and easier for landlords, but that is not true.

The Hon. J. C. Burdett: It's a fair balance.

The Hon. J. A. CARNIE: Exactly, and I will come to that. Since the Act has been in operation, anomalies have been found. Administrative difficulties have been discovered, and there are areas in which smart operators, both landlords and tenants, have circumvented the intention of the Act.

Another clause with which the Hon. Mr. Sumner has taken issue is clause 28, dealing with discrimination against children. That clause strikes out subsections (3) and (4) of section 58. Subsections (1) and (2) thereof provide as follows:

> (1) A person shall not refuse, or cause any person to refuse, to grant a tenancy to any person on the ground that it is intended that a child should live in the premises.
>
> Penalty: Two hundred dollars.
>
> (2) A person shall not—
>
> *(a)* instruct any person not to grant; or
>
> *(b)* state his intention, whether by advertisement or otherwise, not to grant,
>
> a tenancy to any person, if it is intended that a child should live in the premises.
>
> Penalty: Two hundred dollars.

Those two subsections will remain in the Act. As I said,

the Bill strikes out subsections (3) and (4), which provide:

(3) A person shall not, for the purpose of determining whether or not he will grant a tenancy to any person, inquire from that person whether—

(a) that person has any children; or

(b) it is intended that a child should live in the premises.

Penalty: Two hundred dollars.

(4) In any proceedings in respect of an offence against subsection (3) of this section, where it is proved that the defendant made an inquiry of the kind referred to in that subsection, the burden shall lie upon the defendant to prove that the inquiry was not made for the purpose of determining whether or not to grant a tenancy.

I now refer to the second reading speech that I made when the Council was debating the Residential Tenancies Bill in 1978, when there was much contention about this provision. I said:

The most contentious clause in the Bill that has aroused the greatest amount of public feeling and misunderstanding is clause 57, which relates to discrimination against tenants with children.

Although I referred to clause 57, when the Bill finally came out of the conference this provision was clause 58. I continued:

Subclause (1) provides clearly that a person shall not refuse, or cause any person to refuse, to grant a tenancy to any person on the ground that it is intended that a child should live in the premises. I can understand the intent behind a clause such as that: no-one wants to see couples with children disadvantaged or discriminated against in relation to obtaining accommodation. However, introducing such a provision can create difficulties in other areas. For instance, it takes away the basic right of freedom of choice. It involves the landlord's property, and surely he should be allowed to choose to whom he lets his property. Under this clause, the landlord will not be able to do so. He will perhaps be bound to admit tenants that he would not otherwise admit. Clause 57 cuts right across one's basic human freedom to choose for oneself what one will do with one's property.

Subclause (4), which provides that a person shall not for the purpose of determining whether or not he will grant a tenancy to any person inquire from that person whether he has any children, or whether it is intended that a child should live in the premises, is ridiculous. Apart from whether or not children will be present, any landlord letting premises would want to see the family that wanted to rent his premises so that he could decide whether they would be suitable tenants. It is therefore ridiculous that he cannot even ask whether they have children.

It may involve a one-bedroom flat but, because the rent is much cheaper than that for a two-bedroom or a three-bedroom flat, a couple could go to a landlord and not say that they had a child. The landlord would not even be permitted to ask them. So, that couple could live in a flat that was obviously too small and unsuitable for a couple with a child. That sort of situation is ridiculous.

Later I went on to say:

It could disadvantage a tenant . . . a landlord may have other property that is more suitable for those persons but, if the landlord asks whether the people have children, he is liable to a fine of $200. The whole clause is untidy and, to quote an example, it is taking a sledgehammer to kill a wasp. Surely, it would have been possible to exclude discrimination without a clause as sweeping and as Draconian as that.

What I said in 1978 I still believe today. I am glad to see that the Government is removing those two clauses. As I said, no-one wants to discriminate against families and children. It is still an offence to refuse to let premises simply because children are going to be present. What happens now is that the onus of proof is reversed, and that is as it should be.

A landlord could be interviewing prospective tenants and he may not like the look of the father or the family generally, and he may feel that they are unsuitable tenants. What is to stop that man from saying later that the landlord refused him accommodation because he had two children? That may not have been the reason at all but the way the Act is worded at the moment, the onus of proof is on the landlord to prove that that was not the reason that he refused that particular family accommodation. How is he to do that? It would be virtually impossible. In a case like that, the onus of proof should be on the tenants to prove that that is why the landlord refused them accommodation. This amendment to the Act achieves that position.

The Hon. Mr. Sumner raised several other points which I am sure the Minister will answer. In fact, several of those points were answered in the Minister's second reading explanation, but I am sure he will not mind doing it again. My final point relates to clause 4 and the question of the application of the Act to the Crown. In 1978, I tried very hard to amend the Bill to bind the Crown, and I was successful. However, one of the points raised by the then Government was that the Housing Trust should, for various reasons, be exempt. In the spirit of co-operation which prevailed at the conference at that time, the Opposition gave way and did not insist on that particular amendment, so the Act is as it stands at the moment, and the Crown is not bound. However, I felt then and still do that it could be dealt with quite satisfactorily by binding the Crown and then, on application from the Housing Trust, exempt it pursuant to section 91 of the Act. That section provides:

The tribunal may, upon application by any person, if the tribunal considers it necessary or desirable in the circumstances, order that a provision of this Act shall not apply to or in relation to any residential tenancy agreement or prospective residential tenancy agreement or any premises or shall apply in a modified manner specified in the order and the order shall have effect accordingly.

My main concern in moving the amendment at that time was not with the South Australian Housing Trust. I recognise that the Housing Trust is unique in that it supplies residential accommodation to disadvantaged people in the form of welfare housing. That is not done by the private sector.

My main concern at that time involved the Highways Department, which usually has anywhere between 600 and 1 000 homes for rent. The Highways Department is not in the same position as the Housing Trust and in a sense is in competition with the private sector. I still believe that the matter could have been dealt with under section 91 by completely binding the Crown and allowing the Housing Trust, the Police Department, or the Education Department (which are all Government instrumentalities that have rental accommodation) to apply for exemptions under section 91. However, the Government has bound the Crown and exempted the South Australian Housing Trust. That will have the same effect, so it has my support. I support the second reading.

The Hon. J. C. BURDETT (Minister of Community Welfare): I thank members for their contributions to this debate. The Leader has made extensive criticism of me because I did not release the working party's report to which I have referred. All Governments at various times have taken into account investigations made by public servants in Ministers' departments and other departments. In the past such groups of public servants were probably not glorified by the term "working party". Some time back

no-one would have ever thought that such reports would be made public.

In this case it was a routine inquiry, which one would expect after a certain period of operation of a new Act. It was a low-key inquiry, and no press release was made about it being set up. Its report was released only to interest groups on a confidential basis.

The Hon. C. J. Sumner: That means that people outside Parliament can have access to it, but we cannot.

The Hon. J. C. BURDETT: I do not intend to continue to react to the Leader's interjections. However, there are some working party reports which should be made public, and there are some which are properly confidential to the department and to the Minister to whom they are made. To release reports to interest groups on a confidential basis is a perfectly proper procedure in order to obtain a reaction. That procedure is entirely proper, and I make no apology for having followed it. When a Minister sets up a working party and announces it by press release, when there is no appropriate existing legislation, and when the report is intended to be the basis for discussion, there is then a strong case for the release of the report. However, that is not the case in relation to this matter.

The Hon. C. J. Sumner: Why did you make it available to other groups in the community and not to us?

The Hon. J. C. BURDETT: I have made that perfectly clear. So that there can be some consultation.

The Hon. C. J. Sumner: Why don't you consult with us?

The Hon. J. C. BURDETT: I have made it clear, and I do not intend to respond to these interjections. It was an inter-departmental report which was released to interest groups so that they could readily respond to it. As I have said, it was a low-key report.

The Hon. C. J. Sumner: Was it made available to the Tenants Association?

The Hon. J. C. BURDETT: You know that it was. Parliament can judge the Bill for itself, and I intend to respond fairly comprehensively to the Leader's questions on detail.

The Hon. C. J. Sumner: Why don't you give us the report?

The Hon. J. C. BURDETT: For the reasons I have explained.

The ACTING PRESIDENT (Hon. M. B. Dawkins): The Hon. Mr. Sumner has had his opportunity. He will keep quiet, and the Minister will be heard in silence.

The Hon. J. C. BURDETT: The Leader made great play about the alleged membership of the working party of one Mr. Nicholls. I think the Leader has been somewhat less than frank with the House, when in one breath he said, "I did not know there was a report. How are Government members or Opposition members to know there was a report?" and in almost the next breath he said, "From information I have been able to obtain, I believe that the committee was chaired by Mr. Nicholls."

He went on at great length about the political activities of Mr. Nicholls. For reasons I have stated, membership of the working party is not really relevant, but, because of the great song and dance that the Leader has raised on this issue, I will disclose the names of the members on the working party. They were three public servants, namely, Robert Nicholls, of the Premier's Department, Peter Young, Deputy Director-General of the Department of Public and Consumer Affairs, and Margaret Doyle, a senior legal officer in the Law Department.

I do not think any political persuasion of any of those members, if they have any, had anything to do with the report they produced. Many public servants have followed one or another of the political Parties, and that does not necessarily prevent them from serving the Government of the day. The Leader's attack on the integrity of Mr. Nicholls is unfounded and disgraceful. There is nothing to justify that attack at all. The Leader made some extravagant, unjustified and vitriolic comments about family impact statements. I will pick out from *Hansard* his detailed comments and reply to each of them. The first one was:

> No-one can find out whether family impact statements have been prepared on legislation or Government initiatives.

I may say that I have made numerous speeches and issued press releases about the way family impact statements are conducted, but the response to that statement is that Cabinet has directed that family impact statements accompany all proposals which are likely to impact on families. This direction is being adhered to by departments and relevant authorities and has recently been reconfirmed by Cabinet. The next comment by the Leader was:

> No-one can find out the results of family impact statements whether they support Government legislation, oppose Government legislation, or whether they say nothing about it.

My response is that family impact statements are prepared as an additional piece of advice for Cabinet, to be considered alongside all other information and advice relevant to the specific proposal. Impact statements neither support nor oppose proposals; they summarise the likely impacts, positive and negative, of the proposed action on families. It is Cabinet's responsibility to examine the possible family impact in the light of all other considerations and to make decisions based on all available information.

The Hon. C. J. Sumner: You have just agreed with me.

The Hon. J. C. BURDETT: I am not agreeing with you at all.

The PRESIDENT: Order! The Hon. Mr. Sumner has made his point. Otherwise, the Minister would not be replying to it.

The Hon. J. C. BURDETT: The Leader's next statement was:

> They mean nothing, achieve nothing, and no-one knows anything about them.

My response is that the family impact statement system was designed to ensure that planners and policy advisers considered the impact of their proposals on families and that Cabinet was aware of the way in which this task had been carried out and the conclusions reached. Every statement means that families have been considered in preparing proposals for legislation or other action, and the likely impact will be taken into account by Cabinet.

The Hon. C. J. Sumner: It's an absolute fraud, and you know it.

The Hon. J. C. BURDETT: The Leader said that previously. My response continues that this is surely a significant achievement which in the long term will be marked not so much by what is done for families as by the absence of inadvertent, unintended adverse consequences of Government decisions. The next statement made by the Leader was:

> The Minister has tried to pass off his family impact statement as one of the greatest schemes that have been introduced by his Government.

The Government has committed itself carefully to consider families when it is forming new legislation and planning other administrative action. A process has been developed designed to increase the awareness of Ministers and public servants of the needs of families and the ways in which Government action might support or interfere with family functioning. To my knowledge, no other Government in the world has committed itself in this way, and our family impact statement process is being closely

watched by all other Australian States. The process has also been favourably commented on by a number of international authorities on the family. This is not to suggest that the process we have adopted is ideal, and it is constantly under review by the Family Research Unit so that its effectiveness can be maintained and enhanced wherever possible. The final statement to which I intend to reply in detail was:

> Why are they secret reports that are not made available to anyone but himself?

Family impact statements are not made available to me, except in the same way as they are made available to every other Minister.

The Hon. C. J. Sumner: And not to Parliament.

The PRESIDENT: Before the Hon. Mr. Sumner gets carried away with interjections, I point out that he will have the opportunity to question the Minister again in Committee, and I ask him to keep quiet.

The Hon. J. C. BURDETT: It seems to me, with respect, that I have replied in great detail to the Hon. Mr. Sumner on every one of his statements about family impact statements. If he is not happy with the answers because they do not agree with his philosophy and because they show that the family impact statement is useful and does what I have said it does, that is for him. I think I have gone out of my way to reply in detail to every one of the statements he has made. To complete the answer on the last point, I add that family impact statements are part of the documents prepared by departments and authorities and presented by the responsible Minister to Cabinet for consideration. The statements are, like all other advice to Cabinet, confidential and should remain so, as the crucial question is not the advice given but the decisions made by Cabinet based on that advice and other Cabinet considerations that are also confidential.

The Leader was suggesting that the Liberals, when in Opposition, were opposed to the thrust of the Residential Tenancies Act, the principal Act. The *Hansard* report of what he said is as follows:

> . . . I know that when in Opposition this Government was very critical about residential tenancies legislation. In fact, it was one of its planks in Opposition to the Labor Government. Landlords would approach the Liberal Party complaining about the dreadful Residential Tenancies Act, and the Liberal Party would reply saying that it was the Labor Government over-regulating society again.
>
> **The Hon. J. C. Burdett:** I did not say that. Have you looked at *Hansard* to see what was said?
>
> **The Hon. C. J. SUMNER:** Yes, I have looked. The Hon. Mr. Burdett may not have said that, but I was not making any specific accusations. However, I am sure that members opposite in this Council and in another place have made that accusation. One of the Liberal Party's major thrusts in its election campaign was that society had been over-governed and over-regulated by the Labor Government.

I would now like to look at what was said when the Bill, which became the principal Act, was before Parliament. I refer to page 1860 of *Hansard* of March 1978, where I stated:

> I support the second reading. Legislation was necessary in relation to residential tenancies in two areas; one was the area of security of tenure, and the other was in relation to security bonds. The Liberal Party's policy was to legislate in these two areas. The first area, security of tenure, is necessary because many people who enter into residential tenancy agreements as tenants have nowhere else to go if their tenancy is suddenly terminated; they need to have some reasonable security in respect of the roof over their heads. Secondly, there have been some unconscionable transactions in regard to bonds, and some hardship has been caused for some tenants in this regard.
>
> The Hon. Mr. DeGaris said the amendments to the Bill made in another place as a result of a Select Committee's findings greatly improved the Bill. However, the Bill needs further amending, although it now goes a long way toward what is required. I commend the Select Committee and its Chairman for the good work they did. This is now a Committee Bill, and a few further amendments ought to be made. It became apparent during the Select Committee's sittings, according to its report and according to the submissions made, that many witnesses misunderstood the present position . . . Indeed, Bradbrook, whose report to the Poverty Commission is acknowledged by the Minister as being largely the inspiration behind this Bill, acknowledges that the existing South Australian law more closely accords with his views as to what it necessary to protect landlords and tenants than does the law in any other State.

The Hon. Mr. Sumner implied that South Australia was in the forefront in legislation of this kind, and he was right, but he must remember that it was in the forefront and that has been acknowledged long before the parent Act. It has been in the forefront for some time because of legislation of successive Governments.

I will now take a brief look at other statements in *Hansard* at the time that the Bill, which became the parent Act, was passed. When the report of the Select Committee in another place was brought up, Mr. Evans, the then shadow Minister of Housing, supported the motion (*Hansard* 21 February 1978 at page 1671). At page 1673 he stated:

> It is not far from Liberal policy.

On the same page, Mr. Goldsworthy, now the Deputy Premier, then the Deputy Leader of the Opposition, and a member of the working party said:

> The report of the Select Committee is a good one.

At page 1674 he said:

> We are happy to adopt the report.

At page 1677 Mrs. Adamson, the present Minister of Health, supported the motion. At pages 1690 and 1691 Mr. Evans supported the amendments in Committee. In the Legislative Council the Hon. Mr. DeGaris, then Leader of the Opposition said (*Hansard* 28 February 1978 at page 1802) that he supported the general principles of the redrafted Bill. I said (*Hansard* 2 March 1978, page 1894) that I commended the Government and the Select Committee and supported the second reading. Then, at page 1947 of *Hansard* of 7 March 1978, the Hon. Mr. Carnie supported the principles of the Bill (as he just said that he still does of this Bill) that became the parent Act.

It is particularly important to note (*Hansard* 16 March 1978, page 2275) that after the Bill had been to conference the Hon. Mr. Banfield, who was then the Leader of the Government in this Council said:

> . . . both sides wanted to be sure that the Bill would not be lost. They believed that the Bill contained some valuable provisions.

He as the then Leader of the Australian Labor Party in this Council had a much clearer conception of the attitude of the Liberal Party than the present Leader has. I refer now to a cheap and shabby debating device which the Leader employs far too much. For example, he said:

> . . . now the Minister is telling us there is a report available which he has not made public . . .

The Leader carried on from there. When he said those things he was telling the Council something which was not in fact true. I did not say anything like that. The device which he uses is to say that his opponent is saying something and then he attributes to the opponent something that he did not in fact say; he then attacks his opponent on the basis of a statement that he did not make.

That is an unworthy ploy, and the Leader has enough ability to operate effectively without using that device. There is no need for him to operate in that way. He said that I said things that I did not say and then he attacked me because I was alleged to have said them.

The Hon. C. J. Sumner: Give me an example.

The Hon. J. C. BURDETT: I have given an example.

The Hon. C. J. Sumner: What?

The Hon. J. C. BURDETT: The example is the one that I have just given.

The Hon. C. J. Sumner: About the report being available?

The Hon. J. C. BURDETT: Yes. The Leader carried on about what I was alleged to have said, but I said no such thing.

The Hon. C. J. Sumner: Are you saying that there is no report?

The Hon. J. C. BURDETT: The things that the Leader said I said were not said at all. He attacked me on the basis of something I did not say.

The Hon. C. J. Sumner: I'm confused.

The Hon. J. C. BURDETT: I can make the matter clear. The Leader stated:

> Indeed, now the Minister is telling us that there is a report available which he has not made public or available to members of Parliament and does not intend to make available.

That is exactly what the Leader said that I said, and I did not say it. I said nothing about it at all.

The Hon. J. E. Dunford: You must have said something.

The Hon. J. C. BURDETT: I did not say anything about that at all. It is purely a figment of the Leader's imagination, and it is a ploy that he often uses. He attributes to his opponent something that his opponent has not said. He then carries on, at great length from his imagination, about what has been said, because the Leader cannot point to *Hansard* to show where I said anything like that, vaguely resembling it, even to that effect, yet the Leader has attacked me on that basis. It is a ploy which I suggest that Leader should desist from using, because he is able to operate effectively—

The Hon. C. J. Sumner: I don't know what you're talking about. I don't attribute to members things that they haven't said, and to make that allegation is quite wrong.

The Hon. J. C. BURDETT: The Leader did say:

> Indeed, now the Minister is telling us that there is a report available which he has not made public or available to members of Parliament and does not intend to make available.

Those words can be found nowhere in *Hansard* because I did not say them.

The Hon. C. J. Sumner: You have not made them available.

The Hon. J. C. BURDETT: I am alleged to have said those things, and I did not say them. When the Leader attributed that statement to me he was saying something that was not true.

The Hon. C. J. Sumner: I will read *Hansard* tomorrow.

The Hon. J. C. BURDETT: You should have read it before. The Leader has asked about the effect of the Act on rental housing in South Australia. He stated:

> When this Bill was introduced it was questioned whether it would adversely affect the amount of housing available for rental in South Australia. I understand that some surveys and investigations have been carried out on this matter.

The reports indicate that some investors have left the market, but no consensus of opinion exists on the effect of the Residential Tenancies Act on the supply of private rental accommodation.

The Hon. C. J. Sumner: No consensus amongst whom?

The Hon. J. C. BURDETT: Amongst anyone. The Leader asked about corresponding interstate legislation. He stated:

> The present Minister . . . may be able to confirm my belief that similar legislation is being introduced in New South Wales and Victoria.

The Landlord and Tenant (Rental Boards) Act has been in operation in New South Wales since 1977. This Act, however, only provides for the payment of security bonds to a Government agency, and resolution of disputes in relation to bonds. It does not, for example, provide for conditions and terms to be included in residential tenancy agreements. The level of bonds under this Act is set at a maximum of four weeks rent for unfurnished premises, and six weeks rent for funished premises. I am not aware of any proposed New South Wales legislation based on the South Australian Act. The New South Wales Act only addresses itself to the question of bonds.

In late 1980 a Bill based largely on the South Australian Act passed all stages in the Victorian Lower House. It now has to be debated in the Upper House. The Victorian Opposition has tabled more than 150 amendments to the Bill, so its final form is not certain. While the Bill, like the South Australian Act, establishes a Residential Tenancies Tribunal and places the administration of the Act under the Department of Consumer Affairs, there are also significant differences between the two schemes. For example, unlike South Australia, the Victorian Bill provides for a standard form lease. It also sets the maximum level of security bonds at one months rent where rent is less than $100 per week. (There is no limit on security bonds above that weekly rental figure.) As well, the Bill provides that eviction proceedings may still be brought in the Supreme Court as well as in the tribunal. Furthermore, in the case of periodic tenancies the proposed period of notice is 14 days, rather than 60 days in South Australia, where the premises are to be demolished, substantially repaired, or sold with vacant possession.

In a major departure from the South Australian Act, the Victorian Bill at present requires security bonds to be paid, not to a Government fund, but into a trust account at an approved institution (for example, a bank).

A Residential Leases Bill is being drafted in Tasmania. I understand that the Bill, as in South Australia, will define the rights and obligations of landlords and tenants, and will provide for the payment of security bonds to a Rental Officer (similar to the Canadian concept of a Rentalsman). The Rental Officer will also have responsibility for the resolution of disputes. The Rental Officer is likely to be based within the Consumer Affairs office and will rely on Consumer Affairs staff for inspectorial and administrative support. The Tasmanian bond system is likely to be framed on the New South Wales Rental Bond Board's scheme.

The Queensland Residential Tenancies Act was introduced in 1975. This Act consolidates the law in relation to residential tenancies. It does not provide the protection afforded by similar legislation elsewhere and does not require a landlord to pay a security bond into an approved account or to a Government-established body. The Act does not establish a judicial body for the resolution of disputes. All disputes continue to be heard in the Magistrates Court. This Act preceded and is quite dissimilar from the South Australian Act.

Western Australia does not have a Residential Tenancies Act as such but relies on traditional legislation and the common law. The Consumer Affairs Bureau negotiates the settlement of complaints wherever possible

but disputes are heard by the Small Claims Tribunal. Northern Territory also has legislation based on this State's legislation. However, precise details of it are not available.

The Leader asked how often the bond is insufficient to cover landlords' losses (that is in relation to clause 18). He stated:

> The Government should . . . [table] statistics from the Residential Tenancies Tribunal detailing the number of cases recorded where the bond held by the tribunal has been insufficient to cover a landlord's loss, and indicate what percentage of total tenancies this represents.

In the short time available, it is is impossible to provide the exact figures sought. Nevertheless, the Registrar of the tribunal has been able to give some indication, from an examination of the tribunal's records over the past few weeks, of the numbers involved. On average, the tribunal makes about 450 orders for payment of security bonds per week. Most of these are with the consent of both parties, but in about 15 per cent of cases (about 65-70 per week) the payment of the bond to the landlord is not sufficient to cover the landlord's losses. I refer to alterations and additions as referred to in clause 25. The Leader said:

> I ask the Government for some evidence additional to that which has already been provided (which is virtually none) that there are in this area problems that justify the inclusion of this provision.

At present, a tenant may affix and remove fixtures, so long as no damage is caused to the premises. The tenant must also keep the premises reasonably clean, must report any damage to the landlord, and must not intentionally or negligently damage the premises. On the other hand, the landlord must provide and maintain the premises in a reasonable state of repair.

There is a grey area between the two parties' respective obligations that is not covered by the Act, and which this Bill clarifies. This is the area where tenants alter premises, or affix fixtures, which the landlord did not want, but which do not amount to damage. In one case before the tribunal, a tenant painted the premises a bright colour without the landlord's permission. The work was of a reasonable standard, and so did not really amount to damage. The landlord, however, did not like the colour and repainted it to his satisfaction when the tenancy terminated.

In another case, a landlord wanted in the future to carry out substantial renovations to a kitchen of premises. The tenant in the meantime installed fixed cupboards or shelves without the landlord's knowledge or consent. When the landlord wanted to carry out the extensive renovations that he had planned, he was first forced, at his own expense, to remove the fixtures installed by the tenant.

The Bill seeks to make clear that a landlord is entitled to have premises returned at the end of the tenancy in the same condition (reasonable wear and tear excepted) as when they were let. This recognises the landlord's right, as owner of the premises, to know about and influence substantial changes to his premises, without unreasonably encroaching upon the tenant's enjoyment of the premises. Referring to subletting under clause 26, the Leader stated:

> A similar query applies to clause 26, which deals with a tenant's rights to sublet premises and which places additional restrictions on his right to do so.

This criticism is misplaced. Clause 26 does not at all restrict tenants' rights to sublet or assign their interests in premises. Clause 26 only removes the reverse onus of proof, by which any landlord charged with unreasonably withholding consent to sublet or assign must prove that he did not so unreasonably withhold consent. On the abandonment of goods provision (clause 37) the Leader said:

> The tenant ought to be given the same rights as the landlord to appear befor the Residential Tenancies Tribunal on a question dealing with the value of foodstuffs and goods left, and whether a landlord has dealt with those goods in accordance with the terms of new section 79a.

New section 79a (15) gives the very right that the Hon. Mr. Sumner seeks to have inserted in the Bill. This subsection provides that the tribunal may make such order as it considers appropriate in the circumstances if any dispute over abandoned goods arises between former landlords and tenants. Any tenant, therefore, who disputes the landlord's actions in relation to such goods may apply to the tribunal for an appropriate order.

The Leader also asked about the prevalence of the problem of abandoned goods. Apart from repayment of bonds the tribunal hears about 35 to 40 applications a week. Of these, about two or three involve applications for orders for disposal of goods abandoned by tenants. The tribunal, if it grants the applications, can do so only as an order ancillary or incidental to a principal order (for example, an order for payment of arrears of rent). Furthermore, there must be a formal application before the landlord can dispose of the goods.

This clause is designed to allow for the disposal of abandoned goods without formal recourse to the tribunal, except where a dispute between the former landlord and tenant arises. This should reduce the tribunal's workload and lessen inconvenience to landlords, while providing adequate safeguards for tenants' interests.

There have been about two or three applications a week, and they can be made at present only when they are ancillary to other orders. So there are many cases where they may not be made at present. Certainly, from my observations, this problem of the abandonment of goods is a serious one. It happens often, and the landlord cannot do anything but exculpate himself from this problem without laying himself open to action.

The Leader also asked questions regarding the income from the fund, under clause 41, and said that the money in this fund and the interest earned thereon was exclusively tenants' money and could therefore be used to fund initiatives in low-income housing, particularly initiatives from housing consumer groups operating on a non-profit basis. While the fund could be characterised as tenants' money, the interest is not necessarily so. Prior to the parent Act coming into operation, usually whether it was the tenants' right in law or not, the landlord treated it as his own money and retained the interest himself, unless and until an application was made.

The Hon. C. J. Sumner: That's not right, is it?

The Hon. J. C. BURDETT: But he did do it.

The Hon. C. J. Sumner: Try and justify it.

The Hon. J. C. BURDETT: I am not trying to do so. I am merely saying that, prior to the parent Act becoming law, it was usually the case that the interest and the money was retained by the landlord. I have said that, while the fund could be characterised as tenants' money, the interest is not necessarily so. The interest, or income derived from investment of the fund, is to be applied as the Act directs.

At present, the Act provides that this income can be used to compensate landlords for damage to premises caused by tenants or their families or guests; towards the costs of administering the fund (the Bill changes this to "the Act"); and for the benefit of landlords or tenants in such other manner as the Minister, on the recommendation of the tribunal, may approve.

In this final ground, the income could be applied as Mr. Sumner suggests. However, interested parties must first

apply to the tribunal, which may then recommend suitable projects to the Minister. No such applications have yet been received by the tribunal, nor is it the role of the tribunal or the Minister to solicit them. If any are received, however, they will be judged on their merits and an appropriate decision made.

This Bill contemplates that this income be applied towards administering the Act. The costs of administering the Act are about $500 000 a year, of which about 80 per cent (or $400 000) is salaries and wages. The fund has in it about $2 600 000, of which about $300 000 comprises interest from its investment. This $300 000 could be applied towards the costs of the Act's administration if this Bill is passed. If bonds are increased by 33 per cent, as proposed by the Bill, and rents (and, correspondingly, bonds) continue to rise, the fund should swell considerably to provide more investment income.

The next question that the Leader asked related to letting agencies. He said, "Will the Minister say whether or not there was anything in the departmental working party which dealt with letting agencies?"

Private letting agencies do not come within the ambit of the Act, as their activities involve transactions prior to any agreement. These activities may or may not lead to a residential tenancy agreement being entered into by a landlord and a tenant. The aim is simply to put prospective landlords and tenants into contact with each other. Nor do letting agents (and there are about 400 of them) come within the Land and Business Agents Act, as they have been held not to be "dealing" in land.

A person who wishes to find rental accommodation may contact a letting agency and upon payment of a fixed fee (for example, the largest such organisation in South Australia charges a fee of $40) use the services of the agency for a fixed period, usually at least two months.

Some complaints have been received that little or no effective service is offered for the fee paid. The agencies do not guarantee that premises will be found for the prospective tenant to inspect. Some complaints have been made that premises are listed for days after they have been let to another person. The agencies do not require a fee from landlords or agents for their services, and appear to rely heavily on information contained in daily newspapers which is available to any member of the public.

However, there is a need for this service where prospective tenants are unable to spend time seeking rental accommodation. To prohibit or further control (because there is a control, as I will show in a moment) these activities may not therefore serve the best interests of the community. One of the major problems used to be that some letting agents set up business, took several thousands of dollars of prospective tenants' fees, and then disappeared, providing no service at all. At present, however, this does not seem to be a problem. The letting agencies operating in South Australia have, on the whole, been in operation for several years and are not "fly-by-nighters".

Since 1978, the provision of advice or assistance to consumers with respect to the availability of residential rental accommodation has been a "service" as defined by the Consumer Transactions Act. This is the type of service provided by letting agencies. Under this Act, services must be performed with due care and skill, must be reasonably fit for the purpose for which they are provided, and must be of such a nature and quality that they might reasonably be expected to achieve a suitable result. In other words, a letting agent must provide up-to-date records of rental accommodation, and in such a way that, within the specified period, the prospective tenant might reasonably be expected to find accommodation. There is thus a very substantial method of control available to the department at the present time.

The Hon. C. J. Sumner: Did the report make any recommendation on what to do about letting agencies?

The Hon. J. C. BURDETT: No, it did not. The Consumer Services Branch receives only five or six telephone inquiries per month concerning letting agencies and these usually disclose no cause for formal investigation. Usually they are complaints—

The Hon. C. J. Sumner: You will not answer the question.

The Hon. J. C. BURDETT: This is not the appropriate place to answer questions. Usually they are complaints that the consumer has been unable to find accommodation within the period of the service. This, however, may be due to several factors outside the letting agent's responsibility such as the consumer's tardiness in approaching listed landlords. Only the odd written complaint is received and investigated. The Consumer Services Branch does not consider letting agents a major problem at present. In relation to boarders and lodgers, the Hon. Mr. Sumner asked:

> Has this matter [of boarders and lodgers] been considered by the Government or the working party, and is there any intention to legislate in regard to the relationship of boarders and lodgers to their landlords?

Both the Commissioner for Consumer Affairs and the Residential Tenancies Tribunal have received inquiries and complaints from boarders and lodgers, who are specifically not covered by the Residential Tenancies Act (section 7 (2) (d)).

It is often difficult to determine whether a person is a tenant under the Act, or a boarder/lodger outside the Act. It is a question of fact in each case, and depends on the level of services provided by the landlord and whether the person has exclusive possession of the premises, or part thereof. If the person is a boarder/lodger, he or she is a licensee, and has no estate in the property. Accordingly, he or she has little or no security of tenure, and often may be evicted at a day's notice. As the landlord and boarder/lodger usually live in close proximity, there is also often a conflict of personalities between them leading to disputes.

The working party examined this issue, but decided that the problem could not be solved simply by including boarders and lodgers in the Act's ambit, as many of the Act's provisions are not suitable to regulate such relationships. For example, as the provision of services (room cleaning, bed making, laundry, etc.) is often the basis of such relationships, section 49 (which limits the landlord's right of entry to the premises), is unsuitable.

The working party made no specific recommendations on this area, as it was outside the scope of its terms of reference. It did, however, recommend that the problem be examined further. Such an examination is one of the long-term prospects currently being undertaken by the department, but no report has yet been produced.

The Hon. C. J. Sumner: Why are you telling us what the working party decided on the question of boarders and lodgers, without telling us what it decided about letting agencies?

The Hon. J. C. BURDETT: It did not consider the matter of letting agencies.

The Hon. C. J. Sumner: Who, the working party?

The Hon. J. C. BURDETT: Yes. It considered the matter of boarders and lodgers.

The Hon. C. J. Sumner: Did it make any recommendations about letting agents?

The Hon. J. C. BURDETT: I think that I have been more than frank. I have gone to the great trouble of

answering all the questions raised by the Leader. He asked a specific question as to what the report said about boarders and lodgers, and I have told him. In addition, the position of boarders and lodgers is very hard to regulate, and very different from the residential tenancy contract. With a residential tenancy contract one has exclusive possession of a residence, a flat, a house, or whatever. In relation to boarders and lodgers, one has no such thing, and I think it would be very difficult to regulate indeed. As I said, the working party made no specific recommendations, but we do receive complaints, and the matter is being investigated. I thank honourable members for their contributions to this debate.

Bill read a second time.

In Committee.

Clauses 1 to 7 passed.

Clause 8—"Residential Tenancies Tribunal."

The Hon. C. J. SUMNER: I have a number of queries under this clause. First, it has been brought to my attention that there are a number of difficulties which the Residential Tenancies Tribunal faces because of the lack of staff. We are all aware that this Government is keen on cutting costs. It also seems to be keen on cutting corners to the detriment of the Public Service in this State, and indeed, to the detriment of community interest in this State, as was recently demonstrated by the problems with water supply in northern towns. This Government will cut costs and cut corners, because quite simply it has bungled this State's budgetary position.

Over the next few months there will be several hikes in charges, and I predict that, at the next Budget it is quite likely that we will see a State income tax levied. Be that as it may, the point is that this has impinged on the operation of the Residential Tenancies Tribunal. I understand that each week the tribunal receives about 1 200 queries, 120 applications for orders and holds 45 hearings. However, it has a staff of only 15. The staffing arrangements for the tribunal are quite inadequate, and the delays and problems that are occurring from time to time within the tribunal can be directly related to the lack of staff in that area. That is a result of budgetary restrictions imposed by the present Government. Is the Minister satisfied with the staff situation for the tribunal and the other staff administering the Residential Tenancies Act? If he is not satisfied, does he intend to take any action to increase the staffing of the tribunal?

The Hon. J. C. BURDETT: Action is already being taken to increase the staff of the tribunal by a total of 10 officers, if I recall correctly. I will verify that and inform the honourable member by letter at a later date if he wishes. When the Leader was discussing the working party and letting agencies, I said that it did not examine that matter.

It did examine the matter but made no recommendations. Regarding the staff of the department, approval for an increase is in action by the Public Service Board at present. My recollection is that the number is 10 but I will confirm that by letter to the Leader.

The Hon. C. J. SUMNER: I thank the Minister for his comments. It is pleasing that the Government is ensuring that the tribunal is staffed with more people so that it may more effectively carry out its duties. The Minister introduced the matter of letting agencies and whether their activities were covered by a report. He has apparently now admitted that the problems of letting agencies were discussed in the report, but that is all he is prepared to say.

Is it true that the working party made no report or recommendation about the letting agencies and whether there should be any attempts to regulate or control them, in view of the complaints and problems that the Minister has outlined? Was any recommendation made by the working party and regardless of whether it was or was not, in view of the Minister's comments, does he intend to take any action?

The Hon. J. C. BURDETT: No recommendation was made and I do not intend to take any action, for the reason I have outlined, namely, that the department does not consider that there is any cause for taking any action.

Clause passed.

Clauses 9 to 17 passed.

Clause 18—"Security bond".

The Hon. C. J. SUMNER: As indicated in the second reading debate, the Opposition opposes the clause, which would increase the amount of the maximum security bond payable from three weeks to four weeks rental. This increase will hit those people least able to afford it. I also pointed out in the second reading debate that, on the one hand, the report of the working party on housing presented to the Minister of Industrial Affairs in July 1980 showed that one problem for young people between 16 and 18 years of age was their inability to finance the security bond.

While we have that report, the Government is increasing the amount that will have to be paid. The Opposition cannot see any justification for the increase. As I have said, it will impact most severely on the less privileged sections and provide difficulties for people trying to enter the private housing market. If they cannot enter that market, where do they go? If they go to the Housing Trust, as the Hon. Mr. Hill will tell us, there are 20 000 waiting on the trust's rental accommodation lists and the trust is building 600 fewer houses a year than it was.

The Hon. C. M. Hill: No. Get the figures right.

The Hon. C. J. SUMNER: Is the waiting list 20 000?

The Hon. C. M. Hill: Approximately.

The Hon. C. J. SUMNER: The Hon. Mr. Burdett is making it harder for people to enter the private rental market, at the same time as the Hon. Mr. Hill is making it—

The Hon. C. M. Hill: They are welfare tenants and have nothing to do with the people you are talking about.

The Hon. C. J. SUMNER: The Minister is making it harder for those who are less well off to obtain private housing by increasing the period in relation to the bond from three weeks to four weeks. On the basis of private rentals at present, people will have to find $250 to $300 before they can enter a private housing rental agreement. That is a situation that we ought not aggravate. Three weeks rental is adequate.

The Hon. Frank Blevins interjecting:

The Hon. C. J. SUMNER: If they are, that is an added cost to the taxpayer. It is difficult enough for families at the lower end of the income scale to obtain housing, and this will make it more difficult. There are no problems for people with money. The Hon. Mr. Hill can rent his house in Adelaide without difficulty. In my second reading speech I asked the Minister whether a family impact statement had been prepared on this clause and he has chosen not to answer. He has given a lot of what he would consider persuasive arguments about these secret family impact statements, but what I said still applies.

The scheme is a fraud. The only ones who know anything about it are the Minister or his colleagues. Parliament has not been told whether family impact statements have been carried out on particular proposals or projects. Here we have an example of where legislation will affect low-income families and we have no indication of whether the Government has prepared a family impact

statement. The Minister has refused to say. He has said that these statements are secret, and that they are Cabinet documents that are made available to him and his Cabinet colleagues but not to Parliament.

In effect, that is what the Minister said. All I am saying, and this is my complaint, is that the Minister has not advised us whether there was a family impact statement on clause 18 and, if there was, what were the conclusions of the statement. The Minister should come clean and tell us about family impact statements. Do they mean anything, or are they nothing more than what I suspect they are, which is a public relations exercise with no substance? The Opposition opposes clause 18 completely and will vote against it. It would leave the situation of the security bond that has to be paid at a maximum of three weeks rent instead of four weeks rent, but I would like an answer from the Minister to the queries that I have raised.

The Hon. J. C. BURDETT: In regard to family impact statements, I did reply in great detail to everyone of the specific comments which the Leader made about family impact statements. To say that I have not come clean is ridiculous and it is the usual arrant nonsense that the Leader likes to talk. I did not specifically say whether or not a family impact statement had been prepared in regard to this Bill, but it was implicit in my reply, because I said that a family impact statement was prepared in regard to all Bills or Cabinet submissions about administrative matters which make impact on the family. It is not usual to prepare a family impact statement in regard to specific clauses.

The Hon. C. J. Sumner: So you did not have one prepared on this clause?

The Hon. J. C. BURDETT: I said it was implicit in my reply that, as this is a Bill which may impact upon the family, there would be, and there was in fact, a family impact statement prepared on this Bill, as there are for all Bills.

The Hon. J. R. Cornwall: Is it a public document?

The Hon. J. C. BURDETT: No, it is not. I went to much trouble to explain why it is not, and to explain what it is, and I do not propose to repeat it. In regard to clause 18, to which the Leader did not refer much when he opposed it, but perhaps we should come back to it, there is a fair desirability for matters of this kind being uniform between the States. The Leader went to a great deal of trouble to talk about uniformity and asked me about what happens in New South Wales and Victoria. He asked whether they were following this glorious Act of ours. In New South Wales the bond is four weeks for unfurnished premises and six weeks for furnished premises. New South Wales did not specifically follow our legislation as such, but that is what happens in New South Wales.

The Hon. R. C. DeGaris: What Government have they got there?

The Hon. J. C. BURDETT: I think it is the Labor Government, but I am not sure. That was fixed in 1977 at four weeks rent for unfurnished premises and six weeks rent for furnished premises. In Victoria the Bill generally did follow the South Australian legislation, although the Victorian Opposition has placed on file 150 amendments to the Bill, but the security bond is fixed at one months rent, approximately four weeks, or the same—

The Hon. R. C. DeGaris: What do the amendments do?

The Hon.J. C. BURDETT: I cannot tell the Committee what the amendments were, but many amendments have been placed on file by the Victorian Opposition, which apparently does not like this legislation. It must be acknowledged that a contract of rental, and this is what it is, a tenancy contract or agreement, is on a two-way basis. There is consideration, there is something which each party gets out if it. The landlord must get his rent, and that is the basis of the contract as far as he is concerned, and the tenant must get premises, exclusive occupation of the premises. They are the two basic areas involved, but it is essential that the landlord must get his rent and other entitlements under the contract.

Of course, prior to the parent Act, there was no restriction on bond money or key money or the like. As I said, and I quoted from my speech on the Bill which became the parent Act, it was Liberal Party policy that these two areas had to be looked at: one was security of tenure and the other was bond money. I suggest that the three weeks is too restrictive. Commonly we have monthly tenancies and, to ensure that while on the one hand the tenant must get premises, on the other hand the landlord is entitled to ensure that he gets his rent, four weeks rent is not unreasonable. For those reasons I oppose the amendment.

The Hon. K. L. MILNE: In the whole discussion about rental premises and rents and bonds, we have to realise that, if one is using the private sector for the provision of housing, investment in housing must be somewhere near the investment elsewhere. Presently, the return to landlords is about 7 per cent or 8 per cent, and the reason why it was popular to make this form of investment at one time was because of the tax-free capital gain which took the net investment over a period up to or beyond the rate of inflation.

Now, with the value of property not increasing, landlords will switch to something else. That happened in the United Kingdom and it happens everywhere where rent controls or bond controls mean that the landlord's net income is less than the income he could get through some other investment. This is not a very pleasant subject, because one is dealing with houses for people to live in. Unless one is going to nationalise the whole system, while you are using the private sector one has to be honest about market forces. I refer to clause 18, which raises the maximum bond payable to four weeks rent. That is only a maximum charge and it is not necessary that tenants will have to pay four weeks bond money, because market forces can well come into play to prevent that, as in the case when landlords are competing, as at the moment.

I am not going to oppose this amendment, but it did disturb me greatly because it means that to rent a house or unit the tenant may have to accumulate one or two (normally it is two weeks and sometimes four weeks rent in advance), say, two weeks rent in advance, up to four weeks rent in the form of a bond, which is a considerable amount, whether it be three weeks or four weeks. Many young people just cannot accumulate that amount of money, and we must think of something different.

We are trying to encourage landlords to build and own units, flats and houses, and we hope that the building industry will be involved. At the same time one is forcing young people out of accommodation which we would like them to live in and which we would like landlords to build. We must think of something new, and I have heard of a good scheme that is worthy of being considered. In Victoria there is an insurance bond scheme where the tenant can pay an insurance premium. I suppose a security would be attached to it in the early stages anyway. They would pay an insurance premium as a guarantee of the bond and presumably assign it to the landlord and pay, say, $10 every six months, or whatever the premium would be, but it would certainly be better to pay a premium such as that than to try to accumulate what is to many people a vast sum.

By making it three weeks, it is not going to solve the problem because there is trouble now. Whether it is a

maximum of three weeks or four weeks, it is still a large sum of money. This will be a totally different scheme. I ask the Government to institute an inquiry into such a bond insurance system for the community as a whole through the State Government Insurance Commission. If I could help I would offer to do so.

The Hon. J. C. BURDETT: I will reply to the good suggestion by the Hon. Lance Milne on an insurance scheme, which was being considered in Victoria but is apparently not finalised. Certainly I will be pleased to consider this scheme and I will undertake to have it investigated. I shall be quite happy, as it is something new and is not relying on the administration of an existing Act, to have it investigated and make the details available to the Council.

The Hon. FRANK BLEVINS: The Minister has been commenting on family impact statements in relation to this clause. I think that they are an excellent idea, and I cannot understand why the Minister does not want to make public the decisions on them. I think it is absurd that such a good idea should be wasted and that these statements should be subject to ridicule and be kept hidden. Will the Minister explain why that is so?

The CHAIRMAN: I point out that there is nothing about family impact statements in clause 18.

The Hon. FRANK BLEVINS: I believe that the Minister, wearing his other hat as Minister of Community Welfare, would know whether the Department of Community Welfare had put up bonds for people who cannot otherwise find the money and cannot get accommodation. If the answer is "Yes, the Community Welfare Department does put up bonds", will the Minister say how much more finance the department will require to fulfil the requirements of clause 18, should it pass?

The Hon. J. C. BURDETT: The Department of Community Welfare does administer emergency financial assistance. The guidelines for that are very broad and are being examined to see whether they can be made a little more specific. At present, people in dire circumstances can apply for emergency financial assistance. In very special circumstances sums can be made available to people to pay the gas or electricity bill where they would otherwise be without such amenities. I am sure that on some, albeit very few, occasions applications for emergency financial assistance with bond money have been granted. The effect on the public purse would be negligible.

The Hon. FRANK BLEVINS: Will the Minister do us the courtesy of finding out on how many occasions the Community Welfare Department has assisted people in this way over the past few years?

The Hon. J. C. BURDETT: I may be able to obtain figures for the last 12 months or two years, and if so I will make the information available to members. Of course, it is probably difficult to retrieve such information. The Leader asked questions about various aspects of the tribunal and about how many incidents there had been where the landlord had not been able to recover his arrears of rental from the bond money, and it is difficult to retrieve that information. Obviously it is not indexed as such. It may be difficult (I suspect that it may even be impossible) to go through all the applications for emergency financial assistance and retrieve that information. I will ask the department whether it is possible and, if it is, I will advise the honourable member and make the information available if he so wishes.

The Hon. G. L. BRUCE: I oppose clause 18. One honourable member has said that welfare people cannot afford to get into rental houses, because they are forced into the situation of having to pay four weeks security money. Most of the rental houses involve between $50 and $70, or more, and people in welfare with limited finances find that it costs around $200 to get into a house. As the Hon. Mr. Milne indicated, in many cases they have to look for $300 when two weeks advance rent is added on. That is too much for people in dire circumstances. People go into debt to borrow money from families and friends to live in houses for which they are paying exorbitant rentals.

I understand that the Emergency Housing Office does provide money to tenants who are unable to raise the bond money but that it is only available for family groups. That, therefore, makes many young people ineligible, as it is beyond their resources. I find it disturbing that the Minister is wearing two hats. As Minister of Community Welfare, he has formed the Family Research Unit, which has come down with important decisions. I have some correspondence before me which states:

> Mr. John Burdett, the S.A. Minister of Community Welfare—one of our speakers at the important meeting on Thursday 19 February—achieved a world first last year when his department formed the Family Research Unit. The unit has been holding a series of public forums throughout South Australia under the title "FAMILIESPEAK". The aim is to give the public the opportunity to say what they think is happening to families.
>
> At the Unley forum attended by Steve and Kay Stevens the researchers were given the following reasons for family breakdown:
>
> *(a)* A collapse in moral standards, even in health education.
>
> *(b)* The detrimental influence of the media—especially on TV.
>
> *(c)* Sunday observance being whittled down.
>
> *(d)* The loss of spiritual values in families.
>
> *(e)* Greed and materialism.
>
> *(f)* Undermining parents' rights.

Nowhere is there any indication that poverty, substandard accommodation or insecurity of tenancies causes anyone to undermine the family's right to stay together. The correspondence further states:

> It was pointed out that Governments who back campaigns against smoking, litter, etc., should also back a campaign to strengthen family life. Bumper stickers where suggested. Someone thought of "Have you Kissed your wife today?" One lady aptly remarked, "There's quite a lot of that! What about "Have you Talked to your wife today?" Quite a thought!
>
> Mrs. Leah Mann told us at the Unley forum that the South Australian Government is very keen to strengthen families rather than having to pick up the pieces which is a very difficult and expensive task. Mr. Burdett indicated his concern recently when he said, "The wellbeing of families and individuals in the South Australian community must increasingly become a community responsibility in which the State Government plays a part."

It appears that the part the State Government is prepared to play is by making it harder for those on the poverty line to raise that bond and the finance necessary to get into a home. I see it as a contradiction in the Minister's attitude towards welfare that he can pioneer a Bill like this with a clause that seeks to make it harder for the average battler to get into a home. I therefore oppose the clause.

The Hon. J. A. CARNIE: I do not know whether members can cast their minds back to 1978, when the principal Act was debated. It provided for the equivalent of two weeks rent for a security bond. The Opposition amended it to the equivalent of four weeks rent, and at a conference a compromise of an equivalent of three weeks rent was reached. That was accepted by the Council as a satisfactory compromise for a security bond.

As other members and I said then, this was new legislation, and it was obvious that there were going to be many anomalies and things that would need to be corrected after a year or two. That is exactly what this Bill seeks to do. It has been found that the equivalent of three weeks rent is not a sufficient bond for a landlord.

This Bill is a very good balance in looking after interests of landlords and tenants. In this case, the landlod was disadvantaged because, in many cases, the equivalent of three weeks rent was not a sufficient security bond to cover damage for other things done by tenants. That is why, after the investigation by the working party, the equivalent of four weeks rent was recommended.

I raise again a point that I raised previously in my second reading speech, namely, that by opposing clause 18 in its entirety the Opposition is also opposing new subsection (1b), which is full protection for tenants. Apparently, some unscrupulous landlords have been setting up an agreement and charging higher rents for up to four weeks, or indeed up to six months. I do not know whether landlords have been charging a higher rent for as long as that. However, in a hypothetical case it would be possible for a landlord to charge $400 for four weeks rent and thereafter to charge $50 a week. In effect, therefore, he is circumventing the three weeks security bond agreement, anyway.

The Minister has included a provision to prevent this and, by opposing clause 18, the Opposition is also opposing that provision, which is there purely for the advantage of the tenant. I ask the Committee to pass clause 18.

The Hon. J. R. CORNWALL: I oppose the clause, by which the Government, as the Hon. Mr. Carnie has pointed out, is settling old scores. The Government opposed the original legislation.

The Hon. J. C. Burdett: We didn't.

The Hon. J. R. CORNWALL: You did. You fought tooth and nail to have the bond period lifted to four weeks in the legislation, and you are now going back to the position you took when in Opposition, supporting the minority that you represent in the Parliament. Government members have gone back through all the legislation, from the Land Commission through to this Bill, and said "Where are all the things that we must line up?" That is precisely what the Government is doing now: bringing these measures into the Parliament one after another.

There are two considerations regarding this clause, namely, the economic considerations and the social considerations. The Hon. Mr. Milne has already referred to the former. It is interesting to look at what is in it for private investment in this field. The Hon. Mr. Milne is correct in saying that there is very little at current housing values.

For example, on a $17 000 house (which in this day and age is a camp, not really a house), one must get about a 15 per cent gross return to look at getting a 10 per cent net return, which in these days of high interest rates is a modest return. In other words, one has to look at receiving about $2 600 a year or about $50 a week rent for a $17 000 house. It is therefore obvious that currently, at least, private enterprise cannot provide welfare housing.

I should be interested to hear the Minister comment on that, as this Government seems to think that private enterprise can take up the slack in just about every area across the spectrum. However, it cannot do so in welfare housing. If one is to talk about economic rents, one is going to the sort of housing that will be provided to the sort of people who are in the two-income, middle-class field.

The other point is the social implication. I cannot let the occasion pass without commenting briefly on family impact statements. I agree with the Hon. Mr. Blevins that on paper at least they are a very good thing, but in practice they are a joke in very bad taste because they are not made public. What would be the community reaction, for example, if we were to introduce environmental impact statements but kept them under wraps? What would be the community reaction if one had been prepared on the Redcliff project, for example, and the Government said, "We have it all in hand, but we will not release it for public comment."? The whole idea of impact statements is that they are released for public comment and, until that happens, my Leader is absolutely correct: it is a fraud and a joke in poor taste.

The other thing that I must take up with the Minister (and on which I ask him to comment because it is related directly to clause 18) concerns the 7 000 homeless people in Adelaide and the 20 000 people who are waiting for low-income or welfare housing. Those 20 000 people are limited because they must meet the trust's specifications. Certainly, there are considerably more than that, as that figure does not take into account any unemployed people or students.

The Hon. Anne Levy: They are not covered by family impact statements because they are not in a family.

The Hon. J. R. CORNWALL: I have moved on from family impact statements to all these people who are not covered by such family impact statements The thing about family impact statements as the Minister sees them is that they represent the middle-class WASP ethic; there is no doubt about that at all. The Government thinks that we can solve all these problems on the basis that the family that prays together stays together. That certainly does not take into account all the families who, for one reason or another, primarily because of low incomes, have broken up.

We have just heard the Hon. Mr. Bruce read to us the sort of statement made by people from the Festival of Light, very good friends of the Minister.

The Hon. J. C. Burdett: They are not.

The Hon. J. R. CORNWALL: They used to be very close to the Minister. However, that does not take into account what is happening in the real world. The Festival of Light used to provide the Minister with all sorts of material on pornography when he was in Opposition. I well recall sitting on the back bench one day looking at the stuff. It was the only occasion that I have had to look at it, because we had been told that we had a duty, as legislators, to do so. I remember being physically ill while sitting on the back bench looking at the stuff.

I would like to know the position in relation to the $17 000 home and the 20 000 low-income earners who are waiting for low cost accommodation. In an exchange across the Chamber about half an hour ago I asked the Minister of Housing where these people currently live and how they are accommodated, and he replied "That's a good question." If the Minister of Housing does not know, perhaps the Minister of Community Welfare can tell us. How are these 20 000 people presently accommodated? Does he believe that the private sector has any role in providing welfare housing, and does he not agree that to put this bond up to four weeks will disadvantage many of these people?

The Hon. J. C. BURDETT: Not very much of what the Hon. Dr. Cornwall has said has any relation to clause 18. The honourable member could have talked about principles in the second reading debate if he wanted to, but we are now in Committee dealing with specific clauses, and that is all I propose to address myself to. In relation to residential tenancies and bonds, the Hon. Dr. Cornwall

was quite pragmatic, and he acknowledged that this was not a Bill dealing with welfare housing. In relation to welfare housing, the previous Government had problems in providing Housing Trust accommodation and keeping up with the demand. The present Government continues to have those problems. There is nothing new about that, and it is not peculiar to this Government.

In relation to youth housing, as the Hon. Dr. Cornwall said there is a report in existence which is being considered by the Government. The Hon. Dr. Cornwall presented his figures very accurately in relation to a $17 000 house and $50 a week. This Bill deals with residential tenacies provided by the private sector. I have referred to the interstate comparisons of four and six weeks in New South Wales and a month in Victoria. If one is dealing with the private sector, which the Hon. Dr. Cornwall has acknowledged this Bill does, then one must be realistic and acknowledge that, in order to protect an investment, the requirement of up to four weeks bond money is not unreasonable. Of course, it is a maximum which does not have to be imposed. It is my understanding that the maximum bond is not always required at all. The maximum is reasonably extended from three weeks to four weeks.

The Hon. J. R. CORNWALL: I take issue with the Minister in his very strict interpretation around clause 18. The Minister might recall that I asked him quite specifically, and this relates directly to this clause, whether he believes that private enterprise has any place at all in the provision of welfare housing and, if not, what happens to the 20 000 people whom Mr. Hill cannot accommodate?

The Hon. J. C. BURDETT: When one is dealing with the private sector, one must recognise, as the Hon. Dr. Cornwall did earlier, that it involves an investment. He referred to the very low rate of return on capital which sometimes occurs in that sector. We are dealing with the private sector and we cannot impose unreasonable burdens.

The Hon. N. K. FOSTER: I heard the Minister and one of his colleagues, after the Opposition stated that it would oppose clause 18, say that that would deny a benefit provided by the Bill. In his second reading explanation, the Minister said:

> 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.

That is a slap in the face, and is not necessary. Will the Minister inform the Committee what aspect of the report had the interests of the tenants in mind when that particular change was proposed? The Minister also said:

> . . . 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.

Will the Minister inform the Committee whether there has been any significant decrease in rents in the six-month period? The landlords get around this, so does the Minister believe that this Bill will have any effect? Will the Minister look at those agencies in the city which constantly advertise that they will be able to obtain the type of accommodation sought by clients. I refer, for instance, to Home Locators, which charge quite a high fee. What is their rate of success on behalf of their clients? In other words, if the company has 10 clients, which represents a total of $500 in fees, how many of them are successfully housed? I have received a number of complaints about Home Locators. That company merely advertises in the newspapers and then charges people to go on its books. I ask the Minister to investigate this area, and I believe he will receive a shock. There is no need for him to engage many people to investigate and research this matter for a long period, because he needs merely to search the books of these pirates who feed off of some unfortunate people's anxiety about housing. These agencies take people's money but cannot deliver the goods. They accept no responsibility whatsoever and continue to get away with it. Is the Minister prepared to inspect the books of these agencies?

The Hon. J. C. BURDETT: The honourable member obviously has not read my second reading explanation regarding new section 32 (1b). I said:

> 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 a 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.

The tribunal, in investigating complaints, can investigate the books of the landlord, and a formula is prescribed in the parent Act as to the form in which those books must be kept. Although there are mutterings now about amending clause 18, it is amazing to me that the Leader was so derelict in his duty that he opposed clause 18 while, at the same time, in the form in which he originally opposed the clause, he was depriving the tenant of protection.

The Hon. C. J. SUMNER: Not only are there mutterings about an amendment: I intend to move an amendment rather than vote against the whole clause. I move:

> Page 4, lines 35 to 37—Leave out all words in these lines.

We opposed clause 18 because the main provision increased the maximum amount of the security bond. Apparently, the Hon. Mr. Burdett is saying we should have supported that. The Hon. Mr. Carnie has said that that may not be the most effective way to go about our aims and, being a reasonable Opposition, I have moved the amendment. If it is carried, the maximum amount will stay at three weeks rental and the matters that the Hon. Mr. Carnie has mentioned will remain and prevent the circumvention that apparently some landlords engage in.

The Hon. J. C. BURDETT: I am pleased that the Leader has woken up to himself but I oppose the amendment for the reasons that I have stated. As has been accepted interstate, four weeks is reasonable and we are not keeping a period that is unsatisfactory.

The Committee divided on the amendment:

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

Noes (11)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill, D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clauses 19 and 20 passed.

Clause 21—"Increase in security bond."

The Hon. C. J. SUMNER: We oppose the clause, which in consequential on clause 18, but in view of the vote on clause 18 we do not intend to divide.

Clause passed.

Clauses 22 to 27 passed.

Clause 28—"Discrimination against tenants with children."

The Hon. C. J. SUMNER: This matter was dealt with at length in the second reading stage, and I will not rehash the arguments. The clause makes the prohibition against

the discrimination of tenants with children ineffective, because it changes the burden of proof as currently provided in the principal Act under section 58 (3) and (4), which this clause seeks to delete. This clause affects families; we do not know whether a family impact statement was prepared by the Minister or the results of it, but I would be very surprised if it was favourable to the Minister's cause.

It is another case where, if the Minister is genuine about family impact statements, he should make them available to the Chamber. We believe that the provisions put in the Act in 1978 should stand, namely, the prohibition on discrimination against families, tenants with children, and that the evidentiary provisions that were placed in the Act relating to the burden of proof being on landlords to show that any inquiries that they made about whether a tenant had children were not made with a view to refusing that tenant a tenancy should be maintained. This clause does away with those evidentiary provisions and renders almost ineffective the prohibition on discrimination against tenants with children. Accordingly, we believe that the section in the Act should remain as it is and we will be opposing clause 28.

The Hon. J. C. BURDETT: I support the clause. This is a difficult matter and was considered to be difficult when the parent Act was before Parliament. The effect of this clause is to maintain the provision against discrimination. It is still there and it is still maintained.

The Hon. C. J. Sumner: But it is useless.

The Hon. J. C. BURDETT: It is not useless. The question of the reverse onus of proof is a difficult thing, and all this clause does is remove the reverse onus of proof. Members of this Party in this Chamber have almost from time immemorial been sceptical about provisions providing for the reverse onus of proof. We know that sometimes it has to be done, and the Leader was correct that I had supported some measures including a reverse onus of proof, but they should be viewed warily indeed. This is a delicate area and it is unfair to subject a landlord to a reverse onus of proof in these circumstances.

In his second reading speech the Hon. Mr. Carnie pointed out that some premises are absolutely and totally unsuited for children. Some premises are designed so that they can be used by families and/or by people in other situations where it does not matter. Some premises are quite unsuitable for more than two adult persons. The Hon. Mr. Carnie made a very good point when he said that, if a landlord was unable to inquire whether or not there were children, he would be prevented from doing what possibly he might be able to do, that is, offer other premises which he had and which were suitable for children. I acknowledge there is difficulty.

The Hon. C. J. Sumner interjecting:

The Hon. J. C. BURDETT: At the present time he is precluded from making inquiries.

The Hon. C. J Sumner: He is not.

The Hon. J. C. BURDETT: He should not be subject to that onus of proof, which is the point I am making.

Members interjecting:

The Hon. J. C. BURDETT: I did not say it is easy, but it is not a black and white situation, as the Opposition always seems to think that these matters are. This Chamber has always been sceptical about the reverse onus of proof, and it is unfair to subject the landlord to such an onus of proof in such matters. For these reasons I support the clause.

The Hon. J. A. CARNIE: I dealt with this matter at quite some length in my second reading speech, so I shall be brief now. The Leader has said that this is completely destroying the intention of the parent Act. He is virtually saying that it will allow discrimination against children. The portion of the subsection which provides for penalties for a landlord who refuses accommodation on the grounds that the applicants have children still remains in the Bill. The subsection, in part, states that the landlord "shall be subject to a penalty of up to $200". What the Minister is doing is taking away the quite ridiculous subsection that exists at the moment which provides that a landlord cannot even inquire—

The Hon. C. J. Sumner: He can inquire.

The Hon. J. A. CARNIE: I take the Leader's point, I do not have the parent Act with me, but I believe that it provides that, if the landlord inquires for the purpose of determining suitability, the onus of proof is on him. I ask the Leader how this fact is to be proved. I have already mentioned (admittedly a hypothetical case) the case of a family coming to a landlord wanting to rent a flat or a house from him. The landlord when interviewing the family may not necessarily distrust the husband, for example, but may feel that the family are simply not suitable tenants and for that reason the landlord says "No, I am sorry, the place is not available to you". That family could then go to the Residential Tenancies Tribunal and inform it that they were refused accommodation because they happened to have two children. How is the landlord going to prove that he did not refuse accommodation for that reason? It would be quite impossible for him to do so.

I think I said in 1978 that it really gets back to a landlord's basic right to allow whoever he likes to rent a flat or a house. If he just does not like the look of a person it should be his right to refuse that person accommodation. I accepted previously, and I accept now, the fact that there are landlords who do refuse to have children on their premises. In fact, I know of one gentleman who came to me after the parent Act was passed. He owned two blocks of flats and had never allowed children in his flats. When the Act was passed he immediately sold those two blocks of flats because he was not going to be put into a position where he had to have children in his premises. His view was that he had had children in the past who had caused damage which he considered was greater than the amount he was recovering, or rather, that the damage they had caused had destroyed a decent investment. Therefore, he made the choice some years ago of never allowing children in his flats. When the Residential Tenancies Act was passed it provided that he could not inquire whether people had children and that virtually he had to allow children in his flats. If such a person sold his flats, that would be his choice.

I believe that a basic right of any person making an investment is to choose for himself how he makes that investment. I respect that right and I also realise the difficulty that young couples with children, in particular, have in obtaining accommodation, but this clause does not take away the penalties if a landlord refuses accommodation because of children. That provision is still there. The new provision just reverses the onus of proof. I think the onus should be on the tenant to prove that that is why the accommodation is refused. I support the clause.

The Committee divided on the clause:

Ayes (11)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill, D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

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

Majority of 1 for the Ayes.

Clause thus passed.

Clauses 29 and 30 passed.

Clause 31—"Notice of termination by landlord upon ground of breach of term of agreement".

The Hon. C. J. SUMNER: This clause is designed to reduce from 14 days to seven days the period of notice required where a tenant is 14 days or more in arrears of rent. Again, the argument in relation to this clause is that it will hit people who are in financial distress. Clause 18, relating to security bonds, did likewise and the arguments which were applicable to that clause are equally applicable in this case. In these times, when there are unfortunately more unemployed people than is acceptable or desirable and certainly more unemployed people than there were 10 years ago people are finding that at short notice they have to adjust their family income because of loss of jobs or loss of overtime payments coming into the family.

We believe that 14 days is not an unreasonable time for notice to be given, and for that time to be given to tenants to sort out their financial affairs, if they have difficulties. The reduction of the notice period from 14 days to seven days we do not believe to be justifiable, particularly in the current economic situation when more and more people are finding themselves out of work. This, along with some of the other clauses of the Bill, is an attack on the less well off members of the community, the disadvantaged groups within the community, pensioners and others who have to rely on welfare and the like for their living. It is an attack on working people who find themselves out of a job at a moment's notice, and thereby having to adjust their family income situation at short notice. We believe that the 14 days notice for non-payment of rent in the present Act is satisfactory, and it would be quite harsh and unreasonable to reduce it to seven days. Accordingly, the Opposition will oppose the clause.

The Hon. J. C. BURDETT: I support the clause. As I have said at various times during the debate, the payment of rent in return for accommodation is the very basis of a residential tenancy. That is what it is all about: accommodation on the one hand, and the payment of rent on the other. Tenants must be prepared to leave premises at relatively short notice if they breach that fundamental term of the agreement. It must be remembered that a large number of residential tenancies are on a monthly basis, while a great number are on a yearly basis. If the tenant suffers any change of income, sickness, unemployment or anything of the sort, there is usually the possibility of an adjustment.

It cannot be ignored that, in most cases where a tenant finds a sudden change in income and is not able to pay immediately and may be in arrears for more than seven days, if he goes to his landlord he will get reasonable consideration. The ability of the landlord to be able to give notice, and to give it on seven days if there is no rent, if the fundamental basis of the residential tenancy arrangement and agreement is broken, should be there. For those reasons, I support the clause.

The Hon. K. L. MILNE: I oppose the clause. I think with four weeks deposit it is fair enough to have four weeks notice. In times such as we are going through now, people lose their jobs or get sick, and there are more problems. That cannot be rectified in less than four weeks. In practice, sometimes people can find other accommodation quickly, but sometimes they cannot. It should be left as it is, giving the tenants at least four weeks to readjust to new circumstances or to make some arrangement with the landlord to raise money or to take some action. I think four weeks is the minimum reasonable time if tenants are to be charged four weeks rent for a deposit.

The Hon. R. C. DeGARIS: I think the Hon. Mr. Milne might not be quite correct in what he said, and I ask the Minister for information. At present, the period in the principal Act is 14 days, I think, and not four weeks; in other words, one must be a fortnight in arrears before one is given 14 days notice.

The Hon. C. J. Sumner: That's what he means.

The Hon. R. C. DeGARIS: That is not what I understood the honourable member to say. The point is that under the present Act one must be 14 days in arrears to get 14 days notice. I have some sympathy for the view expressed by the Hon. Mr. Milne.

The Hon. C. J. Sumner: But not with our view.

The Hon. R. C. DeGARIS: If the Leader expressed the same view as the Hon. Mr. Milne, I would sympathise with him, too.

The Hon. J. C. Burdett: But he didn't really put it that way.

The Hon. R. C. DeGARIS: I do not think that the Leader of the Opposition put it in the same way that the Hon. Mr. Milne put it. I have some reservations about seven days notice being given for a tenant to move. It is not easy for one to find new accommodation, and I should like the Minister to say why the period is being reduced from 14 days to seven days.

The Hon. J. C. BURDETT: I made clear in the second reading explanation that the working party paid particular attention to the problems that occur in relation to the termination of residential tenancy agreements. The working party found this to be a major source of criticism by landlords, specifically as, when people could not pay their rent for sudden reasons, such as sickness or unemployment, they would go to the landlord and get some reasonable consideration. However, in most cases it is not the case that rent is not paid because of sickness or unemployment. Rather, it merely involves a non-payment of rent; the tenant does not go to the landlord, and nothing happens. The landlord must therefore wait for whatever period the rent is overdue and must then give 14 days notice.

Like the Hon. Mr. DeGaris, I have some sympathy with the views expressed by the Hon. Mr. Milne, as well as those expressed by the Opposition. This is a difficult area, as are the questions of termination of tenancy and what notice ought to be given. The Bill is designed to provide a proper balance between landlord and tenant.

In a few cases, the periods of notice provided for even in the parent Act may cause hardship. Indeed, the periods of notice proposed in the Bill may do so in a few cases. In the great majority of cases of non-payment of rent or failure by the tenant to leave when he ought to leave, it is simply because he does not pay his rent, go to the landlord or make any representations, and the landlord may therefore be disadvantaged.

It is the Government's view that the fair balance in this case is because the payment of rent is the basis, on the part of the tenant, of the relationship. If that ceases, the tenancy ought to be able to be determined at fairly short notice. There is a fine difference between seven days and 14 days.

The Hon. C. J. SUMNER: I am pleased to see that the Australian Democrat representative in this Council supports the Opposition's proposition. I find the Hon. Mr. Milne a little astonishing, as it looks as though he is having a pang of conscience about the Bill and thinks that he should go a little way with us. However, the honourable member was not prepared to go along with the Opposition regarding security bonds. I should have thought that the increase from an equivalent of three weeks rent to that of four weeks rent as the maximum security bond was as important as this provision, dealing with the time within

which notice can be given following the non-payment of rent. Both new provisions are attacks on the less well-off sections of the community. It seems that the Hon. Mr. Milne, for reasons best known to himself—

The Hon. K. L. Milne: Come off it!

The Hon. C. J. SUMMER: —has decided to throw a bit of a sop—

Members interjecting:

The PRESIDENT: Order! What the Hon. Mr. Sumner is trying to do is rehash clause 18. I ask the honourable member to refer to the clause under discussion.

The Hon. C. J. SUMNER: In clause 31, the Hon. Mr. Milne decided to throw a bit of a sop to the Tenants Association and to say, "We Democrats are really very concerned about people who are less well off in the community. Our hearts really bleed for them, so we will vote with the Opposition on this clause." But, really, any sort of comprehensive opposition to Government proposals from the Democrats is something that they do not know anything about. There is no consistency on which they operate in this Chamber, or anywhere else. They do it by trying to maintain a balance because they think it will help them in the electorate.

The PRESIDENT: I ask the Hon. Mr. Sumner to confine his remarks to clause 31.

The Hon. C. J. SUMNER: That is what I am doing.

The PRESIDENT: The Hon. Mr. Sumner is not doing that. What he is doing is making a personal attack on another member of the Chamber. I ask him to confine his remarks to clause 31.

The Hon. C. J. SUMNER: That is a reflection on me, Mr. President. It was not a personal attack on anyone. I was commenting on the position that the Australian Democrats take in legislation that comes before the Parliament. I merely said in clause 31 we are getting the support of the Democrats as their sop to tenants and the underprivileged in the South Australian community. However, I am pleased to see that, sop though it may be, at least there is an indication that the honourable member is prepared to support the Opposition on this issue.

The Hon. K. L. MILNE: Mr. President, may I make it clear that I am not supporting the Opposition. What I am doing is supporting the Tenants Association because of submissions it made to me with which I agree. It has nothing to do with the Opposition; I was going to do this, anyway, do not make any mistake about that. I have discussed the matter the Tenants Association, which knew what I was going to do about other matters that it discussed with me, and which also knew what I was going to do about this. It has nothing to do with the Opposition whatsoever.

The Committee divided on the clause:

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

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

Majority of 1 for the Noes.

Clause thus negatived.

Clauses 32 to 36 passed.

Clause 37—"Abandoned goods."

The Hon. C. J. SUMNER: This clause relates to appearances before the Residential Tenancies Tribunal in the case of a landlord applying to the tribunal about goods that have been abandoned by a tenant and, in particular, where the landlord applies to the tribunal for an assessment of the value of goods that may have been left, that assessment of the value relating to whether or not the landlord may destroy or remove the goods left in the premises. New subsections (4), (5) and (6) provide for applications by a former landlord to the tribunal and the Commissioner of Consumer Affairs. I wonder whether or not the tenant has the right to receive notice of any such application from the landlord and whether the tenant has rights of appeal in those types of applications.

The Hon. J. C. BURDETT: The tenant certainly has a right of appeal. This type of application will be made only in cases in which the tenant cannot be located.

Clause passed.

Remaining clauses (38 to 45) and title passed.

Bill reported with an amendment. Committee's report adopted.

POLICE OFFENCES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 February. Page 2859.)

The Hon. FRANK BLEVINS: The Opposition supports the second reading and, generally, we agree with the concept. The Bill, if passed, will bring South Australia into line will all the other States and, as far as I can see, this concept of an expiation fee for certain traffice offences works quite well. Inevitably, the concept has been dubbed "on-the-spot fines". That is not the case. There will be no payment on the spot to a policeman, but I suspect these will always be known as on-the-spot fines. No matter how much the Attorney or anyone else protests, that is what will happen. The procedure will be that, when a police officer observes an offence, a notice will be issued by that officer and the offender will be able to expiate that offence by payment of a fee that it is intended to be fixed by regulation. The attorney has foreshadowed that the range of expiation fees will be between $20 and $80.

Judging by interstate experience, the result will be to considerably reduce the number of traffic infringements that come before the courts, and this will save a great deal of cost, court time, and inconvenience to motorists who have offended. There will be no recording of convictions, although points demerits will remain.

Superficially, that is a good idea, and the Opposition considered this proposition when in Government. The doubt we had and the reason why we did not bring this in when in Government was that we believed there could be a lessening of respect for traffic laws if such a system was brought in because, in effect, we are saying that for about 170 offences, the position will be merely the same as for parking offences. Provided the motorist pays the expiation fee, generally speaking that will be the end of the matter. We felt that there were some dangers in that, because the overwhelming majority of these offences are serious traffic offences. Speeding and changing lanes in a dangerous manner are serious offences.

I am not convinced, and the Opposition is not totally convinced, that they should be bracketed in the same category as parking offences where the worst that a person does is cause inconvenience. It is possible that that will happen, although I hope it does not. There is no doubt that savings in costs will be effected by the provisions of the Bill. We were not convinced, however, that the saving was worth the risk of a lessening of respect for traffic laws. However, the Government, in its desire to save money, has decided to take that chance. It seems that it is making a habit of doing that, if we look at the *Sunday Mail* of last

Sunday. It will do anything to save a dollar.

This kind of argument can be settled only by trial, so the Opposition will support the second reading, but we have reservations about the Bill, and we will monitor the results over the years to see whether what we fear may happen does, in fact, happen.

We have serious reservations in regard to clause 3, and I have circulated an amendment to this clause. The clause gives the police, in effect, two bites of the cherry. A police officer may serve a notice on an offender, the offender may pay the expiation fee the following day, but up to 60 days later there could be a knock at the door, the expiation fee returned, either by hand or through the post, which would be the most usual method, and the offender would have to go to court to answer for the offence. That is fundamentally unfair.

If a certain number of traffic infringements are considered by the Government to be only of sufficient seriousness to warrant being disposed of by expiation fee, that should be it, and the offending motorist, after paying the fee, should not have to wait to see whether there will be a knock on the door in the next two months, and a policeman there with a summons. The Government cannot have it both ways.

This clause is most unfair to a person who has offended and who has made an effort to expiate the offence, if the police, in their own good time, within 60 days, can decline the expiation fee, so that the offender then has to go to court. That is unjust and unnecessary, because the Government has nominated certain offences, and a scale of fees that will expiate the offences has been listed. If the Government wants the legislation, that should be sufficient. To summarise, generally, we support the concept of this Bill although we have serious reservations certainly about clause 3. We fear that this Bill may result in a lessening of respect for traffic laws, which would be unfortunate. Some of these offences could result in injury or death, unlike parking offences, and inclusion of certain offences in the parking offence category could bring the law into disrespect. We support the second reading, with the reservations recorded.

[Midnight]

The Hon. J. E. DUNFORD: I support the Bill and the amendment that will be moved by the Hon. Mr. Blevins. I hope that this Bill will lighten the load on the South Australian Police Force, members of which must appear in court to give evidence if a person pleads not guilty. In the main, I am concerned about workers who may have to take a day off work to appear in court. Considering the attitude of employers to the workers these days, this is not well accepted by a lot of employers. In fact, a worker could lose his job. I have noticed that those who appear in court become very nervous. They do not like attending court.

For some reason they can feel nervous and intimidated. When people stand in front of the court sometimes they are seen by someone driving past and will be asked what they are up for, and it is a cause of embarrassment to many people. I sympathise with wives who get caught speeding and who have to appear in court, especially when their husbands find out. Some husbands are inclined to go crook at their wives when they are caught speeding or committing other traffic offences. However, people can expiate their fine, and those who have cheque accounts can pay by cheque and, in the case of wives lucky enough to have their own account, they can pay their fine without causing any trouble with their husbands.

I believe many workers would rather pay a fine in this manner but, under the Bill, if a worker believes he is not guilty he can challenge the case and go before the court. There is a way out for the person who feels that he has been wrongly apprehended. Workers and their wives are the people I represent, and these are the people who are concerned about the loss of jobs and the loss of pay. An employee absent from work does not receiv e any pay and, if he is a builder's labourer, he may be getting $50 a day; combined with a $50 fine, it is costing him a total of $100 for the day. I emphasise that this Bill is a good one, although I have the same reservations as those raised by the Hon. Frank Blevins. I intend to support the amendment on file.

The Hon. K. T. GRIFFIN (Attorney-General): I appreciate the indications of support for this Bill. I must say that, although the Opposition has expressed some reservations on the basis of a possible perceived lessening of respect for traffic laws, there has been no indication of that reaction in the other States where similar schemes are in operation. I remind members that the expiation fee has generally been fixed at about the average of penalties fixed by the courts for similar offences.

Therefore, far from offenders being able to get away with a particular offence, they will be paying a penalty commensurate with the penalty that they would otherwise have had to pay in court. There is also the problem or the risk that they run that they will incur demerit points for those offences where presently they attract demerit points. Offenders still run the risk of losing their licences ultimately if they acquire 12 demerit points, even if the offence has been expiated through the payment of a penalty.

The Hon. Mr. Blevins has indicated that he will move an amendment in Committee to seek to remove the provision which allows the Commissioner of Police to withdraw an expiation notice and refund the fee which may have been paid in expiation within 60 days of the issue of the traffic expiation notice. I hope I will be able to convince the Hon. Mr. Blevins that his amendment is somewhat misguided. I do not say that unkindly, as I say it only in the context of perhaps a misunderstanding of what is involved in that provision of the Bill.

At this stage I would like to draw the attention of members to section 169 of the Road Traffic Act. It provides that, where there has been a string of offences committed by an offender over a period of three years, and where convictions are recorded, the court has an obligation to disqualify that offender from holding or obtaining a driver's licence for a period of time. I think the honourable member will recognise that the expiation scheme is not designed to allow a persistent offender to escape the scrutiny of the courts and thereby escape the potential disqualification of his licence from the consequence of committing a number of offences which are identified in section 169 of the Road Traffic Act.

In coming to terms with that particular difficulty, the Government took the view that the best alternative was to allow the Commissioner of Police discretion as to whether or not a traffic expiation notice should be withdrawn, the reason being that if one looks at section 169 of the Road Traffic Act one can see that there are some serious offences which in fact are covered by the expiation notice scheme. For example, there is the offence of exceeding the general speed limit of 110 km an hour; there is exceeding the speed limit in certain speed zones. There is also exceeding the speed limit on bridges and exceeding the speed limit for certain vehicles, for example, motor bikes, buses, laden vehicles, and so on.

The new section is designed to allow the Commissioner

of Police in certain circumstances to withdraw an expiation notice, to ensure that the persistent offender falling within the ambit of section 169 of the Road Traffic Act will still be liable to be brought to court to be convicted and to have his or her licence suspended. There are other areas where I think the power for the Commissioner of Police to withdraw an expiration notice is also important. For example, with regard to exceeding the speed limit, I have indicated in the second reading explanation that there is a scale of penalties to be implemented depending on the extent to which the speed of the offender exceeds the appropriate speed limit.

One can envisage a situation where an offender perhaps drives at 150 km an hour in a 60 km or 80 km an hour zone, a situation where there is a fairly substantial difference between the speed limit and the speed at which the offender is travelling. In those circumstances, because of the way in which the scheme is to be structured, a notice will be given to the offender. Technically, the offender will be able to expiate the notice but, in fact, because it is a serious breach the Commissioner or adjudicating panel when receiving the report will note that the speed is very much in excess of the speed limit and will reserve the right to withdraw the expiation notice, and the offender will be required to go to court, which will have the consequence of disqualifying the offender from holding or obtaining a driver's licence for a period fixed by the court if the offender is convicted.

We want to be able to reserve those discretions within the court. The offender is not prejudiced, because he is still being brought before the court, an option which any offender retains under this traffic expiation scheme. Therefore, I suggest to the honourable Mr. Blevins and members of the Opposition, although I can see what they are trying to do with this amendment, in fact, it defeats a very important provision in the Bill which is designed to ensure that persistent offenders do not escape the scrutiny of the courts by paying expiation notices.

The other point to which the Hon. Mr. Blevins referred concerns a suggestion that the Government is moving in some haste to save costs. Might I suggest that that is not the reason why the Government is now moving to implement the scheme, which we believe has tremendous advantages in the administration of justice. As I have already indicated in my second reading explanation, the penalty is already fixed; it will have advantages, as the Hon. Mr. Dunford has indicated, for persons who are unable or do not particularly want to take time off from work.

Previously they may have had to take off half a day or a full day. It will mean that the penalty is payable at a time much closer to the commencement of the offence, and it means that the offender is able to save costs. There is an advantage in that the offender does not have to go to court but, if he wants to, that right is preserved. Although in the headlines it is described as an on-the-spot fine, as the Hon. Mr. Blevins has stated, that is a misnomer. He expects that we will be stuck with it, but I will endeavour to correct that serious misnomer of the scheme, because the citizen's rights are completely preserved. I thank members for their support of the second reading.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Interpretation."

The Hon. FRANK BLEVINS: I move:

Page 2—

Line 28—Leave out, "subject to subsection (10),"

Line 40—After "the notice" insert, "but the fact that an expiation fee was paid under the notice shall not be admissible in evidence in any proceedings for an offence to which the notice related".

Lines 41 to 49—Leave out subsections (10) and (11).

Page 3—

Line 2—Leave out "or (10)".

Lines 7 to 10—Leave out subsection (14).

So that we can short-circuit this debate, I point out that I raised certain points in the second reading debate, and the Attorney-General replied. He did not convince me not to proceed with my amendments, and I urge the Committee to support them.

The CHAIRMAN: I suggest that, as the amendments are consequential on each other, the honourable member speak to them as a whole.

The Hon. FRANK BLEVINS: Thank you, Sir. The amendments seek to allow the policeman at the scene to decide what to do when he apprehends someone for committing an offence. If the offence is serious enough, the policeman can decide that the offender go to court; he can say that it is not an expiation-type of offence. The Attorney-General gave the example of someone driving at 150 kilometres an hour, which is dangerous driving. That is not a $30 expiation fee offence. If someone is driving at 150 kilometres in a 60 kilometre zone and is not apprehended for dangerous driving, he has a different policeman from the one in my area. Such an offender should be charged with dangerous driving, and no expiation fee should be involved. It would be absurd to say to an offender, "Here is a notice; pay in 30 days, but you may hear from us within 60 days."

That person should be charged with dangerous driving. With serious offences, I am sure the police would not issue notices but would charge the offender with committing a serious offence, and rightly so. I believe the example that the Attorney gave illustrated the point I am making, and I thank him. He went on to say that the persistant offender, without this provision that I am trying to alter, would get away with it. That is obviously not the case.

The Hon. K. T. Griffin: It is obviously the case.

The Hon. FRANK BLEVINS: I did not interrupt the Attorney-General. I believe that it is not the case. In a Bill to amend the Motor Vehicles Act, which hopefully we will pass in a couple of minutes, we will ensure that the points demerit system still applies.

The Hon. K. T. Griffin: That is only for limited offences.

The Hon. FRANK BLEVINS: The persistent offender will eventually lose his licence through the process of the points demerit system. The Attorney-General interjects, quite out of order, saying that that is only for certain offences. It is only for the more serious offences, but that is precisely the object of the expiation fee. It is to get the less serious offences dealt with outside the realms of the court by way of an expiation fee. They do not attract demerit points. If that is so, and if a driver exceeds the speed limit by a few kilometres an hour, the notice comes, and he has lost three points. There is no way in the world that anyone will get away with anything.

In my opinion, the examples given by the Attorney are quite false. If the offence is serious, the driver is charged with an offence of, say, dangerous driving at 150 km/h. If it is a repeated offence of speeding, the licence will be lost through the points demerit system. If it is not serious, and warrants only an expiation fee, then that course is followed. I thought the idea was to keep these things out of court. It is quite unfair for someone who commits a minor offence and who pays an expiation fee to have to await the pleasure of the police for 60 days.

The Opposition supports the scheme generally, with some reservations about its effect on driving behaviour,

but there is no justification for this clause. If the Government wants to have an expiation fee for minor offences, then let it have it. The Opposition is not opposing it. The Government is trying to have the best of both worlds, but it is inflicting on the offender the worst of both worlds. He is told he is free and clear. He has paid his expiation fee, and then he finds that the assessment panel has decided to prosecute.

I should like the Attorney to enlarge on the composition of the assessment panel and to say whether or not it is a panel of police officers. It is similar to the random breath test legislation. The Government does not know whether or not it wants it. It cannot make up its mind, and it puts a half baked proposition so that the Opposition will tidy it up. I urge the Committee to support the amendment, because the Attorney has given no good reason why it should not be accepted.

The Hon. K. T. GRIFFIN: The Hon. Mr. Blevins wants police officers to distinguish at the point of detecting an offender who should be the recipient of a traffic infringement notice. That is worse than on-the-spot fines, worse than asking the police officer to collect the money. He wants the police officer to make that decision, but that is not how the system works. If an offender is detected, he is reported, the report is processed through the Police Department, and the adjudication panel, which comprises experienced police officers in the department, makes a decision on whether or not a prosecution should be instituted. It is the adjudication panel that has the experience, away from the scene of the offence, away from the personality of the offender, to make an objective decision as to whether or not a prosecution should be instituted.

It is the adjudication panel in the case of the traffic offence expiation notice scheme that is best qualified to decide whether or not a persistent offender should be allowed to expiate the penalty or whether he should be required to go to court. The honourable member has not taken into account that a motorist's licence can be disqualified either by achieving the maximum 12 demerit points, as a result of which the licence is automatically suspended for three months, or going to court, the previous record being established in court, and the court taking into account that record and the nature of the offence, and determining whether or not the licence disqualification for a period longer than three months is appropriate.

The points demerit scheme works on the basis that any offences that attract demerit points in the preceding three years are taken into account. The same happens in court under section 169 of the Road Traffic Act. It relates to all offences which occur in the preceding three years and for which convictions have been recorded.

If the Hon. Mr. Blevins' amendment is accepted, it will be a licence to break the law indiscriminately and without any check at all, and will put at risk a substantial number of people, because a persistent offender will not be brought to court and convicted, and thereby will achieve a record that is not taken into account in deciding whether or not a period of disqualification longer than three months should be imposed.

One must remember that the points demerit scheme takes a number of offences for one to accrue 12 demerit points. They can be relatively minor offences or major offences, but it gives the court no opportunity to disqualify for a period longer than three months. One could give a number of cases where persistent offenders will take pleasure in being able to expiate the penalty for the offences that they have committed. They will pay their $20, $50 or $80, and they might do that a dozen times.

The Hon. Anne Levy: They would lose their licences.

The Hon. K. T. GRIFFIN: They would not necessarily lose their licences. The fact is that, if the Hon. Mr. Blevins' amendment is carried, it will seriously prejudice the capacity of the police to monitor the persistent offender and to bring him to court much earlier than that person's licence would be disqualified, and be able to put to the court a submission for a period of disqualification much longer than three months.

That is a very serious matter, which will prejudice the operation of the scheme, and, if the Hon. Mr. Blevins' amendment is carried, it will mean that police officers will have the most unsavoury and, I suggest, inappropriate task of deciding at the point of detection of the offender, "Shall I give him a traffic expiation notice, or shall I report him and let the adjudication panel decide whether he should go to court?" That is grossly improper.

The Hon. K. L. MILNE: I support the amendment. This matter has not quite been thought out, and some things worry me, even in the Attorney-General's reply. This subject should not be considered in haste, and I should like to see it discussed further if necessary. However, if the question is put tonight, I will support the amendment.

The Hon. K. T. GRIFFIN: Mr. Chairman, in those circumstances I think that the Committee should report progress and seek leave to sit again.

Progress reported; Committee to sit again.

MOTOR VEHICLES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 February. Page 2859.)

The Hon. FRANK BLEVINS: The Opposition supports this short Bill. All it does is maintain that people will incur demerit points and will lose their licences if they are persistent offenders under the Police Offences Act. It deals with the question of what have become known as on-the-spot fines.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

New clause 3a—"Obligation upon Registrar to deal with learner's permits and driver's licences pursuant to recommendations of the consultative committee."

The Hon. K. T. GRIFFIN: I move

Page 1, after line 18 insert new clause as follows:

3a. Section 82 of the principal Act is amended by inserting after subsection (1) the following subsection:

(1aa) Where a person expiates, in accordance with the Police Offences Act, 1953-1981, an offence that attracts demerit points under this Act, he shall, for the purposes of subsection (1) (c), be deemed to have been convicted of that offence.

This amendment deals with section 82 of the Motor Vehicles Act. Section 82 deals with recommendations of the consultative committee. It was pointed out to me by officers, after the Bill had been read a second time, that there was a possible deficiency in that the consultative committee would not be able to consider the matter of demerit points because no conviction had been recorded. This amendment tightens up that provision and ensures for the purposes of section 82 that demerit points can be considered by the consultative committee.

The Hon. FRANK BLEVINS: Will the Attorney-General report progress, as I see no great urgency in getting this Bill through? If the previous Bill has not been passed, it is pointless. I think it would have been better to leave this Bill alone.

The Hon. K. T. GRIFFIN: I wonder what the reason for this request is. The amendment has been on file all day and, if it is at all possible, I would like to see the matter proceed.

The Hon. FRANK BLEVINS: Some members have certainly not received the amendment under consideration. Because of certain problems, the Attorney-General reported progress on the other Bill. The Opposition's simple request to the Attorney-General is to report progress on this Bill because some members do not have the amendments on file. This Bill is consequential on the Bill on which we reported progress earlier, so it is not an unreasonable request. I wonder about the urgency of this Bill, particularly when it will have no effect whatsoever until the previous Bill is passed. What urgency is there at 12.30 in the morning to pass this Bill?

The Hon. K. T. GRIFFIN: The Hon. Mr. Blevins has now explained why he wants the Committee to report progress. I am perfectly reasonable in these matters. If he has not had an opportunity to consider the amendment, then I think that it is appropriate to comply with the request. However, I point out that it is important that the Bill be considered, as is the case with all other Bills on the Notice Paper, because this part of the session ends next week. I am willing to accede to the honourable member's request; accordingly, I ask that progress be reported.

Progress reported; Committee to sit again.

STATUTES AMENDMENT (ADMINISTRATION OF COURTS AND TRIBUNALS) BILL

Adjourned debate on second reading.

(Continued from 18 February. Page 2923).

The Hon. C. J. SUMNER (Leader of the Opposition): The Opposition is prepared to give some support to this Bill, which gives effect to the Government's policy to bring courts and tribunals under one Government department. It is essentially a matter for Government administration, and as such I do not wish to interfere with it to any great extent. In fact, I think that the general move is desirable.

The history of this matter goes back to the Corbett Committee inquiry into the Public Service which was initiated by the Dunstan Government some years ago. That committee recommended that a new department called the Legal Services Department be established and that virtually all the then existing departments which dealt with matters pertaining to the law and the administration of justice should come under that department. At that time the Corbett Committee was concerned to rationalise the number of departments operating in the Public Service. In the law area there were departments such as the Supreme Court Department, the Local Courts Department, the Attorney-General's Department, and the Crown Solicitor's Department. The notion of the Corbett Committee was to bring all those separate departments into one under the Ministerial control of the Attorney-General.

That process came unstuck in two ways. The first way was that the Supreme Court refused to co-operate with the Corbett Committee's suggestion. The Supreme Court took the view that it should not be amalgamated with another department and that, as a superior court of record, as the apex of the judicial system in South Australia, and for reasons relative to the independence the Judiciary, the Supreme Court Department should not be integrated within a larger Law Department.

Accordingly, at that time the amalgamation recommended by the Corbett Committee proceeded. A Legal Services Department was established. It subsequently became the Law Department, and the Attorney-General's office, the Local Courts Department, and the other departments concerned with the law and administration of justice were amalgamated under that department, but it excluded the Supreme Court.

I do not know whether the magistrates were originally in a separate department, but certainly they were included in the new Law Department. I think they were originally included under the Local Courts Department administration. Be that as it may, in the integration of these different departments that had existed before the Corbett Committee Report the magistrates were brought under the Law Department. Subsequently, a magistrate took objection to hearing a case in which Crown Law officers appeared.

The Hon. K. T. Griffin: It was a defendant who took objection.

The Hon. C. J. SUMNER: The Attorney points out that a defendant took the objection. That may be correct, but I had the impression that it was taken at the urging or prompting, if you like, of the magistrate concerned. I may be wrong regarding the circumstances, but I understood that there was some prompting by the magistrate concerned to encourage the defendant to take the point, the point being that members of the Crown Law Office were in the same Public Service department as the magistrate who was hearing the case. There was some suggestion that this was inappropriate, given the traditional principle of the independence of the Judiciary on which our system operates, and given that it could appear to the outside public that justice was not being done because both the prosecutor and the magistrate were employed by the Public Service Board and were both within the same department, the Law Department.

That matter, I think, on a case stated went to the Supreme Court, and certain doubts were expressed about the advisability on both the judicial officer and the prosecution authorities being within the one department. As a result of that, the magistrates were separated from the Law Department and came under the administration of the Premier's Department. As I have said, the original concept of the Corbett Committee came unstuck bit by bit.

The Government's proposal now, as I understand it, is to establish two departments. One will be the Courts Department, which will comprise all the major courts in South Australia and certain tribunals, and another department will, in effect, be the Attorney-General's Office and the Crown Law Office, which advises the Attorney-General and the Government on its legal position and provides legal advice to the Government.

Presumably, there would have to be some other minor administrative back-up assistance for that department, but, administratively, it would be a comparatively small department. Will the Attorney explain whether or not that is the Government's intention? At least we know that the Government intends to try to bring most of the major courts in South Australia under one department—the Courts Department. It seems that the present Attorney has been much more persuasive than were some of his predecessors. The Supreme Court has acceded to his wishes, and, apparently, is quite happy to become part of an overall Courts Department.

This Bill enshrines in legislation the independence of the Judiciary and appoints a registrar, in both the Supreme Court and the other courts, who would be an officer appointed by and responsible to the judicial officers in those courts. Apparently, that is satisfactory to the Supreme Court and the Local and District Criminal Court, and it seems to have satisfied those courts in terms of their previous objections based on the independence of the

Judiciary. The problem in regard to the Supreme Court's not co-operating in that amalgamation has been overcome. The scheme has the advantage of taking the magistrates from the Premier's Department (that anomolous situation) and including them in the Courts Department. However, there are some odd features about this Bill.

In general, I support the proposal of having a Courts Department, but it seems that, in an attempt to include all the courts under the administration of that department, the Attorney and the Government have used a completely arbitrary method in deciding which courts and which tribunals should be included under the Courts Department. I cannot see any rhyme or reason for the way in which the Government has gone about this exercise. For instance, the Planning Appeal Board and the judicial officers of that court have been brought under the Courts Department and under the authority of the Senior Judge of the Local and District Criminal Court. The Planning Appeal Board was set up by Statute. The Credit Tribunal was also set up by Statute, and will remain under the administration of the Hon. Mr. Burdett. It may be that the Hon. Mr. Burdett has more punch with the Attorney than has the the Hon. Mr. Wotton—and that is probably right. It seems that there has been an inter-ministerial battle, and the Ministers who were strong and persuasive, such as the Hon. Mr. Burdett, have hung on to their tribunals and empires, but weaker Ministers, less eloquent than the Hon. Mr. Burdett, such as the Hon. Mr. Wotton (who has a reputation for being a fairly ineffective Minister in comparison with Mr. Burdett, Mr. Hill, or Mr. Griffin) were not able to persuade the Attorney not to pinch their little bit of empire.

The Hon. K. T. Griffin: You recognise that the Planning Appeal Board is attached to the Premier's Department, don't you?

The Hon. C. J. SUMNER: That does not say much for the Premier. We had our suspicions that it was the Attorney-General, the Hon. Mr. Burdett and the Hon. Mr. Hill who were running the Government and not the Premier, and it seems that that has been confirmed. The point is (and it is a serious point), that some Ministers seem to be able to hang on to their empires while others cannot. I suppose that, if the Planning Appeal Board was within the Premier's Department, the reason that it is now to go over to the Courts Department and the Attorney-General is that the Premier does not want to have anything to do with it.

He is not interested in magistrates and judges and their problems; he is probably sick of listening to them. This is probably the case. The Premier wants to get rid of the Planning Appeal Board, and the Attorney has said that he will take it. The Hon. Mr. Burdett probably said, "You will not touch my Credit Tribunal, because that will reduce my Ministerial authority." Similarly, why is the Licensing Court not to be brought under the new Courts Department? Why are not a whole host of other tribunals to be brought under it? There seems to be no rhyme or reason or logic in the way that this department is being set up, and the tribunals and the courts that are being brought under its jurisdiction. The Hon. Mr. Burdett may be able to say why the Credit Tribunal has not been included, particularly when that tribunal is headed by a judge of the Local and Criminal District Court.

The Hon. K. T. Griffin: He is a licensing court judge.

The Hon. C. J. SUMNER: Judge Rogerson is not; he is a Local and District Criminal Court judge, and so are the Planning Appeal Board judges. The Planning Appeal Board judges are included, and Credit Tribunal judges are not included. There is no logic in the way these tribunals have been brought together. As I said, I support the concept. It is an advance in administrative terms, but why is it such a hotch-potch—why are some courts and tribunals being transferred and not others?

As I said, it probably comes down to the personality factors in the Ministry and the fact that some Ministers did not want to give up their tribunals. I suspect that the explanation is as simple as that. No doubt the Attorney will not admit that and will try to dress it up in some other way, but I suspect that that is the position.

There are a number of other odd features to this Bill, and I refer particularly to the Planning Appeal Board. As I understand it, the Chief Judge of the Planning Appeal Board receives an extra salary under the appropriate legislation, but now his position as Chief Judge will be entirely at the discretion of the Senior Judge of the Local and Criminal District Court, so that the present Chief Judge of the Planning Appeal Board could on the day after this legislation is passed, find himself without tenure.

It is normally anticipated that, when a judge is appointed, he is appointed by the Governor for a fixed term and that his position is then not affected, but this legislation is interfering with that principle. It potentially affects the rights of a judge who has already been appointed to the Planning Appeal Board. What has the Attorney in mind? What does he anticipate that the Senior Judge intends to do with the Planning Appeal Board Chief Judge?

There is another principle, and it is this: that the Government in this case is giving away its right to appoint judges to a specialist jurisdiction, and I am not sure that that is entirely desirable. I would have thought that, if one sets up a specialist jurisdiction such as the Planning Appeal Board, then the Governor ought to have the rights to appoint judges to that board.

At the moment that is the position, but apparently the Government is prepared to give up that authority. That is the Government's decision, but the important question is how it will affect the present members of the Planning Appeal Board, who are full time. One of them gets some kind of supplement for being Chief Judge of the Planning Appeal Board and he will now find that, once this legislation is passed, he can be demoted, and taken away from the Planning Appeal Board. He can lose some of his salary and find himself placed into the Local and District Criminal Court without any recourse or redress, solely at the whim or decision of the Senior Judge. It appears quite clear from the legislation that that power exists in the Senior Judge. The provision may be desirable from an administrative point of view, but I think the Attorney ought to explain to the House what is intended in respect to those judges who were specifically appointed by the Governor to the Planning Appeal Board.

A number of judges of the Local and District Criminal Court receive supplements to their salaries because they are also members of other boards and tribunals. As I understand this scheme, judges of the Local and District Criminal Court will be rostered to service the various courts and tribunals which will come under this new Courts Department. Is it the Government's intention to do away with the supplementary payments that are now made to judicial officers sitting on these extra tribunals and, if so, is that being effected by this legislation or does the Government have some other legislation legislative change in mind?

I am prepared to support the second reading of the Bill; certainly I support in general terms the concept of a Courts Department which will include the major courts in South Australia and the tribunals. However, I am mystified about the way in which the Government has gone about

this matter; there does not seem to be any logic in the way in which the Government has chosen the tribunals and courts which will come under the department and those which will be left out. Can the Attorney in his reply explain on what basis the Government made its decision about which tribunals and courts would come under the new department?

The Hon. K. T. GRIFFIN: There is nothing curious about the way in which the Government has decided to bring certain courts and tribunals under the administrative responsibility of the new Courts Department. The obvious courts to be included are the Supreme Court, which is presently administered by the Supreme Courts Department, and the Local and District Criminal Court, and the courts of summary jurisdiction, all of which are presently administered by the Law Department. The magistrates are presently in the Public Service and are under the Ministerial responsibility of the Premier because of a court challenge several years ago to which the Leader of the Opposition has already referred. I think the principal case was *Dixon and Ivanoff.* As a result of that case the Government of the day decided that magistrates should be under the jurisdiction of the Premier's Department and taken out of the Law Department, which also had responsibility from the Crown Prosecutor.

The Planning Appeal Board is part of the Premier's Department, although the judicial members of the Planning Appeal Board and associated tribunals are judges of the Local and District Criminal Court. The Planning and Development Act contains a specific provision that the Planning Appeal Board should not be within any department which has a judicial-type function. That means that, prior to this Bill, it could never have been part of the Law Department. However, that would have been the logical place for it because it was constituted principally of judicial officers who were judges of the Local and District Criminal Court.

The other point to make in relation to the Planning Appeal Board is that they are *quasi* judicial tribunals. It was never envisaged (and I do not think it has ever occurred) that the Planning Appeal Board, the Water Resources Tribunal, the Builders Appellate and Disciplinary Tribunal and other tribunals encompassed by this Bill should be in the departments over whose decisions they would exercise some responsibility.

The Hon. C. J. Sumner: What about the Credit Tribunal?

The Hon. K. T. GRIFFIN: I will deal with that separately. The Planning Appeal Board and the tribunals associated with it are separately constituted and, because they exercise *quasi* judicial functions and are principally comprised of judges of the Local and District Criminal Court or magistrates who will come under the new Courts Department, the view was taken that they should be brought across *en bloc* to be served by the new Courts Department.

Another factor which also suggests that this decision is a good one is that, by bringing them under the umbrella of the Senior Judge, there will be a better utilisation of time of judicial officers, in particular of various tribunals which will be much more able to participate in the work of the Local and District Criminal Court and which will be able to be assisted at peak times by other judicial officers sitting in the Local and District Criminal Court.

The Hon. C. J. Sumner: Would that not apply equally to the Credit Tribunal?

The Hon. K. T. GRIFFIN: I will get to that in a moment. There is much more flexibility in the interchange of judicial officers within the Local and District Criminal Court and the tribunals which are to be served by the new Courts Department. There is also some advantage in the senior judge having an overriding responsibility to be able to allocate judges, in particular, to tribunals and for there to be some ready interchange of judges between those tribunals. At present there is some backlog in the Builders Appellate and Disciplinary Tribunal. The difficulty is that only one judge is appointed as Chairman and there is no provision for any other judge of the Local and District Criminal Court to sit in that jurisdiction. In that tribunal, we are looking to provide that it may sit in panels or divisions, and any judge nominated by the Senior Judge will able to sit in that jurisdiction. That will enable us to get down the backlog in that tribunal's activities. The same position applies in relation to the Water Resources Tribunals and other tribunals specifically provided for in this legislation.

The Hon. C. J. Sumner: We are happy with all that.

The Hon. K. T. GRIFFIN: I am pleased to hear that the Leader acceptes that. I will now deal with the Licensing Court. If the honourable member properly understood the functions of the Licensing Court, he would recognise that it has a *quasi* judicial as well as an administrative function. He will also be interested to know that Judge Grubb is principally a licensing judge, appointed under the Licensing Act, and that his appointment under the Local and District Criminal Court—

The Hon. C. J. Sumner: So were the Planning Appeal Board people.

The Hon. K. T. GRIFFIN: Just a moment. He is coincidentally a judge of the Local and District Criminal Court, which enables him to be used on some cases in that jurisdiction, but he is essentially a Licensing Court judge, and all of the administrative support for the Licensing Court comes from the Minister of Consumer Affairs.

The Hon. C. J. Sumner: I thought you said it was inappropriate for a court to be under the administration of a department that it was adjudicating on.

The Hon. K. T. GRIFFIN: There is a special provision in the Planning and Development Act. The Leader of the Opposition has not bothered to read the second reading explanation or to look at any of the legislation that is amended. If he had, he would have noted that the Planning and Development Act contained a specific provision that the Planning Appeal Board shall not be serviced by the department over whose decisions it will have a responsibility to adjudicate, and that it is not to be placed in a department that presently services any other judicial type of body. The Leader does not seem to understand the context in which these changes are occurring.

The Licensing Court, as I indicated, has different sorts of functions from those exercised by the Planning Appeal Board. The Licensing Court historically has had administrative functions as well as *quasi* judicial functions, and it has been served by the office of the Minister of Consumer Affairs, the Department of Public and Consumer Affairs, whereas the Planning Appeal Board has received services from the Law Department in a great number of the services provided to it.

The honourable member should be aware of the Consumer Credit Act and the Consumer Transactions Act, because he was Minister for a few short months, and he will recognise that the Credit Tribunal is served by the Department of Public and Consumer Affairs and has administrative functions in addition to *quasi* judicial functions. So, it is not inappropriate at all that those two tribunals remain with the Minister of Consumer Affairs.

The Hon. C. J. Sumner: Did you originally want to transfer them?

The Hon. K. T. GRIFFIN: I did not want to transfer

them at all. I was looking to bring to one area of responsibility the courts and tribunals which have been served by the Law Department and whose judges are principally judges of the Local and District Criminal Court, and whose functions are of a judicial or *quasi* judicial nature, and not of an administrative nature.

The Hon. C. J. Sumner: The Credit Tribunal is mainly judicial or *quasi* judicial.

The Hon. K. T. GRIFFIN: It performs a significant number of administrative functions as well. The other point which the Leader has raised—

The Hon. C. J. Sumner: You could make a judge subject to the Local Court, because he is a Local Court judge.

The Hon. K. T. GRIFFIN: But he has no other relationship at all to the Law Department or the judicial functions of a judge. The Leader of the Opposition asked what the Law Department was going to comprise after the restructuring. It will comprise the Attorney-General's Office, the Crown Law Office, the Office of the Director of Crime Statistics, support staff to the Solicitor-General, support staff to the Classification of Publications Board and the Law Reform Committee, and support staff for the International Year of the Disabled Person. It will also provide an administrative and financial function. There are other areas which may possibly be encompassed by the Law Department, but they are the principal areas which will thereafter comprise that department.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Short titles."

The Hon. C. J. SUMNER: I am not sure what is the most appropriate time to ask questions on the Bill. I asked most of them in my second reading speech, but the Minister chose for some reason not to respond to some of them. My question relates to the formation of the new Courts Department and its permanent head. Will the Attorney-General tell the Committee at which salary level the permanent head of the department will be placed in the Public Service, at which level the permanent head of the Law Department will be placed, and how that compares with the level of the previous permanent head of the Law Department?

The Hon. K. T. GRIFFIN: My recollection is that in the advertisements that were published recently calling for applications for the position of Director of the Courts Department the classification was EO4. The Director-General of the Law Department has an EO6 classification, which is the top of the executive officer level range. The present Master of the Supreme Court is on an EO5 classification.

The Hon. C. J. SUMNER: With due respect to the Attorney-General, I should have thought that, with the intended revamping of the administration of justice in this State and the creation of a new Courts Department, the level at which the permanent head of that department is to be appointed ought at least to be akin to the level that the Law Department permanent head had before the introduction of this change.

It seems to me that the Law Department is having a whole lot of responsibilities stripped from it, but that the permanent head is remaining at an EO6 level. However, the new expanded Courts Department will have a permanent head on the EO4 level, which is below the level of the existing Master of the Supreme Court. I cannot see the rationale behind this. I should have thought that, if the diminished Law Department which will result following the passage of this Bill warrants an EO6 level, the same would surely apply to the new Courts Department.

The Hon. K. T. GRIFFIN: The Master of the Supreme Court presently exercises both judicial and administrative functions, and it is appropriate that he be paid at the level of EO5. The new Director of the Courts Department will perform only administrative functions. So far as the Law Department is concerned, it is indicated that the classification of the Director-General of the Law Department is presently EO6. The question of the classification of a new Director-General, a position which has not been filled since the retirement of Mr. Gordon, is still under consideration.

Clause passed.

Clauses 5 to 10 passed.

Clause 11—"Salaries of judges and masters of the court."

The CHAIRMAN: I point out to the Committee that this clause, being a money clause, is in erased type. Standing Order 298 provides that no question shall be put or permitted on any such clause and that a message transmitting the Bill to the House of Assembly is required to indicate that this clause is deemed necessary to the Bill.

Clause passed.

Clauses 12 to 27 passed.

Clause 28—"Short titles."

The Hon. C. J. SUMNER: I am raising this question under clause 28, subject to your guidance, Mr. Chairman, because it deals with the Local and District Criminal Courts Act and amendments and, later, in Part IV gives power to the senior judge of the Local and District Criminal Court to allocate judges of that court to various courts and tribunals. The question I asked of the Attorney-General during the second reading debate, which he did not answer, related to the position of the Planning Appeal Board judges when this new scheme comes into operation. In particular, I asked what would be the status of the Chief Judge of the Planning Appeal Board, and whether he is now in a position of having what was a Governor's Commission up to the present time terminated at the discretion, and solely at the discretion, of the Senior Judge, and therefore being in a position whereby his salary could be diminished and his present position as Chairman of the Planning Appeal Board removed, not by any Government edict but only at the whim or decision of a Senior Judge.

I am not suggesting that the Senior Judge will use that power in a capricious manner in any way. What I am putting to the Attorney-General is that, in principle, is there not something a little curious about the position where a judicial officer receives a judicial appointment at a certain salary level and, given all the notions of independence of the Judiciary once appointed, now finds himself in a position where that salary and status can be affected not by the Government, not by an address of both Houses of Parliament, but by the decision now of another judicial officer whose authority he was not under when he was appointed.

I received no answer to that question, nor to the question about the immediate future of the present Chief Judge of the Planning Appeal Board. The other question I raised under these clauses related to those tribunals which currently provide an extra salary supplement to the Local Court judges' salary. Does the Attorney-General intend that those supplements should be abolished bit by bit? I understand that many of the judges in the Planning Appeal Board who sit on some of these tribunals receive extra salary. Is it intended that they should continue to receive the extra salary, or will somehow or other that salary be divided up amongst the extra judges who will sit on these tribunals? Is it the Government's intention that all the supplementary payments for these tribunals will be

abolished now that these judges are all placed on the same level? They are two questions which the Attorney-General did not answer, and I would now like his comments on them.

The Hon. K. T. GRIFFIN: In relation to extra payments to judges who serve on various tribunals, the Government believes that once the restructuring occurs, and the responsibilities are shared among all of the judges of the Local and District Criminal Court as designated by the senior judge, there will then not be the need to pay such judges for additional work, which often takes place during normal working hours. The Government's policy in relation to public servants serving on statutory boards and committees is that, if they do work outside normal hours, they are entitled to receive remuneration for it. However, if they do that work during normal hours and, in effect, substitute the work for what would ordinarily be duties within their classification, then there is no logic in paying them twice for the same time.

The same principle should apply to judges. In relation to the Chairman of the Planning Appeal Board, and as far as other judges are concerned, it is the Government's intention that the senior judge will have overriding responsibility for allocating duties and responsibilities among judges that come under his jurisdiction. That is something that he has not previously had the power to do, although various judges have, perhaps for convenience sake, been appointed judges in his jurisdiction. It is envisaged that the senior judge will do what he has done with the Local Court of Limited Jurisdiction and the Small Claims Court for the last 10 years; that is, to allow an appropriate supervising magistrate in that area to have the responsibility for organising the work of magistrates and the lists in that jurisdiction.

In relation to the criminal and civil jurisdictions the senior judge will gain some of the responsibility for organising those areas. However, administratively it is likely that he will appoint other judges to undertake day-to-day responsibilities for those jurisdictions. The same situation applies to the Appeals Tribunals, including the Planning Appeal Board. I understand that the senior judge has already had discussions with Judge Roder and that there is unlikely to be any change in the day-to-day administration and responsibility of the present Chairman of the Planning Appeal Board.

However, there will be greater flexibility for the judges who sit in that jurisdiction as well as with Judge Roder, being able to sit in the Local and District Criminal Court jurisdiction as well as in the appeals tribunal. Regarding his salary, I understand that he is paid a special allowance for being Chairman of the Planning Appeal Board. I would not envisage that that would be prejudiced by the arrangements made by the change.

Clause passed.

Clauses 29 to 37 passed.

Clause 38—"Interpretation."

The CHAIRMAN: There is a clerical alteration that will be effected in line 37, with the consent of the Committee. The words are "designated by the Governor as the Chief magistrate" and it should read "designated by the Governor as the Senior magistrate".

Clause passed.

Remaining clauses (39 to 71) and title passed.

Bill reported without amendment. Committee's report adopted.

URBAN LAND TRUST BILL

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

TEA TREE GULLY (GOLDEN GROVE) DEVELOPMENT ACT AMENDMENT BILL

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

SOUTH AUSTRALIAN MEAT CORPORATION ACT AMENDMENT BILL

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

ADJOURNMENT

At 1.27 a.m. the Council adjourned until Wednesday 25 February at 2.15 p.m.